

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

_____)	
<i>In the Matter of</i>)	
)	
FILIQURIAN PUBLISHING, LLC;)	
)	
CHOICE LEVEL, LLC; and)	DECISION AND ORDER
)	
JOSHUA LINSK,)	
individually and as an officer)	
of the companies,)	DOCKET NO. C-4401
Respondents.)	
_____)	

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Respondents named in the caption hereof, and the Respondents having been furnished thereafter with a copy of a draft Complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the Respondents with violation of the Federal Trade Commission Act, 15 U.S.C. § 45 *et seq.*; and the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*; and

The Respondents, their attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), which includes: a statement by Respondents that they neither admit nor deny any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admit the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the Respondents have violated the Federal Trade Commission Act, and the Fair Credit Reporting Act and that a Complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such

Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested persons, now in further conformity with the procedure described in Section 2.34 of its Rules, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings, and enters the following Order:

1. Respondent Filiquarian Publishing, LLC (“Filiquarian”) is a Minnesota company with its principal office or place of business at 3722 Las Vegas Boulevard S. #2807E, Las Vegas, NV 89158.
2. Respondent Choice Level, LLC (“Choice Level”) is a Minnesota company with its principal office or place of business at 3722 Las Vegas Boulevard S. #2807E, Las Vegas, NV 89158.
3. Respondent Joshua Linsk is an officer of the corporate respondents. During all times material to this complaint, Joshua Linsk, individually or in concert with others, formulated, directed, or controlled the policies, acts, or practices of the companies. His principal office or place of business is the same as that of Filiquarian and Choice Level.
4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

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(c) 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.

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 on April 30, 2033, 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.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: April 30, 2013