

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Plaintiff,

v.

RUBY CORP.
20 Eglinton Avenue West
Toronto, Ontario M4R 1K8,

RUBY LIFE INC., also doing business as
ASHLEYMADISON.COM
20 Eglinton Avenue West
Toronto, Ontario M4R 1K8,

ADL MEDIA INC.
1209 Orange Street
Wilmington, Delaware 19801

Defendants.

Civil Action No. _____

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND
OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The Commission, and ruby Corp., formerly known as Avid Life Media Inc.; ruby Life Inc. also doing business as AshleyMadison.com, formerly known as Avid Dating Life Inc.; and ADL Media Inc. (collectively, “Defendants”), stipulate to the entry of this Stipulated Order for Permanent Injunction and Other Equitable Relief (“Order”) to resolve all matters in dispute in this action

between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with their marketing and sale of online dating services in the United States.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.
6. Defendants and the Commission acknowledge that this Order is being entered simultaneously with similar judgments in the States of Alaska, Arkansas, Hawaii, Louisiana, Maryland, Mississippi, North Dakota, Nebraska, New York, Oregon, Rhode Island, Tennessee, Vermont, and the District of Columbia. Defendants and the Commission intend to coordinate implementation of the terms of this Order with those referenced above.

DEFINITIONS

For purposes of this Order, the following definitions apply:

1. **“Defendants”** means ruby Corp.; ruby Life Inc., also doing business as AshleyMadison.com; ADL Media Inc.; and by whatever other names each may be known, and

their successors, assigns, or subsidiaries (including but not limited to Cougar Life Inc., Established Men, CL Media Inc., and EM Media Inc.) individually, collectively, or in any combination.

2. **“Engager profile”** means an employee or agent-generated account that is not an account used by an actual customer.

3. **“Personal information”** means individually identifiable information from or about an individual consumer, including, but not limited to: (1) first and last name; (2) home or other physical address, including street name and name of city or town; (3) email address or other online contact information, such as an instant messaging user identifier or a screen name; (4) telephone number; (5) date of birth; (6) government-issued identification number, such as a driver’s license, military identification, passport, or Social Security number, or other personal identification number; (7) payment card account numbers; (8) photographs of the consumer; and (9) sexual preferences.

4. **“Seal”** means any trustmark, logo, seal of approval, emblem, shield, or other insignia offered for placement on Defendants’ websites and mobile applications.

ORDER

I.

PROHIBITION AGAINST MISREPRESENTATIONS

IT IS ORDERED that Defendants, and Defendants’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from misrepresenting, expressly or by implication, to U.S. consumer users of their online dating sites and mobile applications:

A. the extent to which Defendants collect, use, or maintain personal information, or

protect the privacy, confidentiality, security, or integrity of personal information, including the extent to which consumers may exercise control over the collection, use, or disclosure of personal information;

B. the extent to which Defendants use or display engager profiles;

C. whether the profiles that appear on Defendants' dating websites or mobile applications were created by Defendants;

D. the number of actual users of Defendants' dating websites or mobile applications, or actual women users of their dating websites or mobile applications;

E. the terms and conditions for deleting user accounts or profiles;

F. the extent to which Defendants received awards or seals from third parties; or

G. the extent to which Defendants are members of, adhere to, comply with, are certified by, are endorsed by, or otherwise participate in any privacy or security program sponsored by a third party.

II.

MANDATED DATA SECURITY PROGRAM

IT IS FURTHER ORDERED that Defendants, must, no later than the effective date of this Order, establish and implement, and thereafter maintain, a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about U.S. consumers of their online dating websites and mobile applications. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to Defendants' size and complexity, the nature and scope of Defendants' activities, and the sensitivity of the personal information collected from or about consumers, including:

A. the designation of an employee or employees to coordinate and be responsible for the information security program;

B. the identification of internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this risk assessment must include consideration of risks in each area of relevant operation, including, but not limited to: (1) employee training and management; (2) information systems, such as network and software design, information processing, storage, transmission, and disposal; and (3) prevention, detection, and response to attacks, intrusions, or other systems failures;

C. the design and implementation of reasonable safeguards to control the risks identified through risk assessment, and regular testing or monitoring of the effectiveness of the safeguards' key controls, systems, and procedures;

D. the development and use of reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from Defendants, and requiring service providers, by contract, to implement and maintain appropriate safeguards; and

E. the evaluation and adjustment of the information security program in light of the results of the testing and monitoring required by sub-Section C, any material changes to Defendants' operations or business arrangements, or any other circumstances that Defendants know or have reason to know may have an impact on the effectiveness of the information security program.

III.

DATA SECURITY ASSESSMENTS BY A THIRD PARTY

IT IS FURTHER ORDERED that, in connection with compliance with the Section of this Order titled Mandated Data Security Program, Defendants must obtain initial and biennial assessments (“Assessments”):

A. The Assessments must be obtained from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. A professional qualified to prepare such Assessments must be: an individual qualified as a Certified Information System Security Professional (CISSP) or as a Certified Information Systems Auditor (CISA); an individual holding Global Information Assurance Certification (GIAC) from the SANS Institute; or a qualified individual or entity approved by the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

B. The reporting period for the Assessments must cover: (1) the first 180 days after the issuance date of the Order for the initial Assessment; and (2) each 2-year period thereafter for 20 years after issuance of the Order for the biennial Assessments. Each Assessment must:

(1) set forth the specific administrative, technical, and physical safeguards that Defendants have implemented and maintained during the reporting period;

(2) explain how such safeguards are appropriate to Defendants’ size and complexity, the nature and scope of Defendants’ activities, and the sensitivity of the personal information collected from or about consumers;

(3) explain how the safeguards that have been implemented meet or exceed the protections required by the Section of this Order titled Mandated Data Security Program; and

(4) certify that the security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and has so operated throughout the reporting period.

C. Each Assessment must be completed within sixty (60) days after the end of the reporting period to which the Assessment applies. Defendants must submit the initial Assessment to the Commission within ten (10) days after the Assessment has been completed. Defendants must retain all subsequent biennial Assessments, at least until the Order terminates. Defendants must submit any biennial Assessments to the Commission within 10 days of a request from a representative of the Commission.

IV.

MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Eight Million, Seven Hundred and Fifty Thousand Dollars (\$8,750,000) is entered in favor of the Commission against Defendants, jointly and severally, as equitable monetary relief.

B. In partial satisfaction of the judgment against Defendants:

(1) Defendants are ordered to pay to the Commission Eight Hundred and Twenty-Eight Thousand, Five Hundred Dollars (\$828,500), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

(2) Defendants are ordered to promptly remit to the Commission any funds

received from the ALM's Directors' and Officers' Trust ("Trust") entered into on September 3, 2015, and amended on May 3, 2016, upon termination of the Trust, which can be triggered by the Trust's Section 7.1(b)(ii) one (1) year after the date on which all liability and maintenance claims made against the Trust's beneficiaries have been satisfied or resolved.

Upon such payment and remittance described above in Subsections IV. B.(1) and (2), the remainder of the judgment is suspended, subject to Subsections IV.C-E. below.

C. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, dated September 30, 2016, October 17, 2016, and October 19, 2016.

D. The suspension of the judgment will be lifted as to Defendants if, upon motion by the Commission, the Court finds that Defendants failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified in Subsection IV.C. above.

E. If the suspension of the judgment is lifted, the judgment becomes immediately due as to Defendants in the amount specified in Subsection IV.A. above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

V.

ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers (Employer Identification Numbers) may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

E. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement.

Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

VI.

CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly:

A. failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, within fourteen (14) days; and

B. disclosing, using, or benefitting from personal information of their online dating sites or mobile applications, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that Defendants obtained prior to entry of this Order in connection with the advertising, marketing, promoting, offering for sale, or selling of online dating services. Provided, however, that Defendants may use personal information for any current customer if Defendants comply with Section I of this Order.

VII.

ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of

this Order:

A. Defendants, within seven (7) days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, Defendants must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives having supervisory responsibilities who participate in conduct related to the subject matters of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Defendants delivered a copy of this Order, Defendants must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VIII.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission:

A. One (1) year after entry of this Order, Defendants must submit a compliance report, sworn under penalty of perjury, in which Defendants must: (1) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission, may use to communicate with Defendants; (2) identify all of Defendants' businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (3) describe the activities of each business, including the goods and services

offered, the means of advertising, marketing, and sales; (4) describe in detail whether and how Defendants are in compliance with each Section of this Order; and (5) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For twenty (20) years after entry of this Order, Defendants must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following: (1) any designated point of contact; or (2) the structure of any entity doing business in the United States that Defendants have any ownership interest in or control directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Defendants must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Defendants within fourteen (14) days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,

Washington, D.C. 20580. The subject line must begin: *FTC v. ruby Corp. et al.*, FTC Matter No. 1523284.

IX.

RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for twenty (20) years after entry of the Order, and retain each such record for five (5) years. Specifically, Defendants must create and retain the following records from their online dating websites and mobile applications, and any successor to those websites and mobile applications:

- A. accounting records showing the revenues from all goods or services sold;
- B. personnel records, showing, for each person providing services relating to the subject matters of the Order, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. all records necessary to demonstrate full compliance with each Section of this Order, including all submissions to the Commission; and
- E. a copy of every materially different advertisement or other marketing material.

X.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended, and any failure to transfer any assets as required by this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission, Defendants must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with Defendants. Defendants must permit representatives of the Commission to interview any employee or other person affiliated with Defendants who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

XI.

RETENTION OF JURISDICTION

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

SO ORDERED this ___ day of _____, 201_.

UNITED STATES DISTRICT JUDGE

**SO STIPULATED AND AGREED:
FOR PLAINTIFF:**

FEDERAL TRADE COMMISSION

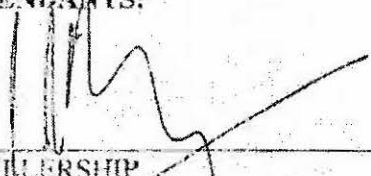


Date: 11/10/2016

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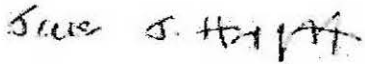
Attorneys for Plaintiff
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FOR DEFENDANTS:



Date: 11/10/2016

JAMES MILLERSHIP
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Date: 11/10/2016

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