

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 18-61017-CIV-ALTONAGA/Seltzer

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

POINTBREAK MEDIA, LLC; *et al.*,

Defendants.

DEFAULT FINAL ORDER OF PERMANENT INJUNCTION AND MONETARY JUDGMENT AS TO DEFENDANTS AARON MICHAEL JONES; VINCENT YATES; POINTBREAK MEDIA, LLC; DCP MARKETING, LLC; MODERN SOURCE MEDIA, LLC; NATIONAL BUSINESS LISTINGS, LLC; AND ALLSTAR DATA, LLC

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its First Amended Complaint for Permanent Injunction and Other Equitable Relief [ECF No. 109] (“First Amended Complaint”) under section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. section 53(b), and section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. section 6105. On April 8, 2019, Plaintiff filed a Motion for Default Judgment Against Defendants Aaron Michael Jones (“Jones”); Vincent Yates (“Yates”); Pointbreak Media, LLC (“Pointbreak Media”); Modern Source Media, LLC (“Modern Source”); DCP Marketing, LLC (“DCP Marketing”); National Business Listings, LLC (“National Business Listings”); and Allstar Data, LLC (“Allstar”) [ECF No. 264].

Having carefully considered the Motion, the record, and applicable law, it is

ORDERED AND ADJUDGED that Plaintiff’s Motion [ECF No. 264] requesting a permanent injunction against the Defaulting Defendants is hereby **GRANTED** as follows:

FINDINGS

A. The Court has jurisdiction over the subject matter and the parties under 28 U.S.C. sections 1331, 1337(a), and 1345; and 15 U.S.C. sections 45(a) and 53(b).

B. Venue is proper as to all parties in this District under 28 U.S.C. sections 1391(b)(2), (b)(3), and (d); and 15 U.S.C. section 53(b).

C. The First Amended Complaint states a claim upon which relief may be granted under section 13 of the FTC Act, 15 U.S.C. section 53; and section 6 of the Telemarketing Act, 15 U.S.C. section 6105.

D. The Defaulting Defendants' activities as alleged in the First Amended Complaint are in or affecting commerce, as defined in section 4 of the FTC Act, 15 U.S.C. section 44.

E. The FTC properly served each of the Defaulting Defendants with the Complaint or First Amended Complaint. (*See* [ECF No. 24] (DCP Marketing, LLC)); (*see* [ECF No. 28] (Modern Source Media, LLC)); (*see* [ECF No. 29] (Pointbreak Media, LLC)); (*see* [ECF No. 41] (Aaron Michael Jones)); (*see* [ECF No. 133] (National Business Listings, LLC)); (*see* [ECF No. 134] (Vincent Yates)); and (*see* [ECF No. 137] (Allstar Data, LLC)).

F. The Defaulting Defendants failed to answer or otherwise respond to the FTC's Complaint or First Amended Complaint.

G. On June 28, 2018, the Clerk of Court entered defaults against Pointbreak Media, LLC; DCP Marketing, LLC; Modern Source Media, LLC; and Aaron Michael Jones. (*See* [ECF Nos. 101-104]).

H. On August 15, 2018, the Clerk of Court entered defaults against Allstar Data, LLC; National Business Listings, LLC; and Vincent Yates. (*See* [ECF Nos. 156-158]).

I. The FTC is entitled to default judgment as to the Defaulting Defendants under Federal Rule of Civil Procedure Rule 55(b).

J. The allegations in the First Amended Complaint are taken as true against Defaulting Defendants. Those allegations establish that Defendants Pointbreak Media, LLC; DCP Marketing, LLC; Modern Spotlight LLC; Modern Spotlight Group LLC; Modern Source Media, LLC; Perfect Image Online LLC; National Business Listings, LLC; Allstar Data, LLC; and Modern Internet Marketing LLC (collectively, “Pointbreak Defendants”) formed a common enterprise. *See FTC v. Lanier Law, LLC*, 715 F. App’x 970, 979 (11th Cir. 2017).

K. The allegations of the First Amended Complaint establish that the Pointbreak Defendants violated section 5 of the FTC Act, 15 U.S.C. section 45, by deceptively marketing and selling to small business owners Google “claiming and verification” and search engine optimization services.

L. The allegations of the First Amended Complaint establish that Defaulting Defendants Jones and Yates participated in, had authority to control, and had knowledge of the Pointbreak Defendants’ deceptive marketing and sale of Google “claiming and verification” and search engine optimization services.

M. The allegations of the First Amended Complaint establish that Defendant Pointbreak Media, LLC engaged in unfair practices, in violation of section 5 the FTC Act, 15 U.S.C. section 45, by writing itself unauthorized \$100 checks from at least 280 of its customers’ bank accounts.

N. The allegations of the First Amended Complaint establish that Defaulting Defendant Jones had authority to control Pointbreak Media, LLC’s unauthorized billing.

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O. The allegations of the First Amended Complaint establish that the Pointbreak Defendants were engaged in telemarketing, as defined by the Telemarketing Sales Rule (“TSR”), 16 C.F.R. sections 310.2(aa), (cc), and (dd).

P. The allegations of the First Amended Complaint establish that the Pointbreak Defendants violated the TSR, 16 C.F.R. section 310.4(b)(1)(v), by initiating or causing the initiation of telemarketing calls that delivered prerecorded messages.

Q. The allegations of the First Amended Complaint establish that the Pointbreak Defendants violated the TSR, 16 C.F.R. section 310.4(b)(1)(iii)(B), by initiating or causing the initiation of telemarketing calls to consumers whose telephone numbers were on the National Do Not Call Registry (“DNC Registry”).

R. The allegations of the First Amended Complaint establish that Defaulting Defendants Jones and Yates had authority to control or participated in the Pointbreak Defendants’ unlawful telemarketing.

S. In light of Defaulting Defendants Jones and Yates’s conduct, and Jones’s violation of a prior court order, there is a cognizable danger that they will continue to engage in activities in violation of the FTC Act and the TSR unless permanently enjoined from such acts and practices.

T. Equitable monetary relief is warranted against Defaulting Defendants.

U. Consumers paid the Pointbreak Defendants at least \$3,367,666.30.

V. Each of the Defaulting Corporate Defendants is jointly and severally liable for equitable monetary relief in the amount of \$3,367,666.30.

W. Defaulting Defendant Jones is jointly and severally liable for equitable monetary relief in the amount of \$2,351,670.81.

X. Defaulting Defendant Yates is jointly and severally liable for equitable monetary relief in the amount of \$1,917,073.83.

DEFINITIONS

For purposes of this Order, the following definitions apply:

A. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss and easily understandable by ordinary consumers, including in all 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 use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.

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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. **“Corporate Defendants”** means Pointbreak Media, LLC; DCP Marketing, LLC; Modern Spotlight LLC; Modern Spotlight Group LLC; Modern Internet Marketing LLC; Modern Source Media, LLC; Perfect Image Online LLC; Allstar Data, LLC; National Business Listings, LLC; and Pinnacle Presence LLC, and their successors and assigns, individually, collectively, or in any combination.

C. **“Defaulting Corporate Defendants”** means Pointbreak Media, LLC; Modern Source Media, LLC; DCP Marketing, LLC; National Business Listings, LLC; and Allstar Data LLC, and their successors and assigns, individually, collectively, or in any combination.

D. **“Defaulting Defendants”** means Defaulting Corporate Defendants and Defaulting Individual Defendants, individually, collectively, or in any combination.

E. **“Defaulting Individual Defendants”** means Aaron Michael Jones and Vincent Yates, individually, collectively, or in any combination.

F. **“Defendants”** means all the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

G. “**Individual Defendants**” means Dustin Pillonato; Justin Ramsey; Aaron Michael Jones, a/k/a Michael Aaron Jones and Mike Jones; Ricardo Diaz; Michael Pocker; Steffan Molina; Vincent Yates; and Daniel Carver, individually, collectively, or in any combination.

H. “**National Do Not Call Registry**” means the “do-not-call” registry of telephone numbers maintained by the Commission pursuant to 16 C.F.R. section 310.4(b)(1)(iii)(B).

I. “**Outbound Telephone Call**” means a telephone call initiated by a Telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

J. “**Pointbreak Defendants**” means Pointbreak Media, LLC; DCP Marketing, LLC; Modern Spotlight LLC; Modern Spotlight Group LLC; Modern Internet Marketing LLC; Modern Source Media, LLC; Perfect Image Online LLC; Allstar Data, LLC; and National Business Listings, LLC, and their successors and assigns, individually, collectively, or in any combination.

K. “**Receiver**” means Jonathan E. Perlman, Esq., whom the Court appointed as Receiver in Section XI of the Preliminary Injunction as to Defendants Dustin Pillonato; Justin Ramsey; Aaron Michael Jones; Michael Pocker; Pointbreak Media, LLC; DCP Marketing, LLC; Modern Spotlight LLC; Modern Spotlight Group LLC; Modern Internet Marketing LLC; and Modern Source Media, LLC (*see* [ECF No. 64]); in Section XI of the Preliminary Injunction as to Defendants Steffan Molina and Perfect Image Online LLC [ECF No. 58]; and in Section XI of the Preliminary Injunction as to Defendants Allstar Data, LLC; National Business Listings, LLC; Pinnacle Presence LLC; Vincent Yates; and Daniel Carver [ECF No. 169].

L. “**Remotely Created Payment Order**” means any check, draft, remotely-created check, payment instruction, or payment order, whether in written or electronic format, that is drawn on a payor’s account, initiated or created by or on behalf of the payee, and deposited into or cleared through the check clearing system. For purposes of this definition, an account includes

any financial account or credit or other arrangement that allows checks, payment instructions, or orders to be drawn against it that are payable by, through, or at a bank.

M. **“Search Engine Optimization Service or Product”** means any service, product, plan, or program represented, expressly or by implication, to improve a consumer’s rankings or visibility in search engine results or increase the quantity or quality of traffic directed to a consumer through search engine results.

N. **“Telemarketer”** means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

O. **“Telemarketing”** means any plan, program, or campaign which is conducted to induce the purchase of goods, services, or charitable contributions, by use of one or more telephones, and which involves a telephone call, whether or not covered by the TSR.

ORDER

I. PERMANENT BAN ON TELEMARKETING

Defaulting Defendant Jones, whether acting directly or through an intermediary, is permanently restrained and enjoined from:

- A. Participating in Telemarketing, including by consulting, brokering, planning, or advising;
and
- B. Owning or controlling, holding a managerial post in, consulting for, serving as an officer in, having any revenue sharing agreement with, or holding any ownership interest, share, or stock in, other than the stock of a publicly traded company, any company that participates in Telemarketing, including by consulting, brokering, planning, or advising.

II. PERMANENT BAN ON USING REMOTELY CREATED PAYMENT ORDERS TO DEBIT CONSUMER ACCOUNTS

Defaulting Defendant Jones and the Corporate Defaulting Defendants are permanently restrained and enjoined, whether acting directly or through an intermediary, from debiting or attempting to debit any consumer's bank or financial account using a Remotely Created Payment Order.

III. PERMANENT BAN ON SEARCH ENGINE OPTIMIZATION SERVICES OR PRODUCTS

Defaulting Defendant Jones and the Corporate Defaulting Defendants are permanently restrained and enjoined, whether acting directly or through an intermediary, from advertising, marketing, promoting, offering for sale, or selling any Search Engine Optimization Service or Product.

IV. PERMANENT BAN ON ROBOCALLS

Defaulting Defendant Yates and Defaulting Corporate Defendants, whether acting directly or through an intermediary, are permanently restrained and enjoined from:

- A. Initiating, causing the initiation of, or assisting others in initiating any Outbound Telephone Call that delivers a prerecorded message; and
- B. Owning or controlling, holding a managerial post in, consulting for, serving as an officer in, having any revenue sharing agreement with, or holding any ownership interest, share or stock in, other than the stock of a publicly traded company, any company that engages in conduct banned in Subsection IV.A.

V. PERMANENT BAN ON CALLING TELEPHONE NUMBERS LISTED ON THE NATIONAL DO NOT CALL REGISTRY

Defaulting Defendant Yates and Defaulting Corporate Defendants, whether acting directly or through an intermediary, are permanently restrained and enjoined from:

A. Initiating, causing the initiation of, or assisting others in initiating any Outbound Telephone Call to any telephone number listed for more than 31 days on the National Do Not Call Registry; and

B. Owning or controlling, holding a managerial post in, consulting for, serving as an officer in, having any revenue sharing agreement with, or holding any ownership interest, share or stock in, other than the stock of a publicly traded company, any company that engages in conduct banned in Subsection V.A.

VI. REQUIRED TELEMARKETING DISCLOSURES

Defaulting Defendant Yates and Defaulting Corporate Defendants, Defaulting Defendant Yates and Defaulting Corporate Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order are permanently restrained and enjoined from initiating, causing others to initiate, or assisting others in initiating any Outbound Telephone Call that fails to disclose truthfully, promptly, and in a Clear and Conspicuous manner (1) the identity of the seller, (2) that the purpose of the call is to sell goods and services, and (3) the nature of those goods or services.

VII. PROHIBITION AGAINST MISREPRESENTATIONS

Defaulting Defendants; their officers, agents, servants, employees, and attorneys; and all other persons in active concert or participation with any of the foregoing, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any good or service are permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication:

- A. that they are authorized by, or affiliated with, Google or any other individual or entity;
- B. that any consumer is in danger of being removed from any internet search results or marked closed by Google or any other individual or entity;

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- C. any material aspect of any refund, cancellation, exchange or repurchase policy, including the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be granted to the consumer; or
- D. any other fact material to consumers concerning any good or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

VIII. MONETARY JUDGMENT AS TO DEFAULTING DEFENDANT JONES

- A. Judgment in the amount of **\$2,351,670.81** is entered in favor of the Commission and against Defaulting Defendant Jones, jointly and severally, as equitable monetary relief. Defaulting Defendant Jones is ordered to pay the Commission this amount immediately upon entry of this Order.
- B. Any entity or person, including Defaulting Defendant Jones or any financial institution, holding Defaulting Defendant Jones's assets must transfer those assets to the Commission or Receiver, in accordance with instructions provided by a representative of the Commission, within seven days of receiving notice of this Order.
- C. Defaulting Defendant Jones shall take all steps necessary to assist in the transfer of his assets. If it is necessary to execute additional documents to transfer, liquidate, or assign Defaulting Defendant Jones's assets or any other assets surrendered under this Order, Defaulting Defendant Jones shall execute such documents within three days of a request from a representative of the Commission.
- D. The freeze against the assets of Defaulting Defendant Jones under the May 8, 2018 Temporary Restraining Order [ECF No. 12], the May 21, 2018 Order Extending the Temporary Restraining Order [ECF No. 23], and the June 7, 2018 Preliminary Injunction

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[ECF No. 64] is modified only as to Jones. Specifically, once all of Jones's frozen assets are transferred consistent with Subsections A-C, the asset freeze will dissolve as to Jones.

E. Jones' Taxpayer Identification Numbers (such as his Social Security Numbers), which Jones must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, consistent with 31 U.S.C. section 7701.

F. All money paid to the Commission under this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the First Amended Complaint. Any money not used for such equitable relief is to be deposited to the United States Treasury as disgorgement. Defaulting Defendant Jones has no right to challenge any actions the Commission or its representatives may take under this Subsection.

IX. MONETARY JUDGMENT AS TO DEFAULTING DEFENDANT YATES

A. Judgment in the amount of **\$1,917,073.87** is entered in favor of the Commission and against Defaulting Defendant Yates, jointly and severally, as equitable monetary relief.

B. Any entity or person, including Defaulting Defendant Yates or any financial institution, holding Defaulting Defendant Yates's assets must transfer those assets to the Commission or Receiver, in accordance with instructions provided by a representative of the Commission, within seven days of receiving notice of this Order.

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C. Defaulting Defendant Yates shall take all steps necessary to assist in the transfer of his assets. If it is necessary to execute additional documents to transfer, liquidate, or assign Defaulting Defendant Yates's assets or any other assets surrendered under this Order, Defaulting Defendant Yates shall execute such documents within three days of a request from a representative of the Commission.

D. The freeze against the assets of Defaulting Defendant Yates pursuant to the August 30, 2018 Preliminary Injunction [ECF No. 169] is modified only with respect to Yates. Specifically, upon Yates satisfying the judgment under Subsection A, the asset freeze will dissolve with respect to Yates.

E. Yates's Taxpayer Identification Numbers (such as his Social Security Numbers), which Yates must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, consistent with 31 U.S.C. section 7701.

F. All money paid to the Commission under this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the First Amended Complaint. Any money not used for such equitable relief is to be deposited to the United States Treasury as disgorgement. Yates has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

X. MONETARY JUDGMENT AS TO DEFAULTING CORPORATE DEFENDANTS

A. Judgment in the amount of **\$3,367,666.30** is entered in favor of the Commission and against Defaulting Corporate Defendants, jointly and severally, as equitable monetary relief.

B. Any entity or person, including Defaulting Corporate Defendants or any financial institution, holding Defaulting Corporate Defendants' assets must transfer those assets to the Commission or Receiver, consistent with instructions provided by a representative of the Commission, within seven days of receiving notice of this Order.

C. Defaulting Corporate Defendants shall take all steps necessary to assist in the transfer of their assets. If it is necessary to execute additional documents to transfer, liquidate, or assign Defaulting Corporate Defendants' assets or any other assets surrendered under this Order, Defaulting Corporate Defendants shall execute such documents within three days of a request from a representative of the Commission.

D. The freeze against the assets of Defaulting Corporate Defendants pursuant to the May 8, 2018 Temporary Restraining Order [ECF No. 12], the May 21, 2018 Order Extending the Temporary Restraining Order [ECF No. 23], the June 7, 2018 Preliminary Injunction [ECF No. 64], and the August 30, 2018 Preliminary Injunction [ECF No. 169] is modified only with respect to Defaulting Corporate Defendants. Specifically, upon Defaulting Corporate Defendants satisfying the judgment under Subsection A, the asset freeze will dissolve with respect to Defaulting Corporate Defendants.

E. Defaulting Corporate Defendants' Taxpayer Identification Numbers, which Defaulting Defendants Pointbreak Media, LLC; DCP Marketing, LLC; Modern Source Media, LLC; and Allstar Data, LLC previously submitted to the Commission, and which Defaulting Defendant National Business Listings, LLC must submit to the Commission,

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may be used for collecting and reporting on any delinquent amount arising out of this Order, consistent with 31 U.S.C. section 7701.

F. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the First Amended Complaint. Any money not used for such equitable relief is to be deposited to the United States Treasury as disgorgement. Defaulting Corporate Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

XI. CUSTOMER INFORMATION

Defaulting Defendants; their officers, agents, employees, and attorneys; and all other persons in active concert or participation with any of the foregoing, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from directly or indirectly:

A. failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defaulting Defendants must provide it, in the form prescribed by the Commission, within 14 days.

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B. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Defendant obtained or used prior to the entry of this Order in connection with the marketing and sale of Google "claiming and verification" and search engine optimization services.

C. failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

XII. ORDER ACKNOWLEDGMENTS

Defaulting Defendants must each obtain acknowledgments of receipt of this Order as follows:

A. Each Defaulting Defendant, within seven 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 10 years after entry of this Order, each Defaulting Individual Defendant, for any business that such Defendant, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, and each Defaulting Corporate Defendant, 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

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conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the 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 seven 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 Defaulting Defendants delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

XIII. COMPLIANCE REPORTING

Defaulting Defendants each make timely submissions to the Commission:

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

1. Each Defaulting Defendant must: (a) 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 Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) 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 Defendant (which Defaulting Individual Defendants must describe if they know or should know due to their own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each

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Order Acknowledgment obtained under this Order, unless previously submitted to the Commission.

2. Additionally, each Defaulting Individual Defendant 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 such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 20 years after entry of this Order, each Defaulting Defendant each must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defaulting Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Defendant 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.

2. Each Defaulting Individual Defendant must also report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such

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Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defaulting Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against him 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. section 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," 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 United States 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. Pointbreak Media*, X180031.

XIV. RECORDKEEPING

Defaulting Defendants must create certain records for 20 years after entry of the Order and retain each such record for five years. Specifically, each Defaulting Corporate Defendant and each Defaulting Individual Defendant for any businesses that such Defaulting Individual Defendant, 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;

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- 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, including sales scripts.

XV. COMPLIANCE MONITORING

For the purpose of monitoring Defaulting Defendants' compliance with this Order, including any failure to transfer any assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the Commission, each Defaulting Defendant 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. Notwithstanding the provisions of Local Rule 26.1(i), the Commission is not required to provide notice to Defaulting Defendants of, or make available for inspection by Defaulting Defendants, any objections, documents, electronically stored information, or things received in response to a subpoena.

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B. For matters concerning this Order, the Commission is authorized to communicate directly with Defaulting Defendants. Defaulting Defendants must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant 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 Defaulting Defendants or any individual or entity affiliated with any of them, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, under 15 U.S.C. sections 49, 57b-1.

D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Defaulting Individual Defendants, under the Fair Credit Reporting Act, 15 U.S.C. section 1681b(a)(1).

XVI. RETENTION OF JURISDICTION

The Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

DONE AND ORDERED in Miami, Florida, this 25th day of April, 2019.



C
UNITED STATES DISTRICT JUDGE

cc: counsel of record
Justin Ramsey (*pro se*)
Dustin Pillonato (*pro se*)