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FEDERAL TRADE COMMISSION

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DISRUPTION THEORY LLC, a limited liability  
company, also d/b/a inmatecall.com and  
inmatecallsolutions.com,

EMERGENT TECHNOLOGIES LLC, a limited  
liability company, also d/b/a inmatecall.com and  
inmatecallsolutions.com,

MARC GRISHAM, a/k/a Mark Grisham,  
individually and also d/b/a inmatecall.com and  
inmatecallsolutions.com, and as Manager of  
Disruption Theory LLC, and

COURTNEY GRISHAM, a/k/a Courtney  
Brooks, individually and also d/b/a  
inmatecall.com and inmatecallsolutions.com, and  
as President, Director, and Ultimate Beneficial  
Owner of Disruption Theory LLC,

Defendants.

**Case No. 20-CV-06919-VC**

**STIPULATED SETTLEMENT  
AGREEMENT AND ~~PROPOSED~~  
ORDER FOR PERMANENT  
INJUNCTION**

On October 5, 2020, Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed a Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), alleging that Disruption Theory LLC, Emergent Technologies LLC, Marc Grisham, and Courtney Grisham (“Defendants”) engaged in unfair acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. §§ 45(a), in connection with their marketing of inmate calling services. The Commission and Defendant Marc Grisham (“Individual Defendant” or “Grisham”), in order to avoid the costs, expenses, risks and uncertainty of further litigation, agree to settle this matter and stipulate to the entry of this Stipulated Settlement Agreement and Order for Permanent Injunction (“Order”) to resolve all claims brought by the FTC against Grisham arising out of the facts set forth in the Complaint.

THEREFORE, IT IS ORDERED as follows:

#### **FINDINGS**

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with the advertising, marketing, promotion, offering for sale, or sale of calling plans for incarcerated individuals; in numerous instances, Defendants, in marketing jail and prison telephone services to family and friends of incarcerated individuals, falsely claimed to provide unlimited minutes calling plans for a set monthly rate, and falsely claimed affiliation with specialized telecommunication companies authorized and under contract to provide prison and jail telephone call services; and that through these deceptive misrepresentations, Defendants convinced consumers to purchase nonexistent unlimited minutes calling plans. The Complaint alleges that these misrepresentations have led to significant consumer harm.
3. Grisham neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Grisham admits the facts necessary to establish jurisdiction.
4. Grisham waives any claim that he may have under the Equal Access to Justice

Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear his own costs and attorney fees.

5. Grisham and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.

### DEFINITIONS

For the purpose of this Order, the following definitions apply:

A. “**Clear(ly) and Conspicuous(ly)**” means that a required disclosure is difficult to miss (*i.e.*, easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented.

In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.

2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

5. The disclosure must appear in each language in which the representation that requires the disclosure appears.

6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face

communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

B. “**Defendants**” means all of the Corporate Defendants, Grisham, and Courtney Grisham individually, collectively, or in any combination.

1. “**Corporate Defendants**” means Disruption Theory LLC, d/b/a inmatecall.com and inmatecallsolutions.com, and Emergent Technologies LLC, d/b/a inmatecall.com and inmatecallsolutions.com, and its successors and assigns.

2. “**Individual Defendant**” means Marc Grisham, also known as Mark Grisham and d/b/a inmatecall.com and inmatecallsolutions.com.

C. “**Inmate Calling Service**” means the offering of Telecommunications to or from an incarcerated individual.

D. “**Telecommunications**” means the transmission of information between or among points specified by the customer without change in the form or content of the information as sent and received.

## ORDER

### I. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS ORDERED that Grisham, Grisham’s agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any good or service, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

A. That Grisham is affiliated or working with, or endorsed or sponsored by, any person or entity, including any correctional facility or any provider contracted with a correctional

facility;

B. The total or relative quantity of any good or service, including that a service is unlimited;

C. The cost or price of any good or service; and

D. Any other fact material to consumers concerning any good or service, such as: any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

## II. NOTICES TO CUSTOMERS

IT IS FURTHER ORDERED that Grisham must:

A. Within fourteen (14) days after the date of entry of this Order post a Clear and Conspicuous notice on (1) all of Grisham's current consumer-facing websites (if any), and (2) any consumer-facing websites Grisham controls directly or indirectly in the next two years, and such notices will remain posted until two years after entry of this Order, and will state:

**IMPORTANT NOTICE ABOUT FALSE ADVERTISING LAWSUIT AGAINST US:** The Federal Trade Commission (FTC), the nation's consumer protection agency, has sued us for false advertising. We claimed to offer "unlimited minutes" calling plans to inmates and their families. However, our plans do not eliminate the per-minute charges you are required to pay. We cannot and do not replace your jail or prison's approved call provider.

We have settled the FTC lawsuit and have promised not to make claims about unlimited minutes. You can read more about the case at [hyperlink to [www.ftc.gov/InmateCall](http://www.ftc.gov/InmateCall)].

Prison and jail calls are sold by companies that have contracts with correctional facilities. We're not connected with any of those companies. Also, those companies charge for calls at per-minute rates and don't currently offer unlimited calling plans. Please contact your inmate's correctional facility to buy phone services through the approved company.

For more information on services for incarcerated parents, their children, and their families, please visit [Supporting Children and Families Affected by Parental Incarceration](https://www.childwelfare.gov/topics/supporting/support-services/incarceration/) [hyperlink to <https://www.childwelfare.gov/topics/supporting/support-services/incarceration/>].

B. Within 10 days after the date of entry of this Order, the FTC will identify consumers to be notified. Within 30 days after the date of entry of this Order, Grisham must notify all consumers identified by the FTC by emailing each consumer a notice as shown in **Attachment A**.

1. The subject line must read “Notice to Inmate Call Buyers,” and the email must be sent to each recipient individually from an address that identifies the sender as “Inmate Call.”

2. The mailing must not include any other materials or message about Defendants, or otherwise concern any other good or service.

### **III. ORDER ACKNOWLEDGMENTS**

IT IS FURTHER ORDERED that Grisham obtain acknowledgments of receipt of this Order:

A. Grisham, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, Grisham for any business that he, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct specified in Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Grisham delivered a copy of this Order, he must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

### **IV. COMPLIANCE REPORTING**

IT IS FURTHER ORDERED that Grisham make timely submissions to the Commission:

A. One year after entry of this Order, Grisham must submit a compliance report, sworn under penalty of perjury:

1. Grisham must: (a) identify all telephone numbers and all physical, postal, email, and Internet addresses, including all residences; (b) identify all business activities, including any business for which Grisham performs services whether as an employee or otherwise and any entity in which Grisham has any ownership interest; and (c) describe in detail Grisham's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership; (d) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Grisham; (e) identify all of Grisham's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (f) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendants (which Grisham must describe if he knows or should know due to his own involvement); (g) describe in detail whether and how Grisham is in compliance with each Section of this Order; and (h) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For 15 years after entry of this Order, Grisham must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Grisham must report any change in: (a) name, including aliases or fictitious name or residence address; (b) Grisham's title or role in any business activity, including any business for which Grisham performs services whether as an employee or otherwise and any entity in which Grisham has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity; (c) any designated point of contact; or (d) the structure of any Corporate Defendant or any entity that Grisham has any ownership interest in or controls directly or indirectly that may

affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Grisham must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Grisham within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC v. Disruption Theory LLC*, Matter No. X210001.

## V. RECORDKEEPING

IT IS FURTHER ORDERED that Grisham must create certain records for 15 years after entry of the Order, and retain each such record for 5 years. Specifically, Grisham for any business that he, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. accounting records showing the revenues from all goods or services sold;
- B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person’s: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all consumer complaints and refund requests, whether received directly

or indirectly, such as through a third party, and any response;

D. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

E. a copy of each unique advertisement or other marketing material.

## VI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Grisham's compliance with this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission, Grisham must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with Grisham. Grisham must permit representatives of the Commission to interview any employee or other person affiliated with Grisham who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Grisham or any individual or entity affiliated with Grisham, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Grisham, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

**VII. RETENTION OF JURISDICTION**

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

**IT IS SO ORDERED BY THE COURT:**

Dated: October 14, 2021

  
\_\_\_\_\_  
VINCE CHHABRIA  
United States District Judge

**SO STIPULATED AND AGREED:**

**FEDERAL TRADE COMMISSION:**

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Date: October 6, 2021

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ATTORNEYS FOR DEFENDANT MARC GRISHAM

Date: August 23, 2021

# Attachment A

## Notice to Inmate Call Buyers

Dear Inmate Call Customer:

We're writing because you bought an "unlimited minutes" calling plan from us. The Federal Trade Commission (FTC), the nation's consumer protection agency, has sued us for false advertising. We claimed to offer "unlimited minutes" calling plans to inmates and their families. However, our plans do not eliminate the per-minute charges you are required to pay. We cannot and do not replace your jail or prison's approved call provider.

We have settled the FTC lawsuit and have promised not to make claims about unlimited minutes in our ads or on our websites. You can read more about the case at [[hyperlink to www.ftc.gov/InmateCall](http://www.ftc.gov/InmateCall)].

Prison and jail calls are sold by companies that have contracts with correctional facilities. We're not connected with any of those companies. Also, those companies charge for calls at per-minute rates and don't currently offer unlimited calling plans. Please contact your inmate's correctional facility to buy phone services through the approved company.

For more information on services for incarcerated parents, their children, and their families, please visit [Supporting Children and Families Affected by Parental Incarceration](https://www.childwelfare.gov/topics/supporting/support-services/incarceration/) [[hyperlink to https://www.childwelfare.gov/topics/supporting/support-services/incarceration/](https://www.childwelfare.gov/topics/supporting/support-services/incarceration/)].

Sincerely,

Marc Grisham, President of Inmate Call