

THE HONORABLE JAMES L. ROBERT

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

NO. 2:14-cv-01451-JLR

v.

CONSENT DECREE

INTERNET ORDER LLC also doing
business as STROLL and
PIMSLEURAPPROACH.COM, a
Maryland Limited Liability Company;
and DANIEL ROITMAN, individually
and on behalf of his marital
community, as Chief Executive Officer
of INTERNET ORDER LLC,

Defendants.

Plaintiff, State of Washington, acting by Attorney General Robert W. Ferguson, (herein referred to as "Plaintiff), filed a Complaint in the above-captioned action (herein referred to as the "Complaint") pursuant to the Restore Online Shoppers' Confidence Act, 15 U.S.C. § 8403 (1)-(3) ("ROSCA"), RCW 19.86, the Consumer Protection Act, and RCW 19.56.020, the Unsolicited Goods Act, against Defendants, Internet Order LLC, d/b/a Stroll, and d/b/a Pimsleurapproach.com (herein referred to as "IO"); and Daniel Roitman, individually, and as

1 Chief Executive Officer of Internet Order LLC (herein referred to as “Roitman”). IO and
2 Roitman are collectively referred to as “Defendants.”

3 Plaintiff and Defendants do hereby consent to the entry of this Consent Decree and its
4 provisions (herein referred to as the “Consent Decree” and/or “Judgment”).¹

5 This Consent Decree is entered into by Defendants freely and voluntarily and with full
6 knowledge and understanding of the nature of the proceedings and the obligations and duties
7 imposed upon it by this Consent Petition. Defendants consent to the entry of this Consent
8 Petition without further notice unless Defendants and/or their counsel are required to make an
9 appearance before the Court in connection with its entry. No offer, agreements or inducements
10 of any nature whatsoever have been made to Defendants by Plaintiff or its attorneys or any
11 employee of the Washington Office of Attorney General to procure this Consent Decree other
12 than those set forth herein.

13 In the event the Court shall not approve this Consent Decree, this Consent Decree shall
14 be of no force and effect.

15 Plaintiff and Defendants hereby stipulate that this Consent Decree shall act as a
16 permanent injunction issued under 15 U.S.C. § 8405(a) of ROSCA, and RCW 19.86.080 of the
17 Washington Consumer Protection Act.

18 **I. GENERAL**

19 1.1 Jurisdiction. This Court has jurisdiction over the subject matter of this action
20 and the parties. This Court has jurisdiction over Defendants for the purpose of entering into
21 and enforcing this Consent Decree. Jurisdiction is retained by this Court for the purpose of
22 enabling the parties to this Consent Decree to apply to this Court for such further orders and
23 directions as may be necessary or appropriate for the construction, modification or execution of

24 _____
25 ¹ At or about the same time that this Consent Decree is being filed with the United States District Court,
26 Western District of Washington, the Commonwealth of Pennsylvania will be filing a Consent Petition with
Defendants to settle the pending lawsuit captioned *Commonwealth of Pennsylvania v. Internet Order LLC d/b/a*
Stroll et al. and Daniel Roitman, No. 02866, in the Court of Common Pleas of Philadelphia County, with similar
terms. Additionally, the State of New York will be entering into an Assurance of Discontinuance with
Defendants, also with similar terms.

1 this Consent Decree, including the enforcement of compliance and penalties for violation.
2 Plaintiff's Complaint in this matter asserts claims under the provisions of ROSCA , RCW
3 19.86, the Consumer Protection Act, and RCW 19.56.020, the Unsolicited Goods Act.

4 1.2 Defendants. For purposes of this Consent Decree the term "Defendants", where
5 not otherwise specified, shall mean Internet Order LLC, d/b/a Stroll, and d/b/a
6 Pimsleurapproach.com; and Daniel Roitman, individually, and as Chief Executive Officer of
7 Internet Order LLC.

8 1.3 Definitions. For the purposes of this Consent Decree, the following definitions
9 apply:

10 (a) "Account Information" means any information that would enable
11 Defendants to cause a charge to be placed on or against a customer's account, whether credit,
12 debit, or any other kind of account or method of billing.

13 (b) "Advanced-Level Course(s)" means any Language Learning Method
14 good or service, including but not limited to a Pimsleur Gold Level course, that is sold through a
15 Negative Option Offer or Negative Option Plan, and that is offered in conjunction with or in
16 addition to a primary good or service, including, but not limited to the Quick and Simple CD set.

17 (c) "Automatic Renewal Plan(s)" means an offer or plan in which the
18 Defendants automatically renew a contract at the end of a fixed period unless the consumer
19 cancels or instructs that the offer or plan should not be renewed. For purposes of this Consent
20 Decree, an Automatic Renewal Plan shall be considered a Negative Option Offer or a Negative
21 Option Plan.

22 (d) "Clear and Conspicuous" or "Clearly and Conspicuously":

23 (i) when referring to a written statement, disclosure, or any other
24 information, means that such statement, disclosure, or other information, by whatever medium
25 communicated, (a) is readily noticeable and readable (b) is in readily understandable language
26 and syntax (c) is in a type size, font, appearance and location sufficiently noticeable for a

1 consumer to read and comprehend it, in a print that contrasts with the background against
2 which it appears, (d) is in contrasting type, font or color to the surrounding text of the same
3 size, and (e) is visually distinguished from the surrounding text of the same size by a border,
4 symbols or other marks. If such statement, disclosure, or other information is necessary as a
5 modification, explanation or clarification to other information with which it is presented, it
6 must be presented in Direct Proximity to the information it modifies in a manner that is readily
7 noticeable and understandable.

8 (ii) As to statements, disclosures, or any other information made or
9 presented orally, “Clear and Conspicuous” or “Clearly and Conspicuously” shall mean that
10 such statements, disclosures, or other information shall be delivered (a) in readily
11 understandable language and syntax and (b) in a volume, audibility, and cadence sufficient for
12 the consumer to hear, comprehend, and understand the entire statement, disclosure or such
13 other information.

14 (iii) As to statements, disclosures, or any other information made or
15 presented on the Internet or other web-based applications or services, in addition to the other
16 requirements stated herein, “Clear and Conspicuous” or “Clearly and Conspicuously” shall
17 mean that such statements, disclosures, or any other information shall be placed in locations on
18 the same webpage if doing so allows for the statement, disclosure, or other information to be
19 readily noticeable and understandable. Such statement, disclosure, or other information shall
20 be (a) sufficiently prominent and readily seen, (b) in text that can be easily read and understood
21 by the reader, and (c) placed on the webpage in a position in Direct Proximity to the offer, term
22 or limitation.

23 If placing the statement, disclosure, or other information on the same webpage does not
24 allow such statement, disclosure, or other information to be readily noticeable and
25 understandable, such statement, disclosure, or other information shall be placed on a webpage
26 which is no more than one hyperlink from the webpage where the offer, term or limitation to

1 | which it relates appears. In such situation where a hyperlink is used to lead to a disclosure, the
2 | link shall be (a) sufficiently prominent and readily seen, (b) in text that can be easily read and
3 | understood by the reader, and (c) placed on the same webpage where the offer, term or
4 | limitation to which it relates appears, in a position in Direct Proximity to the offer, term or
5 | limitation. However, with regards to a consumer entering into a Negative Option Offer or
6 | Negative Option Plan, the following must be placed on the same webpage as the offer, term or
7 | limitation to which it relates, and shall not be included in a hyperlink; (a) notification that the
8 | Negative Option Offer or Negative Option Plan requires that the consumer will receive
9 | additional goods or services that are generally identified (e.g. Advanced-Level Language
10 | Learning CDs), and will incur an obligation to pay additional amounts for the additional goods
11 | or services if the consumer does not take affirmative action to cancel within a certain amount
12 | of time; (b) the frequency of each shipment for all initial and additional goods and services; (c)
13 | the frequency and cost of each installment for all initial and additional goods or services; (d)
14 | the amount of time within which affirmative action to cancel must be taken by the consumer to
15 | avoid billing; (e) the process which the consumer must use to initiate the process to cancel; and
16 | (f) any costs to the consumer associated with returning goods or services.

17 | Further, a disclosure of information is not Clear and Conspicuous if, among other
18 | things, it is obscured by the background against which it appears, or the net impression of the
19 | statement, disclosure, or other information is inconsistent with, contrary to, or in mitigation of
20 | the disclosure itself. Statements of limitation must be set out in close conjunction and
21 | proximity with the benefits described such that they are readily noticeable, readable and
22 | understandable or with appropriate captions of such prominence that statements of limitation
23 | are not minimized, rendered obscure, presented in an ambiguous fashion, or intermingled with
24 | the context of the statement so as to be confusing or misleading.

25 | (e) “Consumer Protection Law” means the Washington Consumer
26 | Protection Act, RCW 19.86 et seq and the Unsolicited Goods Act, RCW 19.56.020.

1 (f) “Continuity Plan(s)” means an offer or plan in which the consumer
2 agrees in advance to receive periodic shipments of goods or provision of services, and the
3 consumer will continue to receive shipments or services and incur charges until the consumer
4 takes steps to cancel the offer or plan. For purposes of this Consent Decree, a Continuity Plan
5 shall be considered a Negative Option Offer or a Negative Option Plan.

6 (g) “Direct Proximity” means that a term is disclosed immediately above,
7 beneath or adjacent to the relevant content.

8 (h) The “Effective Date” of this Consent Decree shall mean the date the
9 United States District Court, Western District of Washington, approves the terms of this
10 Consent Decree, unless otherwise noted.

11 (i) “Express Informed Consent” shall mean affirmative consent expressly
12 indicated by a consumer to enter into a Negative Option Offer or Negative Option Plan after
13 Clear and Conspicuous disclosure of all material facts, terms and conditions of the Negative
14 Option Offer or Negative Option Plan. A pre-checked box shall not be considered evidence of
15 Express Informed Consent.

16 (i) In order to constitute Express Informed Consent, it shall also be
17 required that the consumer performs additional affirmative actions as follows:

18 A. For all written offers (including through the Internet or
19 other web-based applications or services): the consumer must affirmatively sign, click a button
20 or electronically sign in order for the consumer to accept a Negative Option Offer or enter into
21 a Negative Option Plan. Immediately above such signature line, button or electronic signature,
22 Defendants shall Clearly and Conspicuously disclose that, in addition to the initial offer, the
23 consumer is agreeing that he or she will be obligated to receive and pay additional amounts for
24 generally identified additional goods or services (e.g. Advanced-Level Language Learning
25 CDs) and that the financial account, credit card, or debit card provided by the consumer to
26

1 Defendants will automatically be billed, if the consumer does not take affirmative action to
2 cancel within a certain amount of time.

3 B. For all oral offers and Saves: a recording of the entire
4 transaction, including the sales representations, evidencing the consumer's clear, unambiguous,
5 and unequivocal agreement to accept or continue the Negative Option Offer or enter into the
6 Negative Option Plan. The recording must demonstrate that the Defendants have Clearly and
7 Conspicuously disclosed all material facts, terms and conditions of the Negative Option Offer
8 or Negative Option Plan, including but not limited to the following: (1) notification that the
9 Negative Option Offer or Negative Option Plan requires that the consumer will receive
10 additional goods or services and will incur an obligation to pay additional amounts for the
11 additional goods or services if the consumer does not take affirmative action to cancel within a
12 certain amount of time; (2) the description of each initial and additional good or service that is
13 part of the Negative Option Offer or Negative Option Plan if the consumer does not take any
14 action to cancel after their initial Express Informed Consent; (3) the total price of each initial
15 and additional good or service that is part of the Negative Option Offer or Negative Option
16 Plan; (4) the frequency of each shipment for all initial and additional goods and services; (5)
17 the frequency and cost of each installment for all initial and additional goods or services; (6)
18 the amount of time within which affirmative action to cancel must be taken by the consumer to
19 avoid billing; (7) refund, return, or cancellation policies; (8) the process which the consumer
20 must use to cancel; and (9) any costs to the consumer associated with returning goods or
21 services. From the Effective Date of this Consent Decree, forward, Defendants shall hold and
22 maintain all such recordings for a period of three (3) years, and if Plaintiff or the consumer
23 requests a copy of such recording, Defendants shall provide a copy of the recording to Plaintiff
24 or the consumer within fifteen (15) days of the request.

25 (j) "Free-to-pay Conversion Offer(s)" and/or "Free-to-pay Conversion
26 Plan(s)" means an offer or agreement or a contractual plan or arrangement to sell or provide any

1 goods or services, under which a consumer receives a good or service for free or for a nominal
2 amount for an initial or some other period of time and will incur an obligation to pay for or pay
3 additional amounts for the goods or services or additional goods or services if the consumer does
4 not take affirmative action to cancel before the end of the initial or some other period of time.
5 For purposes of this Consent Decree, a Free-to-pay Conversion Offer or a Free-to-pay
6 Conversion Plan shall be considered a Negative Option Offer or Negative Option Plan.

7 (k) “Language Learning Method” means any goods or services related to
8 Defendants’ Pimsleur language learning method.

9 (l) A “material fact(s),” “material term(s),” “material condition(s),” or any
10 similar phrase or combination of words or phrases is any fact, condition or term that, if known and
11 understood by the consumer, would have been important to a consumer making a purchasing
12 decision. A “material limitation” means a term or condition that necessarily affects a consumer’s
13 ability to obtain an offer as advertised. With regards to a consumer entering into a Negative Option
14 Offer or Negative Option Plan, “material fact(s),” “material term(s),” “material condition(s),” or
15 any similar phrase or combination of words or phrases also include, but are not limited to, (i)
16 notification that the Negative Option Offer or Negative Option Plan requires that the consumer
17 will receive additional goods or services that are generally identified (e.g. Advanced-Level
18 Language Learning CDs), and will incur an obligation to pay additional amounts for the additional
19 goods or services if the consumer does not take affirmative action to cancel within a certain amount
20 of time; (ii) the frequency of each shipment for all initial and additional goods and services; (iii) the
21 frequency and cost of each installment for all initial and additional goods or services; (iv) the
22 amount of time within which affirmative action to cancel must be taken by the consumer to avoid
23 billing; (v) refund, return, or cancellation policies; (vi) the process which the consumer must use to
24 cancel; and (vii) any costs to the consumer associated with returning goods or services.

25 (m) “Negative Option Offer(s)” and/or “Negative Option Plan(s)” means, in
26 an offer or agreement to sell or provide any goods or services, a provision under which the

1 consumer's silence or failure to take an affirmative action to reject goods or services or to
 2 cancel the agreement is interpreted by Defendants as acceptance of the offer, including but not
 3 limited to, any and all Free-to-pay Conversion Offers and Free-to-pay Conversion Plans, Pre-
 4 Notification Negative Option Plans, Continuity Plans, and Automatic Renewal Plans.

5 (n) "Pre-Notification Negative Option Plan(s)" means an offer or plan in
 6 which a consumer receives periodic notices offering goods or services and will receive the
 7 goods or services and incur a charge unless the consumer specifically rejects the offer or plan.
 8 For purposes of this Consent Decree, a Pre-Notification Negative Option Plan shall be
 9 considered a Negative Option Offer or Negative Option Plan.

10 (o) "Save(s)" means the process, or the result of a process, employed by
 11 Defendants to retain a consumer as a customer in a Negative Option Offer or Negative Option
 12 Plan, when the consumer contacts Defendants to cancel or inquire about his or her account, plan,
 13 or arrangement during a Negative Option Offer or Negative Option Plan, and Defendants attempt
 14 to retain the consumer as a customer in a Negative Option Offer or Negative Option Plan.

15 **II. INJUNCTIONS**

16 2.1 Injunctions as to IO. Upon the Effective Date of this Consent Decree, IO and
 17 its successors, assigns, transferees, officers, agents, servants, employees, representatives,
 18 attorneys, independent contractors, and all other persons or entities acting on IO's behalf
 19 and/or in active concert or participation with IO, including but not limited to their affiliate
 20 marketers and third parties over whom IO has actual or constructive control, who are
 21 authorized to provide customer services for, market, promote, advertise, offer for sale, and/or
 22 sell any of IO's goods or services, and/or who are involved in any way with addressing
 23 consumer complaints, and/or who are involved in any way with designing or maintaining IO's
 24 websites that sell goods or services, shall be permanently and forever enjoined, restrained and
 25 bound from directly or indirectly engaging in the prohibited practices set forth herein and
 26

1 further permanently required to directly or indirectly satisfy the affirmative requirements set
2 forth herein:

3 (a) In connection with the marketing, promoting, advertising, sale, offering
4 for sale, or distribution of goods or services through a Negative Option Offer or Negative
5 Option Plan, and/or displaying or offering on any website that is owned, operated, and/or
6 controlled by IO (herein referred to as "IO's websites") or on any third-party website over
7 which IO has actual or constructive control that is engaged in marketing, promoting,
8 advertising, selling, offering for sale or distribution any of IO's goods or services any offer or
9 plan for goods or services involving a Negative Option Offer or Negative Option Plan, IO shall
10 obtain the consumer's Express Informed Consent to any such Negative Option Offer or
11 Negative Option Plan as defined in Paragraph 1.3(i) above herein.

12 (b) In connection with the marketing, promoting, advertising, sale, offering
13 for sale, or distribution of goods or services through a Negative Option Offer or Negative
14 Option Plan, and/or displaying or offering on any of IO's websites or on any third-party
15 website over which IO has actual or constructive control that is engaged in marketing,
16 promoting, advertising, selling, offering for sale or distribution any of IO's goods or services
17 any offer or plan for goods or services involving a Negative Option Offer or Negative Option
18 Plan, IO shall Clearly and Conspicuously disclose material facts, terms and conditions of the
19 Negative Option Offer or Negative Option Plan, including, but not limited to, the following:

20 (i) notification that the Negative Option Offer or Negative Option
21 Plan requires that the consumer will receive additional goods or services that are generally
22 identified (e.g. Advanced-Level Language Learning CDs), and will incur an obligation to pay
23 additional amounts for the additional goods or services if the consumer does not take
24 affirmative action to cancel within a certain amount of time;

1 (ii) the description of each initial and additional good or service that
2 is part of the Negative Option Offer or Negative Option Plan if the consumer does not take any
3 action to cancel after the initial Express Informed Consent;

4 (iii) the frequency of each shipment for all initial and additional
5 goods and services;

6 (iv) the frequency and cost of each installment for all initial and
7 additional goods or services;

8 (v) the amount of time within which affirmative action to cancel
9 must be taken by the consumer to avoid billing;

10 (vi) refund, return, or cancellation policies;

11 (vii) the process which the consumer must use to cancel; and

12 (viii) any costs to the consumer associated with returning goods or
13 services.

14 (c) IO shall not transmit, use or charge, directly or indirectly, any
15 consumer's financial Account Information for any purpose other than the purpose for which
16 the consumer has given Express Informed Consent.

17 (d) When offering or selling its goods and services on or through the
18 Internet or other web-based applications which include a Negative Option Offer or Negative
19 Option Plan, if IO includes a billing summary on a webpage at the conclusion of the
20 consumer's order, such billing summary shall Clearly and Conspicuously disclose material
21 facts, terms and conditions of the Negative Option Offer or Negative Option Plan, including,
22 but not limited to, the following:

23 (i) notification that the Negative Option Offer or Negative Option
24 Plan requires that the consumer will receive additional goods or services that are generally
25 identified (e.g. Advanced-Level Language Learning CDs), and will incur an obligation to pay
26

1 additional amounts for the additional goods or services if the consumer does not take
2 affirmative action to cancel within a certain amount of time;

3 (ii) the description of each initial and additional good or service that
4 is part of the Negative Option Offer or Negative Option Plan if the consumer does not take any
5 action to cancel after the initial Express Informed Consent;

6 (iii) the frequency and cost of each installment for all initial and
7 additional goods or services;

8 (iv) the total price (defined as the total cost to the consumer after
9 adding up any partial payments) of each initial and additional good or service that is part of the
10 Negative Option Offer or Negative Option Plan;

11 (v) the amount of time within which affirmative action to cancel
12 must be taken by the consumer to avoid billing;

13 (vi) refund, return, or cancellation policies;

14 (vii) the process which the consumer must use to cancel; and

15 (viii) any costs to the consumer associated with returning goods or
16 services.

17 (e) For all Negative Option Offers or Negative Option Plans, IO shall
18 confirm in writing a consumer's order prior to shipping the initial goods or services. For
19 purposes of this Paragraph, "confirm" and/or "confirmation" shall mean (i) sending an email to
20 the email address provided by the consumer at the time of his or her order, when an email
21 address is provided to IO by the consumer; or (ii) for all other orders, mailing an order
22 summary to the address provided by the consumer within twenty four (24) hours of the
23 consumer placing the order, but in no case less than thirty (30) days prior to any date required
24 by IO for the consumer to send notice to IO that IO should not send or provide additional
25 goods or services to the consumer beyond, or in addition to, the goods or services to be initially
26 received by the consumer under the offer or plan. Such confirmation shall Clearly and

1 Conspicuously disclose material facts, terms and conditions of the Negative Option Offer or
2 Negative Option Plan, including, but not limited to, the following:

3 (i) notification that the Negative Option Offer or Negative Option
4 Plan requires that the consumer will receive additional goods or services that are generally
5 identified (e.g. Advanced-Level Language Learning CDs), and will incur an obligation to pay
6 additional amounts for the additional goods or services if the consumer does not take
7 affirmative action to cancel within a certain amount of time;

8 (ii) the description of each initial and additional good or service that
9 is part of the Negative Option Offer or Negative Option Plan if the consumer does not take any
10 action to cancel after the initial Express Informed Consent;

11 (iii) the frequency and cost of each installment for all initial and
12 additional goods or services;

13 (iv) the total price (defined as the total cost to the consumer after
14 adding up any partial payments) of each initial and additional good or service that is part of the
15 Negative Option Offer or Negative Option Plan;

16 (v) the amount of time within which affirmative action to cancel
17 must be taken by the consumer to avoid billing;

18 (vi) refund, return, or cancellation policies;

19 (vii) the process which the consumer must use to cancel; and

20 (viii) any costs to the consumer associated with returning goods or
21 services.

22 Notwithstanding the foregoing, IO shall not have to provide a
23 confirmation if, despite a request from IO, the consumer has not and/or will not provide an
24 email address and a mailed confirmation would arrive at the same time as a shipment
25 containing an order summary.
26

1 (f) IO shall honor any stated or published cancellation, return and/or refund
2 policies.

3 (g) For all Negative Option Offers or Negative Option Plans, IO shall
4 Clearly and Conspicuously disclose, display and label procedures on IO's websites that permit
5 the consumer to (i) cancel and stop any recurring shipments; (ii) cancel and stop any recurring
6 charges; (iii) return goods or services during any trial period; and (iv) request refunds for any
7 of IO's goods or services. IO shall not impede the effective operation of cancellation
8 procedures and shall employ cancellation procedures that allow the consumer to effectively
9 cancel any and all Negative Option Offers or Negative Option Plans. If IO requires consumers
10 to request a refund or cancel a Negative Option Offer or Negative Option Plan through the use
11 of a phone number, IO shall include a toll-free number.

12 (h) IO shall not impede the consumer's ability to return goods or services to
13 IO during a "free", "no risk", "risk free", or initial trial period. IO shall accept all returns of
14 goods or services made by a consumer during a "free", "no risk", "risk free", or initial trial
15 period, regardless of the shipping method used, and as long as IO can reasonably identify the
16 sender and the products being returned. IO shall permit return of goods or services in
17 accordance with the disclosed return terms and conditions of IO.

18 (i) If IO offers goods or services for "free," "risk free," at "no risk," or with
19 other words that have substantially the same meaning, to consumers, the offered goods or
20 services shall be free, risk free, and at no risk to the consumer.

21 (j) IO shall not charge a restocking fee, restocking charge or liquidated
22 damages fee for the return of goods or services during any "free," "risk free," "no risk," or
23 other trial period, or other similarly-denominated trial period. After any "free," "risk free," "no
24 risk," or other similarly-denominated trial period, IO may charge a restocking fee, restocking
25 charge or liquidated damages fee only if (i) IO does not charge the consumer for the purchase
26 of the good or service being returned; or (ii) in the case that IO has charged the consumer for

1 the purchase of the good or service being returned, IO will provide a full refund of any monies
2 IO charged to the consumer for the purchase of the good or service being returned within
3 fourteen (14) days of IO receiving the returned good or service. Such restocking fee,
4 restocking charge or liquidated damages fee shall not exceed 10% of the price of the good or
5 service ordered by the consumer, if such fee or charge and the amount of such fee or charge are
6 allowed by law. Any restocking fee or charge or liquidated damages fees must be Clearly and
7 Conspicuously disclosed to the consumer prior to the consumer incurring any financial
8 obligation.

9 (k) In attempting to Save a consumer who contacts IO regarding a Negative
10 Option Offer or Negative Option Plan, IO shall not engage in any conduct which would
11 constitute a violation of the Consumer Protection Law, including, but not limited to, the
12 following:

13 (i) Making any misrepresentations, engaging in any deceptive
14 conduct, and/or engaging in any conduct in which may cause a likelihood of confusion or
15 misunderstanding;

16 (ii) Failing to obtain the consumer's Express Informed Consent to
17 any material additions, modifications or changes to his or her purchase(s), order(s) and/or
18 subscription(s);

19 (iii) Failing to Clearly and Conspicuously disclose to the consumer
20 all material facts, terms and conditions related to any additions, modifications or changes to the
21 consumer's initial purchase(s), order(s) and/or subscription(s) to IO's goods or services,
22 including, but not limited to, the price of the such products or services, the existence of a free
23 trial period, if any, and the duration and termination date thereof; and

24 (iv) If requested by the consumer, failing to confirm any additions,
25 modifications or changes to the consumer's purchase(s), order(s) and/or subscription(s) via e-
26 mail, or via regular mail when an email address is not provided to IO by the consumer, as set

1 | forth in Paragraph 2.1(e) herein above. In addition, regardless of whether the consumer
2 | requests written confirmation, IO shall confirm any additions, modifications or changes to the
3 | consumer's purchase(s), order(s) and/or subscription(s) via e-mail, as set forth in Paragraph
4 | 2.1(e) herein above, if the expiration date for a trial period has been extended. From the
5 | Effective Date of this Consent Decree, forward, IO shall hold and maintain all recordings
6 | related to attempts to Save a consumer who contacts IO regarding a Negative Option Offer or
7 | Negative Option Plan for a period of three (3) years, and if Plaintiff or the consumer requests a
8 | copy of such recording, IO shall provide a copy of the recording to Plaintiff or the consumer
9 | within fifteen (15) days of the request.

10 | (1) IO shall include an invoice in all shipments containing goods or services
11 | delivered to the consumer. The invoice shall be included with the shipment of goods or
12 | services in a manner and location such that the invoice is sufficiently noticeable to the
13 | consumer compared to any items or documents contained with the shipment, and is readily
14 | apparent to the consumer. The invoice shall Clearly and Conspicuously disclose material facts,
15 | terms and conditions of the Negative Option Offer or Negative Option Plan, including, but not
16 | limited to, the following:

17 | (i) notification that the Negative Option Offer or Negative Option
18 | Plan requires that the consumer will receive additional goods or services that are generally
19 | identified (e.g. Advanced-Level Language Learning CDs), and will incur an obligation to pay
20 | additional amounts for the additional goods or services if the consumer does not take
21 | affirmative action to cancel within a certain amount of time;

22 | (ii) the frequency and cost of each installment for all initial and
23 | additional goods or services;

24 | (iii) the total price (defined as the total cost to the consumer after
25 | adding up any partial payments) of each initial and additional good or service that is part of the
26 | Negative Option Offer or Negative Option Plan;

1 (iv) the procedure for a consumer to cancel any of IO's goods or
2 services, and the toll-free number, if applicable, for consumers which can be used to cancel;

3 (v) the procedure for a consumer to return IO's goods or services, as
4 well as any costs or fees associated with the return, if any exist and are authorized by the terms
5 of this Consent Decree; and

6 (vi) the time period within which the consumer must cancel and
7 return the product or service in order to avoid being charged for it.

8 (m) IO shall not engage in any conduct, including collection activities, which
9 are in violation of the Consumer Protection Law, including but not limited to the following:

10 (i) Misrepresenting the character, amount or legal status of the
11 consumer's debt to Defendants;

12 (ii) Threatening to take any action that cannot legally be taken or is not
13 intended to be taken; and

14 (iii) Using a Social Security Number, whether real or fictitious, full or
15 partial, in collection notices to consumers, including, but not limited to, captioning collection
16 letters with "SSN *** ** ****," or otherwise use any number or other information of a
17 consumer in a manner intended to convey that IO may take action using that number or
18 information that cannot legally be taken or that has never been taken as a matter of IO's
19 practice. Defendants shall not use or disclose a Social Security Number of any person or a Tax
20 Identification Number of any entity which use or disclosure would be contrary to any law,
21 regulation or rule.

22 (n) IO shall not impede the effective, simple operation of disclosed
23 cancellation procedures which allow a consumer to effectively cancel their participation in the
24 Negative Option Offer or Negative Option Plan and stop any recurring charges to the
25 consumer. IO shall provide simple cancellation procedures to consumers, and Defendants shall
26

1 not create unfair or deceptive barriers to cancellation of any Negative Option Offer or Negative
2 Option Plan.

3 (o) IO shall not make any misrepresentations, cause a likelihood of confusion
4 or misunderstanding, or omit material facts, terms and/or conditions in the context or the
5 advertising, marketing, sales or invoicing of goods or services, including but not limited to
6 misrepresentations regarding or related to the price of goods or services, price reductions, the
7 amount of risk involved, the urgency of an offer, including its limited duration, or any limitations
8 as to the time in which the consumer needs to act in order to obtain the represented terms.

9 (p) IO shall not make any misrepresentations, cause a likelihood of
10 confusion or misunderstanding, or omit material facts, terms and/or conditions of any Negative
11 Option Offer or Negative Option Plan with regard to any invoices, billing documents, shipping
12 documents or other statements, including but not limited to, misrepresenting that the
13 consumer's cost for a good or service is less than it actually is, or misrepresenting that a
14 consumer's total order is "\$0" in its invoices, billing documents or other statements, whether
15 written, electronic or oral.

16 (q) IO shall comply with the Consumer Protection Law and any applicable
17 future amendments thereto.

18 (r) IO shall comply with any applicable provisions of ROSCA, any future
19 amendments, or any decisions by an agency or court of competent jurisdiction that are binding
20 in the State of Washington, and that relate to ROSCA.

21 2.2 Injunctions as to Roitman.

22 (a) Roitman shall comply with the Consumer Protection Law and any
23 applicable future amendments thereto; and shall be permanently and forever enjoined,
24 restrained, and bound from any violation thereof or participating in or directing any violation
25 thereof.
26

1 (b) Roitman shall comply with any applicable provisions of ROSCA, any
2 future amendments, and any decisions by an agency or court of competent jurisdiction that are
3 binding in the State of Washington, and that relate to ROSCA; and shall be permanently and
4 forever enjoined, restrained, and bound from any violation thereof or participating in or
5 directing any violation thereof.

6 2.3 IO agrees to adopt and implement the following policies and procedures with
7 respect to any Negative Option Offer or Negative Option Plan with regard to goods and
8 services if and to the extent not already the existing practice of IO:

9 (a) Within five (5) business days of the Effective Date of this Consent
10 Decree, IO shall deliver copies of this Consent Decree, the Consumer Protection Law and
11 ROSCA to all of IO's current officers and senior management employees, who are responsible
12 for creating policies regarding: customer services for, marketing, promoting, advertising,
13 offering for sale, and/or selling any of IO's goods or services sold by a Negative Option Offer
14 or Negative Option Plan, addressing consumer complaints, and/or designing or maintaining
15 IO's websites.

16 (b) For a period of four (4) years following the Effective Date of this
17 Consent Decree, IO shall also deliver copies of this Consent Decree, the Consumer Protection
18 Law, and ROSCA to all of IO's future officers and senior management employees, who are
19 responsible for creating policies regarding: customer services for, marketing, promoting,
20 advertising, offering for sale, and/or selling any of Defendant's goods or services sold by a
21 Negative Option Offer or Negative Option Plan, addressing consumer complaints, and/or
22 designing or maintaining Defendant's websites, within five (5) business days of such persons
23 or entities commencing a relationship with IO.

24 (c) IO shall maintain measures reasonably necessary to ensure that their
25 Representatives, which for purposes of Paragraph 2.3 shall mean IO's officers and
26 management employees, and any employees, representatives and agents, and all other persons

1 or entities acting on IO's behalf, who interact with consumers in any capacity or who are
2 responsible for creating and implementing policies regarding: customer services, marketing,
3 promoting, advertising, offering for sale, and/or selling any of IO's goods or services sold by a
4 Negative Option Offer or Negative Option Plan, addressing consumer complaints, and
5 designing or maintaining IO's websites, are properly trained and are otherwise performing
6 their duties in compliance with this Consent Decree and all applicable laws, including, but not
7 limited to, the Consumer Protection Law and ROSCA. IO shall further adhere to a policy of
8 disciplining, up to and including the termination of, Representatives who are found to have not
9 complied with the requirements of this Consent Decree and/or all applicable laws, including,
10 but not limited to, the Consumer Protection Law and ROSCA.

11 (d) IO shall keep for a period of four (4) years written records for each
12 report of, and its response to, any notification that their Representatives are in violation of the
13 requirements of this Consent Decree and/or all applicable laws, including, but not limited to,
14 the Consumer Protection Law and ROSCA.

15 (e) Unless otherwise noted herein, IO shall create and implement written
16 policies and adopt and implement written procedures reasonably expected to create continuing
17 compliance and otherwise comply with any and all terms of this Consent Decree within thirty
18 (30) days after the Effective Date of this Consent Decree.

19 (f) IO shall maintain policies and procedures reasonably necessary to
20 ensure consumer complaints are responded to and a good faith effort is made to resolve such
21 complaints in a timely manner. Such policies shall include, but are not limited to:

22 (i) Policies and procedures reasonably necessary to ensure that
23 consumer complaints are logged, with such log containing the following minimum
24 information: the name and account number (or other identifying information) of such
25 consumer, a summary of the consumer's complaint, including, but not limited to, whether the
26 consumer complained that he or she had been charged for an unordered good or service,

1 whether the consumer complained of an unauthorized charge or whether the consumer
2 complained that he or she had received an unordered good or service, and action taken by IO to
3 resolve that complaint and to determine the Representative involved in such complaint if
4 applicable, and a summary of action, if any, taken by IO with regards to such Representative.
5 IO shall retain all such records and logs for a minimum of four (4) years; and

6 (ii) Policies and procedures necessary to generally ensure that
7 consumer complaints to IO are answered in a timely manner.

8 (g) If at any time after the Effective Date of this Consent Decree, IO is
9 advised by a consumer, Plaintiff or through any other means, that a Representative has (i)
10 failed to adopt, comply with and/or implement IO's policies and procedures; (ii) failed to
11 comply with this Consent Decree; and/or (iii) failed to comply with and abide by all applicable
12 laws, including, but not limited to, the Consumer Protection Law and ROSCA, IO shall
13 immediately notify said Representative of its deficiency and further warn that punitive action
14 will be taken unless such compliance is immediately forthcoming. IO shall take documented
15 punitive action, up to and including termination of any Representative reasonably determined
16 to have failed to comply with IO's policies and procedures, this Consent Decree and/or all
17 applicable laws, including, but not limited to, the Consumer Protection Law and ROSCA. IO
18 shall retain all records of punitive actions taken against non-complying Representatives for a
19 minimum of four (4) years.

20 **III. REQUIRED PAYMENTS**

21 3.1 IO shall be liable for and shall pay a total of One Million Two Thousand and
22 00/100 Dollars (\$1,002,000.00) (herein referred to as "Required Payment(s)") to the
23 Pennsylvania Office of Attorney General, the New York Office of Attorney General and the
24 Washington Office of Attorney General (herein referred to as the "State(s)") as provided in the
25 related consent petition being filed of record in Court of Common Pleas of Philadelphia
26

1 County in the matter captioned *Commonwealth of Pennsylvania v. Internet Order LLC d/b/a*
2 *Stroll et al. and Daniel Roitman*, No. 02866 (the “PA Consent Petition”). As provided in the
3 PA Consent Petition, the single Required Payment shall be made in two (2) installments as
4 follows: (i) the first payment, in the amount of Eight Hundred Seventy-Seven Thousand and
5 00/100 Dollars (\$877,000.00), shall be made by IO upon IO’s execution of this Consent
6 Decree; and (ii) the second payment, in the amount of One Hundred Twenty-Five Thousand
7 and 00/100 Dollars (\$125,000.00), shall be made by IO on or before November 1, 2015. In the
8 event that the PA Consent Petition is not approved by the Court of Common Pleas of
9 Philadelphia County in the matter captioned *Commonwealth of Pennsylvania v. Internet Order*
10 *LLC d/b/a Stroll et al. and Daniel Roitman*, No. 02866 (hereinafter “Pennsylvania Consent
11 Petition Approval”) within ninety (90) days of the date of IO’s execution of the Consent
12 Petition in the aforementioned matter, any and all payments submitted by IO shall be returned
13 to IO, provided that IO shall re-submit such payments within ten (10) days of Pennsylvania
14 Consent Petition Approval. All payments shall be made by certified check, cashier’s check,
15 attorney’s check, or money order, made payable to the Commonwealth of Pennsylvania, and
16 forwarded to Sarah A. E. Frasch, Senior Deputy Attorney General, Pennsylvania Office of
17 Attorney General, Bureau of Consumer Protection, 21 S. 12th Street, 2nd Floor, Philadelphia,
18 Pennsylvania 19107. The Commonwealth of Pennsylvania (hereinafter “The
19 Commonwealth”) shall deposit the Required Payments in an interest-bearing trust account
20 (herein referred to as the “Settlement Fund”). Any interest earned on amounts held in the
21 Settlement Fund shall become part of the Settlement Fund. Defendants shall have no
22 property right, interest, claim, control over or title to the Settlement Fund, the Required
23 Payments, or any interest earned thereon after the date of the Pennsylvania Consent Petition
24
25
26

1 Approval. The obligation of IO to pay restitution, civil penalties or costs pursuant to the
2 Consumer Protection Law to the Washington Office of Attorney General, and pursuant to the
3 consumer protection laws of the Commonwealth to the Pennsylvania Office of the Attorney
4 General and pursuant to the consumer protection laws of the State of New York to the Office
5 of Attorney General related to Defendants' conduct, acts or omissions occurring prior to the
6 Effective Date of this Consent Decree which were specifically asserted in Plaintiff's Complaint
7 under the Consumer Protection Law and ROSCA, and any similar consumer protection or
8 other applicable law, rule or regulation specifically asserted in Plaintiff's Complaint, shall be
9 limited to the above referenced Required Payments under the PA Consent Petition in the
10 amount of One Million Two Thousand and 00/100 Dollars (\$1,002,000.00) and to the
11 Conditional Monetary Payments which IO is required to pay pursuant to Section IV herein.
12 The obligation of IO to pay restitution, civil penalties or costs to the States shall be limited to
13 the amounts payable to the Commonwealth of Pennsylvania, as stated in the PA Consent
14 Petition, and no additional monetary obligation shall be deemed payable independently arising
15 from this Consent Decree. However, nothing in this Consent Decree shall prevent or restrict
16 Plaintiff from pursuing sanctions and other appropriate relief, including civil penalties, in any
17 action against Defendants for contempt or failure to comply with any of the provisions of this
18 Consent Decree, or in the event that Defendants are in default of any of the terms and
19 conditions of this Consent Decree.
20
21
22

23 3.2 The States of Washington and New York have designated Dahl Administration
24 LLC as the claims administrator (herein referred to as the "Claims Administrator"). The
25 Claims Administrator shall be responsible for the administration of the Settlement Fund and
26

1 the distribution of the Settlement Fund in accordance with the terms and conditions described
2 more fully herein.

3 3.3 Upon Pennsylvania Consent Petition Approval, IO shall enter into an agreement
4 with the Claims Administrator which shall state the duties and responsibilities of IO and the
5 Claims Administrator, upon the terms and conditions as set forth in Section III herein (herein
6 referred to as the “Claims Administrator Agreement”). The Claims Administrator Agreement
7 shall be subject to the written approval of the States. Any and all costs and expenses incurred
8 by, charged by or related to the Claims Administrator in administering and distributing the
9 Settlement Fund shall be paid by the Settlement Fund (herein referred to as the “Claims
10 Administrator Expenses”). However, the parties hereto agree that the Claims Administrator
11 Agreement shall specifically state that the Claims Administrator shall not charge in excess of
12 Thirty-Five Thousand and 00/100 Dollars (\$35,000.00) for Claims Administrator Expenses and
13 that no party hereto nor the Settlement Fund shall be responsible for paying or have any
14 obligation to pay the Claims Administrator any amount in excess of Thirty-Five Thousand and
15 00/100 Dollars (\$35,000.00).). The Claims Administrator Agreement shall indicate that the
16 Settlement Fund is to be transferred to the Claims Administrator for distribution as set forth
17 herein at the appropriate time as determined by the Commonwealth. However, the transfer of
18 the Settlement Fund by the Commonwealth to the Claims Administrator shall not occur earlier
19 than (i) March 15, 2016 or (ii) one hundred and twenty (120) days after the date of the
20 Pennsylvania Consent Petition approval, whichever date is later.

21 3.4 Plaintiff shall have no liability whatsoever to Defendants, the Claims
22 Administrator, or to any claimants in connection with the administration of the claims process.

23 3.5 Categories of Consumers Defined.

24 (a) “Category One Consumer(s)” shall include consumers, from all fifty
25 states of the United States, if applicable, who made an online purchase of IO’s Gold Level
26 One Advanced-Level Course during the period from January 1, 2009 to April 1, 2013 through

1 a Negative Option Offer or Negative Option Plan and who cancelled within forty-five (45)
2 days of the conclusion of the free trial period, but were charged (in whole or in part) for the
3 Gold Level One Advanced-Level Course. Category One Consumers shall not include the
4 following consumers for whom IO can produce sufficient written or recorded documentation
5 proving the following: (i) consumers who purchased from IO one (1) or more Pimsleur
6 Language Learning Course products through a Negative Option Offer or Negative Option Plan,
7 and at a later date purchased from IO another Pimsleur Language Learning Course product
8 through a Negative Option Offer or Negative Option Plan; (ii) consumers who called IO for the
9 sole reason of requesting a different payment amount or timing of payments than the original
10 provisions of the Negative Option Offer or Negative Option Plan; (iii) consumers who called
11 IO for the sole reason of requesting cancellation due to an inability to pay as opposed to a lack
12 of understanding of the Negative Option Offer or Negative Option Plan; and (iv) consumers
13 who called IO during the trial period and decided after a discussion with IO's personnel not to
14 cancel, but then called back to cancel after the trial period.

15 (b) "Category Two Consumer(s)" shall include all consumers from all fifty
16 states of the United States, if applicable, who are not Category One Consumers and who
17 purchased an Advanced-Level Course through a Negative Option Offer or Negative Option
18 Plan from IO during the period from January 1, 2009 to the Pennsylvania Consent Petition
19 Approval, and who either filed a consumer complaint with the Pennsylvania Office of Attorney
20 General, the Washington Office of Attorney General, or the New York Office of Attorney
21 General prior to the Pennsylvania Consent Petition Approval, and whose complaint has not
22 been fully satisfied or resolved under the sole discretion of the respective Office of Attorney
23 General, or who file a consumer complaint with the Pennsylvania Office of Attorney General,
24 the Washington Office of Attorney General, or the New York Office of Attorney General
25 within sixty (60) days after the Pennsylvania Consent Petition Approval.
26

1 3.6 Within forty-five (45) days of the Pennsylvania Consent Petition Approval, IO
2 shall send to the Claims Administrator and to the States a list which shall include the name,
3 email address, and mailing address of each Category One Consumer, as well as the amount of
4 monies paid by such consumer to IO for the Gold Level One Advanced-Level Course, and the
5 amount of any credits, chargebacks, or settlement amounts already paid by IO or received by
6 such consumer.

7 3.7 Within forty-five (45) days of the Pennsylvania Consent Petition Approval, IO
8 shall send to the States a list comprised of the following for all consumers who were excluded
9 as a Category One Consumer by IO as falling under the exceptions as stated in Paragraphs
10 3.5(a)(i)-(iv): name, address, email address (if known), statement as to why the consumer was
11 excluded, and a description of the written or recorded documentation relied upon in
12 determining the exclusion.

13 3.8 Notice of claim process for Category One Consumers. Within ten (10) days of
14 receiving the list described in Paragraph 3.6 above herein from IO, the Claims Administrator
15 shall provide to all Category One Consumers email notice of their ability to receive restitution
16 related to the cost of the Gold One Advanced-Level Course (herein referred to as the “Notice”)
17 as specifically set forth in Exhibit “A”, which is attached hereto and incorporated herein, and
18 which shall only be revised pursuant to a request by the States subject to IO’s consent, which
19 shall not be unreasonably withheld. Such Notice shall include a hyperlink to a claim form
20 (herein referred to as the “Claim Form”) as specifically set forth in Exhibit “B”, which is
21 attached hereto and incorporated herein, and which shall only be revised pursuant to a request
22 by the States, subject to IO’s consent, which shall not be unreasonably withheld which Claim
23 Form will be required to be fully completed and submitted by each Category One Consumer.
24 The following shall apply to such emails:

25 (a) The “display name” in the email “FROM” line shall be “Pimsleur
26 Language Learning Program.”

1 (b) The subject line of the email shall read “IMPORTANT LEGAL
2 NOTICE-OFFICE OF ATTORNEY GENERAL REFUND.”

3 (c) The Claims Administrator shall make reasonable efforts to avoid having
4 emails sent to “junk” or “spam” folders, or otherwise filtered.

5 (d) If an email “bounces back,” or if the consumer did not provide IO with
6 an email address, the Claims Administrator shall ascertain the consumer’s most recent mailing
7 address by comparing the consumer’s mailing address associated with the consumer’s account
8 record with IO to the consumer’s address in the USPS National Change of Address Registry
9 (herein referred to as “NCOA”). The Claims Administrator then shall provide a postcard
10 (herein referred to as the “Postcard”) as specifically set forth in Exhibit “C”, which is attached
11 hereto and incorporated herein, and which shall only be revised pursuant to a request by the
12 States, subject to IO’s consent, which shall not be unreasonably withheld via U.S. Mail to the
13 consumer’s most current address as reflected in the NCOA, if that address is different from the
14 address in IO’s records, or to the address in IO’s records, if the NCOA does not reflect a
15 change in the address from IO’s records. Such Postcard shall include information regarding
16 the claims process along with the URL to the Claim Form.

17 (e) If the Claims Administrator does not receive a completed claim form
18 from a Category One Consumer to whom an email was sent pursuant to Paragraph 3.8 above
19 within thirty (30) days of providing the email Notice, the Claims Administrator shall send a
20 second email to those Category One Consumers. The body of the second email shall state the
21 text as specifically set forth in Exhibit “D,” which is attached hereto and incorporated herein,
22 and which shall only be revised pursuant to a request by the States subject to IO’s consent,
23 which shall not be unreasonably withheld. The “display name” in the FROM line of the email
24 shall be the same as the first email Notice. The subject line of the email shall read “SECOND
25 NOTICE-IMPORTANT LEGAL NOTICE-OFFICE OF ATTORNEY GENERAL REFUND.”
26

1 3.9 The Claims Administrator shall provide and host a 24-hour, 7-days-a-week toll-
2 free telephone number to provide automated information relating to the claims process as set
3 forth herein for people who call the number. Such telephone number shall be listed on all
4 emails and/or postcards sent to Category One Consumers as set forth above herein.

5 3.10 Eligibility of Category One Consumers. To be “Eligible” for restitution as a
6 Category One Consumer, the Category One Consumer must fully complete the Claim Form
7 and submit the completed Claim Form within forty-five (45) days of the Claims Administrator
8 sending the Notice or mailing of the Postcard pursuant to Paragraph 3.8 above. Any Category
9 One Consumer who fully completes the Claim Form and submits the completed Claim Form as
10 noted herein above shall be deemed an “Eligible Category One Consumer”.

11 3.11 Eligibility of Category Two Consumers. To be “Eligible” for restitution as a
12 Category Two Consumer, the Category Two Consumer must have either filed a consumer
13 complaint with the Pennsylvania Office of Attorney General, Washington Office of Attorney
14 General, or New York Office of Attorney General, prior to the Pennsylvania Consent Petition
15 Approval, and such complaint is not fully satisfied or resolved under the sole discretion of the
16 respective Office of Attorney General, or must file a consumer complaint with the
17 Pennsylvania Office of Attorney General, Washington Office of Attorney General, New York
18 Office of Attorney General, within sixty (60) days of the Pennsylvania Consent Petition
19 Approval, and such complaint must concern or relate to conduct alleged in the Complaint filed
20 in this action by Plaintiff or concern or relate to the conduct covered under this Consent
21 Decree, and such conduct must have occurred during the time period from January 1, 2009 to
22 the Pennsylvania Consent Petition Approval. Any Category Two Consumer who (i) filed/files
23 a consumer complaint as noted herein above; (ii) is not an Eligible Category One Consumer;
24 and (iii) is determined by the Claims Administrator to be Eligible based upon the Claims
25 Administrator’s review of the consumer’s complaint and any documentation provided to the
26 Claims Administrator by IO or the consumer, shall be deemed an “Eligible Category Two

1 Consumer.” IO shall provide to the Claims Administrator, upon request by the Claims
2 Administrator, any documents or information related to any Category Two Consumer within
3 five (5) days of the request by the Claims Administrator.

4 3.12 Determination of Restitution:

5 (a) “Restitution” for an Eligible Category One Consumer shall mean all
6 monies paid by such consumer to IO for the Gold Level One Advanced-Level Course, less any
7 credits, chargebacks, or settlement amounts already paid by IO or received by such consumer.

8 (b) “Restitution” for an Eligible Category Two Consumer shall mean all
9 monies paid by such consumer to IO for all Advanced-Level Courses, less any credits,
10 chargebacks, or settlement amounts already paid by IO or received by such consumer, and
11 shall be determined by the Claims Administrator as noted herein.

12 3.13 Within ninety (90) days of the Pennsylvania Consent Petition Approval, the
13 States will provide to the Claims Administrator the consumer complaints filed by Category
14 Two Consumers with the States. The States will provide IO with a copy the consumer
15 complaints filed by Category Two Consumers with their respective offices within ninety (90)
16 days of the Pennsylvania Consent Petition Approval.

17 3.14 Calculation of Restitution Payment:

18 (a) The Settlement Fund shall be used for the payment of Restitution to
19 Eligible Category One Consumers and Eligible Category Two Consumers as determined by the
20 Claims Administrator in accordance with the terms and conditions of this Consent Decree and
21 for the payment of the Claims Administrator Expenses, and any Remaining Monies, as defined
22 herein, will be payable to the States as noted herein. If the total amount of Restitution payable
23 to all Eligible Category One Consumers and Eligible Category Two Consumers is equal to or
24 less than the total amount in the Settlement Fund less the Claims Administrator Expenses, then
25 the distribution to each Eligible Category One Consumer and Eligible Category Two
26 Consumer will be the amount determined by the Claims Administrator for each such Eligible

1 Category One Consumer and Eligible Category Two Consumer pursuant to Paragraphs 3.12(a)
2 and (b) respectively, and those amounts will be distributed by the Claims Administrator to each
3 such consumer.

4 (b) If the total amount of Restitution payable to all Eligible Category One
5 Consumers and Eligible Category Two Consumers is more than the Settlement Fund less the
6 Claims Administrator Expenses, each Eligible Category One Consumer and Eligible Category
7 Two Consumer shall receive a distribution of a pro-rata share of the Settlement Fund less the
8 Claims Administrator Expenses. Pro rata share means, with respect to a distribution on
9 account of any Eligible Category One Consumer and Eligible Category Two Consumer, an
10 amount determined by multiplying the total amount in the Settlement Fund less the Claims
11 Administrator Expenses by a fraction, the numerator of which shall be the amount of each such
12 consumer's Restitution and the denominator of which shall be the aggregate amount of all
13 Restitution payable to all Eligible Category One Consumers and Eligible Category Two
14 Consumers.

15 3.15 Timing and Procedures for Restitution Payments.

16 (a) The Settlement Fund shall be transferred to the Claims Administrator for
17 distribution as set forth herein at the appropriate time as determined by the Commonwealth.
18 However, the transfer of the Settlement Fund by the Commonwealth to the Claims
19 Administrator shall not occur earlier than (i) March 15, 2016 or (ii) one hundred and twenty
20 (120) days after the date of the Pennsylvania Consent Petition Approval, whichever date is
21 later. The Claims Administrator shall pay such Restitution payment to each Eligible Category
22 One Consumer and Eligible Category Two Consumer from the Settlement Fund no later
23 than fifteen (15) days after the date that the Commonwealth transfers the Settlement Fund to the
24 Claims Administrator. The Claims Administrator shall provide a check made payable to each
25 Eligible Category One Consumer and each Eligible Category Two Consumer in the amount
26

1 determined to be the Restitution payment as described above herein, accompanied by the letter
2 described in Paragraph 3.15(b) below via U.S. Mail.

3 (b) The envelope containing the Restitution payment shall display as a
4 return address the name “Pimsleur Language Learning Program Restitution Fund” along with
5 the address of the Claims Administrator, and shall display the language “REFUND
6 ENCLOSED” on the front of the envelope. The mailing containing the Restitution payment
7 shall include a letter with the specific text as stated in Exhibit “E”, which is attached hereto and
8 incorporated herein, and which shall only be revised pursuant to a request by the States subject
9 to IO’s consent, which shall not be unreasonably withheld.

10 3.16 Consumers who receive payment as an Eligible Category One Consumer or an
11 Eligible Category Two Consumer shall not be required to return any of IO’s goods or services.

12 3.17 IO shall cease all collection efforts with regards to any Eligible Category One
13 Consumer or Eligible Category Two Consumer; shall notify any and all credit bureaus that any
14 and all claims against such consumers are withdrawn and resolved, and shall request the credit
15 bureaus to remove the negative information related to any alleged delinquency claimed by IO;
16 and shall be prohibited from selling to a third party any debt relating to or arising from the
17 purchase of a Pimsleur Language Learning product through a Negative Option Offer or
18 Negative Option Plan by any Eligible Category One Consumer or Eligible Category Two
19 Consumer.

20 3.18 In instances where a delinquency alleged by IO is or was reported on a credit
21 report of a consumer, and (a) IO has agreed to pay a refund, reimbursement, or restitution to a
22 consumer; (b) IO waived all or part of IO’s charges against a consumer; or (c) the consumer is
23 an Eligible Category One Consumer or an Eligible Category Two Consumer, IO shall request
24 the credit bureaus to remove the negative information relating to the alleged delinquency from
25 the consumer’s credit report. IO shall further, upon request of an Eligible Category One
26 Consumer or an Eligible Category Two Consumer, provide written and/or electronic

1 confirmation of IO's acknowledgement and agreement to waive all of IO's charges against
2 such consumer.

3 3.19 Any notices required or described in this section of the Consent Decree related
4 to Restitution that are directed to consumers shall not include any marketing, advertising, or
5 solicitations, and shall exclusively include the information required or described in this
6 Consent Decree.

7 3.20 Reporting Requirement. Within one hundred twenty (120) days of mailing out
8 the Restitution payments to the Eligible Category One Consumers and Eligible Category Two
9 Consumers as stated above herein, the Claims Administrator shall provide a report to the States
10 and to IO, setting forth the following information: (i) the number of Eligible Category One and
11 Eligible Category Two Consumers to which restitution was provided; (ii) the name and address
12 of each Eligible Category One Consumer and Eligible Category Two Consumer; (iii) the
13 amount of the Restitution payment for each Eligible Category One Consumer and Eligible
14 Category Two Consumer; (iv) the date that the check was sent to each Eligible Category One
15 Consumer and Eligible Category Two Consumer; (v) whether such Restitution payment was
16 returned to the Claims Administrator indicating the reason it was returned, including, but not
17 limited to, consumer no longer being at the address to which it was sent; and (vi) whether such
18 Restitution payment remains un-cashed or un-negotiated and outstanding.

19 3.21 The Claims Administrator shall make all reasonable efforts to locate consumers
20 whose Restitution payments are returned to the Claims Administrator for any reason,
21 including, but not limited to, a consumer no longer being at the address to which it was sent.

22 (a) If a Restitution payment is sent to a consumer and is returned to the
23 Claims Administrator, the Claims Administrator shall attempt to locate the consumer's current
24 address through all reasonable means, including, but not limited to publicly-available
25 databases, Internet searches, commercially available databases, and public records.
26

1 (b) If a current address is found, the Claims Administrator shall re-send the
2 check to the consumer at that address.

3 (c) If the Restitution payment is returned to the Claims Administrator and
4 no current address is available or if the Restitution payment remains un-cashed or un-
5 negotiated and outstanding for more than ninety (90) days from the issuance of the check
6 (herein referred to as “Unclaimed Restitution Payment(s)”), the Claims Administrator shall
7 submit such Unclaimed Restitution Payments along with the name, address, telephone number
8 and amount of Restitution for each such consumer to the Attorneys General Offices as follows:

9 (i) if such consumer is a resident of the Commonwealth or any state other than the States of
10 Washington or New York, such funds and information will be submitted to the Pennsylvania
11 Office of Attorney General; (ii) if such consumer is a resident of the State of New York, such
12 funds and information will be submitted to the New York Office of Attorney General; and (iii)
13 if such consumer is a resident of the State of Washington, such funds and information will be
14 submitted to the Washington Office of Attorney General.

15 (d) The submission of such Unclaimed Restitution Payments and
16 information set forth in Paragraph 3.21(c) shall be made to the respective Attorneys General no
17 later than the due date of the Report as set forth in Paragraph 3.20.

18 (i) Any Unclaimed Restitution Payments submitted to the
19 Pennsylvania Office of Attorney General, as set forth in Paragraph 3.21(c) above herein, will
20 be submitted as unclaimed property for each consumer in the amount to which they were
21 entitled hereunder, to the Department of Treasury or agency responsible for unclaimed
22 property in the each respective state or commonwealth in which consumer was last known to
23 be a resident or have an address.

24 3.22 The “Remaining Monies” shall mean the total amount of Required Payments
25 paid into the Settlement Fund plus any interest earned on the Settlement Fund minus the
26 Claims Administrator Expenses minus the total sum of all Restitution payable to Eligible

1 Category One Consumers included on the above referenced list submitted to the Claims
2 Administrator by IO and all Restitution payable to Eligible Category Two Consumers as
3 determined by the Claims Administrator in accordance with the terms and conditions of this
4 Consent Decree. If there are any Remaining Monies, the Claims Administrator shall include a
5 written statement with the Report as set forth in Paragraph 3.20 above herein setting forth the
6 total amount of Remaining Monies. Upon the Claims Administrator submitting the Unclaimed
7 Restitution Payments to the States, the Claims Administrator shall also submit such Remaining
8 Monies in three (3) equal shares to the three (3) States, sending a check to each of the States
9 for one-third of the Remaining Monies. Such payment of the Remaining Monies to Plaintiff
10 shall be deposited in an interest-bearing account from which principal and interest shall be
11 expended for any lawful purpose designated by the Attorney General.

12 **IV. CONDITIONAL MONETARY PAYMENT**

13 4.1 For each month during the time period starting on July 1, 2016 and ending on
14 June 30, 2019 in which IO sells a Pimsleur Language Learning product during that month, IO
15 shall be liable for and shall pay to the States a total of Eight Thousand and 00/100 Dollars
16 (\$8,000.00) for that month (herein referred to as "Conditional Monetary Payments"). The
17 amount due to the States will be paid by IO to the States within ten (10) days of the last day of
18 each month during that time period. IO shall make such payments to the States by sending a
19 check to each of the States for one-third of such amount due. All payments due to Plaintiff
20 shall be made by company check, certified check, cashier's check, attorney's check, or money
21 order, made payable to the order of the "Attorney General-State of Washington" and shall be
22 sent to the Office of the Attorney General, Attention: Cynthia Lockridge, Administrative
23 Office Manager, 800 Fifth Avenue, Suite 2000, Seattle, Washington, 98104-3188.

24 4.2 For every three (3) month period during the time period starting on July 1, 2016,
25 and ending on June 30, 2019, IO shall submit to the States a written report, no later than 15 days
26 following the end of that three (3) month period, which report shall state (i) whether or not IO

1 sold a Pimsleur Language Learning product; and (ii) a description of the products sold and the
2 total amount of each product sold during each month for that three (3) month period, if IO sold a
3 Pimsleur Language Learning product. All payments to Plaintiff made pursuant to Paragraph 4.1
4 above herein shall be expended for any lawful purpose designated by the Attorney General.

5 **V. NOTIFICATION TO PARTIES**

6 5.1 Any notices required to be sent to Plaintiff or Defendants by this Consent
7 Decree shall be sent by United States certified mail, return receipt requested, or other
8 nationally recognized courier service that provides for tracking services and identification of
9 the person signing for the document. The documents shall be sent to the following addresses:

10 For Plaintiff:

11 Paula Selis
12 Patricio Marquez
13 Assistant Attorney General
14 Attorney General of Washington
15 800 5th Ave, Suite 2000
16 Seattle, WA 98104

For Defendants:

17 David Bateman
18 K&L Gates
19 925 4th Ave #2900
20 Seattle, WA 98104

21 Roy W. Hibberd
22 General Counsel
23 Internet Order LLC
24 Four Penn Center
25 1600 John F. Kennedy Blvd., 3rd Floor
26 Philadelphia, PA 19103

Gregory T. Parks
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103

5.2 Any party may designate a different individual or address to receive the notices
required to be sent by sending written notification to the other parties at least thirty (30) days before
such change will occur identifying that individual by name and/or title and mailing address.

VI. MISCELLANEOUS TERMS

6.1 Time shall be of the essence with regards to Defendants' obligations hereunder.

1 6.2 Nothing in this Consent Decree shall prevent or restrict the use of this Consent
2 Decree by Plaintiff in any action against Defendants for contempt or failure to comply with
3 any of its provisions, or in the event that Defendants are in default of any of its terms and
4 conditions. A default on the part of Defendants shall include any default or breach by
5 Defendants of any of the terms or requirements of this Consent Decree. Nothing in this
6 Consent Decree shall be construed to (i) exonerate any contempt or failure to comply with any
7 of its provisions after the Effective Date of this Consent Decree, (ii) compromise or limit the
8 authority of Plaintiff to initiate a proceeding for any contempt or other sanctions for failure to
9 comply, or (iii) compromise the authority of the United States District Court or any other court
10 of competent jurisdiction to punish as contempt any violation of this Consent Decree.

11 6.3 Nothing in this Consent Decree shall be construed to limit the authority of
12 Plaintiff to protect the interests of Plaintiff or the people of the State of Washington.

13 6.4 Upon the Effective Date of this Consent Decree and the approval by the United
14 States District Court of all the terms and conditions of this Consent Decree and in consideration of
15 the terms and conditions of this Consent Decree, Plaintiff hereby releases and forever discharges
16 any and all civil claims, causes of actions, damages, restitution, fines, costs and penalties based on,
17 arising out of or related to Defendants' conduct, acts or omissions occurring prior to the Effective
18 Date of this Consent Decree which were specifically asserted in Plaintiff's Complaint under the
19 Consumer Protection Law, ROSCA and any similar consumer protection or other applicable law,
20 rule or regulation specifically asserted in Plaintiff's Complaint (herein referred to as the "Released
21 Claims"), by the Washington State Office of the Attorney General, Consumer Protection Division,
22 against Defendants and past and present employees, shareholders, officers, and directors of
23 Defendants (herein individually referred to as a "Releasee" and collectively referred to as the
24 "Releasees"). Nothing in this Consent Decree shall be construed to release or discharge any
25 claims, causes of actions, damages, restitution, fines, costs or penalties arising out of or related to,
26 conduct, acts or omissions of any person or entity not specifically named herein above as a

1 Releasee. Claims, causes of actions, damages, restitution, fines, costs or penalties arising out of or
2 related to, conduct, acts or omissions of Defendants' affiliates, representatives, partners, licensors,
3 licensees, principals, agents or assigns are not in any way released or discharged by this Consent
4 Decree. Released Claims do not include claims pursuant to any law, statute or regulation other
5 than the Consumer Protection Law, ROSCA and any similar consumer protection or other
6 applicable law, rule or regulation asserted in Plaintiff's Complaint or addressed by the terms of this
7 Consent Decree. Released Claims do not include claims pursuant to any antitrust laws,
8 environmental laws, tax laws, and criminal statutes and codes, nor do they include actions or
9 proceedings brought pursuant to Washington Consumer Protection Laws or statutes alleging
10 violations that are not addressed by Plaintiff's Complaint or the terms of this Consent Decree.

11 6.5 Nothing contained in this Consent Decree shall constitute an admission of
12 liability by Defendants of the allegations of Plaintiff's Complaint, and nothing contained in this
13 Consent Decree shall constitute a concession by Plaintiff that its claims are not well-founded.

14 6.6 Any failure of Plaintiff to exercise any of its rights under this Consent Decree
15 shall not constitute a waiver of its rights hereunder.

16 6.7 Defendants further agree to execute and deliver all authorizations, documents
17 and instruments which are reasonably necessary to carry out the terms and conditions of this
18 Consent Decree.

19 6.8 The undersigned signatory on behalf of Daniel Roitman as Chief Executive
20 Officer of Defendant, Internet Order LLC hereby states that he or she is authorized to enter
21 into and execute this Consent Decree on behalf of Defendant, Internet Order LLC.

22 6.9 Nothing in this Consent Decree shall be construed to create, waive, or limit any
23 private right of action by a consumer or a local, state, federal, or other governmental entity.
24 Further, nothing in this Consent Decree shall be construed to waive any claims of sovereign
25 immunity Plaintiff may have in any action or proceeding. The United States District Court for
26 the Western District of Washington shall maintain jurisdiction over the subject matter of this

1 Consent Decree and over Defendants for purpose of enforcement of this Consent Decree
2 and/or the Final Decree, Judgment or Order accompanying it.

3 6.10 This Consent Decree may be executed in any number of counterparts and by
4 different signatories on separate counterparts, each of which shall constitute an original
5 counterpart hereof and all of which together shall constitute one and the same document. One
6 or more counterparts of this Consent Decree may be delivered by facsimile or electronic
7 transmission with the intent that it or they shall constitute an original counterpart hereof.

8 6.11 Plaintiff and Defendants hereby stipulate that this final Consent Decree issued
9 by the United States District Court shall act as a permanent injunction issued under U.S.C. §
10 8405(a) of ROSCA and RCW 19.86.080 of the Washington Consumer Protection Act and that,
11 subject to the specific terms and conditions stated in this Consent Decree, breach of any of the
12 terms of this Consent Decree or of the Order accompanying it shall be sufficient cause for
13 Plaintiff, by its Attorney General, to seek penalties provided for under RCW 19.86.140 of the
14 Washington Consumer Protection Act and/or any other equitable relief which the Court deems
15 necessary or proper.

16 6.12 If Plaintiff determines that Defendants have failed to comply with any of the
17 terms of this Consent Decree, and if, in the Attorney General's sole discretion, the failure to
18 comply does not threaten the health or safety of the citizens of the State of Washington and does
19 not create an emergency requiring immediate action, the Attorney General will notify Defendants
20 in writing of such failure to comply, and Defendants shall then have thirty (30) days from receipt
21 of such written notice to provide a written response to the Attorney General's determination that
22 there has been a failure to comply. Upon reasonable request of Defendants, which request must
23 be made at the time of Defendants' written response to the Attorney General, a representative of
24 the Attorney General will meet with Defendants by phone or in the Office of the Attorney
25 General within fifteen (15) days of receipt by the Attorney General of Defendants' written
26 response, to discuss the Attorney General's determination that there has been a failure to comply.

1 Any corrective or remedial action taken by Defendants shall be considered by Plaintiff in
2 determining whether further enforcement is necessary.

3 6.13 If permitted under relevant State or Federal law, and if Defendants believe there
4 exists good cause to cancel, alter, or modify this Consent Decree or any part thereof,
5 Defendants shall first make a written proposal for modification to Plaintiff. If, after forty-five
6 (45) days of Plaintiff's receipt of such proposal, Plaintiff has not agreed to such cancellation,
7 alteration, or modification, Defendants may petition to modify this Consent Decree pursuant to
8 the provisions, limitations, standards and requirements of the relevant State or Federal law.
9 Nothing herein shall be construed as Plaintiff's acknowledgement or agreement that any
10 particular circumstance(s) constitutes good cause or valid reason to cancel, alter or modify this
11 Consent Decree.

12 6.14 This Consent Decree sets forth all of the promises, covenants, agreements,
13 conditions and understandings between the parties, and supersedes all prior and
14 contemporaneous agreements, understandings, inducements or conditions, express or implied.
15 There are no representations, arrangements, or understandings, oral or written, between the
16 parties relating to the subject matter of this Consent Decree that are not fully expressed herein
17 or attached hereto. Each party specifically warrants that this Consent Decree is executed
18 without reliance upon any statement or representation by any other party hereto, except as
19 expressly stated herein.

20 **WHEREFORE**, without trial or adjudication of the facts or law herein between the
21 parties to this Consent Decree, Defendants, Internet Order LLC, d/b/a Stroll, and d/b/a
22 Pimsleurapproach.com, and Daniel Roitman, agree to the signing of this Consent Decree and
23 this Court hereby orders that said Defendants shall be permanently enjoined from breaching
24 any and all of the aforementioned provisions, and this Consent Decree resolves any and all
25 civil claims under the Consumer Protection Law and ROSCA between the State of
26 Washington, by its Attorney General, through the Consumer Protection Division and

1 Defendants arising from the specific allegations in the aforementioned Complaint of Plaintiff
2 in the above captioned action, except for those rights expressly reserved herein by said parties
3 to this action.

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5 DATED this _____ day of August, 2015.

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7 JUDGE JAMES L. ROBERT
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FOR THE PLAINTIFF:
STATE OF WASHINGTON
ROBERT W. FERGUSON
ATTORNEY GENERAL

Date August 31, 2015

By: /s/ Paula Selis
PAULA SELIS, WSBA 12823
Assistant Attorney General
Attorney General of Washington
800 5th Ave, Suite 2000
Seattle, WA 98104-3188
Phone: (206) 389-2514
E-mail: Paula.Selis@atg.wa.gov

FOR THE DEFENDANTS:
INTERNET ORDER LLC, d/b/a STROLL and
d/b/a PIMSLEURAPPROACH.COM and
DANIEL ROITMAN

Date: _____

By: _____
Daniel Roitman
Chief Executive Office

Date: _____

By: _____
Daniel Roitman,
Individually

Date: _____

By: _____
David Bateman
K&L Gates
925 4th Ave #2900
Seattle, WA 98104
Phone: (206) 370-6682
Email: david.bateman@klgates.com

**INTERNET ORDER LLC, d/b/a STROLL and
d/b/a PIMSLEUR APPROACH and d/b/a
PIMSLEURAPPROACH.COM and DANIEL
ROITMAN**

Date: 8/27/15

By: 
Daniel Roitman
Chief Executive Officer

Date: 8/27/15


Daniel Roitman
Individually

Date: 8/27/2015

By: 
Gregory T. Parks, Esq.
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
Counsel to Respondents

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FOR THE PLAINTIFF:
STATE OF WASHINGTON
ROBERT W. FERGUSON
ATTORNEY GENERAL

Date _____

By: _____
PAULA SELIS, WSBA 12823
Assistant Attorney General
Attorney General of Washington
800 5th Ave, Suite 2000
Seattle, WA 98104-3188
Phone: (206) 389-2514
E-mail: Paula.Selis@atg.wa.gov

FOR THE DEFENDANTS:
INTERNET ORDER LLC, d/b/a STROLL and
d/b/a PIMSLEURAPPROACH.COM and
DANIEL ROITMAN

Date: 8/27/15 _____

By: 
Daniel Roitman
Chief Executive Office

Date: 8/27/15 _____

By: 
Daniel Roitman,
Individually

Date: 8/31/15 _____

By: 
David Bateman
K&L Gates
925 4th Ave #2900
Seattle, WA 98104
Phone: (206) 370-6682
Email: david.bateman@klgates.com

PROOF OF SERVICE

I hereby certify that on August 31, 2015, I electronically filed the *Consent Decree* in this matter with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

K&L GATES LLP
David A. Bateman, WSBA # 14262
925 Fourth Avenue, Suite 2900
Seattle, WA 98104-1158
Phone: (206) 370-6682
david.bateman@klgates.com
Attorneys for Defendants
Internet Order LLC and Daniel Roitman

DATED this 31st day of August, 2015.

Presented by:
ROBERT W. FERGUSON
Attorney General

By: /s/ Paula Selis
PAULA SELIS, WSBA 12823
Assistant Attorney General
Attorney General of Washington
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Attorneys for Plaintiff State of Washington