

MEMO# 10981

May 13, 1999

FTC SETTLES ENFORCEMENT ACTION AGAINST MUTUAL FUND SPONSOR

1 In the Matter of Liberty Financial Companies, Inc. (File No. 982 3522) (May 6, 1999). 2 The notice must include a description of the types of information being collected, how the information is used or disclosed, and how a parent may obtain, upon request, the personal information collected from his or her child. Parents must also be given the opportunity at any time to refuse to permit the further use, maintenance, or future online collection of personal information from that child. [10981] May 13, 1999 TO: COMPLIANCE ADVISORY COMMITTEE No. 17-99 ELECTRONIC COMMERCE ADVISORY COMMITTEE No. 7-99 SEC RULES COMMITTEE No. 38-99 RE: FTC SETTLES ENFORCEMENT ACTION AGAINST MUTUAL FUND SPONSOR _____ On

May 6, 1999, the Federal Trade Commission announced a settlement with a mutual fund sponsor relating to its operation of a website directed to children and teens that focuses on issues relating to money and investing.¹ The FTC alleged that the site falsely represented that personal information collected from children through a survey on the site would be maintained anonymously, and that the site made other false statements with respect to an e-mail newsletter and a prize contest. According to the FTC complaint, the survey collected personal identifying information, including name, age, and gender, and asked participants to provide an e-mail and street address in order to receive an e-mail newsletter and for identification purposes if they won a quarterly drawing for prizes. The FTC complaint expressly states that the mutual fund sponsor never sold, rented, or otherwise marketed the information to any third party. Nevertheless, the FTC alleged that the sponsor maintained a database that made it possible to identify individuals with their responses to the survey, making the representation that it maintained the information in an anonymous manner false or misleading. According to the FTC, this constituted unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act. The parties have entered into a settlement agreement. This agreement does not constitute an admission that the law has been violated as alleged in the FTC complaint, or that the facts as alleged in the complaint, other than the jurisdictional facts, are true. Among other things, the agreement requires the sponsor to provide clear and prominent notice with respect to its practices regarding its collection and use of personal information,² and maintain a procedure to obtain verifiable parental consent for the collection, use or disclosure of information from children under the age of 13. The sponsor also agreed to delete all personal information collected from children prior to the date of service of the FTC order and to maintain certain records for five years and make them available to the FTC. The sponsor has stated publicly that the site was for purely educationally purposes and at no time was the privacy of any visitor to the site compromised. The sponsor further stated that the concerns identified by the FTC related to the collection of personal identifying information, offering a newsletter and the awarding of

prizes have been addressed. Copies of the complaint, consent agreement and FTC analysis can be found on the FTC web site at www.ftc.gov. Robert C. Grohowski Assistant Counsel

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