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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 2:08-CV-01842
)	
v.)	STIPULATED FINAL ORDER FOR
)	PAYMENT OF CIVIL PENALTIES,
GREGORY NAVONE,)	PERMANENT INJUNCTION,
)	AND OTHER EQUITABLE RELIEF
Defendant.)	
)	

On December 30, 2008, Plaintiff, the Federal Trade Commission (“Commission”), filed its Complaint in the instant action against Defendant Gregory Navone for civil penalties, injunctive relief, and other equitable relief (“Complaint”). The Complaint alleges that the Defendant has engaged in acts or practices in violation of Section 5(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45(a) and Section 628 of the Fair Credit Reporting

Act (“FCRA”), 15 U.S.C. § 1681w, and the rule regarding the Disposal of Consumer Report Information and Records (“Disposal Rule”), 16 C.F.R. § 682.1 et seq., issued pursuant to Section 628 of the FCRA, 15 U.S.C. § 1681w. The Commission and the Defendant have stipulated to the entry of this Stipulated Final Order for Payment of Civil Penalties, Permanent Injunction and Other Equitable Relief (“Order”) in settlement of the Complaint, and request that the Court enter this Order to resolve all matters of dispute in this action.

NOW, THEREFORE, the parties having requested the Court to enter this Order, and the Court having considered the Order and being fully advised of all matters in this case, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 53(b), 56(a), and 1681s(a).
2. Venue in the United States District Court for the District of Nevada is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b)-(c) and 1395(a).
3. The acts and practices of Defendant are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The Complaint states claims upon which relief may be granted against Defendant under Sections 5(a)(1), 13(b), and 16(a) of the FTC Act, 15 U.S.C. §§ 45(a)(1), 53(b), and 56(a), Sections 621(a) and 628 of the FCRA, 15 U.S.C. §§ 1681s(a) and 1681w, and the Disposal Rule.
5. Defendant has stipulated to the entry of this Order freely and without coercion, and acknowledges that he has read the provisions of the Order and is prepared to abide by them.
6. By agreeing to the entry of this Order, Defendant does not admit to the allegations set forth in the Complaint, other than the jurisdictional facts, and Defendant’s consent to entry of

this Order shall not be interpreted to constitute an admission by him that he has engaged in any violation of any law or regulations.

7. Defendant waives all rights to seek appellate review or otherwise challenge or contest the validity of this Order and waives and releases any claim he may have against the Commission, its employees, its representatives, or its agents.

8. The parties agree that each shall bear its own costs and attorneys' fees incurred in connection with this action. Defendant agrees that the entry of this Order does not entitle him to seek or to obtain attorneys' fees under the Equal Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996), and he further waives any rights to attorneys' fees that may arise under said provision of law.

9. Entry of this Order is in the public interest.

DEFINITIONS

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

1. "Fair Credit Reporting Act" or "FCRA" refers to 15 U.S.C. § 1681-1681x, as amended.

2. The terms "person," "consumer," and "consumer report" mean as defined in Sections 603(b), (c), and (d), respectively, of the FCRA, 15 U.S.C. §§ 1681a(b), 1681a(c), and 1681a(d).

3. "Personal information" means individually identifiable information from or about a consumer including, but not limited to: (a) a first and last name; (b) a home or other physical address, including street name and name of city or town; (c) a telephone number; (d) an email address or other online contact information, such as an instant messaging user identifier or a screen name, that reveals a consumer's email address; (e) date of birth; (f) a Social Security

number; (g) credit or debit card information, including card or account number; (h) bank or loan account information, including routing number, and/or account number; (i) a driver's license, military, or other state identification number; (j) a persistent identifier, such as a customer number held in a "cookie" or processor serial number, that is combined with other available data that identifies an individual consumer; or (k) any other information from or about an individual consumer that is combined with (a) through (j) above.

4. "Disposal Rule" means the rule regarding the Disposal of Consumer Report Information and Records ("Disposal Rule"), 16 C.F.R. § 682.1 et seq.

5. "Consumer information" means as defined in the Disposal Rule, 16 C.F.R. § 682.1(b), *i.e.*, "any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data."

6. "Commerce" means as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

ORDER

I. CIVIL PENALTY

IT IS ORDERED that:

A. Defendant is ordered to pay a civil penalty of \$35,000 (thirty-five thousand dollars), pursuant to Section 621(a) of the FCRA, 15 U.S.C. § 1681s(a).

B. Prior to the execution of this Order, Defendant transferred the amount specified in Paragraph A of this Section I to his undersigned former counsel, Richard McKnight, who has held and shall continue to hold the sum in escrow for no purpose other than payment to the

Commission. Within five (5) days of entry of this Order, Mr. McKnight shall transfer the sum to the Commission by electronic funds transfer in accordance with instructions previously provided by a representative of the Commission.

C. Defendant relinquishes all dominion, control, and title to the amount paid pursuant to this Section I to the fullest extent permitted by law. Defendant shall make no claim to or demand return of these funds, directly or indirectly, through counsel or otherwise.

D. The amount paid pursuant to this Section I represents a civil penalty owed to the United States Government, is not compensation for actual pecuniary loss, and, therefore, is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. §523(a)(7). Defendant agrees that the facts as alleged in the Complaint filed in this action shall be taken as true, without further proof, for the sole purpose of any subsequent civil litigation filed by or on behalf of the Commission to enforce its rights to any payment pursuant to this Order.

II. PROHIBITED BUSINESS ACTIVITIES

IT IS FURTHER ORDERED that:

A. Defendant and his agents, servants, and employees and all persons in active concert or participation with any one or more of them, whether acting directly or through any sole proprietorship, partnership, limited liability company, corporation, subsidiary, branch, division, or other entity, who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from:

1. Misrepresenting in any manner, expressly or by implication, the extent to which the privacy, confidentiality, or integrity of any personal information collected from or about consumers is maintained or protected; and

2. Violating Section 628 of the FCRA or the Disposal Rule, including, but not limited to, by maintaining or otherwise possessing consumer information for a business purpose and failing to properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

B. In the event that the statutory section or Rule identified in paragraph A(2) is hereafter amended or modified, compliance with that statutory section or Rule as so amended or modified shall not be a violation of this Order.

III. REQUIRED INFORMATION SECURITY PROGRAM

IT IS FURTHER ORDERED that Defendant, for himself and for any business entity that he controls, directly or indirectly, if he or such business entity collects, maintains, or stores personal information from or about consumers, shall, no later than the date of entry of this Order, establish and implement, and thereafter maintain, a comprehensive information security program that is designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to Defendant or the entity's size and complexity, the nature and scope of Defendant or the entity's 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 accountable for the information security program.

B. The identification of material 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

the assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this risk assessment should include consideration of the risks in each relevant area of operations, including, but not limited to: (1) employee training and management; (2) information systems, including network and software design, information processing, storage, transmission, and disposal; and (3) prevention, detection, and response to attacks, intrusions, or other system failures.

C. The design and implementation of reasonable safeguards to control the risks identified through risk assessment, and regular testing and 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 received from Defendant or the entity, and requiring service providers by contract to implement and maintain appropriate safeguards.

E. The evaluation and adjustment of the information security program in light of the results of the testing and monitoring required by Paragraph C of this Section III, any material changes to operations or business arrangements, or any other circumstances that Defendant or the entity knows or has reason to know may have a material impact on the effectiveness of the information security program.

IV. ASSESSMENT REQUIREMENTS

IT IS FURTHER ORDERED that:

A. In connection with his compliance with Sections II(A)(2) and III of this Order, Defendant, for himself and for any business entity that he controls, directly or indirectly, if he or such business entity collects, maintains, or stores personal information from or about consumers,

shall obtain initial and annual assessments and reports (“Assessments”) from a qualified, objective, independent third-party professional who uses procedures and standards generally accepted in the profession, *provided, however*, that Defendant shall not be required to obtain such Assessments *for himself* if the personal information that he collects, maintains, or stores from or about consumers is limited to a first and last name; a home or other physical address, including street name and name of city or town; a telephone number; and/or an email address or other online contact information, such as an instant messaging user identifier or a screen name, that reveals a consumer's email address (“directory information”). If Defendant, for himself, collects, maintains or stores personal information from or about a consumer other than directory information, Defendant is required to obtain Assessments as described in this Section IV with respect to that personal information and any directory information from or about the same consumer only. The reporting period for the Assessments shall cover: (1) the first one hundred and eighty (180) days after entry of the Order for the initial Assessment; and (2) each one-year period thereafter for ten (10) years after entry of the Order for the annual Assessments. Each Assessment shall:

1. Set forth the specific administrative, technical, and physical safeguards implemented and maintained during the reporting period;
2. Explain how such safeguards are appropriate to Defendant’s or the entity’s size and complexity, the nature and scope of the Defendant’s or the entity’s 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 Section 628 of the FCRA, the Disposal Rule, and Section III of this Order; and

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

B. Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies by: a person qualified as a Certified Information System Security Professional (CISSP) or as a Certified Information Systems Auditor (CISA); a person holding Global Information Assurance Certification (GIAC) from the SysAdmin, Audit, Network, Security (SANS) Institute; or a similarly qualified person or organization approved by the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

C. Defendant shall provide the initial Assessment to the Associate Director for Enforcement, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room NJ-2122, Washington, D.C. 20580, within ten (10) business days after the Assessment has been prepared. All subsequent annual Assessments shall be retained by the individual or the entity to which the Assessment pertains until three (3) years after completion of the final Assessment and provided to the Associate Director of Enforcement upon request within ten (10) business days of receipt of such request.

V. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; provide entry during normal business hours to any business location in Defendant's possession or direct or indirect control to inspect the business operation; and provide entry during normal business hours to any other location possessed or directly or indirectly controlled by Defendant where consumer personal information is maintained to inspect the location.

B. In addition, the Commission is authorized to use all other lawful means, including, but not limited to:

1. Obtaining discovery from any person, without further leave of Court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45, 69; and

2. Posing as consumers and suppliers to Defendant, his employees, or any other entity managed or controlled in whole or in part by Defendant, without the necessity of identification or prior notice.

C. Defendant shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, officer or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit 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, to

obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)) or to any violation of the FCRA.

VI. COMPLIANCE REPORTING BY DEFENDANT

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order,
 1. Defendant shall notify the Commission of the following:
 - (a) Any changes in Defendant's residence, mailing addresses, and/or telephone numbers, within ten (10) days of the date of such change;
 - (b) Any changes in Defendant's employment status (including self-employment), and any changes in his ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include: the name and address of each business that Defendant is affiliated with, employed by, creates or forms, incorporates, or performs services for; a detailed description of the nature of the business; and a detailed description of Defendant's duties and responsibilities in connection with the business or employment; and
 - (c) Any changes in Defendant's name or use of any aliases or fictitious names, including "doing business as" names.
 2. Defendant shall notify the Commission of any changes in the structure of any business entity that Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices

that are subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, *provided that*, with respect to any proposed change in the business entity about which the Defendant learns less than thirty (30) days prior to the date such action is to take place, Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order and annually thereafter for a period of five (5) years, Defendant shall provide a written report to the Commission, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

1. Defendant's then-current residence address, mailing addresses, and telephone numbers;
2. Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of Defendant's duties and responsibilities in connection with the business or employment;
3. A copy of each acknowledgment of receipt of this Order obtained pursuant to Section VIII of this Order; and
4. Any other changes required to be reported under Paragraph A of this Section VI.

C. Defendant shall notify the Commission of the filing of a bankruptcy petition by Defendant within fifteen (15) days of filing.

D. For the purposes of this Order, Defendant shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports and notifications required by this Order to the Commission, to the following address:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room NJ-2122
Washington, D.C. 20580
RE: FTC v. Gregory Navone

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

E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendant.

VII. RECORD KEEPING

IT IS FURTHER ORDERED that Defendant (for himself and for any business entity that he controls, directly or indirectly, if such business entity collects, maintains, or stores personal information from or about consumers), and any agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

- A. For a period of eight (8) years from the date of entry of this Order:
1. All documents that contradict, qualify, or call into question compliance with this Order;
 2. All consumer complaints (whether received in written or electronic form, directly, indirectly or through any third party), and all responses to such complaints, whether in

written or electronic form, that relate to the activities as alleged in the Complaint and/or compliance with the provisions of this Order;

3. Copies of all subpoenas and other communications with law enforcement entities or personnel, whether in written or electronic form, if such documents bear in any respect on the collection, maintenance, or storage of consumer reports or other personal information from or about consumers; and

4. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order required by Sections VIII and IX, and all reports submitted to the Commission pursuant to Section VI.

B. For a period of three (3) years after the date of preparation of each Assessment required under Section IV of this Order, all materials, whether prepared by or on behalf of Defendant, relied upon to prepare the Assessment, including but not limited to all plans, reports, studies, reviews, audits, audit trails, policies, training materials, work papers, and assessments, and any other materials relating to compliance with Section III of this Order for the compliance period covered by such Assessment.

VIII. DISTRIBUTION OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that, for a period of three (3) years from the date of entry of this order, Defendant shall deliver copies of this Order as directed below:

A. For any business entity that Defendant controls, directly or indirectly, which collects, maintains, or stores personal information from or about consumers, Defendant must deliver a copy of this Order to (1) all of its principals, officers, directors, and managers, (2) all employees, agents, and representatives of that business who have supervisory responsibilities

related to the business's compliance with the Order, and (3) any business entity resulting from any change in structure set forth in Section VI(A)(2) of this Order. For current personnel, delivery shall be within (5) days of entry of this Order. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Section VI(A)(2) of this Order, delivery shall be at least ten (10) days prior to the change in structure.

B. For any business that collects, maintains, or stores personal information from or about consumers, where Defendant is not a controlling person of the business but he otherwise has responsibility, in whole or in part, for developing or overseeing the implementation of policies and procedures to protect the privacy, security, confidentiality, and integrity of personal information collected from or about consumers by the business, including in connection with its disposal, Defendant must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

C. Defendant must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section VIII.

IX. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

X. 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.

IT IS SO ORDERED:

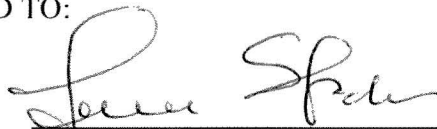


Kent J. Dawson
UNITED STATES DISTRICT JUDGE

DATED: December 29, 2009

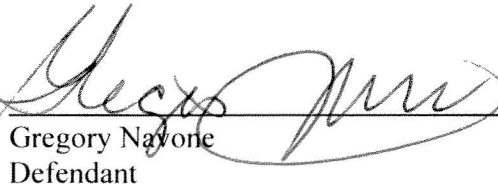
STIPULATED & AGREED TO:

Date: 12/23/09



Laura B. Stack
Kandi B. Parsons
Katrina A. Blodgett
David M. Newman
Attorneys for Plaintiff Federal Trade Commission

Date: 11/13/09



Gregory Navone
Defendant

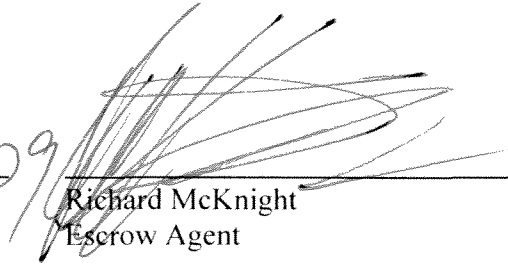
Date: 11/13/09



Matthew Q. Callister
Attorney for Defendant Gregory Navone

Date: _____

11-13-09

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and lines, positioned over the signature line.

Richard McKnight
Escrow Agent