

ADAM STEINBAUGH

To the Federal Trade Commission:

I am writing to offer my comment with respect to the **Matter of Craig Brittain**, FTC File No. 132 3120. More specifically, I write to oppose the consent order as proposed.

By way of background, I am a journalist who has written extensively about so-called “revenge” or involuntary porn sites, with a particular focus on the sites which involve extortionate and misleading ‘takedown’ mechanisms. In doing so, I draw upon my experience in investigating online fraud for Fox Interactive Media as well as my legal knowledge, having graduated *cum laude* from Loyola Law School.

Mr. Brittain’s site, IsAnybodyDown.com, is notable for one reason: he assumed the identity of a non-existent lawyer, “David Blade III, Esq.,” in order to extort his victims. Moreover, Mr. Brittain was the first involuntary porn site owner to implement this dubious business model, inspiring at least two other site owners to follow in his path. One, Kevin Bollaert, was recently convicted of felony extortion and identity theft in San Diego, California. Another, Casey Meyering—who copied Mr. Brittain’s plan *verbatim*—is currently facing trial for extortion and identity theft in California. With respect to Mr. Bollaert, his eventual exit from incarceration will be bittersweet, as he’ll be required to pay over one million dollars in judgments resulting from numerous cases filed against him around the country.

In short, Mr. Brittain managed to take outrageous conduct—running a site dedicated to embarrassing people for mere sport—and somehow make it *worse*, by seeking to profit from it.

Mr. Brittain today remains unindicted and faces only the judgment of society, but not the legal system, for his extortionate conduct. While the Commission deserves praise for taking action at all, it will have the unintended consequence of deterring other law enforcement officials from seeking to hold Mr. Brittain accountable. Mr. Brittain—who claimed to be making upwards of \$4,000 per month from his website—will walk away with his extorted profits, with no obligation to return the money to his victims.¹

Yet Mr. Brittain is doing everything in his power to avoid even the judgment of society. On February 9, 2015, Mr. Brittain issued a notice to Google pursuant to the Digital Millennium Copyright Act, requesting that Google delete links to a myriad of websites discussing his misconduct.² First among the sites Mr. Brittain sought to hide from the public was the Commission’s own blog post announcing

¹ According to Mr. Brittain, he was able to reach this agreement with the Commission by demonstrating an inability to pay any financial penalties. Yet just days before the consent agreement was announced, Mr. Brittain claimed to be making “six figures” annually and had shared photos of a luxury automobile he purchased on a whim.

² A copy of the notice has been archived by the Chilling Effects database: <https://www.chillingeffects.org/notices/10430912>.

the consent order. Mr. Brittain also sought to hide the Federal Register's analysis of the proposed consent order.

The Commission has the ability to hold Mr. Brittain accountable and require him to pay his victims back. It should do so for at least the following reasons:

1. **Mr. Brittain's victims are numerous and unlikely to speak up.** Comments submitted to the FTC are public. Mr. Brittain's scheme was a gamble that victims did not want to be associated with having nude photographs of themselves. It is unlikely that victims will be willing to speak up and make a *permanent and public* record of that fact.
2. **Mr. Brittain should not be allowed to walk away with extortionate profits, and should instead be required to pay his victims back.** Mr. Brittain claimed to be making upwards of \$4,000 *per month* from his site.³ He has since claimed that the Commission declined to impose financial penalties because he was able to prove that he *wasn't* making money from the site and that he is too impoverished to make payments. Yet Mr. Brittain *also* claims to be making "six figures" annually⁴ and claims to have recently purchased a luxury BMW to support an online video games campaign.⁵ Mr. Brittain is lying either to the FTC or to the public.
3. **The FTC's action is likely to deter further justice.** Mr. Brittain's scheme was successful because he bet that his victims would pay a relatively modest sum in order to avoid the embarrassment of approaching authorities or attorneys. As the FTC has now taken action, it is unlikely that *any* other agency — state or federal — will be motivated to hold Mr. Brittain accountable. Those who *copied* him, however — including a homeless man⁶ — face years in prison.⁷
4. **The evidence against Mr. Brittain is devastating.** From the Craigslist catfishing⁸ to the "David Blade" extortion scam⁹, the *public* evidence against Mr. Brittain is overwhelming. Mr. Brittain assumed the identity of non-existent women to solicit nude photos, made it clear that he would not remove photos from his site and that he was beyond legal remedies by mocking their emails pleading with him to take them down, then ultimately donned the mask of a non-

³ <http://denver.cbslocal.com/2013/02/03/revenge-porn-website-has-colorado-woman-outraged/>

⁴ <http://archive.today/iAleN>

⁵ <https://twitter.com/AuditTheMedia/status/553656614981738496>

⁶ <http://adamsteinbaugh.com/2014/02/14/casey-e-meyering-of-tulsa-ok-arrested-in-connection-with-revenge-porn-site-winbystate/>

⁷ <http://adamsteinbaugh.com/2015/02/02/kevin-bollaert-convicted-of-extortion-in-yougotpostedchangemyreputation-case/>

⁸ <http://denver.cbslocal.com/2013/02/15/revenge-porn-website-operator-may-be-catfishing-impersonating-woman-to-obtain-nude-photos/>

⁹ <http://adamsteinbaugh.com/2015/01/29/craig-brittain-settles-with-ftc-isanybodydown-david-blade-story-changes/>

existent lawyer to extort money from them. Mr. Brittain did this all from the same computer, using the same obscure email program, using the same Colorado Springs IP address. With little effort, the FTC could seek PayPal and banking records which would likely establish, beyond any standard required by law, that Mr. Brittain was the recipient of extortionate payments made to “David Blade”, the “takedown lawyer.” Mr. Brittain’s story is impossibly contradictory and continues to unravel.¹⁰

5. **The consent agreement will do little to deter revenge porn site operators, and the consent agreement largely requires Brittain to do only what the law already requires him to do.** Given victims’ fear of public criticism, it is unlikely that few are still willing to step forward to law enforcement, if they can find an agency willing to listen to them at all. While California has taken initiative to target these sites, the vast majority of local, state, and federal law enforcement often view revenge porn sites as outside their jurisdiction — if they have the resources to identify the sites’ operators *at all*. Site operators, in turn, now know that they can continue to extort, shutter their sites, and walk away with the profits — facing, at most, an agreement that they not do what the law already prohibits them from doing.

6. **Mr. Brittain is attempting—unlawfully and deceptively—to remove criticism of him from the internet, including the FTC’s own websites.** Mr. Brittain’s February 9, 2015 DMCA takedown request to Google targeted many of his critics—including both the FTC and the undersigned—in an attempt to prevent the public from learning of his misconduct and the conditions the FTC would impose upon him. In doing so, he represented a “good faith” belief that he had a lawful right to remove links to these materials—materials he unquestionably has no legal right to repress. The Commission should not countenance his ongoing conduct.

7. **The proposed consent agreement omits Mr. Brittain’s partner, Chance Trahan.** While it is doubtful that Mr. Brittain’s partner, Chance Trahan, will re-start their deceptive enterprise, it is possible—perhaps even likely—that Mr. Trahan *also* possesses the photographs (and perhaps proceeds) in question. The consent agreement should be amended to apply equally to Mr. Trahan.

While the Commission is rightly praised for taking the initiative in an evolving area of online fraud and abuse, it should not do so with a mere slap on the wrist. Mr. Brittain claims to have the resources to pay his victims back. The evidence him is devastating. The Commission should send the message that it is willing and able to target wire fraud schemes like Mr. Brittain’s by requiring him to pay his victims back.

Regards,

Adam Steinbaugh

¹⁰ *Id.*