

**ATTORNEY GENERAL OF THE STATE OF NEW YORK  
INTERNET BUREAU**

**IN THE MATTER OF**

**CRICKET OPERATING COMPANY, LLC d/b/a/  
US SEARCH.COM**

**ASSURANCE OF DISCONTINUANCE**

Pursuant to the provisions of Article 22-A of the New York General Business Law (“GBL”) and Section 63(12) of the New York Executive Law (“Executive Law”), Andrew M. Cuomo, Attorney General of the State of New York, has made an inquiry into the certain business practices of Cricket Operating Company, LLC d/b/a US Search.com (“Cricket Operating” or “New US Search”). Based upon that inquiry the Attorney General concludes as follows:

**FINDINGS OF THE ATTORNEY GENERAL**

1. In February 2007, the Attorney General commenced an investigation into the business practices of US Search.com, Inc. (the “Company”). At the time, the Company was in the business of accessing personal consumer information and compiling that information into reports. The Company sold these reports to both the general public and to businesses such as private investigators and attorneys. While it offered the general public reports based upon information found in the public domain, it offered its business clients an extra benefit: access to non-public personal consumer information that originated from credit bureaus and other financial institutions. The Company was not permitted to obtain, use or disclose this non-public consumer

information unless it intended to do so for one of eight specific purposes authorized by the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 *et seq.*, the federal statute that regulates the use of non-public personal information collected by financial institutions, as defined therein at 15 U.S.C. § 6809(4) and in regulations issued thereunder.

2. The Attorney General's investigation revealed that on at least 2,385 occasions, the Company obtained non-public personal consumer information for its business clients by asserting that those business clients had a lawful purpose in seeking the data. On each of those occasions, the Company had reason to believe that no such lawful purpose existed. Moreover, while US Search sought such information without an apparent legal purpose 2,385 times, each of these 2,385 requests often returned the non-public personal information of **several times as many** individuals. Each of these illegal requests occurred prior to October 12, 2007.

3. Based upon its investigation, the Attorney General concluded that its access, use, and disclosure of non-public personal information repeatedly and persistently violated G.B.L. § 349 and 15 U.S.C. §§ 6802(c), 6802(e) and 6821(b), and, accordingly, that the Company's practices violated New York Executive Law § 63(12), in all cases prior to October 12, 2007.

4. From June 5, 2003 to October 12, 2007, the Company was owned by First American Corporation ("First AM") a Delaware corporation with its principal place of business in Santa Ana, California. Upon its acquisition of US Search, First AM merged the Company with its own screening technology division and created a new company called First Advantage Corporation ("First Advantage") also a Delaware corporation with its principal place of business in St. Petersburg, Florida. As a result of the merger, the Company, US Search.com, Inc., became a wholly-owned operating subsidiary of First Advantage, which in turn became a majority owned subsidiary of First AM.

5. Pursuant to Executive Law § 63(15), the Attorney General and the Company provisionally agreed to enter into an Assurance of Discontinuance (“Initial AOD”) in lieu of a statutory proceeding regarding the Company’s unauthorized and illegal access, use, and disclosure of non-public personal consumer information.

6. On October 12, 2007, before the Initial AOD was executed, First AM sold most of the Company’s assets and most of its business, to Cricket Operating Company, LLC, a limited liability company incorporated in Delaware with its principal place of business in Culver City, California. Cricket Operating uses the acquired assets and operates under the name US Search.com. The Company, US Search.com, Inc., was renamed FA Locate, Inc. and remains a subsidiary of First AM and First Advantage. As a result of this sale, neither First AM nor First Advantage have any management, ownership, or other interest in New US Search as it exists today. Furthermore, neither First AM nor First Advantage have any management, ownership, or other interest in Cricket Operating.

7. The sole member of Cricket Operating is Cricket Acquisition Corporation (“Cricket Acquisition”), a Delaware corporation with its principal place of business in Culver City, California. Neither First AM nor First Advantage have any management, ownership, or other interest in Cricket Acquisition

8. Cricket Acquisition is owned entirely by four funds managed by Highland Capital Partners, LLC (“Highland”) a venture capital firm that invests in seed, early, and growth stage companies in the communications, digital media, healthcare, and information technology markets. Highland is incorporated in Delaware with its principal place of business in Lexington, Massachusetts and with an office in Menlo Park, California. Richard de Silva, the President and

Treasurer of Cricket Operating and its sole director, is also an employee of Highland. Neither First AM nor First Advantage have any management, ownership, or other interest in Highland.

9. Under the ownership and management by Cricket Operating, New US Search will continue to obtain personal consumer information from public sources and will continue to offer that information to the general public. However, at this time, New US Search does not access non-public personal consumer information, including from financial institutions or credit bureaus. Cricket Operating has also represented to the Attorney General that it has no current plans to expand New US Search's business to offer products or information that involve access to non-public personal consumer information.

10. Cricket Operating has retained a number of employees who had worked at the Company, US Search.com, Inc., prior to Cricket Operating's asset purchase, including three of the managerial employees who had managed day-to-day operations of the Company and who continue to manage the day-to-day operations of New US Search.

#### **STATUTORY VIOLATIONS**

11. The Attorney General has found that, prior to October 12, 2007 and prior to Cricket Operating's purchase of the Company's assets and its operation of New US Search, the Company, US Search.com, Inc., violated G.B.L. § 349 and 15 U.S.C. §§ 6802(c), 6802(e) and 6821(b) and, therefore, that prior to October 12, 2007, the Company engaged in repeated, persistent, fraudulent and illegal conduct within the meaning of Executive Law § 63(12).

12. The Attorney General has entered into, or intends to enter into, a separate Assurance of Discontinuance with FA Locate, Inc., the subsidiary of First AM and First American that represents the successor in interest to the Company, US Search.com, Inc., for

injunctive relief comparable to that described *infra* in paragraphs 19 to 25 and the payment of \$252,013.46 in penalties, disgorgement, and costs to the State of New York.

13. **IT NOW APPEARS** that Cricket Operating is willing to enter into this Assurance of Discontinuance with respect to its operation of New US Search. The Attorney General has no reason to believe that the Company's fraudulent and illegal conduct continued after October 12, 2007 when the Company's assets were sold to and began to be managed by Cricket Operating as New US Search.

#### DEFINITIONS

14. "Credit header information" refers to identifying information including name, aliases, current and former addresses, telephone numbers, birth date, mother's maiden name and social security number that is listed in the headers of credit reports created by credit reporting agencies.

15. "Non-public personal consumer information" or "NPPI" is personally identifiable financial information that (a) is provided by a consumer to a financial institution; (b) results from any transaction with the consumer or any service performed for the consumer; or (c) is otherwise obtained by the financial institution. 15 U.S.C. § 6809(4). Credit header information constitutes non-public personal consumer information. See Individ. Ref. Servs. Group, Inc. v. FTC, 145 F. Supp. 2d 6 (D.D.C. 2001), aff'd sub nom., TransUnion, LLC v. FTC, 295 F.3d 42 (D.C. App. 2002). For the purposes of this Assurance, "credit header information" does not include data that was listed in the headers of credit reports created by credit reporting agencies prior to the enactment of the GLBA.

16. Credit header information does not include publicly available information, as such term is defined by the regulations prescribed under section 6804 of the GLBA. Notwithstanding

the previous sentence, NPPI (i) shall include any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any non-public personal information other than publicly available information, but (ii) shall not include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using non-public personal information.

17. "Permissible purpose" refers to those situations set forth in 15 U.S.C. § 6802(e) of the GLBA where a person or entity may access, use and/or disclose a consumer's NPPI without first having to (a) notify the consumer of the access, use and/or disclosure of his or her NPPI; and (b) provide the consumer with an opportunity to opt-out of the access, use and/or disclosure of his or her NPPI.

#### **AGREEMENT**

**IT IS HEREBY UNDERSTOOD AND AGREED** by and between US Search and the Attorney General that:

18. This Assurance of Discontinuance (hereinafter "Assurance") shall apply to Cricket Operating Company, LLC d/b/a US Search.com and its principals, directors, officers, shareholders, employees, representatives, agents, assigns, successors, or other business entities whose acts, practices or policies it directs, formulates or controls.

19. New US Search shall notify the Attorney General if it commences: (A) accessing, obtaining, using and/or disclosing NPPI; or (B) accessing, obtaining, using and/or disclosing NPPI to businesses such as private investigators or attorneys. New US Search shall notify the Attorney General of its intention to commence engaging in either of the business practices described in this paragraph within ten (10) days of making such decision or determination.

20. New US Search shall not access, use, or obtain NPPI on behalf of, or at the request of, a third party, nor will it disclose NPPI to a third party unless it:

- (A) Fully complies with the terms of the GLBA;
- (B) Obtains from the third party a written or digital certification of the third party's permissible purpose under 15 U.S.C. § 6802(e) for obtaining the NPPI; and
- (C) Retains for five (5) years the written or digital documentation certifying a permissible purpose from each third party who requests that New US Search access, use, obtain, and/or disclose NPPI and makes that documentation available for inspection upon written request by the Attorney General.

21. In accessing, using, or obtaining NPPI on behalf of, or at the request of, any third party, New US Search shall require the third party to certify in writing or digitally that it has permissible purpose for each and every separate request for NPPI. Prior to disclosing the NPPI to the third party, New US Search shall request that the third party certify or re-certify in writing or digitally that it has or still has a permissible purpose to access, use, obtain, and/or disclose NPPI. If the third party does not certify or re-certify that it has a permissible purpose to access, use, obtain, and/or disclose NPPI, then New US Search will not disclose the NPPI to the third party and the NPPI will be deleted.

22. In accessing, using or obtaining NPPI on behalf of, or at the request of, any third party, New US Search shall not represent that the third party has a permissible purpose to access, use, obtain and/or disclose NPPI when the third party has not certified or re-certified in writing or digitally to New US Search that it has a permissible purpose to access, use, obtain and/or disclose such data.

23. New US Search shall train any and all persons who are responsible for accessing, using, obtaining and/or disclosing NPPI on behalf of New US Search and/or its customers regarding the application of the GLBA to the access, use and/or disclosure of NPPI. Such training shall include, but is not limited to, written materials concerning the definition of NPPI, the application of the GLBA to New US Search and/or its customers' requests for NPPI, the limited permissible purposes according to which New US Search and/or its customers may legally access, use, obtain and/or disclose NPPI, and the procedures through which New US Search certifies, confirms and/or verifies that it and/or its customers have permissible purposes to access, use, obtain and/or disclose NPPI.

24. In the event that New US Search learns that a third party on behalf of which it is accessing, using, obtaining and/or disclosing NPPI does not have a permissible purpose to access, use and/or obtain NPPI, or if New US Search should learn that a third party to which New US Search discloses NPPI does not have a permissible purpose in receiving the NPPI, New US Search shall: (a) immediately cease accessing, using and/or obtaining NPPI on behalf of that third party and/or disclosing NPPI to that third party; (b) within ten (10) days apprise the Attorney General of such instance; and (c) within ten (10) days apprise the consumer whose information was accessed, used, obtained and/or disclosed without a permissible purpose of such instance and, if applicable, the identity of the person or entity to whom their information was disclosed.

25. New US Search shall cooperate with any further requests made by the Attorney General, with respect to any practices, documents, or information relating to it or any third party.

26. Nothing contained in this Assurance shall be construed to alter or enhance any existing legal rights of any consumer or to deprive any person or entity of any existing private right under the law.

27. Nothing contained in this Assurance shall be construed as relieving New US Search of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Assurance be deemed permission to engage in any act or practice prohibited by such law, regulation or rule.

28. The acceptance of this Assurance by the Attorney General shall not be deemed approval by the Attorney General of any of New US Search's business practices and US Search shall make no representation to the contrary.

29. This Assurance is contingent upon and relies on the truthfulness and accuracy of all representations made by New US Search during this investigation.

30. Any violation of the terms of this Assurance shall constitute *prima facie* evidence of violation of the applicable law in any civil action or proceeding thereafter commenced against New US Search by the Attorney General.

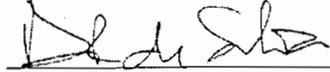
31. All notices or other communications sent by New US Search hereunder shall be sent by trackable, overnight delivery and addressed to:

Office of the New York Attorney General  
Chief, Internet Bureau  
120 Broadway  
New York, NY 10271

WHEREFORE, the following signatures affixed hereto this 14<sup>th</sup> day of April, 2008 (the "execution date").

CRICKET OPERATION COMPANY, LLC  
D/B/A US SEARCH.COM

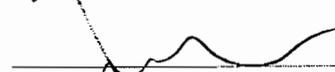
By:



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An officer authorized by  
Cricket Operating Company, LLC  
d/b/a US Search.com to enter into the  
Assurance of Discontinuance

ANDREW M. CUOMO  
Attorney General of the State of New York

By:



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Justin Brookman  
Assistant Attorney General In Charge  
INTERNET BUREAU

By:



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Karen A. Geduldig  
Assistant Attorney General  
INTERNET BUREAU