

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Andrew N. Ferguson, Chairman
Mark R. Meador**

In the Matter of

**SUPPORT KING, LLC, a limited liability
company, also formerly d/b/a
SpyFone.Com, and**

**SCOTT ZUCKERMAN, individually and
as an officer of Support King, LLC**

**DOCKET NO. C-4756
PUBLIC**

**ORDER DENYING PETITION TO REOPEN AND VACATE
OR MODIFY FTC CONSENT ORDER**

Respondent Scott Zuckerman (“Zuckerman”) submitted a petition on June 27, 2025 (“Petition”), pursuant to Commission Rule 2.51, seeking to reopen and vacate the December 2021 Decision and Order (“Consent Order”) or, in the alternative, modify the Consent Order to exempt Zuckerman’s new business ventures from all reporting, audit, and compliance requirements.

In its 2021 Complaint, the Commission alleged Support King, LLC, which did business as SpyFone.com (“Spyfone”), and Zuckerman sold “stalkerware” apps that allowed purchasers to secretly monitor devices without device-owner knowledge or consent. After collecting troves of personal data, Zuckerman failed to provide reasonable data security to protect this information and lied to consumers about his response to a data breach.

To resolve the Commission’s allegations, Spyfone and Zuckerman entered into the Consent Order. Through the Consent Order, Zuckerman agreed to: (1) be banned from offering, promoting, selling, or advertising any surveillance app, service, or business; (2) develop an information security program for Spyfone and any of his other businesses that collect personal information; and (3) obtain biennial assessments by a third party to evaluate the adequacy of his information security program(s). In a 4-0 vote, the Commission approved a final Complaint (“Complaint”) and the Decision and Consent Order, which it issued on December 20, 2021.

For the reasons set forth below, the Commission finds that Zuckerman has failed to show changed conditions of fact or law sufficient to justify reopening the Consent Order. Moreover, the Commission finds that maintaining the Consent Order remains in the public interest. Accordingly, the Commission denies the Petition.

I. BACKGROUND

A. Complaint and Consent Order

The Complaint alleged that Spyfone and Zuckerman violated Section 5 of the Federal Trade Commission Act (“FTC Act”) by selling surreptitious monitoring products or services without taking reasonable steps to ensure their legitimate and lawful use; misrepresenting their information security practices; and misrepresenting their response to an August 2018 data breach. According to the Complaint, Zuckerman and Spyfone sold various monitoring apps (“Apps”), which allowed a purchaser to secretly monitor another person’s activities on their mobile device.¹ The Apps secretly collected and shared data on photos, text messages, web histories, location, and physical movements, and even allowed the purchaser to send “spoof” text messages posing as the device owner without their knowledge or consent.² One of the Apps further allowed the purchaser to take control of the device without the device owner’s knowledge or consent, including remotely taking pictures, turning on the device’s microphone, and recording calls.³

Installing the Apps required the purchaser to bypass or disable numerous operating system restrictions on the monitored mobile device, which exposed the monitored device to security vulnerabilities and could have invalidated warranties.⁴ After installation, the Apps’ software and settings could only be found if the device owner navigated through the monitored device’s “Settings,” where the Apps were labeled as “System Service,” in order to “be more stealthy.”⁵

Despite collecting vast troves of personal information through the Apps without device owners’ knowledge or consent, Zuckerman failed to implement reasonable data security for consumers’ personal information.⁶ As a result of these failures, in August 2018, an unauthorized third party accessed the Apps’ server, gaining access to data about approximately 2,200 consumers, including photos, audio recordings, and GPS locations collected without their knowledge or consent.⁷ After the data breach, Zuckerman issued a notice to purchasers stating the company had partnered with data security firms to investigate the breach and would coordinate with law enforcement regarding the breach. Zuckerman did neither.⁸

To resolve the Commission’s allegations, Spyfone and Zuckerman consented to an order that, among other things, (1) banned Zuckerman and Spyfone from selling any monitoring products or services;⁹ (2) required Zuckerman to establish and implement an information security program to protect the security, confidentiality, and integrity of personal information for Spyfone

¹ Complaint ¶ 4.

² *Id.* ¶ 5a.

³ *Id.* ¶ 5c.

⁴ *Id.* ¶¶ 6-7.

⁵ *Id.* ¶ 8.

⁶ *Id.* ¶ 17.

⁷ *Id.* ¶ 18.

⁸ *Id.* ¶¶ 19-21.

⁹ Consent Order § IV.

and his other businesses that collect personal information online;¹⁰ and (3) required Spyfone and Zuckerman to obtain biennial third-party assessments to evaluate the adequacy of each information security program implemented under the Consent Order.

B. Zuckerman’s Non-Compliance with the Consent Order

Since the Commission issued the Consent Order in 2021, Zuckerman has had periods of non-compliance with the Consent Order. Although Spyfone is no longer operational, Zuckerman is individually bound by the Consent Order. Further, the definition of “Covered Business” in the Consent Order includes any business Zuckerman controls.¹¹

On March 6, 2023, FTC staff sent a letter to Zuckerman informing him he was in violation of the Consent Order because the initial 180-day assessment of his Covered Businesses was insufficient, and the mandated Information Security Program failed to comply with the requirements set forth in the Consent Order. The assessor who performed the initial assessment failed to review evidence beyond mere attestations to determine whether the Information Security Program adequately protected the personal information Zuckerman continued to collect from consumers through his new business ventures, even after Spyfone ceased operations. Additionally, even the inadequate assessment found the Information Security Program was deficient in multiple respects, particularly considering the sensitive personally identifiable information the Covered Businesses collect.

Over the next year, Zuckerman took steps (under FTC oversight) to improve his Information Security Program and secure a new assessor to perform an updated assessment. Though they identified two areas for improvement, by February 2024, the second assessor opined the improved Information Security Program was adequate to protect the security, confidentiality, and integrity of consumers’ personal information as required by the Consent Order. In a contemporaneous letter to the Commission, Zuckerman committed to concrete steps and a timeline to resolve the remaining areas for improvement.

II. THE PETITION AND PUBLIC COMMENTS

The Commission received Zuckerman’s Petition to Reopen the Consent Order on June 27, 2025. Pursuant to 16 C.F.R. § 2.51, Zuckerman asks the Commission to vacate or modify the 2021 Consent Order.

Zuckerman’s principal reason for requesting the Commission vacate his Consent Order is that it creates an excessive burden on his new business ventures while serving “no ongoing purpose.”¹² Zuckerman asserts there have been changes to both fact and law which undermine the Consent Order – namely, that Spyfone is no longer in business, his other businesses are

¹⁰ *Id.* § VI.

¹¹ Sections VI and VII of the Consent Order require Zuckerman to implement an information security program and obtain third-party assessments of that program “for any Covered Business that collects Personal Information online.” *Id.* § VI-VII. Section X also requires Zuckerman to report Covered Incidents (e.g. data breaches) for any Covered Business. *Id.* § X.

¹² Petition at 2.

unrelated to the practices alleged in the Complaint, and the Commission’s regulatory priorities have changed.

In accordance with Rule 2.51(c), the Commission placed the Petition on the public record for a 30-day comment period, and it received 27 comments.¹³ The Petition is now ripe for disposition by the Commission. Approximately 21 comments oppose Zuckerman’s Petition, while only 6 comments support it. Two of the supportive comments came from close personal friends of Zuckerman, and another was submitted by Zuckerman himself.¹⁴ The supportive comments’ assertions of ‘unnecessary burden’ are unpersuasive in light of Zuckerman’s non-compliance with the Consent Order.

Overwhelmingly, commenters highlighted the importance of the deterrent effect the Consent Order has, not only on Zuckerman personally, but also on the broader mobile application industry that collects personal data. As one commenter noted, “maintaining the ban sends a decisive signal: privacy violations and regulatory defiance will not be tolerated or swiftly forgotten. Upholding this enforcement action protects not only those harmed in the past, but the broader public from future abuses yet to be imagined.”¹⁵ Several commenters highlighted that it would be inappropriate to reopen the Consent Order, particularly because Zuckerman agreed to its entry with full knowledge of the requirements.¹⁶ Given the severity of the underlying conduct, many commenters noted that the Consent Order is a proportionate remedy and necessary safeguard.¹⁷ The commenters also found Zuckerman’s argument that the Consent Order is burdensome unpersuasive:

“We strongly disagree with the petitioner’s assertion that these measures are an ‘unnecessary burden.’ Rather, they are a necessary safeguard in light of the petitioner’s track record [...] And, security audits and reporting are relatively standard requirements in FTC settlements for privacy and security abuses: they are hardly punitive for a company operating in good faith. Assuming *arguendo* that Mr. Zuckerman’s current ventures truly have nothing to do with surveillance or consumer data collection, then meeting basic security standards and filing

¹³ The public comments on the Petition may be viewed on Regulations.gov in Docket No. FTC-2025-0198, <https://www.regulations.gov/document/FTC-2025-0198-0001/comment>.

¹⁴ The Commission does not consider the comment Zuckerman submitted, because Rule 2.51(b)(2) requires the petitioner to include *in the petition* all information and material that the petitioner wishes the Commission to consider.

¹⁵ Comment ID FTC-2025-0198-0008.

¹⁶ *See, e.g.*, Comment ID FTC-2025-0198-0031 (“A contract-like instrument such as a consent decree is less impactful when it is insinuated that one party can escape from their obligations [...] it would be a crushing abdication of the FTC’s consumer protection duties to allow Mr. Zuckerman to escape the consequences of his actions.”).

¹⁷ *See, e.g.*, Comment ID FTC-2025-0198-0019 (“I see nothing in the 2021 order which is unreasonable or excessively burdensome given the nature of the transgressions. The order is needed to protect the public from possible future actions by Mr. Zuckerman.”); Comment ID FTC-2025-0198-0032 (“The 2021 FTC Order is a critical protection for the public: Banning SpyFone and Scott Zuckerman from the surveillance business (and requiring notification to owners of devices on which SpyFone’s apps were installed) was a proportionate remedy given the severity of harm.”).

periodic compliance reports should not be an impediment to their operation at all.”¹⁸

In sum, the comments opine that “granting this petition would serve only the private interest of Mr. Zuckerman, at great risk and detriment to the public at large.”¹⁹

III. STANDARD FOR REOPENING AND MODIFICATION

Section 5(b) of the FTC Act provides that the Commission may reopen and modify an order when the Commission determines that “conditions of fact or of law have so changed as to require such action or if the public interest shall so require.”²⁰ Commission Rule of Practice 2.51 allows any person subject to a consent order to request that the Commission reopen the proceeding to consider whether the consent order should be modified or set aside.²¹ The filing party must make a satisfactory showing that “changed conditions of law or fact” necessitate changing or setting aside the order, or that “the public interest so requires.”²² The Rule requires that the request to reopen be accompanied by an affidavit setting forth specific facts showing the nature of the changed conditions and reasons why they require modification of the order, and the reasons why the public interest would be served by the modification.²³

The Commission recently stated the legal standard for reopening an order in the *Chevron* matter:

A petition to reopen and modify must be supported by evidence that is credible and reliable. The petition may not be merely conclusory. Where a public interest basis is asserted, the petition must set forth specific facts demonstrating in detail the reasons why the public interest would be served by the modification. The petitioner must demonstrate, for example, that the purposes of the order could be achieved more efficiently or effectively with a modification, or that granting the petition would clearly serve the public interest. The public interest inquiry also assesses whether “the costs that the [order] imposes on respondent appear to outweigh any consumer benefits that it may confer.” [...] The petitioner must include in the petition all information and material that the petitioner wishes the Commission to consider.

If, after determining that the petitioner has made the required showing, the Commission decides to reopen the order, it will then consider and balance all the reasons for and against modification. A decision to reopen an order does not oblige the Commission to modify it, and the burden remains on the petitioner in all cases to demonstrate why the order should be reopened and modified. The

¹⁸ Comment ID FTC-2025-0198-0032.

¹⁹ *Id.*

²⁰ 15 U.S.C. § 45(b).

²¹ 16 C.F.R. § 2.51(a).

²² *Id.* § 2.51(b); Order Reopening and Modifying Order, *In re Seven & i Holdings Co.*, Matter No. 2010108, at 2 (Jan. 24, 2023) (“Seven & i Holdings Order”).

²³ 16 C.F.R. § 2.51(b)(1).

petitioner's burden is not a light one in view of the public interest in the repose and finality of Commission orders.²⁴

IV. ANALYSIS

Based on our review of the Petition and the public comments filed in response, we deny the Petition. As an initial matter, Zuckerman has not made a sufficient showing that “changed conditions of law or fact” exist to reopen the proceeding, let alone to justify setting aside or modifying the Consent Order. Nor has Zuckerman shown that maintaining the Consent Order would not be in the public interest. Because Zuckerman cannot meet the threshold standard for reopening, the Commission need not determine whether Zuckerman’s proposed modification would be in the public interest.

A. No Changed Conditions of Law or Fact Exist.

For a petitioner to make a satisfactory showing of changed conditions of law or fact, the petitioner must identify “significant changes in circumstances” that either “eliminate the need for the order or make continued application of it inequitable.”²⁵ Zuckerman has failed to make this showing.

Zuckerman has failed to show any changes in statutory or decisional law that have the effect of bringing the Consent Order, including Sections VI and VII, into conflict with existing law.²⁶ The Commission has steadfastly maintained that companies that collect, use, share, or transmit consumers’ personal data must employ reasonable security measures to protect such information from unauthorized access, use, or disclosure.²⁷

Nor has Zuckerman demonstrated any change in fact that justifies reopening the Consent Order. The burden to establish a change in fact is high; “[s]ubsequent changes in factual circumstances, if falling within the range of contingencies which were reasonably foreseen or foreseeable at the time of consent negotiations,” are not sufficient.²⁸ Here, the fact that Spyfone would cease operation and Zuckerman would stop selling monitoring software is a “foreseeable” consequence of the Consent Order. Indeed, it is an intended consequence of the Consent Order, as Section IV bans Zuckerman and Spyfone from engaging in these business activities. Moreover, it was also foreseeable that the Consent Order would apply to Zuckerman and his

²⁴ Chevron/Hess Order at 4-5 (internal citations omitted).

²⁵ *Id.* at 2.

²⁶ *In the Matter of Union Carbide Corp.*, 108 F.T.C. 184, 1986 WL 722149, at *2 (1986) (denying a petition to modify because the moving party’s asserted change in law did not bring the order provisions into conflict with existing law).

²⁷ Model Letter sent to Tech Companies from Chairman Andrew N. Ferguson, Aug. 21, 2025, https://www.ftc.gov/system/files/ftc_gov/pdf/ftc-unfair-security-letter-ferguson.pdf.

²⁸ *In re Phillips Petroleum Co., et al.*, 78 F.T.C. 1573 (1971); *see also In re Rite Aid Corp.*, 125 F.T.C. 846, 1998 WL 34077376, at *3 (May 18, 1998) (“foreseeable” fact “does not constitute the change in fact necessary to compel reopening”), *Union Carbide*, 1986 WL 722149, at *3 (“changed factual circumstances justify modification of an order only when the changed circumstances (1) were unforeseeable when the order was entered and result in severe competitive hardship, and (2) virtually eliminate the dangers the order sought to remedy.”)

other businesses.²⁹ Not only was it foreseeable, but Zuckerman in fact continued collecting information from his other businesses.

Zuckerman has not alleged any changed circumstances from when the Commission issued the Consent Order. In sum, Zuckerman has failed to establish that a significant change in circumstance eliminates the need for the Consent Order or makes its continued application inequitable.

B. Reopening the Consent Order Would Not Be in The Public Interest.

Zuckerman asserts his current business ventures “have no connection to the original consent order,” and in his Affidavit he stated, under penalty of perjury, that his “present and upcoming business ventures ... have no connection to ... data collection.”³⁰ Yet, at the same time, Zuckerman complains the compliance obligations under the Consent Order are burdensome. But both arguments cannot be true. Either Zuckerman’s new businesses do not collect consumers’ personal information and, therefore, any compliance obligations are minimal, or his new businesses collect consumers’ personal information, and thus the current compliance obligations are warranted. As indicated by the third-party assessments completed since entry of the Consent Order (*see infra*, Section I.B), Zuckerman’s current businesses collect significant amounts of personal information. Therefore, the Consent Order’s Information Security Program, third-party assessments, and data breach reporting requirements continue to serve a key function and remain in the public interest given the fact that Zuckerman’s current businesses collect significant amounts of personal information, his prior failure to such information, and his failure to do so for several years after the order was entered.

Zuckerman makes the conclusory claim that his compliance obligations under the Consent Order have impeded his new business ventures. This claim is not adequately substantiated. While he states in the Petition that his compliance costs exceed \$100,000 per year, Zuckerman fails to provide any other financial information regarding his businesses, such as their yearly revenue, making it impossible for the Commission to contextualize the compliance costs Zuckerman complains about.

Moreover, the compliance costs are entirely within Zuckerman’s control. His non-compliance with the Consent Order in three of the last four years have likely resulted in significant legal fees. To the extent Zuckerman complains about costs for a third-party assessor, Zuckerman need only operate businesses that do not collect personal information online. Indeed, Zuckerman already operates some businesses that do not collect personal information online. And for those businesses, his yearly compliance obligations are minimal.

Zuckerman has not articulated any reason the public interest would be served by reopening the Consent Order. On the contrary, maintaining the Consent Order remains in the

²⁹ Consent Order at 3, Definition of “Covered Business.”

³⁰ Petition at 4; Affidavit at 1.

public interest, especially considering the existence of unresolved compliance issues.³¹ Thus denial of the petition is appropriate given (1) the public interest in the repose and finality of Commission orders; (2) Zuckerman's failure to meet his burden to show that changed circumstances and the public interest warrant reopening.

V. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED THAT Zuckerman's Petition to Reopen and Vacate or Modify FTC Consent Order is **DENIED**.

By the Commission.

April J. Tabor
Secretary

SEAL:
ISSUED: December 5, 2025

³¹ See *Union Carbide* at *3 ("The public interest is served by denying a request for reopening and modification of an order provision while compliance issues remain unresolved. This action by the Commission will enhance its ability to ensure compliance with this order and other outstanding orders, enhance the deterrent effect of all orders and of Section 5 itself, and serve to discourage 'self-help' order modifications.").