



2. Proposed respondents admit that the Commission has jurisdiction in this matter.
3. Proposed respondents waive:
  - A. Any further procedural steps;
  - B. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
  - C. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.
5. Proposed respondents neither admit nor deny any of the allegations in the draft complaint, except as specifically stated in this order. Only for purposes of this action, proposed respondents admit the facts necessary to establish jurisdiction.
6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondents' address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondents waive any right it may have to any other means of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.
7. Proposed respondents have read the draft complaint and consent order. They understand that they may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

## ORDER

### DEFINITIONS

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

1. Unless otherwise specified, “respondents” shall mean Filiquarian Publishing, LLC, a corporation; Choice Level, LLC, a corporation; their successors and assigns, and officers; Joshua Linsk, individually and as an officer of the corporations; and each of the above’s agents, representatives, and employees.
2. The definitions set forth in the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681a, *et seq.*, shall apply.
3. “Clear and prominent” shall mean:
  - i. In textual communications (e.g., printed publications or words displayed on the screen of a computer), the required disclosures are unavoidable and of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts with the background on which they appear;
  - ii. In communications disseminated orally or through audible means (e.g., radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend them;
  - iii. In communications disseminated through video means (e.g., television or streaming video), the required disclosures are in writing in a form consistent with subparagraph (i) of this definition and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend them, and in the same language as the predominant language that is used in the communication; and
  - iv. In all instances, the required disclosures are presented in an understandable language and syntax, and with nothing contrary to, inconsistent with, or in mitigation of the disclosures used in any communication of them.
4. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
5. “Permissible purpose” shall mean the circumstances under which a consumer report may be furnished as described in Section 604 of the FCRA, 15 U.S.C. § 1681b.

## I.

**IT IS ORDERED** that respondents, whether acting directly or through any sole proprietorship, partnership, limited liability company, corporation, subsidiary, branch, division, or other business entity, in connection with the compilation, creation, sale, or dissemination of any consumer report, are hereby prohibited from:

- A. Furnishing a consumer report to any person which respondents do not have reason to believe has a permissible purpose under Section 604(a) of the FCRA, 15 U.S.C. § 1681b(a);
- B. Failing to maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes listed under Section 604(a) of the FCRA, 15 U.S.C. § 1681b(a), as set forth in Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a);
- C. Failing to maintain reasonable procedures to assure the maximum possible accuracy of the information concerning the individual about whom a consumer report relates, as required by Section 607(b) of the FCRA, 15 U.S.C. § 1681e(b);
- D. Failing to provide the “Notice to Users of Consumer Reports: Obligations of Users Under the FCRA” (“User Notice”) required by Section 607(d) of the FCRA, 15 U.S.C. § 1681e(d), to all users of respondents’ consumer reports. *Provided, however,* that respondents may provide an electronic copy of the User Notice to a user if: (a) in the ordinary course of business, the user obtains consumer report information from respondents in electronic form, and (b) the notice is clear and prominent; and
- E. Failing to provide the Notice to Furnishers of Information: Obligations of Furnishers Under the FCRA (“Furnisher Notice”) required by Section 607(d) of the FCRA, 15 U.S.C. § 1681e(d), to all furnishers of consumer report information to respondents. *Provided, however,* that respondents may provide an electronic copy of this notice to a furnisher if: (a) in the ordinary course of business, the furnisher provides consumer report information to respondents in electronic form, and (b) the notice is clear and prominent.

## II.

**IT IS FURTHER ORDERED** that, for five (5) years after the date of issuance of this order, respondents, and their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission business records demonstrating compliance with the terms and provisions of this order, including but not limited to:

- A. Files containing the names, addresses, telephone numbers, and all certifications made by persons seeking to obtain consumer reports, including but not limited to

reports containing criminal record information, from respondents, and all materials considered by respondents in connection with their verification of the identity of those persons and verification of the certifications made by those persons;

- B. Copies of all training materials and marketing materials that relate to respondents' provision of consumer reports as alleged in the complaint and respondents' compliance with the provisions of this order; and
- C. All records necessary to demonstrate full compliance with each provision of this order, including all submissions to the Commission.

### **III.**

**IT IS FURTHER ORDERED** that, for five (5) years after the date of issuance of this order, respondents, and their successors and assigns, shall deliver a copy of this order to: (1) all current and future principals, officers, and directors; and (2) all current and future managers, employees, agents and representatives who have responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order, with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.* Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of the order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

### **IV.**

**IT IS FURTHER ORDERED** that respondents and their successors and assigns shall notify the Commission at least thirty (30) days prior to any change in a respondent that may affect compliance obligations arising under this order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in a respondent's name or address. *Provided, however,* that with respect to any proposed change about which a respondent learns less than thirty (30) days prior to the date such action is to take place, the respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, with the subject line: In the Matter of Filiquarian Publishing, LLC, FTC File Number 1123195. *Provided, however,* that, in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of such notices is contemporaneously sent to the Commission at [DEbrief@ftc.gov](mailto:DEbrief@ftc.gov).

V.

**IT IS FURTHER ORDERED** that respondents and their successors and assigns shall, within sixty (60) days after the date of service of this order, file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form in which respondents have complied with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, respondents shall submit additional true and accurate written reports.

VI.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part of this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

*Provided, further*, that if such complaint is dismissed or a federal court rules that respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that this order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**FILIQUARIAN PUBLISHING, LLC**

and

**CHOICE LEVEL, LLC**

By: \_\_\_\_\_

JOSHUA LINSK

CEO, Filiquarian Publishing, LLC and Choice Level, LLC

**JOSHUA LINSK**

By: \_\_\_\_\_

JOSHUA LINSK

Individually

\_\_\_\_\_  
ANDREA OSTROVSKY

Counsel

**FEDERAL TRADE COMMISSION**

\_\_\_\_\_  
ANTHONY RODRIGUEZ

Counsel for the Federal Trade Commission

\_\_\_\_\_  
JESSICA LYON

Counsel for the Federal Trade Commission

APPROVED:

\_\_\_\_\_  
ROBERT SCHOSHINSKI

Assistant Director

Division of Privacy and Identity Protection

\_\_\_\_\_  
MANEESHA MITHAL

Associate Director

Division of Privacy and Identity Protection

\_\_\_\_\_  
DAVID C. VLADECK

Director

Bureau of Consumer Protection