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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MONARCH SERVICES, INC. and GIRLS' LIFE,
INC.,
corporations,

Defendants.

Civil Action No. AMD 01 CV 1165

COMPLAINT FOR CIVIL
PENALTIES, INJUNCTIVE, AND
OTHER RELIEF

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("FTC" or "Commission"), for its Complaint alleges that:

1. Plaintiff brings this action under Sections 1303(c) and 1306(d) of the Children's Online Privacy Protection Act of 1998 ("COPPA"), 15 U.S.C. §§ 6501-6506, 6502(c), and 6505(d), and Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 41-58, 45(a)(1), 45(m)(1)(A), 53(b), and 56(a), to obtain monetary civil penalties, a permanent injunction, and other equitable relief for defendants' violations of the Commission's Children's Online Privacy Protection Rule (the "Rule"), 16 C.F.R. Part 312.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b) and 56(a). This action arises under 15 U.S.C. §§ 45(a)(1) and 6502(c).

3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b)-(c) and 1395(a).

DEFINITIONS

4. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “delete,” “disclosure,” “Internet,” “online contact information,” “operator,” “parent,” “person,” “personal information,” “third party,” “verifiable consent,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

5. Congress enacted the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6501-6506, in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children’s personal information by Internet website operators. The Act directed the Federal Trade Commission to promulgate a rule implementing COPPA. The Commission promulgated the Children’s Online Privacy Protection Rule (“Rule”), 16 C.F.R. Part 312, on November 3, 1999 under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedures Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000.

6. The Rule applies to any operator of a commercial website or online service directed to children that collects, uses, and/or discloses personal information from children, or any operator that has actual knowledge that it is collecting or maintaining a child's personal information.

7. The Rule requires a subject website operator to meet specific requirements prior to collecting online, using, or disclosing personal information from children, including but not limited to:

- a. Posting a privacy policy on its website providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specifically required disclosures;
- b. Providing clear, understandable, and complete notice of its information practices directly to parents when required by the Rule;
- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children;
- d. Giving parents the option to consent to the collection and internal use of their children's personal information without consenting to the disclosure of that information to third parties;

- e. Providing a reasonable means for parents to review the personal information collected from their children and to refuse to permit its further use or maintenance;
- f. Not conditioning children's participation in an activity upon children disclosing more personal information than is reasonably necessary to participate in that activity; and
- g. Establishing and maintaining reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

8. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice affecting commerce, in violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a). *See also* COPPA, 15 U.S.C. § 6502(c).

DEFENDANTS

9. Defendant Monarch Services, Inc. is a publicly-traded Delaware corporation with its principal office or place of business located at 4517 Harford Road, Baltimore, Maryland 21214.

10. Defendant Girls' Life, Inc. is a closely-held Maryland corporation with its principal office or place of business located at 4517 Harford Road, Baltimore, Maryland 21214. Girls' Life, Inc. is a wholly-owned subsidiary of defendant Monarch Services, Inc.

11. Since at least April 21, 2000, defendants have been operators of www.girlslife.com ("the website"). Through their website, defendants display online advertising; sell their own products,

such as print magazine subscriptions, apparel, books, candy, jewelry, music, and novelties; and promote the products sold and commercial websites operated by other companies that advertise on defendants' website and in their magazine. Defendants market their products and services throughout the United States through the Internet.

12. The acts and practices of defendants alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' COURSE OF CONDUCT

13. Defendants' website www.girlslife.com is directed to children and young teenagers.

14. Defendants, alone and in conjunction with other website operators, offer several free online activities and services to children under 13 through www.girlslife.com, including bulletin boards, email accounts, electronic postcards, contests, and other opportunities to submit and post written content.

Defendants' Information Collection, Use, and Disclosure Practices

15. Defendants collect the following personal information from children online:

- a. Defendants ask children who wish to enter contests to submit their full name, postal address, and, variously, short essays, age, and their parent's daytime telephone number. (Exhibit A.)
- b. Defendants ask children who wish to change the postal address at which they receive defendants' print magazine *Girls' Life* to submit online their full name, email address, old postal address, new postal address, and customer number.

(Exhibit B.)

- c. Defendants ask children to submit their homepage URLs, which defendants disclose on www.girlslife.com. (Exhibit C.)
- d. Defendants collect full names and email addresses from children who submit poetry, essays, or stories to the website. (Exhibits D and E.) In some instances, defendants have collected and posted children's full names and ages on the website together with their written submissions. (See Exhibit E.)
- e. Defendants, in conjunction with Bigmailbox.com, Inc., require children who wish to open a free www.girlslife.com email account to submit their full name, an alternate email address, ZIP code, user name, password, a "password reminder" question and answer (in case the user forgets her password), gender, age, occupation (selected from a pull-down menu, *e.g.*, student), and interests. (Email registration page, Exhibit F.) Defendants and Bigmailbox.com, Inc. also ask children opening email accounts to submit their city, state, and country. The email accounts permit children to disclose their personal information to the public. Defendants and Bigmailbox.com, Inc. send direct marketing offers by email to children who register for free email accounts. Defendants and Bigmailbox.com,

Inc. also disclose children's personal information to various third parties. (*See* 9/15/00 www.bigmailbox.com privacy policy, Exhibit G.)

- f. Defendants, in conjunction with Looksmart Ltd., ask children who wish to post a message on the Girls' Life bulletin boards to submit their full name and email address along with the message. (Exhibit H.) Defendants and Looksmart Ltd. disclose all submitted personal information to the public by posting it online. (*See* Exhibit I.)
- g. Defendants, in conjunction with All-Yours Internet Solutions, ask children who wish to send a Girls' Life electronic postcard to submit their full name, their email address, the recipient's full name, the recipient's email address, and an open-ended message. (Exhibit J.) All-Yours Internet Solutions retains the personal information submitted and uses it later to contact the child to confirm delivery of the electronic postcard. (*Id.*)

The personal information collected is more than what is reasonably necessary for children to participate in these activities.

Defendants' Privacy Policy

16. Prior to approximately October 18, 2000, defendants did not post any privacy policy. Since then, defendants have posted a privacy policy, but it does not clearly, understandably, or completely disclose all of their information collection, use, and disclosure practices and other disclosures required by the Rule. Defendants' privacy policy, additionally, is

posted only on their website's homepage, and not in close proximity to every place where defendants request personal information. (Exhibit K.)

Other Relevant Conduct

17. Defendant does not provide direct notice to parents of its practices regarding the collection, use, and/or disclosure of children's personal information and other disclosures required by the Rule.

18. Defendants fail to obtain verifiable parental consent for collecting, using, or disclosing the personal information of children.

19. Defendants provide no means for parents to review or delete the information collected from their children.

20. Defendants do not provide for the security, confidentiality, or integrity of the personal information collected from children.

DEFENDANTS' VIOLATIONS OF THE CHILDREN'S ONLINE PRIVACY PROTECTION RULE

21. Since at least April 21, 2000, defendants have been operators of a website directed to children, and/or have actual knowledge that they are collecting or maintaining personal information from children.

22. In numerous instances, including the acts and practices described above, defendants, alone and in conjunction with other website operators, have collected, used, or

disclosed personal information from children in violation of the Rule, 16 C.F.R. § 312, including:

- a. Failing to provide sufficient notice on the website of what information they collect online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b);
- b. Failing to provide notice to parents of what information they collect online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(c) of the Rule, 16 C.F.R. § 312.4(c);
- c. Failing to obtain verifiable parental consent before any collection, use, and/or disclosure of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5;
- d. In situations falling under an exception to the Rule's prior parental consent requirement, failing to provide parents with notice and the opportunity to request that the operator make no further use of the information, in violation of Sections 312.4(c) and 312.5(c) of the Rule, 16 C.F.R. §§ 312.4(c) and 312.5(c);
- e. Failing to provide a reasonable means for parents to review the personal information collected from their children and to refuse to permit its further

use or maintenance, in violation of Section 312.6 of the Rule, 16 C.F.R. § 312.6; and

- f. Conditioning children's participation in an activity on their disclosing more personal information than is reasonably necessary to participate in such activity, in violation of Section 312.7 of the Rule, 16 C.F.R. § 312.7.

**DEFENDANTS' UNFAIR OR DECEPTIVE ACTS OR PRACTICES
IN VIOLATION OF THE FTC ACT**

23. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), provides that "unfair or deceptive acts or practices in or affecting commerce are hereby declared unlawful."

24. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. §57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. §45(a)(1). *See* COPPA, 15 U.S.C. § 6502(c).

25. By and through the acts and practices described above, defendants, alone and in conjunction with other website operators, have violated Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

CIVIL PENALTIES, INJUNCTION AND OTHER RELIEF

26. Defendants have violated the Rule as described above with knowledge as set forth in Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

26. Each collection, use, or disclosure of a child's personal information from April 21, 2000 through the filing of this Complaint, in which defendants have violated the Rule in one or more of the

ways described above constitutes a separate violation for which plaintiff seeks monetary civil penalties.

27. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$11,000 for each such violation of the Rule, 16 C.F.R. Part 312.

28. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction against defendants' violation of the FTC Act, as well as such ancillary relief as may be just and proper.

PRAYER

WHEREFORE, plaintiff requests this Court, pursuant to 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b) and 57b, and the Court's own equitable powers to:

- (1) Enter judgment against defendants and in favor of plaintiff for each violation alleged in this Complaint;
- (2) Award plaintiff monetary civil penalties from defendants for each violation of the Rule, 16 C.F.R. Part 312;
- (3) Permanently enjoin defendants from violating the Rule, 16 C.F.R. Part 312;

- (4) Award plaintiff such additional relief as the Court may deem just, proper, or necessary to redress injury to consumers resulting from defendants' violations of the Rule, 16 C.F.R. Part 312.

DATED:

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