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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

LISA FRANK, INC.,  
a corporation,

Defendant.

Civil Action No. \_\_\_\_\_

CONSENT DECREE AND ORDER  
FOR CIVIL PENALTIES,  
INJUNCTIVE, AND OTHER RELIEF

WHEREAS plaintiff, the United States of America, has commenced this action by filing the Complaint herein; defendant has waived service of the Summons and Complaint; the parties have been represented by the attorneys whose names appear hereafter; and the parties have agreed to settlement of this action upon the following terms and conditions, without adjudication of any issue of fact or law and without defendant admitting liability for any of the matters alleged in the Complaint;

THEREFORE, on the joint motion of plaintiff and defendant, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. This Court has jurisdiction over the subject matter and of the parties.
2. The Complaint states a claim upon which relief may be granted against the defendant under Sections 1303(c) and 1306(d) of the Children's Online Privacy Protection Act of 1998 ("COPPA"), 15 U.S.C. §§ 6501-6506, §§ 6502(c), 6505(d), and Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 41-58, §§ 45(a)(1), 45(m)(1)(A), 53(b), 56(a).

### **DEFINITIONS**

3. For the purposes of this Consent Decree, the term "Rule" means the Federal Trade Commission's Children's Online Privacy Protection Rule, 16 C.F.R. Part 312, or as the Rule may hereafter be amended.
4. For purposes of this Consent Decree, the terms "child," "collects," "collection," "Commission," "delete," "disclosure," "Internet," "online contact information," "operator," "parent," "person," "personal information," "third party," "verifiable consent," and "website or online service directed to children," are defined as those terms are defined Section 312.2 of the Rule, 16 C.F.R. § 312.2.
5. Unless otherwise specified, "defendant" shall mean Lisa Frank, Inc. and its officers, successors and assigns, agents, representatives, and employees.

### **INJUNCTION**

6. Defendant, its successors and assigns, and its officers, agents, servants, employees and attorneys, and all persons in active concert or participation with any one or more of them who receive actual notice of this Consent Decree by personal service or otherwise, are hereby

enjoined from violating, directly or through any corporation, subsidiary, division, website, or other device, any provision of the Rule. A copy of the current Rule is attached hereto as “Appendix A” and incorporated herein as if fully set forth verbatim.

7. Defendant, its successors and assigns, and its officers, agents, servants, employees and attorneys, and all persons in active concert or participation with any one or more of them who receive actual notice of this Consent Decree by personal service or otherwise, are hereby enjoined, in connection with the operation of any website or other online service, from failing to comply with any representation, in the website's privacy policy or elsewhere, about the website's collection, use or disclosure of children's personal information, or about the website's procedures to maintain the confidentiality, security, or integrity of children's personal information.

#### **CONSUMER EDUCATION REMEDY**

8. For a period of five (5) years from the date of entry of this Consent Decree, defendant, and its successors and assigns, shall place a clear and conspicuous notice (1) within the privacy policy required to be posted on its website(s) by Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b); and (2) within the direct privacy notice required to be sent to parents by Section 312.4(c) of the Rule, 16 C.F.R. § 312.4(c); which states as follows in bold typeface:

**NOTICE: Visit [www.ftc.gov/kidzprivacy](http://www.ftc.gov/kidzprivacy) for information from the Federal Trade Commission about protecting children's privacy online.**

The above notice shall be in the form of a hyperlink to <http://www.ftc.gov/kidzprivacy>. The Federal Trade Commission may change the hyperlink/URL upon thirty (30) days prior written notice to defendant, its successors or assigns.

## **CIVIL PENALTY**

9. Defendant shall pay to plaintiff a civil penalty, pursuant to Section 5(m)(1)(A) of the Federal Trade Commission Act, 15 U.S.C. § 45(m)(1)(A), in the amount of Thirty thousand dollars (\$30,000).

10. Defendant shall make the payment required by Paragraph 9 on the date of entry of this Consent Decree by certified or cashier's check made payable to the Treasurer of the United States and delivered to: the Office of Consumer Litigation, Civil Division, U.S. Department of Justice, Washington, D.C. 20530, for appropriate disposition.

11. In the event of any default in payment, which default continues for ten (10) days beyond the due date of payment, the entire unpaid penalty, together with interest, as computed pursuant to 28 U.S.C. § 1961, from the date of default to the date of payment, shall immediately become due and payable.

## **COMPLIANCE**

12. Defendant, and its successors and assigns, within ten (10) days of the date of entry of this Consent Decree, shall delete all personal information collected from children without their parent's authorization through [www.lisafrank.com](http://www.lisafrank.com) and [shop.lisafrank.com](http://shop.lisafrank.com) at any time from April 21, 2000 through the date of entry of this Consent Decree.

13. Defendant, and its successors and assigns, within thirty (30) days of the date of entry of this Consent Decree, shall provide a copy of this Consent Decree and the Federal Trade Commission compliance guide entitled *How to Comply with the Children's Online Privacy Protection Rule* (Nov. 1999) ("compliance guide") (attached hereto as "Appendix B") to each of

its current principals, officers, directors, and managers, and to all current employees, agents, representatives, and attorneys having responsibilities related to the subject matter of this Consent Decree, secure from each such person a signed statement acknowledging receipt of a copy of this Consent Decree and the compliance guide, and shall, within ten (10) days of complying with this paragraph, submit to the Commission a signed statement setting forth the fact and manner of defendant's compliance, including the name and title of each person to whom a copy of the Consent Decree and compliance guide has been provided.

14. Defendant, and its successors and assigns, shall, for a period of three (3) years after the entry of this Consent Decree, provide a copy of this Consent Decree and the compliance guide to each of its future principals, officers, directors, and managers, and to all future employees, agents, representatives, and attorneys having responsibilities related to the subject matter of this Consent Decree, and secure from each such person a signed and dated statement acknowledging receipt of a copy of this Consent Decree and the compliance guide, within thirty (30) days after the person assumes such position or responsibilities. Defendant shall maintain copies of the signed statements, as well as other information regarding the fact and manner of its compliance, including the name and title of each person to whom a copy of the Consent Decree and compliance guide has been provided and, upon request, shall make the statements and other information available to the Federal Trade Commission. Provided that, compliance with this paragraph will not be required during any period of time when defendant does not operate any web site or online service.

15. Within one hundred and twenty (120) days after entry of this Consent Decree, and

at such other times as the Federal Trade Commission may require, defendant, and its successors and assigns, shall file with the Commission a written report, setting forth in detail the manner and form in which it has complied and is complying with this Consent Decree. This report shall include but not be limited to:

- a. a copy of each different privacy notice on any of its websites that are subject to the Rule;
  - b. a statement setting forth in detail each place where the privacy notice on the website is located and a copy of each screen or page on which the website collects personal information;
  - c. a copy of each different privacy notice to parents;
  - d. a statement setting forth in detail when and how notices to parents are provided;
  - e. a statement setting forth in detail the methods used to obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children;
  - f. a statement setting forth in detail the means provided for parents to review the personal information collected from their children and to refuse to permit its further use or maintenance;
  - g. a statement setting forth in detail why each type of information collected is reasonably necessary for the provision of the particular related activity;
- and

- h. a statement setting forth in detail the procedures used to protect the confidentiality, security, and integrity of personal information collected from children.

16. Defendant, and its successors and assigns, shall, for a period of five (5) years after entry of this Consent Decree, maintain and make available to the Federal Trade Commission for inspection and copying within fifteen (15) days of the date of receipt of a written request, a print or electronic copy in HTML format of all documents demonstrating compliance with the terms and provisions of this Consent Decree, including, but not limited to, a sample copy of every information collection form, web page, or screen, and a sample copy of each document containing any representation regarding defendant's collection, use, and disclosure practices pertaining to personal information. Each web page copy shall be accompanied by the URL of the web page where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet. Provided, however, that defendant shall not be required by this paragraph to retain a document for longer than three years after the document is created; or retain a print or electronic copy of any amended web page or screen to the extent that the amendment does not affect defendant's compliance obligations under this Consent Decree.

17. Defendant Lisa Frank, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in its business that may affect compliance obligations arising under this Consent Decree, including, but not limited to, any merger, incorporation, dissolution, assignment, sale or other action that would result in the

emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that with respect to any proposed change in the corporation about which defendant, its successors and assigns, learns less than thirty (30) days prior to the date such action is to take place, it shall notify the Commission as soon as is practicable after obtaining such knowledge.

18. Defendant Lisa Frank, Inc. is hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the Federal Trade Commission its taxpayer identifying number (social security number or employer identification number), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of its relationship with the government.

19. All reports, submissions, and notices required by Paragraphs 13 - 18 of this Consent Decree shall be sent by certified mail to:

Associate Director, Division of Advertising Practices  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Attention: United States v. Lisa Frank, Inc.

#### **CONTINUING JURISDICTION**

20. This Court shall retain jurisdiction of this matter for the purposes of enabling any of the parties to this Consent Decree to apply to the Court at any time for such further orders or directives as may be necessary or appropriate for the interpretation or modification of this



Consent Decree, for the enforcement of compliance therewith, or for the punishment of violations thereof.

JUDGMENT IS THEREFORE ENTERED in favor of plaintiff and against defendant, pursuant to all the terms and conditions recited above.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

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UNITED STATES DISTRICT JUDGE

Defendant hereby consents to the terms and conditions of the Consent Decree as set forth above and consent to the entry thereof. Defendant waives any rights that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the investigation and prosecution of this action.

FOR THE UNITED STATES OF AMERICA:

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