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8

STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 LIFELOCK, INC., a Delaware  
13 Corporation, ,

14 Defendant.

NO. 10-2-09666-3 SEA

CONSENT DECREE

15

I. JUDGMENT SUMMARY

- 16 1.1 Judgment Creditor: State of Washington
- 17 1.2 Judgment Debtors: LifeLock, Inc.
- 18 1.3 Principal Consent Decree Amount: See Paragraph 5.27 below
- 19 1.4 Post- Judgment Interest Rate: 12 percent per annum
- 20 1.5 Attorney for  
Judgment Creditor: Paula Selis, Senior Counsel
- 21 1.6 Attorney for Defendant: David M. Paltzik, Shareholder

22 Plaintiff, State of Washington, having commenced this action on March 9, 2010,  
23 pursuant to The Consumer Protection Act, RCW 19.86; and

24 Defendant having been served with copies of the Summons and Complaint herein; and

25 Plaintiff, appearing by and through its attorneys Robert M. McKenna, Attorney

26 General and Paula Selis, Senior Counsel; and

CONSENT DECREE

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COPY

ATTORNEY GENERAL OF WASHINGTON  
Consumer Protection Division  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104-3188  
(206) 464-7745

1 Defendant, appearing by and through its attorney David M. Paltzik; and  
2 Plaintiff and Defendant having agreed on a basis for the settlement of the matters  
3 alleged in the Complaint, and to the entry of this Consent Decree against Defendant without  
4 the need for trial or adjudication of any issue of law or fact, or findings of wrongdoing or  
5 liability of any kind; and

6 Defendant denies having violated the Consumer Protection Act; and

7 Defendant waives any right it may have to appeal from this Consent Decree; and

8 Defendant further agrees that it will not oppose the entry of this Consent Decree on the  
9 grounds the Consent Decree fails to comply with Rule 65(d) of the Rules of Civil Procedure, and  
10 hereby waives any objections based thereon; and

11 The Attorneys General (collectively, the "Attorneys General," and the "AGs") of the  
12 states of Alaska, Arizona, California, Delaware, Florida, Hawaii<sup>1</sup>, Idaho, Illinois, Indiana,  
13 Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, Mississippi, Montana,  
14 Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon,  
15 Pennsylvania, South Carolina, South Dakota, Tennessee<sup>2</sup>, Texas, Vermont, Virginia,  
16 Washington, and West Virginia (collectively, the "Participating States")<sup>3</sup> conducted an  
17 investigation under the State Consumer Protection Laws regarding Defendant's identity theft  
18 protection services; and

19 Defendant is willing to enter into a Final Judgment and Consent Decree (the "Consent  
20 Decree" or "Order") regarding the marketing, advertising, and offering for sale of its identity  
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22 <sup>1</sup> With regard to Hawaii, Hawaii is represented by its Office of Consumer Protection, an agency which is  
23 not part of the state Attorney General's Office, but which is statutorily authorized to represent the State of Hawaii  
in consumer protection actions.

24 <sup>2</sup> With regard to Tennessee, Tennessee is represented by its Office of the Tennessee Attorney General on  
behalf of the Tennessee Division of Consumer Affairs of the Department of Commerce and Insurance.

25 <sup>3</sup> Hereafter, when the entire group is referred to as the "Participating States" or "Attorneys General,"  
26 such designation as it pertains to Hawaii refers to the Executive Director of the State of Hawaii Office of  
Consumer Protection.

1 theft protection services in order to resolve the AGs' investigation under the State Consumer  
2 Protection Laws and arrive at a complete and total settlement and resolution of any  
3 disagreement as to the matters addressed in this Consent Decree and thereby avoid unnecessary  
4 expense, inconvenience, and uncertainty; and

5 The Court finding no just reason for delay;

6 NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED as  
7 follows:

## 8 II. GENERAL

9 2.1 This Court has jurisdiction of the subject matter of this action and of the parties.  
10 Plaintiff's Complaint in this matter states claims upon which relief may be granted under the  
11 provisions of the Consumer Protection Act, Chapter 19.86 RCW.

12 2.2 LifeLock, Inc. (hereinafter "Defendant"), is a corporation formed under the  
13 laws of the State of Delaware, with its principal place of business at 60 E. Rio Salado Parkway,  
14 Suite 400, Tempe, AZ 85281. As used herein, any reference to "LifeLock" or "Defendant"  
15 shall mean LifeLock, Inc., including all of its officers, directors, affiliates, subsidiaries and  
16 divisions, predecessors, successors and assigns doing business in the United States.

## 17 III. DEFINITIONS

18 For purposes of this Consent Decree, the following definitions shall apply:

19 3.1 "State Consumer Protection Laws" shall mean the consumer protection laws<sup>4</sup>  
20 under which the Attorneys General have conducted the investigation.

21  
22 <sup>4</sup> ALASKA – Alaska Unfair Trade Practices and Consumer Protection Act, AS 45.40.471, *et seq.*;  
23 ARIZONA – Arizona Consumer Fraud Act, A.R.S. §44-1521 *et seq.*; CALIFORNIA – Bus. & Prof Code §§  
24 17200 *et seq.* and 17500 *et seq.*; DELAWARE - Delaware Consumer Fraud Act, Del. Code Ann. tit. 6, §§ 2511 to  
25 2527; FLORIDA - Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes,  
26 §501.201 *et seq.*; HAWAII - Hawaii Rev. Stat. §480-2; IDAHO – Consumer Protection Act, Idaho Code §§ 48-  
601 *et seq.*; ILLINOIS - Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2 *et seq.*;  
INDIANA - Deceptive Consumer Sales Act, Ind. Code Ann. §§ 24-5-0.5-1 to 24-5-0.5-12; IOWA - Consumer  
Fraud Act, Iowa Code § 714.16; KENTUCKY - Consumer Protection Act, KRS 367.110 *et seq.*; MAINE - Maine  
Unfair Trade Practices Act, 5 M.R.S. §§ 205-A *et seq.*; MARYLAND - Maryland Consumer Protection Act, Md.  
Code Ann., Com. Law §13-101, *et seq.*; MASSACHUSETTS - Mass. Gen. Laws c. 93A, §§ 2 and 4; MICHIGAN  
- Michigan Consumer Protection Act, MCL §445.901 *et seq.*; MISSISSIPPI – Miss. Code Ann. §75-24-1 *et seq.*;

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#### IV. INJUNCTIVE PROVISIONS

Representations Concerning the Defendant's Service

4.1 Defendant, directly or through any corporation, partnership, subsidiary, division, trade name, device, affiliate, or other entity, and their officers, agents, servants, employees, and all persons and entities in active concert or participation with them who receive actual notice of this Consent Decree, by personal service or otherwise, is hereby permanently restrained and enjoined from:

a. In connection with the advertising, distribution, promoting, offering for sale, or sale of any product, service, or program intended for the purpose of preventing, mitigating, or recovering from any form of identity theft as defined in RCW 9.35.020 or 18 U.S.C. § 1028, misrepresenting in any manner, expressly or by implication:

1. that such product, service, or program provides complete protection against all forms of identity theft by making customers' personal information useless to identity thieves;
2. that such product, service, or program prevents unauthorized changes to customers' address information;
3. that such product, service, or program constantly monitors activity on each of its customers' consumer reports;

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MISSOURI - MO ST §407.010 to 407.145; MONTANA – Mont. Code Ann. § 30-14-101 *et seq.*; NEBRASKA - Nebraska Consumer Protection Act, Neb. Rev. Stat. §§ 59-1601 *et seq.*, Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. §§ 87-301; NEVADA – Nevada Deceptive Trade Practices Act, Nevada Revised Statutes 598.0903 *et seq.*; NEW MEXICO - New Mexico Unfair Practices Act, NMSA 57-12-1 *et seq.*; NEW YORK - N.Y. Gen. Bus. Law §§ 349 & 350 and Executive Law § 63(12); NORTH CAROLINA – North Carolina Unfair and Deceptive Trade Practices Act, N.C.G.S. 75-1,1, *et seq.*; NORTH DAKOTA - N.D.C.C. §§ 51-15-01 *et seq.*; OHIO - Ohio Consumer Sales Practices Act, R.C. 1345.01, *et seq.*; OREGON - Oregon Unlawful Trade Practices Act, ORS 646.605 *et seq.*; PENNSYLVANIA - Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. 201-1 *et seq.*; SOUTH CAROLINA – South Carolina Unfair Trade Practices Act, S C Code Ann. Sections 39-5-10, *et seq.*; SOUTH DAKOTA – South Dakota Deceptive Trade Practices and Consumer Protection, SD ST 37-24-1, 37-24-6, 37-24-23, 37-24-31, 22-41-10; TENNESSEE – Tennessee Consumer Protection Act, Tenn. Code Ann. Section 47-18-101 *et seq.*; TEXAS – Texas Deceptive Trade Practices and Consumer Protection Act, Tex. Bus. And Com. Code 17.41, *et seq.*; VERMONT – Consumer Fraud Act, 9 V.S.A. §§ 2451 *et seq.*; VIRGINIA - Virginia Consumer Protection Act, Section 59.1-196 *et seq.*; WASHINGTON – Washington Consumer Protection Act, RCW §§ 19.86 *et seq.*; WEST VIRGINIA – W. Va. Code § 46A-1-101 *et seq.*



1 be taken as or construed to be an admission or concession of any violation of law or regulation,  
2 or of any other matter of fact or law, or of any liability or wrongdoing, all of which Defendant  
3 expressly denies. Defendant does not admit any violation of the State Consumer Protection  
4 Laws, and does not admit any wrongdoing that was or could have been alleged by any  
5 Attorney General before the date of the Consent Decree under those laws.

6         5.2 This Consent Decree is made without trial or adjudication of any issue of fact or  
7 law or finding of wrongdoing or liability of any kind. Except to the extent required by law, it  
8 is the intent of the Parties that this Consent Decree shall not be admissible in any other matter,  
9 including, but not limited to, any investigation or litigation, or bind Defendant in any respect  
10 other than in connection with the enforcement of this Consent Decree.

11         5.3 This Consent Decree constitutes a complete settlement and release by the  
12 Participating States of all civil claims against Defendant, and its successors, employees,  
13 officers, directors and assigns, with respect to the marketing, advertising, and offering for sale  
14 its identity theft protection services, which were or could have been asserted prior to the date  
15 this judgment is entered by the Participating States under the State Consumer Protection Laws  
16 cited in footnote 4 of this Consent Decree.

17         5.4 This Consent Decree shall be governed by the laws of the Participating States  
18 and is subject to court approval in those Participating States whose procedures require court  
19 approval. By entering into this Consent Decree, Defendant and the Attorneys General agree to  
20 all such court approvals, provided that there are no modifications to the terms of this Consent  
21 Decree without the express written consent of Defendant and the Attorneys General. This  
22 Consent Decree does not constitute an admission by Defendant of any Participating State's  
23 jurisdiction over it other than with respect to this Consent Decree, and does not alter any  
24 Participating State's jurisdiction over it.  
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1           5.5     Defendant represents that it has fully read and understood this Consent Decree,  
2 it understands the legal consequences involved in signing this Consent Decree, and there are no  
3 other representations or agreements between Defendant and the Attorneys General not stated in  
4 writing herein.

5           5.6     Defendant represents and warrants that it is represented by legal counsel, that it  
6 is fully advised of its legal rights in this matter and that the person signing below is fully  
7 authorized to act on its behalf.

8           5.7     This Consent Decree shall bind Defendant and shall be binding on any and all  
9 of its affiliates, successors, employees, shareholders, officers, directors, and assigns.

10          5.8     Defendant shall provide a copy of this Consent Decree and an accurate  
11 summary of the material terms of this Consent Decree to its senior executive officers who have  
12 managerial responsibility for the matters subject to this Consent Decree. Upon written request,  
13 Defendant will provide the Attorney General with proof it has completed this process within  
14 thirty (30) days of the request.

15          5.9     This Consent Decree contains the entire agreement between Defendant and the  
16 Attorneys General. Except as otherwise provided herein, this Consent Decree shall be  
17 modified as to any Participating State and/or Defendant only by a written instrument signed by  
18 or on behalf of the Attorney General of that Participating State and signed by or on behalf of  
19 Defendant. Defendant understands that in some Participating States court approval of any  
20 modification will be necessary. Defendant and the Attorneys General for such Participating  
21 States agree to use their best efforts to obtain such court approval.

22          5.10    Neither Defendant nor anyone acting on its behalf shall state or imply or cause  
23 to be stated or implied that a Participating State, an Attorney General, or any governmental  
24 unit of a Participating State has approved, sanctioned, or authorized any practice, act,  
25 advertising material, or conduct of Defendant.  
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1           5.11 Nothing in this Consent Decree shall be construed as a waiver of or limitation  
2 on Defendant's right to defend itself from or to make agreements in any private individual or  
3 class action, state, or federal claim, suit or proceeding relating to the existence, subject matter  
4 or terms of this Consent Decree.

5           5.12 Nothing in this Consent Decree shall be construed to affect or deprive any  
6 private right of action that any consumer, person, entity, or by any local, state, federal or other  
7 governmental entity, may hold against Defendant.

8           5.13 The titles and headers to each section of this Consent Decree are for  
9 convenience purposes only and are not intended by Defendant or the Attorneys General to lend  
10 meaning to the actual terms of this Consent Decree.

11           5.14 Nothing in this Consent Decree shall limit an Attorney General's right to obtain  
12 information, documents, or testimony from Defendant pursuant to any state or federal law or  
13 regulation.

14           5.15 If any clause, provision or section of this Consent Decree shall, for any reason,  
15 be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not  
16 affect any other clause, provision or section of this Consent Decree, and this Consent Decree  
17 shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or  
18 provision had not been contained herein.

19           5.16 Nothing in this Consent Decree shall be construed as relieving Defendant of its  
20 obligation to comply with all state and federal laws and regulations, nor shall any of the terms  
21 of this Consent Decree be deemed to grant Defendant permission to engage in any acts or  
22 practices prohibited by such laws and regulations.

23           5.17 Any failure by any party to this Consent Decree to insist upon the strict  
24 performance by any other party of any of the provisions of this Consent Decree shall not be  
25 deemed a waiver of any of the provisions of this Consent Decree, and such party,  
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1 notwithstanding such failure, shall have the right thereafter to insist upon the specific  
2 performance of any and all of the provisions of this Consent Decree and the imposition of any  
3 applicable penalties, including but not limited to contempt, civil penalties and/or the payment  
4 of attorneys fees to the State.

5 5.18 Time shall be of the essence with respect to each provision of this Consent  
6 Decree that requires action to be taken by Defendant within a stated time period or upon a  
7 specified date.

8 5.19 This Consent Decree sets forth the entire agreement between the parties, and  
9 there are no representations, agreements, arrangements, or understandings, oral or written,  
10 between the parties relating to the subject matter of this Consent Decree which are not fully  
11 expressed herein or attached hereto.

12 5.20 Defendant has provided the Attorneys General with certain documents,  
13 advertisements, and contracts. Defendant acknowledge and agree that providing these  
14 documents to the Attorneys General in no way constitutes the Attorneys General pre-approval,  
15 review for compliance with state or federal law, or with this Consent Decree, or a release of  
16 any issues relating to such documents.

17 5.21 Defendant agrees that this Consent Decree does not entitle Defendant to seek or  
18 to obtain attorneys' fees as a prevailing party under any statute, regulation or rule, and  
19 Defendant further waives any rights to attorneys' fees that may arise under such statute,  
20 regulation or rule.

21 5.22 Defendant further agrees to execute and deliver all authorizations, documents  
22 and instruments which are necessary to carry out the terms and conditions of this Consent  
23 Decree.

24 5.23 This document may be executed in any number of counterparts and by different  
25 signatories on separate counterparts, each of which shall constitute an original counterpart  
26

1 hereof and all of which together shall constitute one and the same document. One or more  
2 counterparts of this Consent Decree may be delivered by facsimile or electronic transmission  
3 with the intent that it or they shall constitute an original counterpart thereof.

4 5.24 This Judgment is conditioned upon the prior approval of the Federal Trade  
5 Commission of the FTC's *Stipulated Final Judgment and Order for Permanent Injunction and*  
6 *Other Equitable Relief.*

7 Jurisdiction

8 5.25 Jurisdiction of this Court over the subject matter and over the Defendant for the  
9 purpose of entering into and enforcing this Consent Decree is admitted. Jurisdiction is retained  
10 by this Court for the purpose of enabling the State to apply to this Court for such further orders  
11 and directions as may be necessary or appropriate for the construction, modification or  
12 execution of this Consent Decree, including the enforcement of compliance therewith and  
13 penalties for violation thereof. Defendant agrees to pay all court costs and attorneys' fees  
14 associated with any successful petitions to enforce any provision of this Consent Decree  
15 against Defendant.

16 Venue

17 5.26 Venue as to all matters between the parties relating hereto or arising out of this  
18 Consent Decree is solely in the King County Superior Court of the state of Washington.

19 Compliance

20 5.27 Defendant shall develop and implement compliance procedures reasonably  
21 designed to ensure compliance by Defendant with the obligations contained in this Consent  
22 Decree. With respect to its agents, Defendant shall (a) notify its agents of the relevant  
23 provisions of this Consent Decree; (b) ensure that all advertisements provided by Defendant to  
24 its agents for their use in the marketing and sale of Defendant's identity theft protection  
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1 services are in conformity with the terms of this Consent Decree; and (c) not direct its agents to  
2 take any action or implement any practice that is in contravention of this Consent Decree.

3 Payment to the States

4 5.28 Defendant shall pay one million dollars (\$1,000,000.00) to the Participating  
5 States. Defendant represents that their undersigned counsel holds these funds in escrow for no  
6 purpose other than payment to the states. Such individual payment shall be made to each  
7 Participating State (in a specified amount and based on a payment allocation provided to  
8 Defendant by Participating States) within 21 days from the date that state enters its Consent  
9 Decree in court. These funds shall be paid to each Participating State by electronic fund  
10 transfer in accordance with instructions previously provided to Defendant by Participating  
11 States.

12 5.29 Pursuant to RCW 19.86.080, the amount payable to the State of Washington  
13 shall be used to pay the costs and reasonable attorneys' fees incurred by Plaintiff State of  
14 Washington in pursuing the investigation and litigation of this matter.

15 Restitution

16 5.30 The States will be participating in the joint FTC and Participating States' Eleven  
17 Million Dollar (\$11,000,000) consumer redress program outlined in the FTC's *Stipulated Final*  
18 *Consent Decree and Order for Permanent Injunction and Other Equitable Relief*.

19 Modification of Certain Operational Provisions

20 5.31 Prior to filing a motion with the court seeking a modification of this Consent  
21 Decree, Defendant shall send a written request for modification to the Attorney General of  
22 Illinois on behalf of the Participating States along with a detailed explanation of the reason and  
23 need for any requested modification. The Participating States shall give such petition  
24 reasonable consideration and shall respond to Defendant within ninety (90) days of receiving  
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1 such request. At the conclusion of this ninety (90) day period, Defendant reserves all rights to  
2 pursue any legal or equitable remedies that may be available to it.

3 Notification to State

4 5.32 For five (5) years following execution of this Consent Decree, Defendant shall  
5 notify the Attorney General, c/o Paula Selis, Senior Counsel, Washington State Attorney  
6 General's Office, 800 Fifth Avenue, Suite 2000, Seattle Washington 98104-3188, in writing at  
7 least thirty (30) days prior to the effective date of any proposed changes in its corporate  
8 structure, such as dissolution, assignment, or sale resulting in the emergence of a successor  
9 corporation or firm, the creation or dissolution or subsidiaries, or any other changes in  
10 Defendant's status that may impact in any way compliance with obligations arising out of this  
11 Consent Decree.

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1 5.33 Any notices required to be sent to the State or the Defendant by this Consent  
2 Decree shall be sent by United States mail, certified mail return receipt requested or other  
3 nationally recognized courier service that provides for tracking services and identification of  
4 the person signing for the document. The documents shall be sent to the following addresses:

5 For the State Attorney General:

6 Paula Selis  
7 Senior Counsel  
8 Washington State Attorney General's Office  
9 800 Fifth Avenue, Suite 2000  
10 Seattle Washington 98104-3188

11 For the Defendant:

12 Clarissa Cerda, General Counsel  
13 LifeLock  
14 60 East Rio Salado Pkwy  
15 Tempe, AZ 85281

16 With an additional Copy to:

17 Robert Sherman  
18 Greenberg Traurig  
19 One International Place  
20 Boston, MA 02110

21 SO ORDERED this \_\_\_\_\_ day of MAR - 9 2010, 2010.

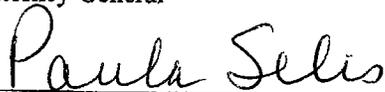
22 **CARLOS VELATEGUI**

23 JUDGE/COURT COMMISSIONER

24 Presented by:

25 ROBERT M. MCKENNA  
26 Attorney General

Agreed to, Approved for Entry, and Notice  
of Presentation Waived:

27 

28 PAULA SELIS, WSBA #12823  
29 Senior Counsel  
30 Attorneys for Plaintiff

31 

32 David M. Paltzik, WSBA #25468  
33 Attorney for Defendant, LifeLock, Inc.