

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

FEDERAL TRADE COMMISSION,

PLAINTIFF,

v.

ALLIANCE SECURITY INC., a Massachusetts corporation formerly known as Versatile Marketing Solutions, Inc., VMS Alarms, VMS, Alliance Security, and Alliance Home Protection,

JASJIT GOTRA, a/k/a Jay Gotra, individually and as an officer or owner of Alliance Security, Inc., formerly known as Versatile Marketing Solutions, Inc., VMS Alarms, VMS, Alliance Security, Alliance Home Protection, and AH Protection,

DEFEND AMERICA LLC, a Florida Limited Liability Company,

JESSICA MERRICK, a/k/a Jessica Bright a/k/a Jessica Dudlicek, individually and as an officer of Defend America LLC

POWER MARKETING PROMOTIONS LLC, a North Carolina Limited Liability Company, also d/b/a J Tele Alarms, and

KEVIN KLINK, individually and as an officer or owner of Power Marketing Promotions LLC,

Defendants.

CASE NO. 1:19-CV-00410-MSM-LDA

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION
AND CIVIL PENALTY JUDGMENT AS TO DEFENDANT JASJIT GOTRA**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Civil Penalties, Permanent Injunction and Other Relief (“Complaint”) in this matter pursuant to Sections 5(a), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 56(a); Section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (the “Telemarketing Act”), 15 U.S.C. § 6105;

and Section 621(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681s(a). The Commission and Defendant Jasjit Gotra stipulate to the entry of this Stipulated Final Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them, but not as to any other person, such as an indemnitee.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendant Jasjit Gotra and his company and co-defendant, Alliance Security Inc., participated in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and have engaged in acts or practices that violate the FTC’s Telemarketing Sales Rule (the “TSR” or “Rule”), as amended, 16 C.F.R. Part 310, in the Telemarketing of his products and services or those offered by his company and co-defendant, Alliance Security Inc., by, among other things, initiating and causing the initiation of telemarketing calls to consumers whose telephone numbers were on the National Do Not Call (“DNC”) Registry. The Complaint also charges that defendant Alliance Security Inc. participated in acts and practices in violation of Section 621(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681(s)(a), by obtaining consumer reports from consumer reporting agencies without a permissible purpose.
3. Defendant Jasjit Gotra neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant Jasjit Gotra admits the facts necessary to establish jurisdiction.
4. Defendant Jasjit Gotra 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 attorneys’ fees. Defendant Jasjit Gotra waives and releases any claims that it may have against the Commission and its agents that relate to this action.

5. Defendant Jasjit Gotra 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. **“Causing Others to Initiate Outbound Telephone Calls”** includes, among other conduct: (1) contracting with any vendor, agent, or third-party who solicits sales, identifies potential customers, or sets appointments on behalf of Defendant through the use of Outbound Telephone Calls; and (2) contracting with any vendor, agent, or third-party who places Outbound Telephone Calls to potential customers and then transfers those potential customers to Defendant.

B. **“Defendant”** means Jasjit Gotra.

C. **“Established Business Relationship”** means a relationship—evidenced by documents maintained by Defendant for a period of five years (as set forth in Section IX herein)—directly between Defendant and a person based on the person’s purchase, rental, or lease of Defendant’s goods or services or a financial transaction between the person and Defendant, within the eighteen (18) months immediately preceding the date of a Telemarketing call.

D. **“Express Written Agreement”** means a written agreement—evidenced by documents maintained by Defendant for a period of five years (as set forth in Section IX herein)—directly between Defendant and any person, and provided by that person directly to Defendant, in which that person: (1) expressly agrees to receive Telemarketing calls from Defendant; and (2) provides that person’s name, address, telephone number, and written or electronic signature.

E. **“Manually Dialed Calls”** means telephone calls that are dialed by a live operator who manually selects the telephone number being called. Any such live operator must dial only one telephone number at a time and must conduct the telephone call without the use of prerecorded messages.

F. “**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.

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

H. “**Telemarketing**” means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call.

ORDER

I. Permanent Ban on Outbound Telemarketing

IT IS ORDERED that Defendant, whether acting directly or through an intermediary, is permanently restrained and enjoined from:

A. Initiating Outbound Telephone Calls, assisting others in initiating Outbound Telephone Calls, and Causing Others to Initiate Outbound Telephone Calls. *Provided, however,* that it is not a violation of this Order for Defendant to place Manually Dialed Calls to persons with whom he has an Established Business Relationship or from whom he has received an Express Written Agreement.

B. Owning or controlling, or holding any ownership interest, share, or stock, in any company that engages in conduct banned in subsection I.A. *Provided, however,* that it is not a violation of this Order for Defendant to own a non-controlling stock interest in a publicly traded company that engages in conduct banned in subsections I.A-B.

II. Prohibition on Violating the Fair Credit Reporting Act

IT IS FURTHER ORDERED that Defendant, Defendant’s 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, whether acting directly or indirectly, are hereby permanently restrained and enjoined from:

A. Using or obtaining any Consumer Report from any Consumer Reporting Agency or from any other person without a valid permissible purpose, as set forth in 15 U.S.C. § 1681b, a copy of which is attached as Appendix A to this Order; and

B. Violating any provision of the Fair Credit Reporting Act, 15 U.S.C. §§1681-1681x.

III. Prohibition Against Misrepresentations

IT IS FURTHER ORDERED that Defendant, Defendant's 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, 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. Defendant's affiliation or association with a competitor alarm installation or monitoring company or any other business;

B. Defendant's purchase or acquisition of a competitor alarm installation or monitoring company or any other business; or

C. The name of Defendant's business.

IV. Monetary Judgment for Civil Penalty and Suspension

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Nine Million, Eight Hundred Forty-Five Thousand, and Twenty-One dollars (\$9,845,021) is entered in favor of the Commission against Defendant as a civil penalty.

B. Defendant is ordered to pay to the Commission Eighty Eight Thousand Dollars (\$88,000) as follows:

1. Within seven (7) days of the entry of this Order, Defendant must pay to the Commission, by electronic fund transfer in accordance with

instructions previously provided by a representative of the Commission, the sum of twenty-eight thousand dollars (\$28,000).

2. Within one hundred twenty (120) days of entry of this Order, Defendant must make a second payment to the Commission, by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission, of sixty thousand dollars (\$60,000).

C. Within seven (7) days of the entry of this Order, Defendant must cause the liquidation of all of his personal jewelry (as listed on his Itemization of Personal Jewelry dated January 23, 2020) by delivering it to Skinner Inc., an auction house located in Boston, MA. Defendant's liquidation of jewelry is pursuant to the terms of a contract between Defendant and Skinner Inc., a copy of which is attached as Appendix B to this Order. Defendant is further Ordered to sign any documents and to take any other steps necessary to facilitate the liquidation.

D. Upon completion of the payments required under Section IV.B, and turning over of jewelry required under Section IV.C, the remainder of the judgment is suspended, subject to the Subsections below.

E. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendant's sworn financial statements and related documents (collectively, "financial representations") at the time submitted to the Commission, namely:

1. The Itemization of Personal Jewelry of Defendant Jasjit Gotra signed on January 23, 2020;
2. The Financial Statement of Defendant Jasjit Gotra signed on November 3, 2019, including the attachments;
3. The Financial Statement of Defendant Jasjit Gotra signed on January 31, 2019, including the attachments; and

4. The Financial Statement of Defendant Jasjit Gotra signed on July 25, 2017, including the attachments.

F. The suspension of the judgment will be lifted if, upon motion by the Commission, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

G. If the suspension of the judgment is lifted, the judgment becomes immediately due in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the amount of the civil penalty for the violations alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

V. Additional Monetary Provisions

IT IS FURTHER ORDERED that:

A. Defendant relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. Defendant agrees that the judgment against it represents a civil penalty owed to the government of the United States, is not compensation for actual pecuniary loss, and, therefore, as to Defendant, is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 1141(d)(3) or 11 U.S.C. § 727(a).

D. Defendant agrees that the judgment represents a civil penalty owed to the government of the United States, is not compensation for actual pecuniary loss, and is therefore not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7).

E. Defendant acknowledges that his Social Security Number, which Defendant previously provided, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. Cooperation

IT IS FURTHER ORDERED that Defendant must fully cooperate with representatives of the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Defendant must provide truthful and complete information, evidence, and testimony. Defendant must also appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon five days written notice, at such places and times that a Commission representative may designate, without requiring the service of a subpoena. Further, to assist the Commission with any investigation and with monitoring Defendant's compliance with this order, Defendant consents, for purposes of Sections 2701-2712 of the Electronic Communications Privacy Act ("ECPA"), to the disclosure of the contents and records of his auto-dialed, Telemarketing communications or other information pertaining to his auto-dialed, Telemarketing communications by electronic communications service providers and remote computing service providers. This ECPA provision also applies to any company under Defendant's control and any company for which Defendant is the majority owner. Defendant further agrees to execute, within fourteen (14) days of a request from the Commission, any forms or other documents evidencing its consent that may be required by such electronic communications service providers or remote computing service providers.

VII. Order Acknowledgments

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

A. Defendant, within seven (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 five (5) years after entry of this Order, for any business that Defendant, individually or collectively with any other defendant, is the majority owner or controls directly or indirectly, Defendant must deliver a copy of this Order, including Appendix A, to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and other representatives who participate in conduct related to the subject matter of the Order; (3) any authorized dealer, vendor, contractor, lead generator, or other person soliciting sales on behalf of such company; and (4) any person placing telephone calls on behalf of such company. Delivery must occur within seven (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 Defendant delivered a copy of this Order, Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VIII. Compliance Reporting

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

- A. One year after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury, in which Defendant must:
1. Identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences;
 2. Identify all business activities, including any business for which Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest;
 3. Describe in detail Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership;
 4. Describe in detail whether and how Defendant is in compliance with each Section of this Order; and

5. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For twenty (20) years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following, in which Defendant must report any change in:

1. His name or any of his contact information;
2. The structure of any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: (a) creation, (b) merger, (c) sale, or (d) dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order;
3. Title or role in any business activity, including any business for which Defendant performs services whether as an employee or otherwise and any entity in which Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen 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. Alliance Security Inc., et al.*, Matter Number X140022.

IX. Recordkeeping

IT IS FURTHER ORDERED that Defendant must create certain records for twenty (20) years after entry of the Order, and retain each such record for five years. Specifically, Defendant, for any business that Defendant, individually or collectively with any other defendant, is a majority owner or control 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 whether received directly or indirectly, such as through a third party, and any response;
- D. All records of an Established Business Relationship with any person for a period of five (5) years from the start of that relationship and for a period of five (5) years after any Manually Dialed Outbound Telephone Call placed to that person based on the Established Business Relationship.
- E. All records of an Express Written Agreement from any person for a period of five (5) years from the date of such written agreement, and for a period of five (5) years after any Manually Dialed Outbound Telephone Call placed to that person based on the Express Written Agreement.
- F. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

X. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within fourteen days of receipt of a written request from a representative of the Commission, Defendant must: (1) submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; (2) appear for depositions; and (3) 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 Defendant. Defendant must permit representatives of the Commission to interview any employee or other person affiliated with 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 Defendant or any individual or entity affiliated with either Defendant, 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.

XI. 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.

SO ORDERED, this 14 day of May, 2020.


United States District Judge
Hon. Mary S. McElroy

SO STIPULATED AND AGREED:

FEDERAL TRADE COMMISSION



May 12, 2020

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DATE

INDIVIDUAL DEFENDANT JASJIT GOTRA:



Jasjit Gotra
Pro Se Defendant

3-7-2020

DATE

Appendix A

15 U.S.C. § 1681b (Permissible Purposes of Consumer Reports)



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

United States Code Annotated
Title 15. Commerce and Trade
Chapter 41. Consumer Credit Protection (Refs & Annos)
Subchapter III. Credit Reporting Agencies (Refs & Annos)

15 U.S.C.A. § 1681b

§ 1681b. Permissible purposes of consumer reports

Currentness

(a) In general

Subject to subsection (c), any consumer reporting agency may furnish a consumer report under the following circumstances and no other:

- (1) In response to the order of a court having jurisdiction to issue such an order, or a subpoena issued in connection with proceedings before a Federal grand jury.
- (2) In accordance with the written instructions of the consumer to whom it relates.
- (3) To a person which it has reason to believe--
 - (A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or
 - (B) intends to use the information for employment purposes; or
 - (C) intends to use the information in connection with the underwriting of insurance involving the consumer; or
 - (D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or
 - (E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or
 - (F) otherwise has a legitimate business need for the information--

(i) in connection with a business transaction that is initiated by the consumer; or

(ii) to review an account to determine whether the consumer continues to meet the terms of the account.

(G) executive departments and agencies in connection with the issuance of government-sponsored individually-billed travel charge cards.

(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that--

(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments, determining the appropriate level of such payments, or enforcing a child support order, award, agreement, or judgment;

(B) the parentage of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws); and

(C) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

(D) Redesignated (C)

(5) To an agency administering a State plan under [section 654 of Title 42](#) for use to set an initial or modified child support award.

(6) To the Federal Deposit Insurance Corporation or the National Credit Union Administration as part of its preparation for its appointment or as part of its exercise of powers, as conservator, receiver, or liquidating agent for an insured depository institution or insured credit union under the Federal Deposit Insurance Act or the Federal Credit Union Act, or other applicable Federal or State law, or in connection with the resolution or liquidation of a failed or failing insured depository institution or insured credit union, as applicable.

(b) Conditions for furnishing and using consumer reports for employment purposes

(1) Certification from user

A consumer reporting agency may furnish a consumer report for employment purposes only if--

(A) the person who obtains such report from the agency certifies to the agency that--

(i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable; and

(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and

(B) the consumer reporting agency provides with the report, or has previously provided, a summary of the consumer's rights under this subchapter, as prescribed by the Bureau under [section 1681g\(c\)\(3\)](#) of this title.

(2) Disclosure to consumer

(A) In general

Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless--

(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

(B) Application by mail, telephone, computer, or other similar mean

If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application--

(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under [section 1681m\(a\)\(3\)](#) of this title; and

(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

(C) Scope

Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if--

(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of [section 31502 of Title 49](#), or a position subject to safety regulation by a State transportation agency; and

(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(3) Conditions on use for adverse actions

(A) In general

Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates--

(i) a copy of the report; and

(ii) a description in writing of the rights of the consumer under this subchapter, as prescribed by the Bureau under [section 1681g\(c\)\(3\)](#) of this title.

(B) Application by mail, telephone, computer, or other similar mean

(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under [section 1681m\(a\)](#) of this title, within 3 business days of taking such action, an oral, written or electronic notification--

(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Bureau under [section 1681g\(c\)\(3\)](#) of this title.

(C) Scope

Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if--

(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of [section 31502 of Title 49](#), or a position subject to safety regulation by a State transportation agency; and

(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(4) Exception for national security investigations

(A) In general

In the case of an agency or department of the United States Government which seeks to obtain and use a consumer report for employment purposes, paragraph (3) shall not apply to any adverse action by such agency or department which is based in part on such consumer report, if the head of such agency or department makes a written finding that--

(i) the consumer report is relevant to a national security investigation of such agency or department;

(ii) the investigation is within the jurisdiction of such agency or department;

(iii) there is reason to believe that compliance with paragraph (3) will--

(I) endanger the life or physical safety of any person;

(II) result in flight from prosecution;

(III) result in the destruction of, or tampering with, evidence relevant to the investigation;

(IV) result in the intimidation of a potential witness relevant to the investigation;

(V) result in the compromise of classified information; or

(VI) otherwise seriously jeopardize or unduly delay the investigation or another official proceeding.

(B) Notification of consumer upon conclusion of investigation

Upon the conclusion of a national security investigation described in subparagraph (A), or upon the determination that the exception under subparagraph (A) is no longer required for the reasons set forth in such subparagraph, the official exercising the authority in such subparagraph shall provide to the consumer who is the subject of the consumer report with regard to which such finding was made--

(i) a copy of such consumer report with any classified information redacted as necessary;

(ii) notice of any adverse action which is based, in part, on the consumer report; and

(iii) the identification with reasonable specificity of the nature of the investigation for which the consumer report was sought.

(C) Delegation by head of agency or department

For purposes of subparagraphs (A) and (B), the head of any agency or department of the United States Government may delegate his or her authorities under this paragraph to an official of such agency or department who has personnel security responsibilities and is a member of the Senior Executive Service or equivalent civilian or military rank.

(D) Definitions

For purposes of this paragraph, the following definitions shall apply:

(i) Classified information.--The term “classified information” means information that is protected from unauthorized disclosure under [Executive Order No. 12958](#) or successor orders.

(ii) National security investigation.--The term “national security investigation” means any official inquiry by an agency or department of the United States Government to determine the eligibility of a consumer to receive access or continued access to classified information or to determine whether classified information has been lost or compromised.

(c) Furnishing reports in connection with credit or insurance transactions that are not initiated by consumer

(1) In general

A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subparagraph (A) or (C) of subsection (a)(3) in connection with any credit or insurance transaction that is not initiated by the consumer only if--

(A) the consumer authorizes the agency to provide such report to such person; or

(B)(i) the transaction consists of a firm offer of credit or insurance;

(ii) the consumer reporting agency has complied with subsection (e);

(iii) here is not in effect an election by the consumer, made in accordance with subsection (e), to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph; and

(iv) the consumer report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, such consumer consents to the consumer reporting agency to such furnishing.

(2) Limits on information received under paragraph (1)(B)

A person may receive pursuant to paragraph (1)(B) only--

(A) the name and address of a consumer;

(B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and

(C) other information pertaining to a consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity.

(3) Information regarding inquiries

Except as provided in [section 1681g\(a\)\(5\)](#) of this title, a consumer reporting agency shall not furnish to any person a record of inquiries in connection with a credit or insurance transaction that is not initiated by a consumer.

(d) Reserved

(e) Election of consumer to be excluded from lists

(1) In general

A consumer may elect to have the consumer's name and address excluded from any list provided by a consumer reporting agency under subsection (c)(1)(B) in connection with a credit or insurance transaction that is not initiated by the consumer, by notifying the agency in accordance with paragraph (2) that the consumer does not consent to any use of a consumer report relating to the consumer in connection with any credit or insurance transaction that is not initiated by the consumer.

(2) Manner of notification

A consumer shall notify a consumer reporting agency under paragraph (1)--

(A) through the notification system maintained by the agency under paragraph (5); or

(B) by submitting to the agency a signed notice of election form issued by the agency for purposes of this subparagraph.

(3) Response of agency after notification through system

Upon receipt of notification of the election of a consumer under paragraph (1) through the notification system maintained by the agency under paragraph (5), a consumer reporting agency shall--

(A) inform the consumer that the election is effective only for the 5-year period following the election if the consumer does not submit to the agency a signed notice of election form issued by the agency for purposes of paragraph (2)(B); and

(B) provide to the consumer a notice of election form, if requested by the consumer, not later than 5 business days after receipt of the notification of the election through the system established under paragraph (5), in the case of a request made at the time the consumer provides notification through the system.

(4) Effectiveness of election

An election of a consumer under paragraph (1)--

(A) shall be effective with respect to a consumer reporting agency beginning 5 business days after the date on which the consumer notifies the agency in accordance with paragraph (2);

(B) shall be effective with respect to a consumer reporting agency--

(i) subject to subparagraph (C), during the 5-year period beginning 5 business days after the date on which the consumer notifies the agency of the election, in the case of an election for which a consumer notifies the agency only in accordance with paragraph (2)(A); or

(ii) until the consumer notifies the agency under subparagraph (C), in the case of an election for which a consumer notifies the agency in accordance with paragraph (2)(B);

(C) shall not be effective after the date on which the consumer notifies the agency, through the notification system established by the agency under paragraph (5), that the election is no longer effective; and

(D) shall be effective with respect to each affiliate of the agency.

(5) Notification system

(A) In general

Each consumer reporting agency that, under subsection (c)(1)(B), furnishes a consumer report in connection with a credit or insurance transaction that is not initiated by a consumer, shall--

(i) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer reports maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any such list of names and addresses provided by the agency for such a transaction; and

(ii) publish by not later than 365 days after September 30, 1996, and not less than annually hereafter, in a publication of general circulation in the area served by the agency--

(I) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

(II) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under clause (i).

(B) Establishment and maintenance as compliance

Establishment and maintenance of a notification system (including a toll-free telephone number) and publication by a consumer reporting agency on the agency's own behalf and on behalf of any of its affiliates in accordance with this paragraph is deemed to be compliance with this paragraph by each of those affiliates.

(6) Notification system by agencies that operate nationwide

Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish and maintain a notification system for purposes of paragraph (5) jointly with other such consumer reporting agencies.

(f) Certain use or obtaining of information prohibited

A person shall not use or obtain a consumer report for any purpose unless--

(1) the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and

(2) the purpose is certified in accordance with [section 1681e](#) of this title by a prospective user of the report through a general or specific certification.

(g) Protection of medical information

(1) Limitation on consumer reporting agencies

A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical information (other than medical contact information treated in the manner required under [section 1681c\(a\)\(6\)](#) of this title) about a consumer, unless--

(A) if furnished in connection with an insurance transaction, the consumer affirmatively consents to the furnishing of the report;

(B) if furnished for employment purposes or in connection with a credit transaction--

(i) the information to be furnished is relevant to process or effect the employment or credit transaction; and

(ii) the consumer provides specific written consent for the furnishing of the report that describes in clear and conspicuous language the use for which the information will be furnished; or

(C) the information to be furnished pertains solely to transactions, accounts, or balances relating to debts arising from the receipt of medical services, products, or devices, where such information, other than account status or amounts, is restricted or reported using codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in [section 1681c\(a\)\(6\)](#) of this title.

(2) Limitation on creditors

Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information (other than medical information treated in the manner required under [section 1681c\(a\)\(6\)](#) of this title) pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

(3) Actions authorized by Federal law, insurance activities and regulatory determinations

[Section 1681a\(d\)\(3\)](#) of this title shall not be construed so as to treat information or any communication of information as a consumer report if the information or communication is disclosed--

(A) in connection with the business of insurance or annuities, including the activities described in section 18B of the model Privacy of Consumer Financial and Health Information Regulation issued by the National Association of Insurance Commissioners (as in effect on January 1, 2003);

(B) for any purpose permitted without authorization under the Standards for Individually Identifiable Health Information promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, or referred to under section 1179 of such Act, or described in section 6802(e) of this title; or

(C) as otherwise determined to be necessary and appropriate, by regulation or order, by the Bureau or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).

(4) Limitation on redisclosure of medical information

Any person that receives medical information pursuant to paragraph (1) or (3) shall not disclose such information to any other person, except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

(5) Regulations and effective date for paragraph (2)

(A)¹ Regulations required

The Bureau may, after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.

(6) Coordination with other laws

No provision of this subsection shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.

CREDIT(S)

(Pub.L. 90-321, Title VI, § 604, as added Pub.L. 91-508, Title VI, § 601, Oct. 26, 1970, 84 Stat. 1129; amended Pub.L. 101-73, Title IX, § 964(c), Aug. 9, 1989, 103 Stat. 506; Pub.L. 104-193, Title III, § 352, Aug. 22, 1996, 110 Stat. 2240; Pub.L. 104-208, Div. A, Title II, §§ 2403, 2404(a), (b), 2405, Sept. 30, 1996, 110 Stat. 3009-430, 3009-431, 3009-433, 3009-434; Pub.L. 105-107, Title III, § 311(a), Nov. 20, 1997, 111 Stat. 2255; Pub.L. 105-347, §§ 2, 3, 6(4), Nov. 2, 1998, 112 Stat. 3208, 3210, 3211; Pub.L. 107-306, Title VIII, § 811(b)(8)(A), Nov. 27, 2002, 116 Stat. 2426; Pub.L. 108-159, Title II, § 213(c), Title IV, §§ 411(a), 412(f), Title VIII, § 811(b), Dec. 4, 2003, 117 Stat. 1979, 1999, 2003, 2011; Pub.L. 108-177, Title III, § 361(j), Dec. 13, 2003, 117 Stat. 2625; Pub.L. 109-351, Title VII, § 719, Oct. 13, 2006, 120 Stat. 1998; Pub.L. 110-161, Div. D, Title VII, § 743, Dec. 26, 2007, 121 Stat. 2032; Pub.L. 111-24, Title III, § 302, May 22, 2009, 123 Stat. 1748; Pub.L. 111-203, Title X, § 1088(a)(2)(A), (4), July 21, 2010, 124 Stat. 2087; Pub.L. 114-94, Div. G, Title LXXX, § 80001, Dec. 4, 2015, 129 Stat. 1792.)

Notes of Decisions (235)

Footnotes

1 So in original. No subpar. (B) has been enacted.

15 U.S.C.A. § 1681b, 15 USCA § 1681b

Current through P.L. 116-108.

End of Document

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Appendix B

(Contract Between Defendant Gotra and Skinner Inc.)

SKINNER

Receipt No. **179892**

Address Change Existing Client # _____

Payment to Name Company

Old address _____

Name _____

Company _____

Address _____

Pick-up address

**375 SHIPPEE RD.
 EAST GREENWICH RI 02818.**

City _____ State _____ Zip _____

Phone _____

Phone _____

Email _____ Appraiser _____

Special instructions

**18.5% com.
 1.5% Ins.
 No Photo Fee**

Transportation paid by consignor:

Date _____ Hrs. _____ Staff _____

✓	ITEM NO.	DEPT.	DESCRIPTION	ESTIMATE RANGE	PHOTO	WHSSE	BIN	INIT. BY
			Rolex DateJus Diamond watch					
			Aqua Master diamond watch					
			Joe Rodeo watch					
			CHARLES HUBERT LUMINOR PANERI					
			GOTRA FABIANO Custom watch					
			Storby Silver Pendant					
			Burberry watch					

1. **CONSIGNMENT:** Subject to the terms and conditions set forth below, Consignor hereby (a) consigns to Skinner, Inc. ("Skinner") the property identified above and on any additional receipt referencing this Consignment Agreement (the "Property"); (b) authorizes Skinner, as its exclusive agent, to offer the Property for sale at public auction, and (c) agrees that Skinner may in its sole discretion determine whether to divide the Property into lots. For the purposes of this Agreement, a "Lot" shall mean one or more items of Property that are offered for sale as a single unit ("Lot").

2. **COMMISSION:** Skinner's commission from the proceeds of the sale of each Lot shall be equal to:

- 18.5% 30% of the amount of the final bid price up to and including \$1,000.
- 20% of the amount of the final bid price from \$1,001 up to and including \$10,000.
- 10% of the amount of the final bid price over \$10,000.
- All lots sold or unsold will be subject to a minimum commission/charge of \$40.

Consignor agrees that Skinner also may collect from the successful bidder ("Buyer") a buyer's premium in accordance with the conditions of sale in effect at the time of auction.

3. **INSURANCE:** Unless Skinner and Consignor otherwise agree in writing, Skinner shall maintain insurance on the Property while the Property is in Skinner's actual physical possession in an amount equal to Skinner's average pre-sale high and low estimate (the "Insured Value"). Consignor shall pay Skinner an amount equal to 1.5% of the final bid price on each Lot sold, which shall be withheld by Skinner from the net proceeds of sale or, if unsold, 1.5% of the Insured Value of the the Property, payable on demand by Skinner. Skinner's liability to Consignor for any damage to or theft of the Property shall not exceed the Insured Value and shall be limited to the proceeds of insurance. Skinner shall not be liable for any damage to gessoed frames or lamp shades, nor shall Skinner be responsible for maintaining any special storage conditions for any Property.

ON THE REVERSE SIDE HEREOF THIS AGREEMENT IS SUBJECT TO THE ADDITIONAL TERMS AND CONDITIONS CONTAINED HERE

Dated **3-7-2020**

 CONSIGNOR SIGNATURE

Dated _____
 SKINNER REPRESENTATIVE

ADDENDUM TO CONSIGNMENT AGREEMENT

The undersigned parties to the Consignment Agreement, Receipt No. 179892, attached hereto (the "Consignment Agreement"), hereby add the following provisions:

A.1 The Consignor warrants and represents to Skinner that he is liquidating his personal jewelry as part of the settlement of a federal lawsuit involving the United States Federal Trade Commission ("FTC"), *FTC v. Gotra, et al.*, No. 1:19-cv-00410-MSM-LDA (D.R.I.), and that he has all necessary authorizations from the FTC and the court to enter into the Consignment Agreement and this Addendum.

A.2 The Consignor hereby authorizes and directs Skinner to pay any amounts that may be due to Consignor under the Consignment Agreement, net of all commissions and expenses, directly to the United States Treasury in accordance with wire transfer instructions to be supplied to Skinner by Ian L. Barlow, Do Not Call Program Coordinator, FTC Bureau of Consumer Protection, Division of Marketing Practices ("Mr. Barlow"), or by other FTC staff members. The payment to the United States Treasury will be made via wire transfer within 60 days of Skinner's sale of jewelry.

A.3 Upon Skinner's physical receipt of the watches described on the Consignment Agreement, Skinner will provide Consignor with a list of the consigned property and forward a copy of the list to Mr. Barlow by email (ibarlow@ftc.gov) and to the following FTC email address: DEBrief@ftc.gov. The Consignor authorizes Skinner to provide the FTC with all documents and records (including emails and other digital files) related to the receipt, storage, auction, sale and disposition of any property subject to the Consignment Agreement.

A.4 Except as expressly modified by this Addendum, all of the terms and conditions of the Consignment Agreement remain in full force and effect.

Signed as a document under seal as of the date of the Consignment Agreement.

CONSIGNOR:


Jasjit Gotra

SKINNER, INC.

Print Name: _____
Print Title: _____