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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA

JAMES N. HATTEN, Clerk  
By: *[Signature]* Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

v.

JONES O. GODWIN,  
an individual d/b/a skidekids.com

Defendant.

Civil Action No.

1:11-cv-3846-JOF

**CONSENT DECREE AND ORDER FOR CIVIL  
PENALTIES, INJUNCTION 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; 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 that any issue of fact or law other than those related to jurisdiction and venue is true;

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

1. This Court has jurisdiction of the subject matter and of the parties pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 57b.
2. Venue is proper as to both parties in the Northern District of Georgia under 15 U.S.C. §53(b) and 28 U.S.C. §§ 1391(b)-(c) and 1395(a).

3. The activities of Defendant are in or affecting commerce as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The Complaint states a claim upon which relief may be granted against 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), and 6505(d); the Commission's Children's Online Privacy Protection Rule, 16 C.F.R. Part 312; 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), and 56(a). Among other things, the complaint alleges that Defendant violated COPPA by failing to provide notice to parents of his information practices, and to obtain verifiable parental consent prior to collecting, using, and or disclosing personal information from children online.
5. Defendant has entered into this Consent Decree and Order for Civil Penalties, Injunction, and Other Relief ("Order") freely and without coercion. Defendant further acknowledges that he has read the provisions of this Order and is prepared to abide by them.
6. Plaintiff and Defendant hereby waive all rights to appeal or otherwise challenge the validity of this Order.
7. Plaintiff and Defendant stipulate and agree that entry of this Order shall constitute a full, complete, and final settlement of this action.
8. Defendant has agreed that this Order does not entitle him to seek or to obtain attorneys' fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, and Defendant further waives any rights to attorneys' fees that may arise under said provision of law.

9. Entry of this Order is in the public interest.

### DEFINITIONS

10. "Rule" means the Federal Trade Commission's Children's Online Privacy Protection Rule, 16 C.F.R. Part 312.
11. 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," mean as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.
12. "Defendant" means Jones O. Godwin, individually, and doing business through any name, including but not limited to Skid-e-kids Network LLC, and [www.skidekids.com](http://www.skidekids.com).

### INJUNCTION

13. **IT IS ORDERED** that Defendant, and his officers, agents, representatives, and employees, and all persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are hereby enjoined, directly or through any corporation, subsidiary, division, website, or other device, from:
- A. Failing, on any website or online service directed to children, or on any website or online service through which he, with actual knowledge, collects, uses, and/or discloses personal information from children, to provide sufficient notice of the information Defendant collects online from children, how he uses such information, his disclosure practices, and all other content, as required by Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b);

- B. Failing, on any website or online service directed to children, or on any website or online service through which he, with actual knowledge, collects, uses, and/or discloses personal information from children, to provide direct notice to parents of what information Defendant collects online from children, how he uses such information, his disclosure practices, and all other required content, as required by Section 312.4(c) of the Rule, 16 C.F.R. § 312.4(c);
- C. Failing, on any website or online service directed to children, or on any website or online service through which he, with actual knowledge, collects, uses, and/or discloses personal information from children, to obtain verifiable parental consent before any collection, use, and/or disclosure of personal information from children, as required by Section 312.5 of the Rule, 16 C.F.R. § 312.5(a)(1); or,
- D. Violating any other provision of the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312, and as the Rule may hereafter be amended. A copy of the Rule is attached hereto as "Appendix A" and incorporated herein as if fully set forth verbatim.

14. **IT IS FURTHER ORDERED** that Defendant, and his officers, agents, representatives, and employees, and all persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are hereby enjoined, directly or through any corporation, subsidiary, division, website, or other device, in connection with the operation of any website or online service, from making any misrepresentation in the website or online service's privacy policy or elsewhere about the website or online service's collection, use, disclosure, or

deletion of children's personal information.

**DELETION OF CHILDREN'S PERSONAL INFORMATION**

15. **IT IS FURTHER ORDERED** that Defendant, within five (5) days from the date of receipt of notice of the entry of this Order, shall delete all personal information collected and maintained in violation of the Rule at any time from April 21, 2000 through the date of entry of this Order.

**CONSUMER EDUCATION REMEDY**

16. **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, Defendant, in connection with his operation of any website or online service directed to children, and any website or online service through which Defendant, with actual knowledge, collects, uses, and/or discloses personal information from children, shall place a clear and conspicuous notice: (1) within the privacy policy required to be posted by Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b); (2) within the direct notice required to be sent to parents by Section 312.4(c) of the Rule, 16 C.F.R. § 312.4(c); and, (3) at each location on the website or online service where personal information is collected, which states as follows in bold typeface:

**NOTICE: Visit [www.OnGuardOnline.gov](http://www.OnGuardOnline.gov) for tips from the Federal Trade Commission on protecting kids' privacy online**  
["[www.OnGuardOnline.gov](http://www.OnGuardOnline.gov)" must contain a hyperlink to <http://www.onguardonline.gov/topics/kids-privacy.aspx>]

Defendant shall be required to change the hyperlinks/URLs within fifteen (15) days after receipt of notice from the Federal Trade Commission of a change to such hyperlinks/URLs.

### CIVIL PENALTY

17. **IT IS FURTHER ORDERED** that Defendant shall pay to Plaintiff a civil penalty, pursuant to Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), in the amount of one hundred thousand dollars (\$100,000); *provided, however*, that upon satisfaction of payment as outlined in Paragraph 18, all but one thousand dollars (\$1,000) of this amount shall be suspended, subject to the conditions set forth in the Sections of this Order entitled “RETENTION OF CHILDREN’S ONLINE PRIVACY PROFESSIONAL” and “RIGHT TO REOPEN.”
18. Defendant shall make the payment required by Paragraph 17 of this Order as follows: Within five (5) days of receipt of notice of the entry of this Order, Defendant shall transfer the sum of one thousand dollars (\$1,000) in the form of a wire transfer or certified cashier’s check made payable to the Treasurer of the United States. The check and/or written confirmation of the wire transfer shall be delivered in accordance with procedures specified by the Consumer Protection Branch, Civil Division, U.S. Department of Justice, Washington, DC 20530.
19. Defendant relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendant shall make no claim to or demand return of the funds, directly or indirectly, through counsel or otherwise.
20. Defendant agrees that the facts as alleged in the Complaint filed in this action shall be taken as true, without further proof, in any subsequent civil litigation filed by or on behalf of the Commission to enforce its right to any

payment of money judgment pursuant to this order.

21. Defendant agrees that the judgment represents a civil penalty owed to the United States Government and, is not compensation for actual pecuniary loss, and therefore, as to the Defendant, it is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7).
22. 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 (accrued from the date of default to the date of payment) shall immediately become due and payable.

#### **RETENTION OF CHILDREN'S ONLINE PRIVACY PROFESSIONAL**

23. **IT IS FURTHER ORDERED** that Defendant, in connection with his operation of any website or online service directed to children, or any website or online service through which Defendant, with actual knowledge, collects, uses, and/or discloses personal information from children, shall either:
  - A. Within thirty (30) days of service of this Order, retain a qualified, objective, independent third-party professional who uses procedures and standards generally accepted in the profession to conduct initial and annual assessments and reports ("Assessments"). A person or entity qualified to prepare such Assessments shall have a minimum of three (3) years of experience in the field of children's online privacy and implementation of the Rule. All persons conducting such Assessments and preparing such reports shall be approved by the

Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, in his or her sole discretion. The reporting period for the Assessments shall cover the first full year after service of the Order, and each of the following four (4) years, for a total of five (5) annual Assessments. Each Assessment shall:

1. Set forth the specific children's online privacy controls that the Defendant has implemented and maintained during the reporting period;
2. Explain how the children's online privacy controls that have been implemented meet or exceed the protections required by the Section of this Order entitled "INJUNCTION," and,
3. Certify that the children's online privacy controls are operating with sufficient effectiveness to provide reasonable assurance to protect the privacy and security of children's personal information and that the controls have so operated throughout the reporting period.

Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies. Defendant shall provide the initial Assessment to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, within ten (10) days after the Assessment has been prepared. All subsequent annual Assessments shall be retained by Defendant and provided to the



- Associate Director of Enforcement within ten (10) days of request; or,
- B. Within thirty (30) days of service of this Order, become a member in good standing of one of the programs approved by the Commission as a safe harbor program for purposes of implementing the Rule.
- Defendant shall remain a member in good standing of a Commission-approved COPPA safe harbor program for a period of five (5) years after the date of service of this Order, or until such time as Defendant elects to retain a qualified, objective, independent third-party professional under Paragraph 23.A. of this Order.

#### **RIGHT TO REOPEN**

24. **IT IS FURTHER ORDERED** that
- A. The Commission's agreement to this Order is expressly premised upon the truthfulness, accuracy, and completeness of the Financial Statement of Individual Defendant, signed and dated July 7, 2011, and the Individual Financial Statement of Jones O. Godwin: Supplemental Answers, signed and dated July 13, 2011. Defendant stipulates that all of the materials that Defendant submitted are truthful, accurate, and complete. These documents contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Order.
- B. If, upon motion by the Commission, a Court determines either that Defendant:
1. Made a material misrepresentation or omitted material information concerning Defendant's financial condition; or,

2. Failed to comply with the requirements of the Section of this Order entitled "RETENTION OF CHILDREN'S ONLINE PRIVACY PROFESSIONAL,"

then the Court shall lift the suspension described in the Section of this Order entitled "CIVIL PENALTY" and reinstate the full civil penalty against Defendant and for Plaintiff in the amount of one hundred thousand dollars (\$100,000), less any amount already paid by or on behalf of Defendant to Plaintiff, *provided, however*, that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and *provided*, further, that proceedings instituted under this provision would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including but not limited to contempt proceedings, or any other proceedings that the Commission may initiate to enforce this Order.

#### **COMPLIANCE MONITORING**

25. **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating compliance with any provision of this Order:
  - A. Within ten (10) days of receipt of a written request from a representative of the Commission, Defendant shall submit written responses, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in Defendant's possession or direct or indirect control to inspect the business operation.
  - B. In addition, the Commission is authorized to use all other lawful

means, including but not limited to:

1. Obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;
  2. Having its representatives pose as consumers and suppliers to Defendant, his employees, or any other entity managed or controlled in whole or in part by Defendant, without the necessity of identification or prior notice; and,
- C. Defendant shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.
- D. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendant.

*Provided however*, that nothing in this Order shall limit 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, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

### COMPLIANCE REPORTING

26. **IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of five (5) years from the date of entry of this Order:

1. The Defendant shall notify the Commission of the following:

- a. Any changes in the Defendant's residence, mailing address, and telephone number, within ten (10) days of the date of such change;
- b. Any changes in the Defendant's employment status (including self-employment), and any change in the Defendant's ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that the Defendant is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of the Defendant's duties and responsibilities in connection with the business or employment; and,
- c. Any changes in the structure of any business entity that the Defendant directly or indirectly controls or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the

creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, *provided that*, with respect to any such change in the business entity about which the Defendant learns less than thirty (30) days prior to the date such action is to take place, the Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge; and

- d. Any changes in the Defendant's name or use of any aliases or fictitious names within ten (10) days of the date of such change.

B. Sixty (60) days after the date of entry of this Order, and thereafter for a period of five (5) years at such times as the Federal Trade Commission shall reasonably require, Defendant shall provide a written report to the Commission, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which each has complied and is complying with this Order. This report shall include, but not be limited to:

1. The Defendant's then-current residence address, mailing addresses, and telephone numbers;
2. The Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that the Defendant is affiliated with,

employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of the Defendant's duties and responsibilities in connection with the business or employment; and,

3. Any other changes required to be reported under Paragraph 26.A. of this Order.

C. Defendant shall notify the Commission of the filing of a bankruptcy petition within fifteen (15) days of filing.

D. For the purposes of this Order, Defendant shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier (not the U.S. Postal Service) all reports and notifications to the Commission that are required by this Order to the following address:

Associate Director for Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580  
RE: U.S. v. Skid-e-kids Network LLC.

*Provided* that, in lieu of overnight courier, Defendant may send such reports or notifications by first-class mail, but only if Defendant contemporaneously sends an electronic version of such report or notification to the Commission at: DEBrief@ftc.gov.

#### **RECORD-KEEPING PROVISIONS**

27. **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, Defendant, for any business for which he is the

majority owner or directly or indirectly controls, is hereby restrained and enjoined from failing to create and retain the following records:

- A. A print or electronic copy of all documents necessary to demonstrate full compliance with each provision of this Order, including, but not limited to:
1. Copies of acknowledgments of receipt of this Order required by the Sections titled "DISTRIBUTION OF ORDER" and "ACKNOWLEDGMENT OF RECEIPT OF ORDER";
  2. All reports submitted to the Commission pursuant to the Section titled "COMPLIANCE REPORTING";
  3. A sample copy of every materially different form, page, or screen through which personal information is collected or disclosed, and a sample copy of each materially different document containing any representation regarding Defendant's collection, use, and disclosure practices pertaining to personal information of a child. 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 to retain any document for longer than two (2) years after the document was created, or to retain a print or electronic copy of any amended form, page, or screen to the extent that the amendment does not affect Defendant's compliance obligations under this Order.

### **DISTRIBUTION OF ORDER**

28. **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, Defendant shall deliver copies of the Order, including Appendix A, as directed below:
- A. Defendant as a control person: For any business that the Defendant controls, directly or indirectly, or in which the Defendant has a majority ownership interest, the Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and managers; and (2) all employees, agents, and representatives who have responsibilities related to the operation of any website or online service subject to this Order and (3) any business entity resulting from any change in structure set forth in Paragraph 26.A.2. of the Section titled "COMPLIANCE REPORTING." For current personnel, delivery shall be within five (5) days of service of this Order upon the Defendant. For new personnel, delivery shall occur prior to their assuming their responsibilities.
  - B. Defendant as employee or non-control person: For any business where the Defendant is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, the Defendant must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.
  - C. Defendant must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all



persons receiving a copy of the Order pursuant to this Section.

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 Order has been provided and, upon request, shall make the statements and other information available to the Commission.

**ACKNOWLEDGMENT OF RECEIPT OF ORDER**

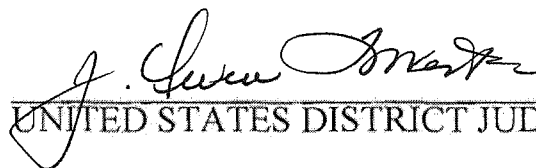
29. **IT IS FURTHER ORDERED** that Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

**RETENTION OF JURISDICTION**

30. This Court shall retain jurisdiction of this matter for the purposes of construction, modification, and enforcement of this Order.

**JUDGMENT IS THEREFORE ENTERED** in favor of Plaintiff and against Defendant, pursuant to all the terms and conditions recited above.

Dated this 1<sup>st</sup> day of February, 2012

  
UNITED STATES DISTRICT JUDGE