

In the matter of:
Zappos.com, Inc.

JAN 07 2015

ASSURANCE OF VOLUNTARY COMPLIANCE **CONSUMER PROTECTION SECTION**
PUBLIC INSPECTION FILE

This Assurance of Voluntary Compliance¹ is entered into by the Attorneys General described in Section I(2) below, including the Ohio Attorney General, and Zappos.com, Inc., to resolve the Attorneys General's investigation of the unauthorized access of a Zappos server beginning on or about January 9, 2012. In consideration of their mutual agreements to the terms of this Assurance, and such other consideration as described herein, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

I. DEFINITIONS

1. "Assurance" shall mean this Assurance of Voluntary Compliance.
2. "Attorneys General" shall mean the Connecticut Commissioner of Consumer Protection and the Attorneys General of the States of Arizona, Florida, Kentucky, Maryland, Massachusetts, North Carolina, Ohio and Pennsylvania. For purposes of this Assurance, each of the previously-described officials shall be described in the singular as an "Attorney General."
3. "Effective Date" shall mean the date on which Zappos has delivered its signature page of this Assurance to the Attorneys General and the Attorneys General have delivered a counterpart signature page of this Assurance to Zappos.
4. "Exfiltration Incident" shall mean the unauthorized access to and possible exfiltration of certain customer information (which Zappos represents did not include full credit card or other Personal Information as defined below) from Zappos' network and systems that occurred on or about January 9, 2012.

¹ This Assurance of Voluntary Compliance shall, for all necessary purposes, also be considered an Assurance of Discontinuance.

5. “Released Claims” shall mean all civil claims, causes of action, damages, restitution, fines, costs, and penalties that an Attorney General could have asserted against any of the Released Parties under the relevant consumer protection statute² arising out of or relating to the Exfiltration Incident. Notwithstanding the foregoing, Released Claims do not include claims for violation of this Assurance or claims pursuant to any other statute or regulation (including, without limitation, antitrust laws, environmental laws, tax laws, credit repair/service organization laws, buying club laws, and criminal statutes and codes), nor do they include actions or proceedings brought pursuant to State consumer protection laws or statutes alleging violations that are not related to the Exfiltration Incident.

6. “Released Parties” shall mean Zappos and its respective directors, officers, employees, agents, successors, and assigns.

7. “Personal Information” shall have the same definition as set forth in the applicable statute of the respective states of the Attorneys General.³ In the absence of an applicable statutory definition, “Personal Information” shall mean an individual’s first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such individual: (a) Social Security number; (b) driver’s license number; (c) state-issued identification card number; or (d) financial account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account.

² Arizona Consumer Fraud Act, Ariz. Rev. Stat. Ann. §§ 44-1521, *et seq.*; Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110a, *et seq.*; Florida Deceptive and Unfair Trade Practices Act, Part II, Chapter 501, Fla. Stat. Ann §§ 501.201 *et seq.*; Kentucky Consumer Protection Act, Ken. Rev. Stat. Ann § 367.170; Maryland Consumer Protection Act, Md. Code Ann., Com. Law §§ 13-101 through 13-501 (2013 Repl. Vol.); Mass. Gen. Law ch. 93A; North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.*; Ohio Consumer Sales Practices Act, R.C. 1345.01, *et seq.*; and Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1, *et seq.*

³ See generally Connecticut- Conn. Gen. Stat. § 42-471; Kentucky- KRS 365.732; Massachusetts- M.G.L. c. 93H, § 1; Ohio- R.C. 1349.19(A)(7); and Pennsylvania- 73 P.S. § 2302.

8. "States" shall mean the states identified in Section I(2) above.

9. "Zappos" shall mean Zappos.com, Inc. and its subsidiaries.

II. APPLICATION

The provisions of this Assurance shall apply to Zappos and its successors, merged or acquired entities, subsidiaries in which Zappos has a majority ownership interest, and assigns (including without limitation purchasers of substantially all of Zappos' assets), in connection with offering and/or providing any products and/or services to consumers, including but not limited to, the collection, retention, and/or storage of Personal Information.

III. REQUIREMENTS

Zappos shall, to the extent not already completed and/or performed:

1. Maintain and comply with its information security policies and procedures regarding the installation and use of servers (including associated software and processes), whether owned and/or operated by Zappos, or owned and/or operated by third parties and used by Zappos, that store and/or process Personal Information or that are connected to the network where Personal Information is stored and/or processed.

2. Provide the Attorneys General with its current security policy regarding information received by Zappos from consumers and any material updates to such policy for the next two years.

3. Provide the Attorneys General copies of reports showing its current compliance with the Payment Card Industry Data Security Standard for the next two years.

4. Within 180 days of the Effective Date, obtain an information security audit of its security regarding Personal Information. Such audit shall be conducted by an independent third party selected by Zappos. Zappos shall inform the Attorneys General who it has selected for the information security audit, prior to commencement of the audit. Zappos shall provide the

Attorneys General with a copy of such audit no later than thirty (30) days after receipt of such audit from the independent third party. If that audit identifies any deficiencies or recommendations for correction, Zappos shall include with the copy of the audit a plan and timetable for corrective action. The identification of any deficiencies or recommendations for correction in the audit shall not constitute a violation of this Assurance unless Zappos fails to take corrective action within the timetable. The information security audit, any plan and timetable for corrective action, and any other documents provided to the Attorneys General in relation to the information security audit shall be treated as exempt from public disclosure to the extent legally permitted in accordance with each State's public information and/or disclosure laws. The Attorneys General shall promptly notify Zappos of any discovery request or any request under a State's public information and/or disclosure laws, seeking material related to the information security audit.

5. Maintain and comply with its policies and procedures relating to information security, including without limitation policies and procedures relating to vulnerability assessments and patch management, and regularly assess and update such policies and procedures regarding the security of servers that contain or maintain Personal Information.

6. Within 30 days of the Effective Date, and for a period of two (2) years from the Effective Date of this Assurance, provide a copy of the Assurance to the categories and/or titles of Zappos personnel described on Exhibit A hereto.

7. Regularly and at least annually train relevant employees regarding its security policies, including the requirement that servers are reviewed and approved by Zappos' information security management prior to installation and utilization. Said training and any

policies or materials relevant thereto shall be regularly reviewed and updated in combination with the requirements of Paragraph 5 of this Section III.

IV. PAYMENT TO THE STATES

Zappos shall pay a total of \$106,000 (ONE HUNDRED SIX THOUSAND DOLLARS), to be divided and paid by Zappos directly to each of the Attorneys General in an amount to be designated by and in the sole discretion of the Attorneys General collectively. The Attorneys General shall provide Zappos with instructions for the payments to be distributed under this paragraph. Payment shall be made no later than thirty (30) days after the Effective Date and receipt of payment instructions by Zappos from the Attorneys General. Said payment shall be used by the Attorneys General for such purposes that may include, but are not limited to attorneys' fees and other costs of investigation and litigation, or to be placed in, or applied to, the consumer protection law enforcement fund, including future consumer protection or privacy enforcement, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for any other uses permitted by state law, at the sole discretion of each Attorney General.⁴

V. RELEASE

By execution of this Assurance, and following a full and complete payment to an Attorney General, that Attorney General releases and forever discharges the Released Parties from all Released Claims.

VI. NO ADMISSIONS

This Assurance is for settlement purposes only, and neither the fact of, nor any provision contained in, this Assurance nor any action taken hereunder, shall constitute, be construed as, or

⁴ In the case of Arizona, its share of said payment shall be deposited into the Consumer Fraud Revolving Fund and used by the Arizona Attorney General for any and all such purposes allowed by and pursuant to A.R.S. § 44-1531.01, at the sole discretion of the Arizona Attorney General.

be admissible in evidence as any admission or finding of wrongdoing by Zappos or any admission of the validity of any claim or any fact alleged in any other pending or subsequently filed action or of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Released Parties or admission by any Released Parties of the validity or lack thereof of any claim, allegation, or defense asserted in any other action. Zappos believes that its conduct has been lawful and has not violated any consumer protection statutes or other laws of the States, and Zappos enters into this Assurance for settlement purposes only.

VII. POTENTIAL CONSEQUENCES OF NONCOMPLIANCE

Zappos represents that it has fully read and understood this Assurance and understands the legal consequences involved in signing this Assurance. Zappos expressly understands that any violation of this Assurance may result in any signatory Attorney General seeking all available relief to enforce this Assurance, including an injunction, civil penalties, court and investigative costs, attorneys' fees, restitution, and any other mechanism provided by the laws of the state or authorized by a court.

VIII. GENERAL PROVISIONS

1. Any failure of any Attorney General to exercise any right under this Assurance shall not constitute a waiver of any rights hereunder by such Attorney General or any other Attorney General.

2. Counsel for Zappos, by and on behalf of Zappos, and the undersigned representatives of each of the Attorneys General, by and on behalf of each Attorney General, hereby represent that each is authorized to enter into and execute this Assurance.

3. Zappos is and has been represented by legal counsel and has been advised by its legal counsel of the meaning and effect of this Assurance.

4. Nothing in this Assurance shall be construed as relieving Zappos of its obligations to comply with all applicable state and federal laws, regulations, and rules, or as granting permission to engage in any acts or practices prohibited by such law, regulation, or rule.

5. The Attorneys General have not approved any of Zappos' business practices, past, current or future, and nothing contained herein shall be interpreted to mean otherwise.

6. This Assurance may be enforced only by the parties hereto. Nothing in this Assurance shall provide any rights or permit any person or entity not a party hereto (including without limitation any state, attorney general or other public official not a party hereto) to enforce any provision of this Assurance. No person, entity or official not a signatory hereto is a third-party beneficiary of this Assurance. Nothing in this Assurance shall be construed to affect, limit, alter or assist any private right of action that a consumer may hold against Zappos, nor shall anything in this Assurance confer upon any consumer standing to pursue any private right of action against Zappos.

7. For any dispute between an Attorney General and Zappos arising under or relating to this Assurance, including a purported conflict with other law or proposed modification, the party raising the dispute shall give particularized written notice to the other party of the issue(s) in dispute prior to initiating any court proceeding relating to the dispute.

8. This Assurance shall not be construed or used as a waiver or any limitation of any defense otherwise available to Zappos in any pending or future legal or administrative action or proceeding relating to Zappos' conduct prior to the Effective Date of this Assurance or of Zappos' right to defend itself from, or make any arguments in, any individual or class suits or claims relating to the Exfiltration Incident or to the existence, subject matter, or terms of this Assurance.

9. The obligations and provisions of this Assurance set forth in paragraphs 2, 3, 4, 6 and 7 of section III ("Requirements") and IV ("Payment") shall expire at the conclusion of the two (2) year period after the Effective Date of this Assurance, unless they have expired at an earlier date pursuant to their specific terms. Provided, however, that nothing in this paragraph should be construed or applied to excuse Zappos from its obligation to comply with all applicable state and federal laws, regulations, and rules.

10. All notices required or allowed under this Assurance shall be provided as follows.

If to the Attorneys General:

By electronic mail and U.S. Mail to:

See Appendix A

If to Zappos:

By electronic mail to:

dherzing@zappos.com;
snewman@stroock.com;
legal@zappos.com; and
lacalendar@stroock.com

With a copy by U.S. Mail to:

Donna Herzing
General Counsel
Zappos.com, Inc.
400 E. Stewart Avenue
Las Vegas, Nevada 89101

and

Stephen J. Newman
Stroock & Stroock & Lavan LLP
2029 Century Park East, Suite 1600
Los Angeles, CA 90067-3086

11. This Assurance may be executed in counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of

which together shall constitute one and the same document. One or more counterparts may be delivered by facsimile or electronic transmission or a copy thereof with the intent that it or they shall constitute an original counterpart hereof.

WHEREFORE, the following signatures are affixed hereto:

In the Matter of:
Zappos.com, Inc.

Dated: December 31, 2014

MIKE DeWINE
Attorney General



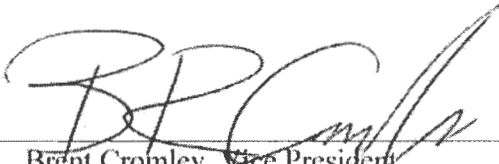
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(614) 466-1305



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Consumer Protection Section
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Columbus, Ohio 43215
(614) 466-1305

In the matter of:
Zappos.com, Inc.

ZAPPOS.COM, INC.

By: 
Brent Cromley, Vice President

Date: 12/30/2014

APPENDIX A

<u>State</u>	<u>Attorney General Contact</u>
Arizona	Taren Ellis Langford Unit Chief Counsel Consumer Litigation Unit Office of the Arizona Attorney General 400 W. Congress, Suite S315 Tucson, AZ 85701 Taren.Langford@azag.gov
Connecticut	Matthew F. Fitzsimmons Chair, Privacy Task Force Assistant Attorney General Office of the Attorney General 110 Sherman Street Hartford, Connecticut 06105 matthew.fitzsimmons@ct.gov
Florida	Patrice Malloy Sr. Assistant Attorney General Office of the Attorney General 110 Southeast 6 th Street Ft. Lauderdale, Florida 33301 patrice.malloy@myfloridalegal.com
Kentucky	Kevin R. Winstead Assistant Attorney General Kentucky Attorney General's Office of Consumer Protection 1024 Capital Center Drive, Suite 200 Frankfort, KY 40601 kevin.winstead@ky.gov
Maryland	Elizabeth Stern Assistant Attorney General Office of the Maryland Attorney General 200 St. Paul Place Baltimore, Maryland 21202 estern@oag.state.md.us

Massachusetts	<p>Sara Cable Assistant Attorney General Consumer Protection Division Office of the Attorney General Commonwealth of Massachusetts 1 Ashburton Place Boston, MA 02108 sara.cable@state.ma.us</p>
North Carolina	<p>Kim D'Arruda Special Deputy Attorney General North Carolina Department of Justice 9001 Mail Service Center Raleigh, NC 27699-9001 kdarruda@ncdoj.gov</p>
Ohio	<p>By email:</p> <p>michael.ziegler@ohioattorneygeneral.gov melissa.sozda@ohioattorneygeneral.gov</p> <p>By U.S. Mail:</p> <p>Attn: Section Chief Consumer Protection Section Ohio Attorney General 30 East Broad Street, 14th Floor Columbus, Ohio 43215</p>
Pennsylvania	<p>Nicole R. Beck Deputy Attorney General Pennsylvania Office of Attorney General Bureau of Consumer Protection 15th Floor, Strawberry Square Harrisburg, PA 17120 nbeck@attorneygeneral.gov</p>

Exhibit A

1. All employees of the Zappos Information Security department, and any other department with responsibilities relating to information security.
2. All employees at the level of Vice President and above

APPENDIX A

<u>State</u>	<u>Attorney General Contact</u>
Arizona	Taren Ellis Langford Unit Chief Counsel Consumer Litigation Unit Office of the Arizona Attorney General 400 W. Congress, Suite S315 Tucson, AZ 85701 Taren.Langford@azag.gov
Connecticut	Matthew F. Fitzsimmons Chair, Privacy Task Force Assistant Attorney General Office of the Attorney General 110 Sherman Street Hartford, Connecticut 06105 matthew.fitzsimmons@ct.gov
Florida	Patrice Malloy Sr. Assistant Attorney General Office of the Attorney General 110 Southeast 6 th Street Ft. Lauderdale, Florida 33301 patrice.malloy@myfloridalegal.com
Kentucky	Kevin R. Winstead Assistant Attorney General Kentucky Attorney General's Office of Consumer Protection 1024 Capital Center Drive, Suite 200 Frankfort, KY 40601 kevin.winstead@ky.gov
Maryland	Elizabeth Stern Assistant Attorney General Office of the Maryland Attorney General 200 St. Paul Place Baltimore, Maryland 21202 estern@oag.state.md.us
Massachusetts	Sara Cable Assistant Attorney General Consumer Protection Division Office of the Attorney General Commonwealth of Massachusetts 1 Ashburton Place Boston, MA 02108 sara.cable@state.ma.us

North Carolina	<p>Kim D'Arruda Special Deputy Attorney General North Carolina Department of Justice 9001 Mail Service Center Raleigh, NC 27699-9001 kdarruda@ncdoj.gov</p>
Ohio	<p>Michael S. Ziegler Assistant Attorney General Consumer Protection Section Ohio Attorney General 30 East Broad Street, 14th Floor Columbus, Ohio 43215 michael.ziegler@ohioattorneygeneral.gov</p>
Pennsylvania	<p>Nicole R. Beck Deputy Attorney General Pennsylvania Office of Attorney General Bureau of Consumer Protection 15th Floor, Strawberry Square Harrisburg, PA 17120 nbeck@attorneygeneral.gov</p>