

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, <i>ex rel.</i>)	CASE NO.: 15CV004418
MICHAEL DEWINE,)	
ATTORNEY GENERAL)	JUDGE: STEPHEN L. MCINTOSH
)	
Plaintiff,)	<u>AGREED ENTRY AND</u>
)	<u>FINAL JUDGMENT ORDER</u>
v.)	
)	
CLASSMATES, INC.)	
)	
Defendant.)	

Plaintiff, State of Ohio, acting by and through Attorney General Michael DeWine, has brought this action against Defendant Classmates, Inc. pursuant to the various provisions of Ohio’s Consumer Sales Practices Act, R.C. 1345.01 *et seq.* The Parties have agreed to the entry of this Agreed Entry and Final Judgment Order (“Order”) for the purposes of settlement only, without any admission by any party, and without trial or adjudication of any issue of fact or law.

Plaintiff has brought this action to conclude a multi-state investigation of the Defendant conducted by the Attorneys General of Alabama, Alaska, Delaware, Florida, Idaho, Illinois, Kansas, Maryland, Maine, Michigan, Nebraska, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Texas, Vermont, Washington and Wisconsin (hereinafter collectively referred to as the “Attorneys General”). Contemporaneous with this Order, the Defendant is entering into similar agreements with each of the Attorneys General of the States.

PARTIES

1. The State of Ohio, *ex rel.* Michael DeWine, Attorney General (“Attorney General”), by and through his Consumer Protection Section is the Plaintiff in this case. The Section is charged with, among other things, the responsibility of enforcing the Consumer Sales Practices Act, R.C. 1345.01 *et seq.* (“Consumer Sales Practices Act”).

2. Defendant Classmates, Inc. is a Washington corporation located at 1501 Fourth Avenue, Suite 400, Seattle, WA 98101. Defendant does business as Classmates.com and operates the Classmates social networking website that is available to Ohio consumers. At all times relevant hereto, Defendant, engaged in trade affecting consumers, within the meaning of the Consumer Sales Practices Act, in the State of Ohio, including, but not limited to Franklin County.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

DEFINITIONS

3. **“Account Information”** means any information, encrypted or not, that would enable the Defendant, or a third party acting on the Defendant’s behalf, to cause a charge to be placed against a consumer’s account, whether credit, debit, or any other kind of account or method of billing. Account Information includes, but is not limited to, any credit or debit card account numbers, credit or debit card type, expiration date, security code and other information or data used strictly for the purpose of billing a Consumer.

4. **“Clearly and Conspicuously”** and **“Clear and Conspicuous,”** when referring to a statement or disclosure, shall mean that such statement or disclosure is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, understandable, and capable of being heard. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information with which it is presented, it must be presented in proximity to the information it modifies, in a manner that is likely to be noticed, readable, and understandable, and it must not be obscured in any manner. Audio disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. Visual disclosure shall be of a size and shade and appear on the screen for a duration sufficient for a consumer to read and

comprehend it. In a print advertisement or promotional material, including, but without limitation, point of sale display or brochure materials directed to consumers, the disclosures shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in a print that contrasts with the background against which it appears.

5. **“Consumer”** shall have the same meaning as that term is defined in the Consumer Protection Act identified in this Order. However, in the event that the Consumer Protection Act identified herein does not define the term “consumer,” then it shall have the same meaning as the synonymous identifying individual or entity term, as defined by the Consumer Protection Act.

6. **“Consumer Protection Act”** shall be the Ohio Consumer Sales Practices Act, RC 1345.01 *et seq.* and any future amendments thereto.

7. **“Effective Date”** shall mean the date on which this Order is entered by the Court.

8. **“Free-to-Pay Conversion”** means an offer or agreement to sell or provide any goods or services to a Consumer for a free trial period after which the Consumer will be billed a fee if the Consumer does not reject the offer or cancel the agreement.

9. **“Marketing Partner(s)”** means any person or entity that the Defendant has authorized to offer, promote, advertise or sell any Membership Program to the Defendant’s Consumer customers.

10. **“Membership Program(s)”** means any program, product, or service offered by a third party that includes recurring charges following a Free-to-Pay Conversion; provided, however, as used in this Order, a “Membership Program” shall not include, without limitation, a program, product, or service marketed through a banner ad.

11. **“Personal Information”** means an individual’s first name or first initial and last name in combination with the individual’s billing address, Social Security number, driver’s

license number, financial or credit account numbers or Individual Taxpayer Identification number. For purposes of this Order, Personal Information shall include Account Information.

12. **“Subscription Services”** shall refer to the Defendant’s paid memberships or subscriptions that the Defendant offered to consumers on its online nostalgia media content and services website.

PLAINTIFF’S ALLEGATIONS

13. The Defendant engages and has engaged in the business of offering and selling consumer goods and consumer services to Ohio Consumers via the Internet through websites controlled by the Defendant. The consumer goods and consumer services that the Defendant offers and sells include Subscription Services.

14. Consumers enroll in Defendant’s Subscription Services by agreeing to pay a subscription fee and enrolling for an initial or trial term of three months, one year or two years. In most cases, at the conclusion of the initial or trial term, unless the Consumer has elected to cancel or previously has set his/her renewal option to “Manual” mode, his/her subscription renews automatically and the credit or debit card that the consumer used to first enroll in the Subscription Service(s) is automatically charged the then-current full price for the renewal. The Defendant does not adequately disclose to Consumers at the time they purchase the Subscription Services that the Subscription Services automatically renew.

15. Between 2003 and 2010, the Defendant entered into a number of post-transaction marketing agreements (hereinafter “marketing agreement(s)”) with Marketing Partners. The Defendant’s Marketing Partners included Affinion Group, Trilegiant Corporation, Webloyalty, Inc., Vertrue, Inc. and Jackpot Rewards, Inc.

16. Pursuant to the Defendant’s marketing agreements with its Marketing Partners referenced in the previous paragraph, the Defendant agreed to display advertisements for

Membership Programs on the Defendant's website. Some of the advertisements were published to Consumers in the course of their transactions with the Defendant. In most cases, the advertisements were published immediately following the Consumers' transactions with the Defendant.

17. The Defendant earned revenue from these marketing agreements based on the number of Marketing Partner offers viewed by Consumers on the Defendant's website, commonly referred to in the marketing agreements as "impressions," and/or the number of times a Consumer accepted a Marketing Partner's offer, commonly referred to in the marketing agreements as a "conversion."

18. The advertisements offered various Membership Programs, such as discount clubs, travel rewards programs, and insurance-type products. These Membership Programs typically offered an initial free-trial period, with a Free-to-Pay Conversion that resulted in a large number of Consumers complaining to the Attorneys General that they were unwittingly billed for Membership Programs until they cancelled the Membership Programs.

19. In some instances, the advertisements were presented to Consumers with the Defendant's logo while they were in the process of completing their transactions with Defendant. This gave some Consumers the impression that they were still conducting business with Defendant (as opposed to one of the Defendant's Marketing Partners). The advertisements failed to adequately identify the Marketing Partner as the business making the offer. Consequently, some Consumers were not aware that the offer was coming from one of the Defendant's Marketing Partners and not from Defendant.

20. In some instances, Consumers were encouraged to respond to the Marketing Partners' offers by clicking a "Continue" or "Yes" button in order to claim a discount or cash back reward on the Consumer's purchase with Defendant or some other retailer, making the

advertisement appear as if it were presented by Defendant instead of a Marketing Partner. The Defendant did not adequately inform Consumers that by clicking on these buttons, they were being directed to an entirely different website hosted by a Marketing Partner.

21. A method used for a period to enroll Consumers into Membership Programs involved the Marketing Partners' use of false consumer surveys. For example, at the conclusion of some of the Defendant's transactions, Consumers were informed, "Congratulations, you are now a Classmates Gold Member! Please complete your survey and claim your reward." The purpose of the survey was to lead Consumers to accept an offer to enroll in a Membership Program when they submitted the survey response. In fact, neither the Marketing Partners nor the Defendant used the data generated from the surveys, and one of the Defendant's Marketing Partners confirmed that the sole purpose of the surveys was to increase conversion rates.

22. In other instances, Consumers needed only to enter their email addresses or check a box in order to accept the Marketing Partner's offer, unaware due to inadequate disclosure that, by doing so, they were agreeing to enroll in a Membership Program.

23. Defendant had authority, pursuant to its marketing agreements with each Marketing Partner, to review, revise and/or refuse to display any Marketing Partner's offer or advertisement.

24. As a result of the above-described practices, at times as much as 89% of the Consumers who enrolled in Membership Programs did so without knowing they were agreeing to enroll in a Membership Program that would cost them money which they did not intend to spend. Many Consumers never availed themselves of the Membership Programs' purported benefits.

25. In order to facilitate the Marketing Partners' billing practices, the Defendant, without adequately obtaining permission from Consumers, electronically passed Consumers'

credit or debit card account information to its Marketing Partners when the Consumers enrolled in a Membership Program.

26. The Defendant's privacy policies were misleading, inconsistent and/or failed to adequately inform Consumers that the Defendant shared Consumers' Personal Information with third parties, including Defendant's Marketing Partners, when Consumers enrolled in a Membership Program.

DEFENDANT'S DENIALS

27. Defendant denies any and all allegations made by Plaintiff that it has engaged in wrongdoing of any kind. Defendant is confident that if any of the alleged misconduct were to be litigated, Defendant would prevail on each and every claim asserted by Plaintiff. However, to avoid the substantial burden and expense on Defendant that would result from continued investigation into these issues or litigation, Defendant has elected to resolve this matter through a consensual resolution. More specifically, Defendant makes the following denials:

28. Prior to the time that consumers enroll in Defendant's Subscription Services program, Defendant fully discloses to Consumers in a clear and conspicuous manner that the Subscription Services will automatically renew until they cancel, what their credit or debit card will be charged at renewal, and where they can change their renewal status. Such disclosures are in full compliance with all applicable laws.

29. With respect to Membership Programs offered to Defendant's customers by its former Marketing Partners, Defendant sought to ensure that Membership Program offers made to Consumers complied with governing law by adopting a three-tier approach: (a) negotiation of contractual terms that required the Marketing Partners to make clear and conspicuous disclosures in the Membership Program offers; (b) review of the Membership Program offers to ensure that the disclosures were clear and conspicuous; and (c) follow-up on Consumer complaints received

by Defendant to ensure that the Marketing Partners provided appropriate refunds to dissatisfied customer. As a result of this three-tier approach, the Membership Program offers made to Consumers were clear and conspicuous as a matter of law, in that they clearly delineated the party making the offer, described all of the salient terms and conditions of the offer, and obtained acceptance of the offer from customers with unambiguous language located in immediate proximity to the “Yes” or similar button that the action of clicking the button authorized Defendant to provide certain Personal Information to the Marketing Partners in order to complete their transaction. Under no circumstances did Defendant ever share a Consumer’s Personal Information with a third party without first receiving that Consumer’s informed consent. In addition to these clear and conspicuous disclosures, a number of Defendant’s Marketing Partners reminded Consumers via e-mail, prior to being charged, that they would soon be charged for their participation in the Membership Programs and provided dissatisfied consumers with refunds. As of January 2010, Defendant had voluntarily terminated all of its contracts with its Marketing Partners.

APPLICATION

30. The Court has jurisdiction over the subject matter of this lawsuit and over the Parties. The provisions of this Order shall be governed by the laws of the State of Ohio and apply to the Defendant and its agents, successors, assignees, merged or acquired entities, controlled affiliates, controlled subsidiaries or divisions, and parent or controlling entities, over which the Plaintiff has jurisdiction.

31. The provisions of this Order shall apply to the Defendant in connection with the offer and/or sale of Membership Programs and/or Subscription Services to Ohio Consumers; provided, however, that in the case of the offer and/or sale of Membership Programs, the

provisions of this Order shall only apply when a Membership Program is marketed during or immediately following the Consumer's transaction with Defendant.

INJUNCTION

32. The Defendant shall not engage in any act or practice in violation of the Consumer Protection Act in connection with any offer of any Membership Program and/or Subscription Services.

33. The Defendant shall not engage in any act or practice that violates the Restore Online Shoppers' Confidence Act, 15 U.S.C. §8401, et seq.

34. The Defendant shall not make any express or implied misrepresentations that have the capacity, tendency or effect of deceiving or misleading Consumers in connection with the offer or sale of any Membership Program or Subscription Services.

35. The Defendant shall inform Consumers of any material facts, the omission of which would deceive or tend to deceive Consumers, in connection with the offer or sale of any Subscription Services.

36. The Defendant shall not transfer Consumers' Personal Information to any third party unless it is lawful to do so, and, prior to obtaining the Consumers' Personal Information, the Defendant Clearly and Conspicuously discloses its privacy practices and/or policies, including whether and to what extent the Defendant shares Consumers' Personal Information with third parties. Nothing contained in this paragraph shall alter or modify the requirements of paragraph 41.

37. The Defendant shall not make any false, misleading, deceptive, or conflicting statements to Consumers regarding Defendant's privacy practices and/or policies. Defendant shall ensure any privacy policy displayed, or otherwise made available, to Consumers on its

website is consistent with the Defendant's practices regarding its handling of Consumers' Personal Information.

38. The Defendant shall not use the phrase "risk-free" in connection with any Membership Program or Subscription Service that has, in effect, a negative option requiring the Consumer to opt-out or cancel the service in order not to be billed or charged for any Membership Program or Subscription Services.

39. The Defendant shall comply with the Federal Trade Commission ("FTC") Guide Concerning Use of the Word "Free" and Similar Representations, 16 C.F.R. § 251.1 and any amendments thereto in connection with the offer of any Membership Program or Subscription Services.

40. The Defendant shall not misrepresent the reason or purpose for which a Consumer is receiving any offer or advertisement for a Membership Program.

41. The Defendant shall not transfer, release or otherwise share Consumers' Account Information to a Marketing Partner unless it is lawful to do so.

42. The Defendant shall not misrepresent its relationship with any Marketing Partner.

43. The Defendant shall not allow any Marketing Partner to include any of the Defendant's corporate or trade names or logos in any advertisement or offer for a Membership Program in a manner that misrepresents or obscures the identity of either the Defendant or the Marketing Partner offering the Membership Program including, but not limited to, the use of any of the Defendant's corporate or trade name or logo in the title of a Membership Program.

44. The Defendant shall not permit its Marketing Partners to offer any goods or services to the Defendant's Consumers until after Consumers have completed their transactions with the Defendant, including (i) the Consumer's acceptance of all charges for the goods and/or services purchased from Defendant and (ii) the presentation, if any, by Defendant to the

Consumer of a confirmation page with respect to the order immediately following the Consumer's transaction with Defendant.

45. The Defendant shall, when directing a Consumer from one of its websites to any website operated by a Marketing Partner, Clearly and Conspicuously disclose, in a manner that is separate and apart from the Consumer's transaction with the Defendant: (i) the Consumer is leaving the Defendant's website; (ii) the Consumer is about to enter the unaffiliated Marketing Partner's website for the purpose of receiving an offer from the Marketing Partner; and (iii) the Consumer is advised to read the Marketing Partner's Terms of Service and Privacy Policy. In addition, the Consumer will be required to take some affirmative action to acknowledge and proceed past the disclosures required by this paragraph, for example by clicking an "OK" button.

46. The Defendant shall include in all contracts with its Marketing Partners a requirement that the Marketing Partners represent that they are in compliance with all applicable laws and regulations relating to the offer of Membership Programs, including the Restore Online Shoppers' Confidence Act ("ROSCA"), 15 U.S.C. §8401, et seq.

47. The Defendant shall not misrepresent the reason for requesting a Consumer's Account Information.

48. The Defendant shall include in all contracts with its Marketing Partners the requirement that the Marketing Partners Clearly and Conspicuously disclose to the Consumer the material terms and conditions of any Membership Program prior to the Consumer agreeing to enroll in any Membership Program.

49. The Defendant shall include in all contracts with its Marketing Partners a clause permitting Defendant to terminate its relationship with a Marketing Partner that offers or sells a Membership Program in a manner that fails to comply with ROSCA, any other applicable law or

regulation relating to the offer of Membership Programs, or the Marketing Partner's contractual obligations under paragraph 48 of this Order.

50. In the event that the Defendant receives a request to cancel a Membership Program from a Consumer, or on a Consumer's behalf, the Defendant shall: (i) promptly transmit to its Marketing Partners the Consumer's cancellation request; and (ii) provide the cancelling Consumer with the name of the Marketing Partner offering the Membership Program, including the Marketing Partner's mailing address, e-mail address, toll-free telephone number, and web address, if available.

51. The Defendant shall promptly request its Marketing Partners to give prompt and full refunds to any Consumer upon request by the Consumer, or upon receipt of any complaint, if the Consumer indicates he/she did not consent to enrollment in a Membership Program or otherwise did not accept the Membership Program offer, regardless of whether the Defendant receives the Consumer's request or complaint directly from the Consumer or from an Attorney General, another government agency, or the Better Business Bureau.

52. The Defendant shall not offer Subscription Services to Consumers that automatically renew unless the terms and conditions for renewal and cancellation are Clearly and Conspicuously disclosed to Consumers prior to the purchase of the Subscription Services. For purposes of this paragraph, in addition to the requirements of paragraph 4, these terms and conditions shall be in direct proximity to the space provided for entry of the Consumer's Account Information and shall disclose, without limitation:

(a) that the Subscription Service is continuous and the Consumer will continue to be billed unless he/she cancels;

(b) the duration and price of the initial term and any renewal term of the Subscription Service; and

(c) information regarding how the Consumer can change his or her account renewal status to avoid being automatically billed.

53. No later than sixty (60) days after the Effective Date, the Defendant shall provide written or electronic (e.g., email) notices to Consumers who purchase Subscription Services having an initial subscription term of at least twelve (12) months and that automatically renews for more than a one month term, informing the Consumers that their subscriptions will automatically renew if not cancelled. The notice required by this paragraph shall advise those Consumers that, unless they take action to cancel their Subscription Services, the Subscription Services will automatically renew, and the Defendant shall provide a reasonably simple and effective procedure through which Consumers may use the Defendant's website to opt out of the automatic renewal. Every year, for a period of five years from the Effective Date of this Order, the Defendant shall provide the notice required by this paragraph to all applicable Consumer subscribers at least thirty (30) days but no more than sixty (60) days prior to the renewal date for that Consumer's subscription.

54. The Defendant shall promptly accept any request to cancel any Subscription Services received from a Consumer, provided the request contains sufficient information for Defendant to process the cancellation, regardless of whether the Defendant receives the Consumer's request directly from the Consumer or from an Attorney General, another government agency, or the Better Business Bureau. Nothing contained in this paragraph shall prevent Defendant from responding to the Consumer's request to cancel with an offer designed to retain or "save" the Consumer's subscription; provided, if at any time following Defendant's retention efforts, the Consumer expressly requests to have his or her Subscription Service cancelled, then Defendant shall promptly accept and process the cancellation.

55. If a Consumer disputes the renewal of his/her Subscription Services and the Defendant determines that, due to a system error or other reason within its control, the Defendant failed to send an automatic renewal notice that complies with the provisions of paragraph 53, the Consumer shall be entitled to a refund of all payments he/she made to the Defendant subsequent to the automatic renewal of their Subscription Services.

56. The Defendant, within thirty (30) days of receiving any request for a refund from a Consumer, shall make its initial determination whether a refund is appropriate and, if so, shall give a prompt and full refund to that Consumer.

RESTITUTION

57. Defendant agrees to pay restitution to Consumers who either submit, or have already submitted, Eligible Complaints. An Eligible Complaint is any complaint from a Consumer who purchased Subscription Services from the Defendant prior to the Effective Date and is seeking a refund of any amount collected by Defendant because the charges were purportedly collected: (a) without the Consumer's authorization; (b) with an authorization obtained through a misrepresentation or material omission made at the time the Consumer first purchased Defendant's Subscription Services; or (c) following the Consumers' cancellation of Defendant's Subscription Services.

58. For purposes of this Order, an Eligible Complaint is limited to the following:

(a) Consumer complaints received by Defendant on or before the Effective Date from Consumers who enrolled in Defendant's Subscription Services on or after January 1, 2008;

(b) Consumer complaints received by the Attorney General and/or any other state agency located in Ohio responsible for handling Consumer complaints, on or before the Effective Date from Consumers who enrolled in Defendant's Subscription Services

on or after January 1, 2008, provided that the Attorney General or state agency submits the complaints to Defendant, together or separately, in one or more envelopes, each with a postmark dated no later than ninety (90) days from the Effective Date; and

(c) new Consumer complaints received by Defendant, either directly or through a third party such as an Attorney General's Office, any local, state or federal Consumer complaint-handling agency, or the Better Business Bureau, from Consumers who enrolled in Defendant's Subscription Services on or after January 1, 2008, provided the Consumer submits his/her complaint with a postmark dated between the Effective Date and ninety (90) days from the Effective Date (referred to herein as the "Claim Period"). For purposes of subparagraph 58(c), the third parties referenced above shall have an additional ten (10) days after the close of the Claim Period to submit the Consumer's complaint to Defendant.

On or before the Effective Date, Defendant shall designate a person or entity to receive Eligible Complaints for the purposes outlined in this Order. Defendant shall provide Plaintiff with the name(s), address(es), telephone number(s), facsimile number(s) and e-mail address(es) of the designated person(s) or entity(ies) no later than ten (10) days following the Effective Date. Any change(s) to Defendant's initial designation shall be disclosed, in writing, to Plaintiff at least twenty (20) days before such change will occur.

59. On or before the Effective Date, Defendant shall create, and deposit Three Million Dollars (\$3,000,000.00) in the aggregate for the Attorneys General into, an account (the "Classmates Restitution Account" or "Account") for the purpose of paying restitution to Consumers pursuant to this Order. All restitution or refund payments to Consumers, paid in connection with this Order, shall be paid from the Classmates Restitution Account. In no event shall Defendant's deposit(s) into the Classmates Restitution Account for the Attorneys General,

or liability for restitution under this Order, exceed Three Million Dollars (\$3,000,000.00) in the aggregate. If Defendant's payments to Consumers in accordance with the terms of this Order total less than Three Million Dollars (\$3,000,000.00), then Defendant shall, one (1) year from the Effective Date, remit the balance of the Classmates Restitution Account to the Attorneys General for uses consistent with the terms set forth in paragraph 76 of this Order.

60. Within ninety (90) days of the end of the Claim Period, Defendant shall resolve each Eligible Complaint by sending to the Consumer, by first-class mail to the Consumer's last-known address, a refund check equal to the amount the Consumer alleges he/she paid in unauthorized charges, minus any amount already refunded to the Consumer by Defendant for the allegedly unauthorized charges. If Three Million Dollars (\$3,000,000.00) in the aggregate for the Attorneys General is insufficient to pay refunds of all Eligible Complaints in accordance with the terms of this Order, then each Consumer who submits, or has already submitted, an Eligible Complaint shall receive a pro rata refund of any amount otherwise due under this Order.

61. Prior to mailing refund checks to Ohio Consumers, Defendant shall provide Plaintiff with an Excel spreadsheet containing the names and addresses of all Ohio Consumers who submitted Eligible Complaints and the refund to be paid to each Consumer identified therein.

62. If a Consumer submits or Defendant identifies an Eligible Complaint, and the Defendant is still billing the Consumer for Defendant's Subscription Services, Defendant shall also treat the Consumer's Eligible Complaint as a request for cancellation, cancel the Consumer's Subscription Service, and cease further billing the Consumer for Subscription Services, unless, following the submission of the Eligible Complaint, the Consumer affirmatively elects to remain a subscriber of Defendant's Subscription Services.

63. If Defendant claims that a complaint that has been submitted as an Eligible Complaint is not an Eligible Complaint, or has reason to believe that the complaint is materially inaccurate (“an Unresolved Complaint”), and on either basis declines to pay a refund to the complaining Consumer, Defendant shall, within thirty (30) days of receiving the complaint, provide the Consumer with a written notice (the “Claims Notice”) explaining the reason(s) why it is declining to resolve the Consumer’s complaint. A copy of the Claims Notice is attached hereto as Exhibit A. Defendant shall mail a copy of each Claims Notice sent to a Consumer to the Plaintiff.

64. If Plaintiff disagrees with Defendant’s reasons for declining to resolve an Unresolved Complaint, Plaintiff shall notify Defendant of same and the parties shall attempt to resolve the Unresolved Complaint.

Claims Administrator

65. If Plaintiff and Defendant are unable to agree to a resolution of any Unresolved Complaints pursuant to paragraph 64, Defendant shall hire a neutral third party (the “Claims Administrator”) to resolve the Unresolved Complaints pursuant to the provisions contained herein. The Claims Administrator shall be hired by Defendant, but the selection of the Claims Administrator and any successor administrator shall be subject to the approval of the Attorneys General.

66. Upon referral of any Unresolved Complaint to the Claims Administrator, Defendant shall, within ten (10) days, provide the Claims Administrator a copy of: (i) the Consumer’s Unresolved Complaint; (ii) all other document(s) mailed by the Consumer with his/her Unresolved Complaint; and (iii) all other documents or additional information relied upon by Defendant in declining to issue a refund to the Consumer. Defendant shall also provide the Claims Administrator any documents transmitted by the Consumer to Defendant prior to the

Claims Administrator's disposition of the Consumer's Unresolved Complaint and any other relevant information.

67. The Claims Administrator may resolve an Unresolved Complaint based on the information provided pursuant to paragraph 66. However, if necessary, the Claims Administrator may request that the Consumer complete and return the Claim Form attached hereto as Exhibit B to the Claims Administrator within forty-five (45) days of the date of the mailing of the Claim Form. For purposes of this paragraph, the date on which a Claim Form is returned to the Claims Administrator shall be either: (i) the date of any postmark contained on the envelope used to return the Claim Form to the Claims Administrator via U.S. mail; or (ii) the date on which the Claim Form is returned to the Claims Administrator via electronic transmission.

68. If a Claim Form that is mailed to a Consumer is returned as undeliverable, the Claims Administrator shall attempt to locate the Consumer by: (i) mailing the Claim Form to any forwarding address provided by the U. S. Postal Service for the Consumer; (ii) mailing the Claim Form to any additional addresses for the Consumer contained in Defendant's business records; and (iii) contacting the Consumer at any phone number, e-mail address, or facsimile number that is contained in Defendant's business records regarding the Consumer for the purpose of obtaining a correct mailing address and mailing the Claim Form to the Consumer at the correct mailing address. For purposes of this paragraph, Defendant agrees to cooperate with and provide to the Claims Administrator all necessary Consumer contact information contained in Defendant's business records.

69. The Claims Administrator shall be responsible for, among other things, the collection of Unresolved Complaints from Defendant, the review of information relied upon by Defendant in evaluating those Unresolved Complaints, and the mailing and collection of Claim

Forms and supporting documents related to said Claim Forms. The Claims Administrator shall request from Defendant and the Consumer all information he/she deems necessary to make a full and fair disposition of an Unresolved Complaint. The Claims Administrator's decision regarding Unresolved Complaints shall be binding only on the Attorneys General and Defendant.

70. The Claims Administrator may conduct hearings on Unresolved Complaints by telephone when requested by either party or when deemed necessary by the Claims Administrator for his or her disposition of an Unresolved Complaint. The Consumers shall be informed in writing of the option for a telephonic hearing. No state or federal rules of evidence shall apply to the Claims Administrator's review, including any telephonic hearing conducted pursuant to this paragraph; provided however, ex parte communication with the Claims Administrator will not be allowed pertaining to any specific Unresolved Complaint other than for purposes of the Claims Administrator's request and receipt of additional information, or as to the criteria used in evaluating each Unresolved Complaint.

71. The Claims Administrator shall issue a written decision regarding his/her review of an Unresolved Complaint within a reasonable period of time, but in no event shall the decision be issued later than sixty (60) days following receipt of the Unresolved Complaint or any supporting documentation without good cause. The Claims Administrator shall deliver the decision to Defendant and to the Consumer. In the event a decision issued by the Claims Administrator requires Defendant to provide a Consumer with a refund and/or other appropriate relief, Defendant shall, within thirty (30) days of its receipt of such decision, deliver to the Consumer the required refund and/or other appropriate relief.

72. At the request of Defendant, the Attorneys General, or the Claims Administrator, the Claims Administrator or his/her designee, shall meet and confer with the Attorneys General and Defendant for any purpose relating to the administration of the restitution program provided

for under this Order, including, but not limited to, monitoring and auditing the restitution program. Problems that arise concerning the implementation of the restitution program may be resolved by agreement among the Attorneys General, Defendant and the Claims Administrator.

73. No later than one year after the Effective Date, Defendant shall provide Plaintiff with an Excel spreadsheet containing: (1) the names and addresses of Consumers who submitted Eligible Complaints and subsequently were sent refund checks, and the amount of each such check; (2) the names of the Consumers who cashed or deposited their checks; (3) the names of the Consumers who did not cash or deposit their checks (which Defendant may void); (4) the names and addresses of Consumers whose Unresolved Complaints Defendant referred to the Claims Administrator; (5) the Claims Administrator's disposition of each Unresolved Complaint; and (6) the total value of refunds and/or other relief distributed within Ohio.

74. No later than one year after the Effective Date, Defendant shall also pay to Plaintiff the total sum of all refund checks that were not cashed or deposited by Ohio consumers, for disposition in accordance with Plaintiff's unclaimed property laws.

75. Defendant shall pay all costs associated with administering the restitution program provided for in this Order, including all fees charged by the Claims Administrator.

PAYMENT TO THE ATTORNEYS GENERAL

76. Defendant shall pay Five Million One Hundred Seventy-Seven Thousand Six Hundred Dollars (\$5,177,600.00) in the aggregate to the Attorneys General, to be distributed among the states as agreed by the Attorneys General. Plaintiff acknowledges that this payment does not constitute a fine or penalty. The money received by the Ohio Attorney General's Office pursuant to this paragraph may be used, in accordance with Ohio law, to reimburse the Ohio Attorney General's Office for costs incurred during the investigation of this matter, for consumer education or other consumer protection purposes, to be placed into the Consumer Protection

Enforcement Fund, and/or for any other use permitted by state law, at the sole discretion of the Ohio Attorney General. The payment to the Attorney General of Ohio under this paragraph shall be Two Hundred Ninety Four Thousand Three Hundred Thirty Three Dollars and Fifty Three Cents (\$294,333.53).

77. Defendant shall make the payment to the Attorneys General required by the previous paragraph as follows:

(a) Within seven (7) days from the Effective Date, Defendant shall pay the Attorneys General the amount required by the previous paragraph; and

(b) One (1) year from the Effective Date, Defendant shall pay the Attorneys General any amounts owed to them pursuant to paragraphs 59 and 74 herein.

RELEASE

78. Following full payment of the amounts due under this Order, the Plaintiff shall release and discharge the Defendant from all civil claims, causes of action, damages, restitution, fines, costs, attorneys' fees, and penalties that Plaintiff could have brought under the Consumer Protection Act or any other statutory or common law claims concerning unfair, deceptive or fraudulent trade practices based on the Defendant's conduct prior to the date of the entry of this Order, as alleged in paragraphs 13 through 26 herein, but expressly excluding any and all such claims relating to the Defendant's use of banner ads on its websites. Nothing contained in this paragraph shall be construed to limit the ability of Plaintiff to enforce the obligations that the Defendant has under this Order. Nothing in this Order shall be construed to create, waive or limit any private right of action. This Order shall not be construed or used as a waiver or any limitation of any defense otherwise available to the Defendant in any pending or future legal or administrative action or proceeding relating to the Defendant's conduct prior to the Effective

Date or of the Defendant's right to defend itself from, or make any arguments in, any individual or class claims or suits relating to the existence, subject matter, or terms of this Order.

79. Notwithstanding any term of this Order, any and all of the following forms of liability are specifically reserved and excluded from the release in paragraph 78 as to any entity or person, including the Defendant:

(a) Any criminal liability that any person or entity, including the Defendant, has or may have to the State of Ohio.

(b) Any civil or administrative liability that any person or entity, including the Defendant, has or may have to the State of Ohio under any statute, regulation or rule not covered by the release in paragraph 78 above, including but not limited to, any and all of the following claims:

(i) State or federal antitrust violations;

(ii) State or federal securities violations; or

(iii) State or federal tax claims.

COMPLIANCE MONITORING

80. No later than thirty (30) days after the Effective Date, Defendant shall implement the following program of internal monitoring to ensure compliance with this Order:

(a) For a period of not less than three (3) years from the Effective Date, the Defendant shall make a record of and retain all Consumer complaints brought to the Defendant's attention regarding any Subscription Services or Membership Program offered on the Defendant's website, or in connection with a visit to the Defendant's website, along with information from a Consumer, if any, which indicates that the Consumer did not consent to enrollment in a Membership Program;

(b) For a period of not less than three (3) years from the Effective Date, the Defendant shall retain a representative copy of each (i) disclosure relating to the Defendant's Subscription Services' auto renewal options, and (ii) type of solicitation for a Membership Program offered on the Defendant's website or in connection with a visit to the Defendant's website;

(c) For a period of three (3) years from the Effective Date, upon reasonable prior written notice, Plaintiff shall be permitted to inspect and copy all records as may be reasonably necessary to determine whether the Defendant is in compliance with this Order. This provision shall not be construed as limiting or restricting in any way Plaintiff's right to obtain information, documents or testimony from the Defendant pursuant to any state or federal law, regulation or rule; and

(d) Annually, for a period of not less than three (3) years from the Effective Date, (a) if the Defendant offers Subscription Services with an auto renewal option or if the Defendant presents solicitations for Membership Programs on its website, or in connection with a visit to the Defendant's website, Defendant shall cause all of its vice presidents or higher corporate officers who have direct responsibility for the Defendant's contact with Consumers to review a copy of this Order; and (b) the Defendant also shall provide a copy of this Order to all of its vice presidents or higher corporate officers who have direct responsibility for the Defendant's contact with Consumers within thirty (30) days of hiring such officer.

DUTY TO COOPERATE

81. In connection with any investigation of any Marketing Partner of Defendant, including but not limited to, Affinion Group, Webloyalty, Inc., Vertrue, Inc. and Jackpot Rewards, Inc., the Defendant shall cooperate in good faith with Plaintiff and appear at such

places and times as Plaintiff shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by Plaintiff.

GENERAL PROVISIONS

82. The Defendant shall not cause or encourage third parties, nor knowingly permit third parties acting on its behalf, to engage in practices from which the Defendant is prohibited by this Order.

83. The Defendant shall not enter into, continue, or renew any contract or relationship with any Marketing Partner for the purpose of marketing a Membership Program if the contract or relationship would result in the Defendant violating the terms of this Order.

84. This Order represents the full and complete terms of the settlement entered by the parties hereto. In any action undertaken by the parties, neither prior versions of this Order nor prior versions of any of its terms that were not entered by the Court in this Order may be introduced for any purpose whatsoever.

85. All parties participated in the drafting of this Order.

86. This Court retains jurisdiction of this Order and the parties hereto for the purpose of enforcing and modifying this Order and for the purpose of granting such additional relief as may be necessary and appropriate. No modification of the terms of this Order shall be valid or binding unless made in writing, signed by the parties, and approved by this Court, and then only to the extent specifically set forth in this Court's Order. The parties may agree in writing, through their counsel, to an extension of any time period in this Order without a court order.

87. This Order may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature.

88. All Notices under this Order shall be provided to the following address via Electronic and/or Overnight Mail, unless a different address is specified in writing by the party changing such address:

Attorney General of Ohio:

The Attorney General of Ohio
Attn: Section Chief
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215

Classmates, Inc.:

General Counsel
Legal Department
Classmates, Inc.
1501 Fourth Avenue, Suite 400
Seattle, WA 98101

89. Any failure by any party to this Order to insist upon the strict performance by any other Party of any of the provisions of this Order shall not be deemed a waiver of any of the provisions of this Order, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Order. For Plaintiff, this shall be without prejudice to the imposition of any applicable remedies, including but not limited to contempt, civil penalties, and/or the payment of attorneys' fees to the Plaintiff, and any other remedies under applicable state law.

90. If any clause, provision or section of this Order other than Paragraph 78 shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Order and this Order shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

91. Nothing in this Order shall be construed as relieving the Defendant of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Order be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

92. The parties understand and agree that this Order shall not be construed as an approval of or sanction by Plaintiff of the Defendant's business practices, and the Defendant shall not represent otherwise. The parties further understand and agree that any failure by Plaintiff to take any action in response to any information submitted pursuant to the Order shall not be construed as an approval, or sanction, of any representations, acts or practices indicated by such information, nor shall it preclude action thereon at a later date.

93. The Defendant shall deliver a copy of this Order to, or otherwise apprise, its executive management having decision-making authority with respect to the subject matter of this Order within fourteen (14) days of the Effective Date

94. The Defendant shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part in Ohio which are prohibited in this Order or for any other purpose which would otherwise circumvent any part of this Order or the spirit or purposes of this Order.

95. If Plaintiff determines that the Defendant made any material misrepresentation or omission relevant to the resolution of this investigation, Plaintiff retains the right to seek modification of this Order.

96. All court costs are to be paid by Defendant.

97. Defendant may petition the Court for modification on thirty (30) days' notice to Plaintiff. Modification may be appropriate if the underlying facts and circumstances have changed in any material respect. In addition, the parties by stipulation may agree to a

modification of this Order, which stipulation shall be presented to this Court for consideration; provided that the parties may jointly agree to a modification only by a written instrument signed by or on behalf of both the Defendant and the Plaintiff. If Defendant seeks a stipulation for a modification of this Order, it shall send a written request to Plaintiff at least thirty (30) days prior to filing a motion with the Court for such modification. Plaintiff shall respond to the request for modification within thirty (30) days of receipt of the request.

SO ORDERED, ADJUDGED AND DECREED.

Judge

Date

APPROVED AND AGREED TO BY:

PLAINTIFF

Michael DeWine
Attorney General of the State of Ohio

By: /s/ Michael S. Ziegler

Michael S. Ziegler (0042206)
Assistant Attorney General
Attorney for Plaintiff State of Ohio,
ex rel. Michael DeWine Attorney General
Office of the Ohio Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215
614/466-3980
866/404-4121 (facsimile)
michael.ziegler@ohioattorneygeneral.gov

Date: May 21, 2015

DEFENDANT

Classmates, Inc.,

By: /s/ Bradley D. Toney, per written authorization, by Michael S. Ziegler

Bradley D. Toney
Senior Vice President, Assistant General Counsel
1501 Fourth Avenue, Suite 400
Seattle, Washington 98101
206/301-5000
206/301-5795 (facsimile)
Brad.Toney@classmates.com

Date: May 20, 2015

For Classmates, Inc.,

By: /s/ Eric S. Waxman, per written authorization, by Michael S. Ziegler

Eric S. Waxman
Skadden, Arps, Slate, Meagher & Flom LLP
300 S. Grand Avenue, Suite 3400
Los Angeles, California 90071
213/687-5251
206/621-5251 (facsimile)
eric.waxman@skadden.com

Counsel for Defendant Classmates, Inc.

Date: May 18, 2015

Approved as to form:

By: /s/ Rebecca C. Sechrist, per written authorization, by Michael S. Ziegler

Rebecca C. Sechrist (0036825)
Bunda Stutz & DeWitt, PLL
3295 Levis Commons Blvd.
Perrysburg, Ohio 43551
419/254-3121
419/241-4697 (facsimile)
sechrist@bsd-law.com

Local Counsel for Defendant Classmates, Inc.

Date: May 15, 2015

EXHIBIT A

STATE ATTORNEYS GENERAL
CONSUMER RESOLUTION PROGRAM
CLASSMATES

[Date]

[Customer Name]

[Address]

[City, State, Zip]

Dear [Customer Name]:

You recently submitted a complaint under the State Attorneys General – Classmates Consumer Resolution Program. Under the Program, an eligible complaint is one from a consumer who purchased a Classmates subscription between January 1, 2008 and [EFFECTIVE DATE], and for which the consumer is seeking a refund because the charges were purportedly collected without authorization, with authorization obtained through a misrepresentation or material omission, or following the consumer’s cancellation of the subscription.

Classmates has reviewed your complaint and the information you submitted under this Program. We have determined your complaint did not meet the above eligibility requirements because [_____].

A copy of this letter has been provided to your State Attorney General. Under the Program, a Claims Administrator may be reviewing your claim. If such a review occurs and additional information is necessary, you will be contacted. You are advised to keep this letter for your records. Thank you for bringing your concerns to our attention.

Sincerely,

Classmates

EXHIBIT B

STATE ATTORNEYS GENERAL
CONSUMER RESOLUTION PROGRAM
CLASSMATES

[Date]

[Customer Name]

[Address]

[City, State, Zip]

Dear [Customer Name]:

You recently submitted a complaint under the State Attorneys General – Classmates Consumer Resolution Program. Although Classmates determined that your complaint is not eligible for relief under this Program, you are entitled to reconsideration by a neutral Claims Administrator.

In order to assist the Claims Administrator in this matter, you may provide additional information about your claim by completing and returning the enclosed Claim Form by mail or email to the Administrator at the following address by no later than [INSERT DATE – 45 Days from the Above Date]:

Classmates Claims Administrator
[Street Address or P.O. Box]
[City, State, Zip]
[Email Address]

If you have any questions about the Program, please send them on a separate piece of paper to the address above along with the Claim Form or contact your State Attorney General. You are advised to keep a copy of all materials you submit to the Administrator for your records.

Sincerely,

Classmates Claims Administrator

Enclosure

Franklin County Court of Common Pleas

Date: 06-05-2015
Case Title: OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -VS-
CLASSMATES INC
Case Number: 15CV004418
Type: AGREED ORDER

It Is So Ordered.

A handwritten signature in black ink, appearing to read "Stephen L. McIntosh", is written over a blue circular official seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the center, and "ALL THINGS ARE POSSIBLE" at the bottom.

/s/ Judge Stephen L. McIntosh

Court Disposition

Case Number: 15CV004418

Case Style: OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -
VS- CLASSMATES INC

Case Terminated: 07 - Settled/dismitted prior to Trial