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PEOPLE OF THE STATE OF CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CRUZ

PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff,

v.

EHARMONY, INC.,

Defendant.

CASE NO. 17CV03314

FINAL JUDGMENT AND INJUNCTION  
PURSUANT TO STIPULATION

*Exempt from filing fee under  
Government Code §6103*

**FILED**  
JAN 08 2018

ALEX CALVO, CLERK  
BY BRACEZI LOPEZ  
DEPUTY, SANTA CRUZ COUNTY

1 Plaintiff, the People of the State Of California (“the People” or “Plaintiff”), appearing  
2 through its attorneys, Jeffrey S. Rosell, Santa Cruz County District Attorney by Francisca B.  
3 Allen and Douglas B. Allen, Assistant District Attorneys; Jeffrey F. Rosen, Santa Clara County  
4 District Attorney by Jennifer Deng, Deputy District Attorney; Lane Dilg, Santa Monica City  
5 Attorney by Adam Radinsky and Gary Rhoades, Deputy City Attorneys; Allison Haley, Napa  
6 County District Attorney by Patrick Collins, Deputy District Attorney; Stephanie A. Bridgett,  
7 Shasta County District Attorney by Anand “Lucky” Jesrani, Senior Deputy District Attorney, and  
8 having filed its complaint herein;

9 Defendant eHarmony, Inc. (“eHarmony” or “Defendant”), appearing through its attorneys  
10 DLA Piper LLP by Paul J. Hall, Esq., and having accepted service of the complaint;

11 1. Plaintiff and Defendant having negotiated and agreed to a settlement including  
12 stipulating to the entry of this Final Judgment and Injunction Pursuant to Stipulation  
13 (“Judgment”) prior to the taking of any proof and without admission of fact or fault by Defendant,  
14 or any of its current or former officers, employees, directors, agents, representatives, and without  
15 trial or adjudication of any issue of fact or law; and

16 The Court having considered the pleadings and good cause appearing,

17 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff have Judgment  
18 against Defendant as follows:

19 JURISDICTION AND VENUE

20 2. This action is brought under the laws of the State of California. This Court has  
21 jurisdiction of the subject matter and the parties. Venue is appropriate in this Court.

22 CONSENT DECREE

23 3. The provisions of this Judgment are applicable to eHarmony and to its officers,  
24 employees, directors, agents, representatives, successors, and assigns acting within the course and  
25 scope of their agency or employment and in concert with eHarmony. Defendant consents to entry  
26 of this Judgment without the taking of proof or admission of facts. Nothing in the Complaint in  
27 this action, the accompanying Stipulation, this Judgment, the negotiations leading up to these  
28 filings, or any action taken to carry them out shall be construed as an admission by Defendant, or

1 by any of its current or former officers, employees, directors, agents, representatives, successors,  
2 and assigns, or by any entity, individual, or organization involved in the settlement of this action.

3 DEFINITIONS

4 4. For purposes of this Judgment, the following definitions apply:

5 a. "AUTOMATIC RENEWAL" means a plan or arrangement in which a paid  
6 subscription or purchasing agreement is automatically renewed at the end of a definite term for a  
7 subsequent term. It also includes "free trial" offers that convert to automatic payment unless  
8 cancelled by the consumer.

9 b. "Automatic Renewal Offer Terms" includes:

10 i. A statement that the subscription or purchasing agreement will  
11 continue until the consumer cancels;

12 ii. A description of the cancellation policy that applies to the offer;

13 iii. The recurring charges that will be charged to the consumer as part  
14 of the automatic renewal plan; and that the amount of the charge may change (if applicable); and  
15 the amount to which the charge will change (if known);

16 iv. The length of the automatic renewal term or that the service is  
17 continuous, unless the length of the term is chosen by the consumer; and

18 v. The minimum purchase obligation, if any.

19 c. "CALIFORNIA CONSUMER" means a customer of eHarmony with a  
20 billing zip code in the State of California.

21 d. "CLEAR AND CONSPICUOUS" means in larger type than the  
22 surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or  
23 set off from the surrounding text of the same size by symbols or other marks, in a manner that  
24 clearly calls attention to the language. In the case of an audio disclosure, it means in a volume and  
25 cadence sufficient to be readily audible and understandable.

26 e. "CONTINUOUS SERVICE" means a plan or arrangement in which a  
27 subscription or purchasing agreement continues until the consumer cancels the service.

28

1 INJUNCTION

2 5. Pursuant to Business and Professions Code sections 17203 and 17535, eHarmony  
3 and its officers, employees, directors, agents, representatives, successors, and assigns acting  
4 within the course and scope of their agency or employment are enjoined and restrained from  
5 engaging in any of the following acts or practices within the State of California:

6 General

- 7 a. Making any false or misleading representations intended to promote sales  
8 on its website, advertising, or any other form of marketing.  
9 b. Failing to abide by all applicable laws relating to contract cancellations.

10 Automatic Renewal: Disclosure

- 11 a. Failing to present the AUTOMATIC RENEWAL OFFER TERMS in a  
12 CLEAR AND CONSPICUOUS manner before the subscription or purchasing agreement is  
13 fulfilled and in visual proximity to the request for consent to the offer, and any applicable  
14 disclosure requirements of the Restore Online Shoppers Confidence Act, 15 U.S.C. §§ 8401 *et*  
15 *seq.*

16 Automatic Renewal: Affirmative Consent

- 17 a. Charging a CALIFORNIA CONSUMERS' credit or debit card or account  
18 with a third party for an AUTOMATIC RENEWAL or CONTINUOUS SERVICE without first  
19 obtaining the consumer's affirmative consent to the agreement containing the AUTOMATIC  
20 RENEWAL OFFER TERMS. For online and written orders this consent shall include the  
21 following:

22 1) The consent is obtained by an express act by the consumer through  
23 a check-box, signature, or other substantially similar mechanism that consumers must  
24 affirmatively select or sign to accept the AUTOMATIC RENEWAL OFFER TERMS and no  
25 other part of the transaction.

26 2) In visual proximity to the consent mechanism referred to in the  
27 preceding sub-paragraph, the AUTOMATIC RENEWAL OFFER TERMS shall be disclosed.

28 This disclosure shall contain no additional information and shall be CLEAR AND

1 CONSPICUOUS.

2 Automatic Renewal: Acknowledgement

3 a. With any AUTOMATIC RENEWAL or CONTINUOUS SERVICE offer  
4 to a consumer, failing to provide an emailed confirmation of the transaction immediately after the  
5 contract is made. This confirmation must comply with the following:

6 1) Its subject line must clearly identify it as a confirmation of the  
7 transaction; and

8 2) It must CLEARLY AND CONSPICUOUSLY disclose the  
9 AUTOMATIC RENEWAL OFFER TERMS.

10 Automatic Renewal: Cancellation

11 a. Failing to provide a toll-free telephone number, or electronic mail address,  
12 or a postal address only when eHarmony directly bills the CALIFORNIA CONSUMER, or  
13 another cost-effective, timely, and easy-to-use mechanism for cancellation.

14 i. For all CALIFORNIA CONSUMERS, Defendant must allow a  
15 buyer to give written notice of cancellation by email to an email address provided by Defendant.  
16 Additional electronic means of cancellation may be provided by the agreement or offer.

17 ii. All cancellations must be effective within one business day of  
18 Defendant's receipt of the cancellation request. Upon cancellation, the CALIFORNIA  
19 CONSUMER will not be charged any further fees unless such fees are already subject to an  
20 existing valid contractual obligation.

21 Dating Services Contract Law

22 a. Failing to include the following notice either (a) on the contract's face and  
23 in close proximity to the space reserved for the signature of the CALIFORNIA CONSUMER a  
24 conspicuous statement in a size equal to at least 10-point boldface type, or (b) in a CLEAR AND  
25 CONSPICUOUS manner in a stand-alone first paragraph of the contract, the following notice:

26 i. "You, the buyer, may cancel this agreement, without any penalty or  
27 obligation, at any time prior to midnight of the original contract seller's third business day  
28 following the date of this contract, excluding Sundays and holidays. To cancel this agreement,

1 mail or deliver a signed and dated notice, or send a telegram which states that you, the buyer, are  
2 canceling this agreement, or words of similar effect, or by email or on the website.”

3 ii. The notice shall include the name and address and email address to  
4 which such cancellations must be sent.

5 b. Failing to make a copy of the contract available to the CALIFORNIA  
6 CONSUMER that is provided in a CLEAR AND CONSPICUOUS manner on the Internet  
7 website page where the buyer provides consent to the agreement, and, upon request by the buyer,  
8 a digital copy of the contract in PDF format or other retainable digital format.

9 c. Failing to allow a consumer to cancel membership, with prorated refund,  
10 due to death, disability, or moving to an area not covered by eHarmony’s services, in accordance  
11 with the standards of Civil Code §1694.3.

12 d. Requiring payments or financing by a CALIFORNIA CONSUMER in  
13 excess of two years from the date the contract is entered into. However, the preceding sentence  
14 shall not apply if the initial term is one year or less, and subsequent terms are for one year or less.

15 Uniform Electronic Transactions Act

16 a. Violating the California Uniform Electronic Transactions Act, Civil Code  
17 sections 1633.1 *et. seq.*, including the rules that all contracts formed by electronic signature must  
18 also allow electronic cancellation.

19 Customer Debt Collection Practices

20 a. Attempting to collect past due membership fees from customers, incurred  
21 prior to the effective date of this Judgment, either directly or through other entities.

22 i. If a CALIFORNIA CONSUMER notifies Defendant of a negative  
23 mark or reference on the customer’s credit report resulting from Defendant’s referral of their debt  
24 to third-party collection companies, Defendant must within five (5) business days of such notice  
25 notify all three major credit reporting agencies to cancel any such negative marks or references.

26 ii. Defendant must adjust its internal records to reflect that any debt  
27 previously designated as eligible for reference to third-party collection companies shall no longer  
28 be attempted to be collected.

1                   iii. Defendant shall maintain for five (5) years documentation sufficient  
2 to verify compliance with the provisions of the preceding paragraph. This includes copies of all  
3 correspondence or communications involving Defendant sufficient to verify the compliance and  
4 the substance of any oral communications.

5           6. Defendant shall have 60 days after Notice of Entry of this Judgment to comply  
6 with the terms of the Injunction. This Final Judgment shall terminate, the injunction shall expire,  
7 and the obligations herein shall end (with the exception of the provisions related to the payment  
8 of penalties, restitution, and costs, which shall remain in effect until fully paid) without any  
9 further acts by any party or the Court by five (5) years after the entry of this Final Judgment,  
10 unless the Court determines (upon consideration of the parties' pleadings, evidentiary  
11 submissions, and arguments) that DEFENDANTS have not substantially complied in material  
12 respects with the injunctive provisions of Paragraph 4 above, the restitution provisions of  
13 Paragraphs 10-34 below, and the full payment of all penalty and cost obligations outlined in  
14 Paragraphs 7-9 below, in which case the Final Judgment may be extended within the discretion of  
15 the Court for good cause shown.

16                                   CIVIL PENALTIES AND INVESTIGATIVE COSTS

17           7. Pursuant to Business and Professions Code sections 17206 and 17536, Defendant  
18 shall pay to the People civil penalties in the total sum of \$1,205,000.00.

19           8. Defendant shall pay the People's collective investigative costs in the amount of  
20 \$75,000.00. The above amounts shall be paid collectively by checks payable to the Santa Cruz  
21 County District Attorney's Office in the amount of \$1,280,000.00. The civil penalties and  
22 investigative costs will be divided proportionately between the offices representing the People in  
23 this case pursuant to counsel's agreement and law.

24           9. The checks described in the preceding paragraph shall be delivered to Assistant  
25 District Attorney Douglas Allen, Santa Cruz County District Attorney's Office, within 15  
26 business days of Notice of Entry of this Judgment.

27                                   RESTITUTION

28           10. Pursuant to Business and Professions Code sections 17203 and 17535, Defendant

1 shall pay restitution as follows.

2 Restitution Fund

3 11. Within five business days after the Claims Administrator has been appointed by  
4 the Court and the Claims Administrator has set up an appropriate trust account for this settlement  
5 and so notified Plaintiff and Defendant, the Defendant shall deposit \$250,000.00 into a designated  
6 trust account known as "the Restitution Fund."

7 12. The Restitution Fund shall be under the control and operation of the Claims  
8 Administrator. Except as otherwise provided in this Judgment, the money in the Restitution Fund  
9 shall be used only for paying restitution to persons on the Final List of Payees who are entitled to  
10 receive cash restitution.

11 13. If any funds from the initial deposit remain after restitution payments to the Final  
12 List of Payees are completed, as provided in Paragraph 27, the remainder shall be returned to  
13 Defendant c/o the DLA Piper LLP (US) Client Trust Account for the benefit of Defendant. If the  
14 initial deposit is insufficient to satisfy the restitution obligations to the Final List of Payees, then  
15 within five (5) business days after Defendant's receipt from the Claims Administrator of written  
16 notice of insufficiency, Defendant shall deposit into the Restitution Fund so much as is necessary  
17 to cover the restitution demands of the Final List of Payees but in no event shall Defendant be  
18 obligated to pay more than an additional \$750,000.00 in cash and/or credits as provided in  
19 Paragraph 27. If total approved restitution claims exceed \$1,000,000.00, then all restitution  
20 claims shall be reduced pro rata such that the total amount of restitution to be paid in cash and/or  
21 credits does not exceed \$1,000,000.00, except that payments to the Claims Administrator in  
22 excess of \$75,000 shall be credited to and offset against the \$1,000,000.00 maximum restitution  
23 amount.

24 Identification of Prospective Class

25 14. Defendant shall institute a restitution program to reimburse certain eHarmony  
26 membership fees paid by CALIFORNIA CONSUMERS between March 10, 2012 and  
27 December 13, 2016, provided that any such consumer (1) has not already obtained a refund for all  
28 money paid for such membership, and (2) meets one of the following two requirements:



1           a.       The consumer was enrolled in an eHarmony AUTOMATIC RENEWAL or  
2 CONTINUOUS SERVICE plan between March 10, 2012 and December 13, 2016 and was  
3 charged for at least one automatically-renewed cycle without his or her knowledge and consent;  
4 or

5           b.       The consumer previously requested cancellation of an AUTOMATIC  
6 RENEWAL or CONTINUOUS SERVICE plan with eHarmony, or a refund under such plan,  
7 which request was either denied or delayed so that at least one additional automatically-renewed  
8 charge was made after the request for cancellation was made.

9       15.       The CALIFORNIA CONSUMERS who meet the criteria set forth above will be  
10 referred to as "Eligible Recipients."

11       16.       Following the Notice of Entry of this Judgment, Defendant shall use all reasonable  
12 efforts to create a list of the most current, complete and accurate names, email addresses, and last-  
13 known billing zip codes and/or available postal addresses of all CALIFORNIA CONSUMERS  
14 who began an AUTOMATIC RENEWAL or CONTINUOUS SERVICE plan with Defendant any  
15 time between March 10, 2012 and December 13, 2016 and whose subscriptions renewed at least  
16 once, and who were not fully refunded by Defendant for such subscription renewal(s). This group  
17 shall be referred to as the "Prospective Class." This list shall be contained in a spreadsheet  
18 produced using Microsoft Excel or equivalent searchable software.

19       17.       Defendant shall appoint at least one management-level employee to oversee the  
20 process of identifying the Prospective Class. This employee shall prepare and sign a declaration  
21 of compliance under penalty of perjury and based on personal knowledge, which declaration shall  
22 remain non-public and confidential except that it may be shared with the Claims Administrator,  
23 the People and this Court. The declaration and list of Prospective Class names shall not be filed  
24 except in the event of a dispute that requires intervention of the Court, in which case the  
25 declaration shall be filed under seal. The declaration of compliance shall describe the steps taken  
26 to identify all Prospective Class members, and the electronic or other records that were searched  
27 or queried, the manner in which they were searched, and the individuals involved in this process.  
28 The declaration shall also attest that the Prospective Class list is accurate and complete, to the

1 best of the declarant's knowledge and belief.

2 18. No later than 45 days after Notice of Entry of this Judgment, Defendant shall  
3 transmit both the declaration of compliance and the list of Prospective Class members to both the  
4 People and the Claims Administrator, KCC LLC, which was agreed upon by the parties prior to  
5 submission of this Stipulated Final Judgment (the "Claims Administrator").

6 19. If the People determine that the procedures used by Defendant to identify  
7 Prospective Class members were deficient or that the list is otherwise materially insufficient, they  
8 shall promptly notify Defendant of the reasons for such conclusion. The parties shall then meet  
9 and confer and work together in a timely and good faith manner to resolve those concerns. As  
10 part of that process, the People may obtain copies of the information on which Defendant relied in  
11 ascertaining the list of Prospective Class members.

12 a. If the People are satisfied that any insufficiency or deficiency in the list of  
13 Prospective Class members can be corrected, Defendant shall have 45 days from such notice to  
14 implement the necessary changes and submit a revised list of Prospective Class members.

15 b. If the People are not satisfied that any insufficiency or deficiency has been  
16 or can be corrected, or in the event of any other unresolved dispute regarding the review of  
17 Prospective Class members, then the parties shall meet and confer to attempt to resolve the  
18 dispute. If the meet and confer process does not produce agreement, then either party may seek  
19 further direction from the Court.

20 Consumer Notice

21 20. Within 45 days after receiving the declaration of compliance and list of  
22 Prospective Class members, including such additional time as may be necessary to resolve any  
23 deficiencies in the list, the Claims Administrator shall prepare a list of Prospective Class  
24 members. The Claims Administrator shall promptly thereafter send or cause to be sent an email  
25 notice to each Prospective Class member in the form and manner set forth in Exhibit A. The  
26 Claims Administrator will take all reasonable steps to ensure that emails are not diverted to the  
27 recipients' "junk" or "spam" email folder.

28 21. If within 60 days after two attempts at sending an email notice to a Prospective

1 Class member the Claims Administrator learns that the email(s) were returned as undeliverable,  
2 the Claims Administrator will promptly cause to be sent a postcard via United States mail to that  
3 Prospective Class member, in the form and manner set forth in Exhibit B, provided that a mailing  
4 address to that Prospective Class member is available. The postcard shall be sent to the  
5 Prospective Class member's last-known billing address and shall state that:

6 a. The postcard constitutes a final notice of the terms of this Stipulated Final  
7 Judgment and give an email address for a restitution claim form and the Claims Administrator's  
8 website; and

9 b. Failure to complete and submit a restitution claim form within 60 days may  
10 bar the recipient from recovery of restitution under the terms of this Judgment.

11 Claim Forms

12 22. In its notices (both email and postcard), the Claims Administrator shall include an  
13 internet address or link to a website maintained by the Claims Administrator devoted exclusively  
14 to informing consumers about this case, including information about this Judgment and the  
15 underlying action, and a restitution claim form (the "Claim Form") which Prospective Class  
16 members can use to claim restitution. The Claim Form shall be capable of completion and  
17 submission online and also of being downloaded, completed by hand and sent by hard copy to the  
18 Claims Administrator at a designated mailing address. The Claims Administrator shall in its  
19 notices to Prospective Class members indicate that they have 30 days to submit the Claim Form.

20 23. The Claim Form shall require the following from Prospective Class members:

21 a. Name;

22 b. Telephone number;

23 c. Email address;

24 d. Mailing address where restitution check or restitution credit notification  
25 should be sent;

26 e. A declaration under penalty of perjury that the Prospective Class member

27 1) has not already obtained a refund for all money paid for his or her  
28 eHarmony membership, and

1                   2)     either was enrolled in an eHarmony AUTOMATIC RENEWAL or  
2 CONTINUOUS SERVICE plan between March 10, 2012 and December 13, 2016 and (a) was  
3 charged for at least one automatically-renewed cycle without his or her knowledge and consent;  
4 or (b) previously requested cancellation of an AUTOMATIC RENEWAL or CONTINUOUS  
5 SERVICE plan with eHarmony, or a refund under such plan, which request was either denied or  
6 delayed so that at least one additional automatically-renewed charge was made after the request  
7 for cancellation.

8           24.     If the Claims Administrator receives a Claim Form or postcard that is missing  
9 required information or otherwise deemed to be invalid, it shall immediately inform the  
10 Prospective Class member of the error or deficiency. The latter shall have 30 days to correct the  
11 error or deficiency.

12                   Finalizing and Payment of Restitution Claims

13           25.     On or about 90 days following issuance of the initial email notice described above,  
14 plus any additional time reasonably required by the Claims Administrator (not to exceed 30 days),  
15 the Claims Administrator shall prepare a preliminary list of all timely restitution claims that were  
16 properly completed and received (the "Preliminary List of Payees" or "Preliminary List"). The  
17 Claims Administrator shall promptly send a copy of the Preliminary List to both Parties.

18           26.     Defendant may elect to cross-check the Preliminary List against its updated  
19 records to determine if any individuals on the Preliminary List either (1) were not paying  
20 customers during the period in question, or (2) received a full refund from Defendant during the  
21 claim period. Any individual who received a full refund of all membership fees during the claim  
22 period will no longer be considered an Eligible Recipient. If Defendant so elects, within 30 days  
23 of the date it receives the Preliminary List, Defendant shall provide the People with a list of  
24 individuals who it believes received a refund during the claim period, along with written proof  
25 thereof. The People then shall have 30 days to request further information from Defendant and  
26 lodge any objections. If the parties are unable to resolve any such objections, either may apply to  
27 the Court for relief on an ex parte basis, with notice to the other party. In the event the People do  
28 not lodge any objections (or once any objections are resolved), the Claims Administrator will

1 remove all newly disqualified individuals from the Preliminary List, which shall thereafter  
2 become the "Final List of Payees."

3 27. The restitution payments shall be as follows:

4 a. Each Eligible Recipient in the Final List of Payees who is not a current  
5 eHarmony subscriber as of the date of entry of this Judgment shall receive a cash restitution  
6 payment of \$29.95. Each Eligible Recipient in the Final List of Payees who is a current  
7 eHarmony subscriber as of the date of entry of this Judgment shall receive, at eHarmony's  
8 election, either \$29.95 in cash or an account credit from eHarmony of the greater of (1) \$29.95, or  
9 (2) one month's free service at the same plan and service level as the subscriber's existing  
10 service.

11 b. If the amount needed to pay all valid cash claims exceeds the initial deposit  
12 amount into the Restitution Fund, eHarmony shall deliver the additional funds, not to exceed an  
13 additional \$750,000.00 in cash, to the Claims Administrator within five business days of  
14 receiving such notice.

15 c. The total cash and/or credit restitution paid shall not exceed \$1,000,000.00,  
16 less any amount of Claims Administrator's fees in excess of \$75,000.00 credited against the  
17 restitution amount as set forth in paragraph 34, below. If the amount of total valid cash and/or  
18 credit claims by Eligible Recipients exceeds that amount, the per-person amount shall be reduced  
19 pro rata so that the \$1,000,000.00 total of cash and/or credits (less any amount of Claims  
20 Administrator's fees in excess of \$75,000.00 as set forth in paragraph 34, below) is shared  
21 equally by the Final List of Payees. In the event of such pro rata reduction of amounts of cash or  
22 credits to Eligible Recipients, then for the purpose of calculating such pro rata reduction, each  
23 current eHarmony subscriber to whom eHarmony elects to give a credit shall be deemed to  
24 receive a credit worth \$29.95.

25 28. Immediately after the Final List of Payees is prepared, the Claims Administrator  
26 shall calculate the total amount of restitution claimed based on the number of claimants and the  
27 amount of cash or credit due each of them, and shall communicate that information to the parties.

28 29. No later than 30 days thereafter, the Claims Administrator shall begin the process

1 of mailing out restitution checks from the Restitution Fund for cash recipients and notices of  
2 restitution credit for credit recipients. For restitution credits, eHarmony shall apply to the  
3 subscribers' accounts the restitution credits as per the Final List of Payees and shall submit to the  
4 Claims Administrator and the parties a declaration under penalty of perjury attesting to the  
5 application of the credits to subscribers' accounts as per the Final List of Payees.

6 30. The Claims Administrator shall include with each restitution check or restitution  
7 credit notice a letter explaining that the restitution check or restitution credit is in connection with  
8 this Stipulated Final Judgment and advising the recipient that the check or credit will expire  
9 within ninety days of issuance.

10 31. If any restitution checks or restitution credit notices are returned to the Claims  
11 Administrator as undeliverable, the Claims Administrator will within seven days of receipt  
12 conduct address searches using available credit bureau information and thereafter re-send the  
13 restitution checks or restitution credit notices to all Eligible Recipients for whom updated address  
14 information can be found. (Restitution checks or restitution credit notices that are returned with  
15 forwarding address information included shall promptly be delivered to the forwarding address in  
16 question.)

17 32. Within 120 days of the mailing of the last restitution check, the Claims  
18 Administrator shall determine the total amount of all uncashed or returned checks and then issue  
19 one check including that amount, plus any remaining funds in the Restitution Fund, to the  
20 Defendant c/o the DLA Piper LLP (US) Client Trust Account for the benefit of Defendant.

21 Claims Administrator Report

22 33. Within 120 days following the last restitution check or restitution credit notice  
23 being mailed, the Claims Administrator shall deliver to the parties a confidential written report of  
24 the restitution program, including the following:

- 25 a. A list of all Eligible Recipients to whom a notice was sent, including the  
26 type (email or postcard) of notice that was sent;
- 27 b. A list of all Eligible Recipients who timely submitted a valid claim form;
- 28 c. A list of all Eligible Recipients whose claim was rejected for error or

1 deficiency and not thereafter corrected;

2 d. The total amount of cash restitution paid out of the Restitution Fund and  
3 the total amount of restitution paid in the form of eHarmony account credits; and

4 e. The balance (if any) remaining in the Restitution Fund.

5 Claims Administrator Fees

6 34. eHarmony shall pay all fees and costs of the Claims Administrator. Within five  
7 days of Notice of Entry of Judgment, eHarmony shall deposit \$75,000.00 into a trust account  
8 established by the Claims Administrator for the exclusive purpose of paying the Claims  
9 Administrator's fees and costs. If that final amount is less than \$75,000.00, the amount remaining  
10 in the trust account when the restitution process is complete will be returned to Defendant c/o the  
11 DLA Piper LLP (US) Client Trust Account for the benefit of Defendant. If the fees and costs  
12 exceed \$75,000.00, eHarmony shall within five (5) business days of such notice pay the  
13 difference to the Claims Administrator. That additional amount paid shall be credited against  
14 eHarmony's \$1,000,000.00 restitution liability limit and shall reduce the total amount of  
15 restitution cash and/or credits due to Eligible Recipients accordingly.

16 COMPLIANCE

17 35. For the purpose of securing compliance with the terms of this Judgment,  
18 Defendant shall, within 30 days after Notice of Entry of Judgment, provide each of its current  
19 officers, directors, and executive committee members with a copy of this Judgment.

20 36. Defendant shall keep custody of all documentation of its compliance with the  
21 notice requirements of this Judgment for a period of three (3) years following Notice of Entry of  
22 this Judgment. Defendant shall provide such items to the People's counsel upon reasonable  
23 notice.

24 OTHER PROVISIONS

25 37. The Parties waive the right to appeal this Judgment as to form or content.

26 38. The Parties shall bear their own attorneys' fees and costs, except as provided  
27 above.

28 39. If an ambiguity arises regarding any provision of this Judgment that requires

1 interpretation, there is no presumption that documents should be interpreted against any party.  
2 The presumption in Civil Code section 1654 is not applicable. The failure of the People to  
3 enforce any provision of this Judgment shall not be construed to relieve any party of its  
4 obligations required by the Judgment nor be a waiver thereof. Should any portion of this  
5 Judgment be deemed void, the remainder shall remain in full force and effect.

6 40. The Court finds that the injunctive provisions and monetary relief included in this  
7 Judgment are a fair, reasonable, and appropriate final resolution of this matter.

8 41. Notices under this Judgment shall be served as follows:

9 To the People or People's counsel:

10 Douglas B. Allen, Assistant District Attorney  
11 Office of the Santa Cruz County District Attorney  
12 701 Ocean Street, Suite 200  
13 Santa Cruz, California 95060

14 To Defendant or Defendant's counsel:

15 Paul J. Hall, Esq.  
16 DLA Piper LLP  
17 555 Mission Street, Suite 2400  
18 San Francisco, California 94105

19 With a copy to Defendant:

20 eHarmony, Inc.

21 **INSERT NAME AND ADDRESS**

22 42. If any of the laws sought to be enforced by this Judgment are amended, including  
23 but not limited to the Automatic Renewal Law, California Business & Professions Code § 17600  
24 *et seq.*, the Dating Services Contract Act, California Civil Code § 1694 *et seq.*, and the Restore  
25 Online Shoppers Confidence Act, 15 U.S.C. §§ 8401 *et seq.*, then those amended statutes shall  
26 apply.

27 43. Nothing in this Judgment shall be construed as relieving Defendant of its  
28 obligations to comply, or as prohibiting Defendant from complying, with all applicable local,  
state and federal laws, regulations or rules; nor shall any provision of this Judgment be deemed  
permission to engage in any acts or practices prohibited by such laws, regulations or rules.

44. Pursuant to Business and Professions Code section 17203 and the Court's inherent



1 authority, the Court shall retain jurisdiction for the purpose of enforcing this Judgment and  
2 enabling any party to this Judgment to apply to the Court for such further orders and directions as  
3 necessary and appropriate to construe, carry out, enforce, interpret, or modify this Judgment, or to  
4 redress violations of this Judgment.

5 45. This Judgment shall be binding upon its signing by the Court and its filing, and  
6 upon the service by the People of a Notice of Entry of Judgment.

7 46. The Clerk may enter this Judgment immediately.

8  
9 Dated: 1/8/18

 PAUL P. BURDICK  
JUDGE OF THE SUPERIOR COURT

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