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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JGRD, INC., also d/b/a Voiceblaze.com and
VoiceBlaze;

CHARLES JOSEPH GARIS, JR., individually
and as an officer of JGRD, Inc.; and

RANDALL KEITH DELP, individually and as a
managing agent of JGRD, Inc.;

Defendants.

Case No. **12 0945**

**STIPULATED JUDGMENT AND
ORDER FOR PERMANENT
INJUNCTION**

FILED

FEB 23 2012

By **MICHAEL E. KUNZ, Clerk
Dep. Clerk**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("Commission"), has commenced this action by filing the complaint, and Defendants have waived service of the summons and the complaint. The parties, represented by the attorneys whose names appear hereafter, have agreed to settlement of this action without adjudication of any issue of fact or law and without Defendants admitting liability for any of the violations alleged in the complaint.

THEREFORE, on the joint motion of the parties, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter and 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), and 56(a).

2. Venue is proper as to all parties in this District.
3. The activities of Defendants are in or affecting commerce, as defined in Section 4 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 44.
4. The complaint states a claim upon which relief may be granted against Defendants, under Sections 5(a), 5(m)(1)(A), and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), and 53(b).
5. Defendants have entered into this Stipulated Judgment and Order for Permanent Injunction (“Order”) freely and without coercion. Defendants further acknowledge that they have read the provisions of this Order and are prepared to abide by them.
6. Plaintiff and Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.
7. Defendants have agreed that this Order does not entitle Defendants to seek or to obtain attorneys’ fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, and Defendants further waive any rights to attorneys’ fees that may arise under said provision of law.
8. Entry of this Order is in the public interest.

DEFINITIONS

For the purpose of this Order, the following definitions shall apply:

1. **“Asset”** and **“Assets”** mean any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” or “notes,” (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels,

leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. **“Assisting other persons”** means providing any of the following goods or services to another person while knowing or consciously avoiding knowing that the person receiving assistance is engaged in an act or practice that is prohibited by this Order: (i) serving as an officer, director, or consultant; (ii) initiating telephone calls for the purpose of delivering recorded messages; (iii) providing or arranging for access to software, equipment that dials stored or generated telephone numbers, or telecommunications services for the purpose of initiating telephone calls that deliver recorded messages; (iv) providing or arranging for access to services that permit alteration of the name of the calling party displayed by caller identification services; (v) providing or acquiring lists of names or telephone numbers for the purpose of contacting persons on the list by telephone; (vi) formulating or providing, or arranging for the formulation or provision of, any script or any other material for communicating with customers or potential customers; or (vii) providing any other substantial help or aid.
3. **“Caller identification service”** means a service that allows a telephone subscriber to have the telephone number, and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber’s telephone.
4. **“Charitable contribution”** means any donation or gift of money or any other thing of value.

5. **“Defendants”** means JGRD, Inc., Charles Joseph Garis, Jr. and Randall Keith Delp, individually, collectively, or in any combination.
6. **“Do Not Call request”** means a statement by a person that indicates that he or she does not wish to receive telephone calls initiated to induce the purchase of goods or services or to solicit charitable contributions.
7. **“Established business relationship”** means a relationship between the seller and a person based on: (a) the person’s purchase, rental, or lease of the seller’s goods or services or a financial transaction between the person and seller, within the eighteen (18) months immediately preceding the date of the telemarketing call; or (b) the person’s inquiry or application regarding a product or service offered by the seller, within the three (3) months immediately preceding the date of a telemarketing call.
8. **JGRD, Inc.**, means JGRD, Inc., whether doing business as “VoiceBlaze” or “VoiceBlaze.com” or under any other name, and its successors and assigns.
9. **“National Do Not Call Registry”** means the National Do Not Call Registry, which is the “do-not-call” registry maintained by the Commission pursuant to 16 C.F.R. § 310.4(b)(1)(iii)(B).
10. **“Outbound telephone call”** means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.
11. **“Person”** means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

12. **“Representatives”** means Defendants’ officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise.
13. **“Seller”** means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration, whether or not such person is under the jurisdiction of the Commission.
14. **“Subscriber”** means any person who, for consideration, authorizes Defendants to initiate, or arranges for Defendants or their Representatives to assist others in initiating, multiple telephone calls for the purpose of delivering recorded messages, but does not include a person who purchases the right to use software and receives no other good or service from Defendants.
15. **“Telemarketer”** means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.
16. **“Telemarketing”** means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. Telemarketing does not include the solicitation of sales through the mailing of a catalog as set forth in 16 C.F.R. § 310.2(dd) or any other act or practice exempted by 16 C.F.R. § 310.6.
17. **“Telemarketing Sales Rule”** means the Commission rule titled “Telemarketing Sales Rule,” 16 C.F.R. Part 310, attached as Appendix A, or as amended.

ORDER

I. PROHIBITION AGAINST ILLEGAL TELEMARKETING PRACTICES

IT IS ORDERED that, in connection with telemarketing, Defendants and their Representatives, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are permanently restrained and enjoined from engaging in, causing other persons to engage in, and assisting other persons to engage in, violations of the Telemarketing Sales Rule, including, but not limited to:

- A. Initiating any outbound telephone call to any person at a telephone number on the National Do Not Call Registry unless the seller proves that:
 - 1. the seller has obtained the express agreement, in writing, of such person to place calls to that person. Such written agreement shall clearly evidence such person's authorization that calls made by or on behalf of a specific party may be placed to that person, and shall include the telephone number to which the calls may be placed and the signature of that person; or
 - 2. the seller has an established business relationship with such person and that person has not previously stated that he or she does not wish to receive outbound telephone calls made by or on behalf of the seller;
- B. Abandoning, or causing others to abandon, any outbound telephone call to a person by failing to connect the call to a live operator within two seconds of the person's completed greeting, unless Defendants or their Representatives prove that the following four conditions are met:

1. Defendants and their Representatives employ technology that ensures abandonment of no more than three percent of all calls answered by a person, measured over the duration of a single calling campaign, if less than thirty days, or separately over each successive 30-day period or portion thereof that the campaign continues;
 2. Defendants and their Representatives, for each telemarketing call placed, allow the telephone to ring for at least fifteen seconds or four rings before disconnecting an unanswered call;
 3. Whenever a live operator is not available to speak with the person answering the call within two seconds after the person's completed greeting, Defendants or their Representatives promptly play a recorded message that states the name and telephone number of the seller on whose behalf the call was placed; and
 4. Defendants or their Representatives retain records, in accordance with 16 C.F.R. § 310.5 (b)-(d), establishing compliance with the preceding three conditions;
- C. Initiating any outbound telephone call that delivers a prerecorded message to induce the purchase of any good or service, other than a prerecorded message permitted for compliance with the call abandonment safe harbor in 16 C.F.R. § 310.4(b)(4)(iii), unless:
1. prior to making any such call, the seller has obtained from the recipient of the call an express agreement, in writing, that:
 - a. the seller obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the seller to place prerecorded calls to such person;

- b. the seller obtained without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service;
 - c. evidences the willingness of the recipient of the call to receive calls that deliver prerecorded messages by or on behalf of a specific seller; and
 - d. includes such person's telephone number and signature; or
2. The telephone call delivers a prerecorded healthcare message made by, or on behalf of, a covered entity or its business associate, as those terms are defined in the HIPPA Privacy Rule, 45 C.F.R. 160.103;
- D. Failing to disclose truthfully, promptly, and in a clear and conspicuous manner the identity of the seller, that the purpose of the call is to sell goods or services, and the nature of the goods or services; and
- E. Failing to transmit or cause to be transmitted to any caller identification service in use by a recipient of a telemarketing call either: (i) the telephone number of the telemarketer making the call and the name of the telemarketer; or (ii) the telephone number for customer service of the seller on whose behalf the call is made and the name of the seller.

Provided, however, that the requirements of this section do not apply to the solicitation of sales by mailing a catalog as set forth in 16 C.F.R. § 310.2(dd) or any other act or practice exempted by 16 C.F.R. § 310.6 and, *provided further* that if the Commission promulgates rules that, in whole or part, modify or supersede the Telemarketing Sales Rule, then, on and after the effective date of any such rules, (1) Defendants and their Representatives shall comply fully and completely with all applicable requirements of such rules and (2) telephone calls that are

permitted by such rules do not constitute a violation of this Order if Defendants and their Representatives satisfy all the applicable requirements of such rules.

**II. DISTRIBUTION OF ORDER BY DEFENDANTS,
ACKNOWLEDGMENTS OF RECEIPT,
AND TERMINATION OF NONCOMPLIANT SUBSCRIBERS**

IT IS FURTHER ORDERED that:

- A. Defendants shall, within thirty (30) days of the entry of this Order, provide a copy of this Order including Appendix A to all of their owners, principals, members, officers, and directors, as well as managers, agents, servants, employees, and attorneys having decision-making authority with respect to the subject matter of this Order; secure from each such person a signed statement acknowledging receipt of a copy of this Order; and shall, within ten (10) days of complying with this Paragraph, file an affidavit with the Court and serve the Commission, by sending a copy thereof by overnight courier, to the Associate Director for Enforcement, Federal Trade Commission, setting forth the fact and manner of their compliance, including the name and title of each person to whom a copy of the Order has been provided. Provided that, in lieu of overnight courier, Defendants may serve the Commission with the affidavit by first-class mail, but only if they contemporaneously send an electronic version to the Commission at DEBrief@ftc.gov.
- B. Defendants shall, within ten (10) days of the date of this Order, review all the messages that subscribers deliver with the assistance of Defendants or their Representatives and, for each subscriber that delivers a message to businesses or consumers that promotes the purchase of goods or services or solicits charitable contributions, Defendants or their Representatives shall, within thirty (30) days of the entry of this Order:

1. Provide the subscriber with: (i) a copy of this Order, including Appendix A; and (ii) a written notice stating that the use of Defendants' services to cause the initiation of telephone calls that do not comply with this Order will result in immediate termination of services; and
 2. Obtain from each such subscriber a signed and dated statement acknowledging receipt of this Order and the written notice concerning immediate termination of services.
- C. Prior to commencing services that assist subscribers or prospective subscribers in delivering a message to businesses or consumers that was not reviewed under Subparagraph B, Defendants shall review the message and, if the message promotes the purchase of goods or services or solicits charitable contributions and the subscriber or proposed subscriber seeking to deliver the messages has not previously provided a statement acknowledging receipt of this Order, Defendants or their Representatives shall:
1. Provide each such subscriber or prospective subscriber with: (i) a copy of this Order, including Appendix A; and (ii) a written notice stating that the use of Defendants' services to cause the initiation of telephone calls that do not comply with this Order will result in immediate termination of services; and
 2. Obtain from each such subscriber or prospective subscriber a signed and dated statement acknowledging receipt of this Order and the written notice concerning immediate termination of services.
- D. Defendants shall:

1. Terminate services to any subscriber immediately upon discovering that a subscriber has used the services of Defendants or their Representatives to initiate or cause the initiation of telephone calls that do not comply with this Order;
2. Refuse to provide services to any prospective subscriber if such services would assist or support the initiation of telephone calls that do not comply with this Order; and
3. Provide a copy of this Order (including Appendix A) to any person that purchases the right to use software to initiate telephone calls to deliver prerecorded messages and receives no other good or service from Defendants.

III. CIVIL PENALTY

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of one million dollars (\$1,000,000) is entered against Defendants, jointly and severally, as a civil penalty, pursuant to Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A). Upon payment to the Treasurer of the United States of the amount provided in Subparagraph III.B, the remainder of the civil penalty judgment shall be suspended subject to the conditions set forth in Subparagraph III.C of this Order.
- B. Defendants and their attorneys represent that, prior to or concurrently with their execution of this Order, Defendants have transferred ten thousand dollars (\$10,000), as non-suspended civil penalty payment, to their attorney, who shall hold the entire sum for no purpose other than payment to the Treasurer of the United States after entry of this Order by the Court. Within five (5) days of receipt of notice of the entry of this Order,

Defendants' attorney shall transfer such civil penalty payment in the form of a wire transfer payable to the Treasurer of the United States. Written confirmation of the wire transfer shall be delivered to: Director, Consumer Protection Branch, U.S. Department of Justice, Civil Division, P.O. Box 386, Washington, DC 20044. The cover letter accompanying the written confirmation shall include the title of this litigation and a reference to DJ# 102-3720. Such transfer by Defendants' attorney shall constitute satisfaction of the portion of the judgment that is not suspended pursuant to this Order.

- C. Plaintiff's and the Commission's agreement to this Order is expressly premised upon the truthfulness, accuracy and completeness of Defendants' sworn financial statements and supporting documents submitted to the Commission, namely those of JGRD, Inc., signed and dated September 27, 2011, and those of Charles Joseph Garis, Jr. and Randall Keith Delp signed and dated September 28, 2011, which include material information upon which Plaintiff and the Commission relied in negotiating and agreeing to this Order. If, upon motion by Plaintiff, this Court finds that Defendants' financial statements and related documents failed to disclose any material asset or materially misstated the value of any asset, or made any other material misstatement or omission, the Court shall lift the suspension of the judgment and require payment of civil penalty in the full amount of the judgment (\$1,000,000), less all amounts paid to the Treasurer of the United States pursuant to Subparagraph III.B. Provided, however, that in all other respects this Order shall remain in full force and effect, unless otherwise ordered by the Court. Proceedings instituted under this Paragraph are in addition to, and not in lieu of, any other civil or

criminal remedies that may be provided by law, including any other proceedings the Plaintiff may initiate to enforce this Order.

- D. Upon entry of this judgment, Defendants relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendants shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.
- E. Defendants agree 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 by Plaintiff or the Commission to enforce its rights to any payment or money judgment pursuant to this Order. Defendants agree that the judgment represents a civil penalty owed to the United States Government, is not compensation for actual pecuniary loss, and, therefore, as to Charles Joseph Garis, Jr. and Randall Keith Delp, is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7).
- F. In accordance with 31 U.S.C. § 7701, Defendants are required, unless they have done so already, to furnish to Plaintiff and the Commission their taxpayer identifying numbers. These numbers may be used for purposes of collecting and reporting on any delinquent amount arising out of Defendants' relationship with the government.
- G. In the event of default on the payment required to be made by Subparagraph III.B, the entire judgment, together with interest computed under 28 U.S.C. § 1961 – accrued from the date of default until the date of payment – shall be due and payable. Defendants shall cooperate fully with Plaintiff and the Commission and their agents in all attempts to collect the amount due pursuant to this Paragraph if Defendants fail to pay fully the amount due at the time specified herein. In that event, Defendants agree to provide

Plaintiff and the Commission with their federal and state tax returns for the preceding two years, and to complete new standard-form financial disclosure forms fully and accurately within ten (10) business days of receiving a request from Plaintiff or the Commission to do so. Defendants further authorize Plaintiff and the Commission to verify all information provided on their financial disclosure forms with all appropriate third parties, including, but not limited to, financial institutions.

IV. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that for a period of ten (10) years from the date of entry of this Order, each Defendant shall maintain and make available to the Plaintiff or Commission, within seven (7) days of the receipt of a written request, business records demonstrating compliance with the terms and provisions of this Order.

V. NOTIFICATION OF BUSINESS CHANGES

IT IS FURTHER ORDERED that JGRD, Inc., shall notify the Associate Director for Enforcement, Federal Trade Commission, at least thirty (30) days prior to any change in its business, including, but not limited to, merger, incorporation, dissolution, assignment, and sale that results in the emergence of a successor corporation, the creation or dissolution of a subsidiary or parent, or any other change that may affect its obligations under this Order.

VI. NOTIFICATION OF INDIVIDUAL'S AFFILIATIONS

IT IS FURTHER ORDERED that Charles Joseph Garis, Jr. and Randall Keith Delp shall, for a period of ten (10) years from the date of entry of this Order, notify the Associate Director for Enforcement, Federal Trade Commission, within thirty (30) days of his affiliation with a new business or employment whose activities include telemarketing, or of his affiliation

with a new business or employment in which his own duties and responsibilities involve the sale or offering for sale of goods or services.

VII. NOTICES

IT IS FURTHER ORDERED that, for the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier (not the U.S. Postal Service) all notifications to the Associate Director for Enforcement required by this Order and documents that must be served upon the Associate Director for Enforcement to:

Associate Director for Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
RE: *United States v. JGRD, Inc.* dba Voiceblaze.com

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

VIII. COMMUNICATION WITH DEFENDANTS

IT IS FURTHER ORDERED that for the purposes of compliance reporting, if undersigned counsel no longer represents a Defendant, Plaintiff and the Commission are authorized to communicate directly with that Defendant.

IX. FEES AND COSTS

IT IS FURTHER ORDERED that each party to this Order agrees to bear its own costs and attorneys' fees incurred in connection with this action.

X. SEVERABILITY

IT IS FURTHER ORDERED that the provisions of this Order are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall remain in full force and effect.

XI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

XII. COMPLETE SETTLEMENT

The parties, by their respective counsel, consent to entry of the foregoing Order, which shall constitute a final judgment and order in this matter. The parties further stipulate and agree that the entry of the foregoing Order shall constitute a full, complete, and final settlement of this action.

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

SO ORDERED this 24 day of February, 2012.


UNITED STATES DISTRICT JUDGE

The parties, by their respective counsel, consent to entry of the foregoing Order, which shall constitute a final judgment and order in this matter. The parties further stipulate and agree that the entry of the foregoing Order shall constitute a full, complete, and final settlement of this action.

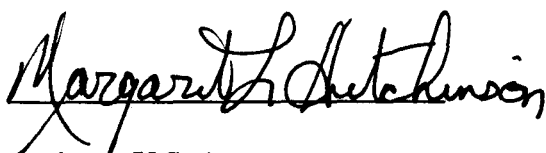
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FOR THE UNITED STATES OF AMERICA

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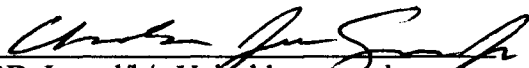
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Charles Joseph Garis, Jr. President



CHARLES JOSEPH GARIS, JR., individually



RANDALL KEITH DELP, individually



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