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U.S. DISTRICT COURT

2004 SEP -9 P. 2: 41

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff,

v.

AT&T CORP.

Defendant.

Civil No.

CONSENT DECREE

WHEREAS: Plaintiff, the United States of America, has commenced this action by filing the Complaint herein; defendant has waived service of the Summons and Complaint; the parties have been represented by the attorneys whose names appear hereafter; and the parties have agreed to settlement of this action, upon the following terms and conditions, without adjudication of any issue of fact or law and without defendant admitting liability or fault for any of the matters alleged in the Complaint;

THEREFORE, on the joint motion of plaintiff and defendant, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

### FINDINGS

1. This Court has jurisdiction of the subject matter and of the parties.
2. The Complaint states a claim upon which relief may be granted against the defendant under Sections 5(a)(1), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a)(1), 53(b) and 56(a), and under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §§ 1681-1681u. This Consent Decree is for settlement purposes only and does not constitute an admission by defendant that the law has been violated as alleged in the Complaint, or that the facts as alleged in the Complaint, other than the jurisdictional facts, are true. Defendant denies that it has violated the law and denies all allegations in the Complaint, other than the jurisdictional facts.

### DEFINITIONS

3. As used in this Consent Decree:
  - a. "Fair Credit Reporting Act" or "FCRA" refers to 15 U.S.C. §§ 1681-1681u, as amended;
  - b. "Consumer," "consumer report," and "consumer reporting agency" mean the terms as defined in Section 603 of the FCRA, 15 U.S.C. § 1681a, as amended;
  - c. "Adverse action" means the term as defined in Section 603 of the FCRA, 15 U.S.C. § 1681a.

### CIVIL PENALTIES

4. Defendant AT&T Corp., its successors and assigns, shall pay to plaintiff a civil penalty, pursuant to Section 621(a) of the FCRA, 15 U.S.C. § 1681s(a), in the amount of

\$365,000.

5. Defendant shall make the payment required by Paragraph 4 within ten (10) days of the date of entry of this Consent Decree by electronic fund transfer in accordance with instructions provided by the Office of Consumer Litigation, Civil Division, U.S. Department of Justice, Washington, DC 20530, for appropriate disposition.

6. In the event of any default in payment, which default continues for ten (10) days beyond the due date of payment, the entire unpaid penalty, together with interest, as computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable.

#### INJUNCTION

7. a. Defendant, its successors and assigns, and its officers, agents, servants, employees and attorneys, and all persons in active concert or participation with any one or more of them who receive actual notice of this Consent Decree by personal service or otherwise, are hereby enjoined, directly or through any corporation, subsidiary, division or other device, from failing to provide to a consumer who has requested, or has received, telephone service from defendant, whenever defendant has taken adverse action with respect to that consumer that is based in whole or in part on any information contained in a consumer report, with: (1) notice of the adverse action taken; (2) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) from which the consumer report was obtained; (3) a statement that the consumer reporting agency did not make the decision to take

the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and (4) notice of the consumer's right:

(A) to obtain, under Section 612 of the FCRA, 15 U.S.C. § 1681j, within 60 days after receiving notice of the adverse action, a free copy of the consumer report from the consumer reporting agency from which the report was obtained; and

(B) to dispute, under Section 611 of the FCRA, 15 U.S.C. § 1681i, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency,

as required by Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a), as amended.

Notwithstanding the foregoing, if defendant's obligations with respect to Section 615(a) of the FCRA are modified as a result of a statutory or regulatory change effective after the date of this Consent Decree, then compliance with such obligations as so modified shall constitute compliance with Paragraph 7 of this Consent Decree.

b. Defendant shall not be held liable for a violation of Paragraph 7 of this Consent Decree if it shows by a preponderance of the evidence that at the time of the alleged violation, defendant maintained reasonable procedures to assure compliance with the provisions of Paragraph 7.

8. Defendant, and its successors and assigns, shall within thirty (30) days of the entry of this Consent Decree, provide a copy of this Consent Decree to each of their officers, agents, servants, employees, and attorneys having decision-making authority with respect to the subject matter of this Consent Decree, secure from each such person a signed statement acknowledging

receipt of a copy of this Consent Decree, and shall, within ten (10) days of complying with this paragraph, file an affidavit with the Court, and serve the Federal Trade Commission, by mailing a copy thereof to the Associate Director for Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, setting forth the fact and manner of their compliance, including the name and title of each person to whom a copy of the Consent Decree has been provided.

9. For a period of five (5) years from the date of entry of this Consent Decree, defendant, and its successors and assigns, shall maintain and make available to the Federal Trade Commission, within fifteen (15) days of the receipt of a written request, business records demonstrating compliance with the terms and provisions of this Consent Decree. The foregoing shall require defendant to maintain reasonable records including, but not limited to, the forms of notices sent to consumers, and the number of each notice sent to consumers, but shall not require defendant to identify the consumers to whom particular notices were sent.

10. Defendant, and its successors and assigns, shall notify the Associate Director for Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, at least thirty (30) days prior to any change in defendant's business, including, but not limited to, merger, incorporation, dissolution, assignment, and sale, which results in the emergence of a successor corporation, the creation or dissolution of a subsidiary or parent, or any other change, which may affect defendant's obligations under this Consent Decree.

11. Defendant is hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the Federal Trade Commission its taxpayer identifying numbers, which shall be used for

12. This Court shall retain jurisdiction of this matter for the purposes of enabling any of the parties to this Consent Decree to apply to the Court at any time for such further order or directives as may be necessary or appropriate for the interpretation or modification of this Consent Decree, for the enforcement of compliance therewith, or for the punishment of violations thereof, or as justice may require.

JUDGMENT IS THEREFORE ENTERED in favor of plaintiff and against defendant, pursuant to all the terms and conditions recited above.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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UNITED STATES DISTRICT JUDGE

The parties, by their respective counsel, hereby consent to the terms and conditions of the Consent Decree as set forth above and consent to the entry thereof. Defendant waives any rights that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, amended by Pub. L. 104-121, 110 Stat., 847, 863-64 (1996).

FOR THE UNITED STATES OF AMERICA

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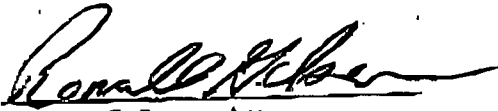
FOR THE FEDERAL TRADE COMMISSION:

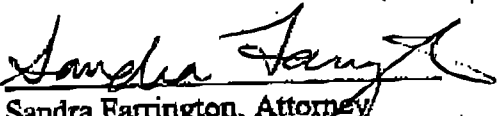
Joel C. Winston

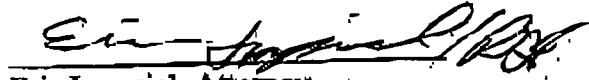
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Ronald G. Isaac, Attorney

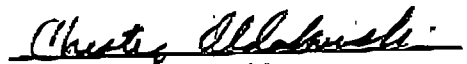
  
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