

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of James V. Grago, Jr., individually and d/b/a ClixSense.com
File No. 1723003

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from James V. Grago, Jr., individually and doing business as ClixSense.com (“Respondent”).

The proposed consent order (“proposed order”) has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

This matter involves ClixSense.com (“ClixSense”), an online rewards website owned and operated by James V. Grago, Jr. (“Mr. Grago”) since 2010. As the sole owner of ClixSense, Mr. Grago controlled or had authority to control, or participated in the acts or practices alleged in the proposed complaint.

ClixSense pays its users for clicking on advertisements, performing online tasks, or completing online surveys. ClixSense makes money from advertisers and from marketers who purchase information generated from consumer surveys. As part of the enrollment process, ClixSense collects and stores personal information on its computer network about its users, including full names, physical addresses, dates of birth, gender, and email addresses. ClixSense also requires users to create a username, a password, and an answer to a security question that it stores in its database. For users who earn more than \$600 annually, ClixSense requires a Social Security number.

The Commission’s proposed three-count complaint alleges that Respondent has violated Section 5(a) of the Federal Trade Commission Act.

First, the proposed complaint alleges that Respondent deceived its users about the level of encryption it used. As alleged in the proposed complaint, Respondent has expressly represented to its users through a Frequently Asked Question (“FAQ”) entitled “Is my personal information secure?” that it uses the latest encryption techniques to ensure the security of account information. Contrary to this claim, the proposed complaint alleges that Respondent used no encryption to protect consumers’ personal information. In fact, Respondent stored consumers’ personal information, including SSNs, in clear text.

Second, the proposed complaint alleges that Respondent misrepresented to its users that it utilized the latest security techniques to ensure the security of users’ personal information. As alleged in the proposed complaint, Respondent failed to utilize the latest security techniques in multiple areas.

Third, the proposed complaint alleges that Respondent has engaged in a number of unreasonable security practices that led to a breach of information regarding 6.6 million consumers. The proposed complaint alleges that Respondent:

- failed to implement readily available security measures to limit access between computers on ClixSense's network, and between such computers and the Internet;
- permitted employees to store plain text user credentials in personal email accounts, and on ClixSense's laptops;
- failed to change default login and password credentials for third-party company network resources; and
- maintained consumers' personal information, including consumers' names, addresses, email addresses, dates of birth, gender, answers to security questions, login and password credentials, and Social Security numbers, in clear text on ClixSense's network and devices.

The proposed complaint alleges that Respondent could have addressed each of the failures described above by implementing readily available and relatively low-cost security measures.

The proposed complaint alleges that Respondent's failures caused or is likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers themselves. Such practice constitutes an unfair act or practice under Section 5 of the FTC Act.

The proposed order contains injunctive provisions addressing the alleged deceptive and unfair conduct in connection with Respondent's operation of an online rewards website. Part I of the proposed order prohibits Respondent from false or deceptive statements regarding the extent to which Respondent maintains and protects the privacy, security, confidentiality, or integrity of Personal Information, including the extent to which it utilizes (1) encryption techniques and (2) security techniques.

Part II of the proposed order prohibits Respondent, in connection with any business that Mr. Grago controls directly and indirectly, including ClixSense, from transferring, selling, sharing, collecting, maintaining, or storing personal information unless it establishes and implements, and thereafter maintains, a comprehensive information security program that is designed to protect the security, confidentiality, and integrity of such personal information.

Part III of the proposed order requires any business that Mr. Grago controls, directly or indirectly, that collects personal information online to obtain initial and biennial data security assessments for twenty years.

Part IV of the agreement prohibits Respondent from misrepresenting any fact material to the assessments required by Provision III.

Part V requires any business that Mr. Grago controls directly or indirectly, including ClixSense, to submit an annual certification from a senior corporate manager (or senior officer responsible for its information security program) that Respondent has implemented the requirements of the Order and is not aware of any material noncompliance that has not been corrected or disclosed to the Commission.

Parts VI through IX of the proposed order are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondent to provide information or documents necessary for the Commission to monitor compliance. Part X states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.