

Complaint

IN THE MATTER OF

ADT LLCCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket No. C-4460; File No. 122 3121
Complaint, June 18, 2014 – Decision, June 18, 2014

This consent order addresses ADT LLC, also d/b/a ADT Security Services's use of paid spokespersons to promote the ADT Pulse home security system in appearances on national and local television and radio news programs and talk shows. The complaint alleges that paid spokespersons were identified on air as experts in child safety, home security, or technology. The experts demonstrated and provided favorable reviews of the ADT Pulse as part of news segments on topics related to their expertise. The complaint further alleges ADT represented that the demonstrations and discussions of the features and benefits of the ADT Pulse were independent reviews by impartial experts and failed to disclose that the experts were ADT's paid spokespersons. The consent order requires ADT, in connection with the advertising of any security or monitoring product by means of an endorsement, to disclose clearly and prominently a material connection, if one exists, between the endorser and ADT. The order also prohibits ADT, in connection with the advertising of any security or monitoring product or service, from misrepresenting that a discussion or demonstration of such product or service is an independent review provided by an impartial expert.

Participants

For the *Commission*: Mary Johnson, Shira Modell, and Michelle K. Rusk.

For the *Respondent*: William MacLeod and Daniel Blynn, Kelley Drye & Warren LLP.

COMPLAINT

The Federal Trade Commission, having reason to believe that ADT LLC, a limited liability company ("Respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

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1. ADT LLC, also doing business as ADT Security Services, is a Delaware limited liability company with its principal office or place of business at 1501 Yamato Road, Boca Raton, Florida, 33431.

2. The acts and practices of Respondent, as alleged herein, have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

3. Respondent manufactures, advertises, markets, promotes, offers to sell, sells, and distributes various electronic security products and services, including but not limited to, the ADT Pulse home security and monitoring system (“ADT Pulse”).

4. Respondent used paid spokespersons to promote the ADT Pulse in interviews on national and local television and radio news programs and talk shows. Respondent set up these media interviews through its public relations firms and booking agents, often providing the reporters and news anchors with suggested interview questions and b-roll (background video). The paid spokesperson would be identified on air as an expert in child safety, home security, or technology and would be interviewed as part of a news segment on a topic related to his or her expertise. During the course of the interview, the paid spokesperson would demonstrate the ADT Pulse and provide a favorable review of the product. The paid spokesperson sometimes demonstrated other child safety, home security, or technology products, in addition to the ADT Pulse, adding to the impression that the spokesperson was providing an impartial, expert review of products. In most of these media appearances, there was no mention of any connection between the spokesperson and Respondent.

5. Respondent also used these paid spokespersons to promote the ADT Pulse in what appeared to be independent and objective reviews on the spokesperson’s own website, in blog posts, and in other online materials.

6. Respondent provided both financial and in-kind compensation to its spokespersons for the activities referred to in Paragraphs 4 and 5. For example, Respondent paid three spokespersons, including a child safety expert, a home security

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expert, and a technology expert, a total of approximately \$313,000, with one spokesperson receiving more than \$200,000. Two of the spokespersons also received a free ADT Pulse security system, valued at approximately \$4,000, and free monthly monitoring service. In exchange, the spokespersons appeared on more than 40 different television programs in markets across the country and posted regular blogs and other online material touting the benefits of the ADT Pulse.

7. Through the television and radio appearances and online materials referred to in Paragraphs 4 through 6, Respondent's spokespersons made favorable statements about the features and benefits of the ADT Pulse. The appearances and online materials include but are not limited to those attached as Exhibits A-D. They include the following statements:

A. Today Show (NBC), January 4, 2011 (Video attached as Exhibit A)

(Excerpted from national market television interview of Alison Rhodes by Hoda Kotb and Kathie Lee Gifford)

Kotb: Keeping your kids safe when you're not around is probably the biggest concern worrying most parents.

Gifford: Well now with advances in technology, a parent's job is much easier than it was only a handful of years ago. Here to tell us what is out there is Alison Rhodes. She's a national family and safety expert known as "The Safety Mom"

[Video Banner: "KEEP YOUR KIDS SAFE
TOOLS FOR AT SCHOOL & AT HOME"]

Kotb: We were captivated by the first thing you have on your table. And it's almost, like I guess, a motion detector for kids at home while you're at work so you can check on them, right?

[Video Banner "CHILD SAFETY
ADT PULSE \$399
ADTPULSE.COM"]

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Rhodes: This is truly the virtual babysitter. I travel a lot. I'm on the road. This is the ADT Pulse Home Monitoring System. I've got wireless cameras. I've got motion detectors. I've got texts that come into my iPhone if my daughter doesn't walk into the door from school So I can see my kids if they're not doing their homework after school

Kotb: How pricey is this whole apparatus?

Rhodes: You know, it's really not that much. It starts at \$399 and then it's a monthly fee, but you actually get a discount on your homeowner's insurance because it's your ADT security system.

Gifford: That's a great idea. Smart.

Rhodes: It's amazing!

[News segment continues with Ms. Rhodes discussing three other child safety products.]

B. Daybreak USA (USA Radio Network), Jan. 20, 2011 (Video attached as Exhibit B) (Excerpt of interview of Alison Rhodes on nationally syndicated talk radio show)

Host Scott West: A nationally known family safety and lifestyle expert who often provides tips and advice on keeping moms and kids safe, happy, and healthy, is with us this morning, Alison Rhodes, welcome to Daybreak USA.

. . . .

Now what is it that makes this house, that you're in, there in Windermere, Florida, a busy mom's dream?

Rhodes: [interviewed remotely by phone from KB model home at International Builders Show in Windermere, Florida] ... There are things here like the ADT Pulse home monitoring system. When I'm on the road, I can look in, I can turn the lights on and off. I can turn the thermostat on and off. I can get alerts when my kids walk in the door from school. So I know exactly what's going on in this home.

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[interview continues with discussion of other features of the model home]

Rhodes: ... what's also nice about this [ADT] system is: say somebody's coming in the door, I can look on my computer. I can see the cameras. I can see who's coming in. I can see who's going out. So I also have my touch screen for the ADT set up in the bedroom. So this home itself opens up onto a big lake. I'm a little worried about the kids walking right out the door. So I can see everything that's going on anywhere in this house. I can see who's coming and going. I can remember to turn off the lights because, with girls, they never remember to turn off the lights. So literally I can run it. It's completely wired.

C. Blog by Alison Rhodes, Aug. 30, 2010 (posted on www.safetymom.com) (Exhibit C)

**Tips to Remember From National Safe at Home Week
by Alison Rhodes, The Safety Mom**

Written by Safety Mom August 30, 2010

This blog could go on forever since there are so many things to consider about being safe at home. But, here are a few of the top things to keep in mind:

Get a security and home monitoring system. I'll admit, I never had one before but, now that I have the **ADT Pulse** system, I can't imagine living with out [sic] it. We used to have dogs which made me feel much safer but now I'm a single mom living in a home without dogs and was just informed by a friend that there were three break-ins in our community this past month. Nothing has ever given me greater peace of mind. Not only do I have a "panic" button to get the police immediately but also a medical emergency button and fire button. I have a camera monitoring my driveway so I can see who is driving in and I can lock and unlock the doors remotely from my computer or iPhone. I also get alerts if my daughter hasn't walked in the door at a certain time after school. The ADT Pulse system will save on your energy bill since you can control lights and your thermostat

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as well as probably qualify you for a discount on your home owners insurance policy. . . .

[Blog post goes on to discuss other safety tips and products.]

D. News First Early Edition (Fox 29), San Antonio, TX, Jan. 6, 2011 (Video attached as Exhibit D)
(Excerpted from local market television interview of David Gregg at the Las Vegas Consumer Electronics Show)

Reporter: We got David Gregg up and early this morning. He is a technology expert with BehindTheBuy.com and he's live with us this morning. ...

[Video Banner: "DAVID GREGG
TECHNOLOGY EXPERT"]

[Segment includes remote interview of David Gregg from the International Consumer Electronics Show in Las Vegas, NV. Mr. Gregg reviews various electronics, including a television set, a smart phone, the ADT Pulse home security system, a remote control for the car, and a hearing aid.]

Reporter: I see you've got the laptop in front of you, or what looks like a laptop. What's that all about?

Gregg: The purpose of the laptop is really more to focus on the video that's on the screen. What it's featuring is a service from ADT, that alarm company that people are familiar with. This kind of impressed us, because it's not just home security. It also features the ability to have full home automation, so while you're away from home, besides operating your security system even having video cameras in your home and seeing what's going on, you can even control your thermostat, your air conditioning, your heat, even your appliances like your coffee maker, too. And the fact is you can control it from any smart phone anywhere in the world. It will even save you money on your insurance because these types of systems are associated with discounts of upwards of 20 per cent on your insurance premiums.

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Reporter: And the images look good too. I mean everything looks clear. That's amazing you can do that.

Gregg: It really is incredible and just an added dimension of home automation that you can really control remotely

8. Through the means described in Paragraphs 4 through 7, Respondent has represented, expressly or by implication, that the demonstrations and discussions of the features and benefits of the ADT Pulse by individuals with expertise in child safety, technology, security, or other relevant fields, on various television and radio news programs and talks shows, and in online blogs and other online materials, were independent reviews by impartial experts.

9. In truth and in fact, the demonstrations and discussions of the features and benefits of the ADT Pulse were not independent reviews by impartial experts. The reviews were by experts who were ADT spokespersons who received financial and in-kind compensation for their promotion of the ADT Pulse. Therefore, the representation set forth in Paragraph 8 was, and is, false and misleading.

10. Through the means described in Paragraphs 4 through 7, Respondent has represented, expressly or by implication, that the demonstrations and discussions of the features and benefits of the ADT Pulse reflected the opinions of individuals with relevant expertise. On numerous occasions, Respondent failed to disclose or disclose adequately that these individuals were paid spokespersons for Respondent. These facts would be material to consumers in their decision to purchase the ADT Pulse. The failure to disclose these facts, in light of the representation made, was, and is, a deceptive practice.

11. The acts and practices of Respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

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THEREFORE, the Federal Trade Commission this eighteenth day of June, 2014, has issued this Complaint against Respondent.

By the Commission, Commissioner McSweeney not participating.

Exhibit A

**Today Show Appearance – Alison Rhodes-Jacobson
Jan. 4, 2011**



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Exhibit B

Daybreak USA Appearance – Alison Rhodes-Jacobson
Jan. 20, 2011

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Exhibit C

**Alison Rhodes-Jacobson Blog on ADT Pulse
Posted on www.safetymom.com
Aug. 30, 2010**

1/24/12

Tips to Remember From National Safe at Home Week by Alison Rhodes, T...



Home Organizing Safety Tips For The New Year

[read more](#)

Tips to Remember From National Safe at Home Week by Alison Rhodes, The Safety Mom

Written by SafetyMom August 30, 2010

➤ This blog could go on forever since there are so many things to consider about being safe at home. But, here are a few of the top things to keep in mind:

Get a security and home monitoring system – I'll admit, I never had one before but now that I have the ADT Pulse system I can't imagine living with out it. We used to have dogs which made me feel much safer but now I'm a single mom living in a home without dogs and was just informed by a friend that there were three break-ins in our community this past month. Nothing has ever given me greater peace of mind. Not only do I have a "panic" button to get the police immediately but also a medical emergency button and fire button. I have a camera monitoring my driveway so I can see who is driving in and I can lock and unlock the doors remotely from my computer or iPhone. I also get alerts if my daughter hasn't walked in the door at a certain time after school. The ADT Pulse system will save on your energy bill since you can control lights and your thermostat as well as probably qualify you for a discount on your home owners insurance policy.

Check all your baby proofing items – Be sure that hardware mounted gates are still securely in place and that all cabinet and drawer latches are in good working order. If you have not secured furniture to the walls do so immediately. Topple-over accidents have increased over 46% over the last several years. Install furniture straps or corner braces to furniture, including changing tables, and use heavy-duty velcro to secure TVs to their stands.

Practice an emergency evacuation plan – As much as we know that an emergency can occur, we very often don't plan for it. Whether it's a fire, earthquake, hurricane or some other disaster, you need to have a plan as to who would be in charge of grabbing each child, establishing a meeting place away from the home and having a emergency preparedness kit ready to go which includes batteries, flashlights, bottled water and a blanket. Determine a person that each family member could call who lives in a different community that could be the "central point person" to receive information.

➤ **Refresh your First Aid kit** – Be sure that items in your First Aid kit have been replenished and that your anti-biotic ointment hasn't expired. Stock up bandages, a thermometer, an ice-pack and ibuprofen, and anti-bacterial cream. Be sure that you are CPR and First Aid certified and, if you haven't taken a course in a while, re-certify.

safetymom.com...tips-to-remember-from-national-safe-at-home-week-by...

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1/24/12

Tips to Remember From National Safe at Home Week by Alison Rhodes, T...

- Post to Twitter
- Post to Facebook

Filed under: Child Safety, Parenting Topics

Recent Comments



December 21, 2011 - 12:12am

My son who is 7 and in first grade is being bullied. Now to my un...



December 5, 2011 - 5:49pm

I'll be there- :) @lovinmamma88 -Thanks



December 5, 2011 - 4:49pm

Sounds like fun and informative Party! @cin_20

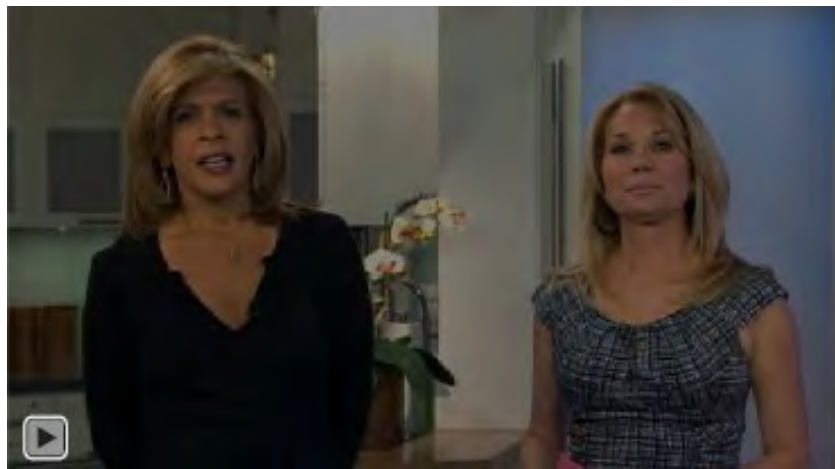
• Best of Safety Mom

- Win a Cybex Solution X-Fix HB booster seat this month! By Alison Rhodes, The Safety Mom founder of Safety Mom Solutions: I can't think of anych...
- Twitter Party Every Expectant Mother Should Attend - Cord Blood Banking – Insurance for the Future: Did you know that over th...
- Happy Birthday Connor! Celebrating the life of my SIDS baby-- by Alison Rhodes, The Safety Mom: By The Safety Mom Toda...

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Exhibit D

**News First Early Edition Appearance – David Gregg
Jan. 6, 2011**



Decision and Order

DECISION AND ORDER

The Federal Trade Commission (“Commission”) having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of the Federal Trade Commission Act, 15 U.S.C. § 45 *et seq.*; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order (“consent agreement”) which includes: a statement that the respondent neither admits nor denies any of the allegations in the draft complaint except as specifically stated in the consent agreement; an admission by the respondent of facts necessary to establish jurisdiction for purposes of this action; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the respondent has violated the Federal Trade Commission Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such consent agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter by interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure prescribed in Commission Rule 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent ADT LLC (“ADT”), also doing business as ADT Security Services, is a Delaware limited liability company with its principal office or place of business at 1501 Yamato Road, Boca Raton, Florida, 33431.

Decision and Order

2. The Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER**DEFINITIONS**

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

- A. Unless otherwise specified, “Respondent” shall mean ADT LLC, a limited liability company, its successors and assigns, and its officers, agents, representatives, and employees.
- B. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
- C. “Material connection” shall mean any relationship that materially affects the weight or credibility of any endorsement and that would not be reasonably expected by consumers.
- D. “Endorsement” shall mean as defined in the Commission’s Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 C.F.R. § 255.0.
- E. “Endorser” shall mean an individual or organization that provides an Endorsement.
- F. “Clearly and prominently” shall mean:
 1. In textual communications (e.g., printed publications or words displayed on the screen of a computer), the required disclosures are of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts with the background on which they appear;

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2. In communications disseminated orally or through audible means (e.g., radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend them;
 3. In communications disseminated through video means (e.g., television or streaming video), the required disclosures are in writing in a form consistent with subparagraph (A) of this definition and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend them, and in the same language as the predominant language that is used in the communication. *Provided, however,* that, for communications disseminated through programming over which Respondent does not have editorial control (e.g., an endorser's appearance on a news program or talk show), the required disclosures may be made in a form consistent with subparagraph (B) of this definition;
 4. In communications made through interactive media, such as the Internet, online services, and software, the required disclosures are unavoidable and presented in a form consistent with subparagraph (A) of this definition, in addition to any audio or video presentation of them; and
 5. In all instances, the required disclosures are presented in an understandable language and syntax, and with nothing contrary to, inconsistent with, or in mitigation of the disclosures used in any communication of them.
- G. The term "including" in this order shall mean "without limitation."
- H. The terms "and" and "or" in this order shall be construed conjunctively or disjunctively as necessary,

Decision and Order

to make the applicable phrase or sentence inclusive rather than exclusive.

I.

IT IS THEREFORE ORDERED that Respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other means, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any security or monitoring product or service, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, that a discussion or demonstration of the security or monitoring product or service is an independent review provided by an impartial expert.

II.

IT IS FURTHER ORDERED that Respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other means, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any security or monitoring product or service, in or affecting commerce, by means of an endorsement, shall clearly and prominently disclose a material connection, if one exists, between such endorser and Respondent.

III.

IT IS FURTHER ORDERED that Respondent shall, within seven (7) days of the date of service of this order, take all reasonable steps to remove any demonstration, review, or endorsement, by an endorser with a material connection to Respondent, of any security or monitoring product or service currently viewable by the public that does not comply with Parts I and II of this order.

IV.

IT IS FURTHER ORDERED that Respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the advertising,

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labeling, promotion, offering for sale, sale, or distribution of any security or monitoring product or service, in or affecting commerce, by means of an endorsement by an endorser with a material connection to Respondent, shall take steps sufficient to ensure compliance with Parts I and II of this order. Such steps shall include, at a minimum:

- A. Providing each such endorser with a clear statement of his or her responsibility to disclose, clearly and prominently, in any television appearance, blog posting, or other communication, the endorser's material connection to Respondent, and obtaining from each such endorser a signed and dated statement acknowledging receipt of that statement and expressly agreeing to comply with it;
- B. Establishing, implementing, and thereafter maintaining a system to monitor and review the representations and disclosures of endorsers with material connections to Respondent to ensure compliance with Parts I and II of this order. The system shall include, at a minimum, monitoring and reviewing its endorsers' television and radio appearances, web sites, and blogs;
- C. Immediately terminating and ceasing payment to any endorser with a material connection to Respondent who Respondent reasonably concludes:
 - 1. Has misrepresented, in any manner, his or her independence and impartiality; or
 - 2. Has failed to disclose, clearly and prominently, a material connection between such endorser and Respondent; and
- D. Creating, and thereafter maintaining, reports sufficient to show the monitoring required by subpart B of this Part.

Decision and Order

V.

IT IS FURTHER ORDERED that Respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon reasonable notice make available to the Federal Trade Commission for inspection and copying, any documents, whether prepared by or on behalf of Respondent, that:

- A. Comprise or relate to complaints or inquiries, whether received directly, indirectly, or through any third party, concerning any endorsement made or disseminated by Respondent, and any responses to those complaints or inquiries;
- B. Are reasonably necessary to demonstrate full compliance with each provision of this order, including, but not limited to, all documents obtained, created, generated, or which in any way relate to the requirements, provisions, terms of this order, and all reports submitted to the Commission pursuant to this order;
- C. Contradict, qualify, or call into question Respondent's compliance with this order; and
- D. Are acknowledgments of receipt of this order obtained pursuant to Part VI.

VI.

IT IS FURTHER ORDERED that Respondent shall deliver a copy of this order to all officers and directors, and to all current and future managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each person a signed and dated statement acknowledging receipt of this order. Respondent shall deliver this order to current personnel within thirty (30) days after date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

Decision and Order

VII.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including, but not limited to, dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which Respondent learns less than thirty (30) days prior to the date such action is to take place, Respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier to: Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In the Matter of ADT LLC, FTC File No. 122 3121.

VIII.

IT IS FURTHER ORDERED that Respondent, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form in which it has complied with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

IX.

This order will terminate on June 18, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however,* that the filing of such a complaint will not affect the duration of:

Analysis to Aid Public Comment

- A. Any Part in this order that terminates in less than twenty (20) years; and
- B. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission, Commissioner McSweeney not participating.

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT,**

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from ADT LLC, also doing business as ADT Security Services (“ADT”).

The proposed consent order (“proposed order”) has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves ADT’s use of paid spokespersons to promote the ADT Pulse home security system in appearances on

Analysis to Aid Public Comment

national and local television and radio news programs and talk shows. The Commission's complaint alleges that the paid spokespersons were identified on air as experts in child safety, home security, or technology. The experts demonstrated and provided favorable reviews of the ADT Pulse as part of news segments on topics related to their expertise. In most of these appearances, there was no mention of any connection between the experts and ADT. The complaint also alleges that ADT used these paid spokespersons to promote the ADT Pulse in what appeared to be independent and objective reviews on the spokesperson's own website, in blog posts, and in other online materials. The complaint alleges that ADT violated Section 5 by misrepresenting that the demonstrations and discussions of the features and benefits of the ADT Pulse were independent reviews by impartial experts. The complaint further alleges that ADT violated Section 5 by failing to disclose that the experts were ADT's paid spokespersons.

The proposed order includes injunctive relief to address these alleged violations and requires ADT to follow certain monitoring and compliance procedures related to its use of paid spokespersons.

Part I of the proposed order prohibits ADT, in connection with the advertising of any security or monitoring product or service, from misrepresenting that a discussion or demonstration of such product or service is an independent review provided by an impartial expert.

Part II of the proposed order requires ADT, in connection with the advertising of any security or monitoring product by means of an endorsement, to disclose clearly and prominently a material connection, if one exists, between the endorser and ADT.

Part III of the proposed order requires ADT to take all reasonable steps to remove, within seven days of service of the order, any demonstration, review, or endorsement, by an endorser with a material connection to ADT, that does not comply with Parts I and II of the order.

Analysis to Aid Public Comment

Part IV of the proposed order sets out certain monitoring and compliance obligations that ADT must meet with respect to any endorser with a material connection to ADT, including: obtaining signed acknowledgements from such endorsers that they will disclose their connection to ADT; monitoring the endorsers' media appearances and online reviews; terminating endorsers who fail to disclose their connection to ADT; and maintaining records of its monitoring efforts.

Parts V through VIII of the proposed order require ADT to: keep copies of relevant consumer complaints and inquiries and documents demonstrating order compliance; provide copies of the order to officers, employees, and others with responsibilities with respect to the subject matter of the order; notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and file compliance reports with the Commission.

Part IX provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order's terms in any way.

Complaint

IN THE MATTER OF

APPERIAN, INC.CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4461; File No. 142 3017*
Complaint, June 19, 2014 – Decision, June 19, 2014

This consent order addresses Apperian, Inc.'s alleged false or misleading representations that Apperian made to consumers concerning its participation in the Safe Harbor privacy frameworks agreed upon by the U.S. and the European Union and the U.S. and Switzerland. The complaint alleges that Apperian, through its statements and use of the mark, falsely represented that it was a "current" participant in the Safe Harbor Frameworks when, in fact, from July 2012 until November 2013, Apperian was not a "current" participant in the Safe Harbor Frameworks. The consent order prohibits Apperian from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the U.S.-EU Safe Harbor Framework and U.S.-Swiss Safe Harbor Framework.

Participants

For the *Commission*: Jessica Lyon, Katie Race Brin, and Katherine White.

For the *Respondent*: Brenda R. Sharton, Goodwin Proctor LLP.

COMPLAINT

The Federal Trade Commission, having reason to believe that Apperian, Inc., a corporation, has violated the Federal Trade Commission Act ("FTC Act"), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Apperian, Inc. ("Apperian") is a Delaware corporation, with its principal office or place of business at 321 Summer Street, Boston, MA 02210.