IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

RUBY HESTER and STEWART MURIE, individually and on behalf of all others similarly situated, Plaintiff, v. PLUS COMMUNICATIONS INC. D/B/A CHARISMA MEDIA, Defendant.	Case No. 1:21-cv-671 **CLASS ACTION COMPLAINT** **JURY TRIAL DEMANDED**

Plaintiff Ruby Hester and Stewart Murie ("Plaintiffs"), individually and on behalf of themselves and all others similarly situated, by and through their attorneys, makes the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to allegations specifically pertaining to themselves and their counsel, which are based on personal knowledge.

INTRODUCTION

1. Defendant Plus Communications Inc. d/b/a Charisma Media ("Charisma") rented, exchanged, and/or otherwise disclosed detailed information about Plaintiffs' *Charisma* magazine subscriptions to data aggregators, data appenders, data cooperatives, and list brokers, among others, which in turn disclosed their information to aggressive advertisers, political organizations, and non-profit

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companies. As a result, Plaintiffs have received a barrage of unwanted junk mail. By renting, exchanging, and/or otherwise disclosing Plaintiffs' Private Reading Information (defined below) during the relevant pre-July 30, 2016 time period[1], Charisma violated Michigan's Preservation of Personal Privacy Act, H.B. 5331, 84th Leg. Reg. Sess., P.A. No. 378, §§ 1-4 (Mich. 1988), *id.* § 5, added by H.B. 4694, 85th Leg. Reg. Sess., P.A. No. 206, § 1 (Mich. 1989) (the "PPPA").[2]

2. Documented evidence confirms these facts. For example, a list broker, NextMark, Inc. ("NextMark"), offers to provide renters access to the mailing list titled "Charisma Media Masterfile Mailing List", which contains the Private Reading Information of 786,552 of Charisma's active U.S. subscribers at a base price of "$100.00/M [per thousand]," (i.e., 10 cents apiece), as shown in the screenshot below:

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[1] The statutory period for this action is six years. *See* M.C.L. § 600.5813.

[2] In May 2016, the Michigan legislature amended the PPPA. *See* S.B. 490, 98th Leg., Reg. Sess., P.A. No. 92 (Mich. 2016) (codified at M.C.L. § 445.1711, *et seq*.). The May 2016 amendment to the PPPA, which became effective on July 31, 2016, does not apply retroactively to claims that accrued prior to its July 31, 2016 effective date. *See Boelter v. Hearst Commc'ns, Inc.*, 192 F. Supp. 3d 427, 439-41 (S.D.N.Y. 2016) (holding that "the amendment to the [PP]PA does not apply to Plaintiffs' claims, and the Court will assess the sufficiency of those claims under the law as it was when Plaintiffs' claims accrued.") (citing *Landgraf v. USI Film Prods*., 511 U.S. 224, 286 (1994)). Because the claims alleged herein accrued, and thus vested, prior to the July 31, 2016 effective date of the amended version of the PPPA, the pre-amendment version of the PPPA applies in this case. *See Horton v. GameStop, Corp.*, -- F. Supp. 3d --, 2018 WL 8335635, at *2-3 (W.D. Mich. Sept. 28, 2018).

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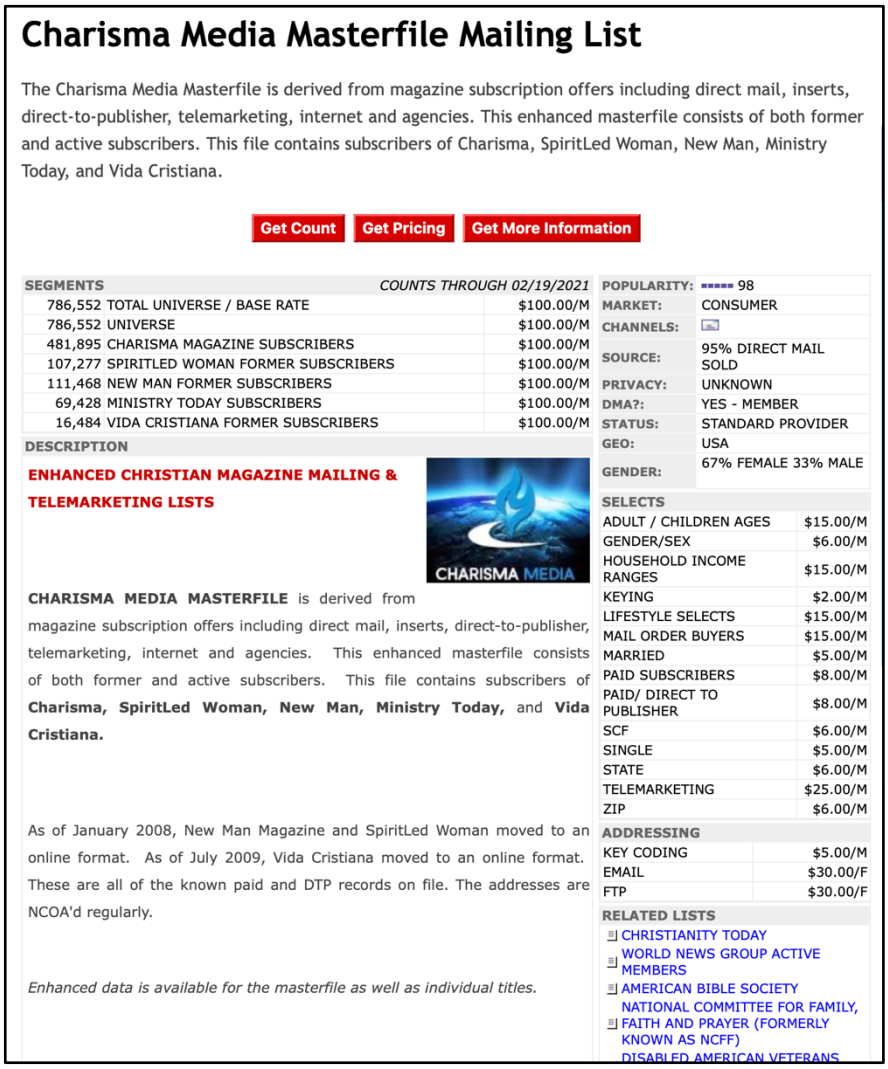

Charisma Media Masterfile Mailing List

The Charisma Media Masterfile is derived from magazine subscription offers including direct mail, inserts, direct-to-publisher, telemarketing, internet and agencies. This enhanced masterfile consists of both former and active subscribers. This file contains subscribers of Charisma, SpiritLed Woman, New Man, Ministry Today, and Vida Cristiana.

Get Count | Get Pricing | Get More Information

SEGMENTS	COUNTS THROUGH 02/19/2021
786,552 TOTAL UNIVERSE / BASE RATE	$100.00/M
786,552 UNIVERSE	$100.00/M
481,895 CHARISMA MAGAZINE SUBSCRIBERS	$100.00/M
107,277 SPIRITLED WOMAN FORMER SUBSCRIBERS	$100.00/M
111,468 NEW MAN FORMER SUBSCRIBERS	$100.00/M
69,428 MINISTRY TODAY SUBSCRIBERS	$100.00/M
16,484 VIDA CRISTIANA FORMER SUBSCRIBERS	$100.00/M

POPULARITY:	98
MARKET:	CONSUMER
CHANNELS:	
SOURCE:	95% DIRECT MAIL SOLD
PRIVACY:	UNKNOWN
DMA?:	YES - MEMBER
STATUS:	STANDARD PROVIDER
GEO:	USA
GENDER:	67% FEMALE 33% MALE

DESCRIPTION

ENHANCED CHRISTIAN MAGAZINE MAILING & TELEMARKETING LISTS

CHARISMA MEDIA MASTERFILE is derived from magazine subscription offers including direct mail, inserts, direct-to-publisher, telemarketing, internet and agencies. This enhanced masterfile consists of both former and active subscribers. This file contains subscribers of **Charisma, SpiritLed Woman, New Man, Ministry Today,** and **Vida Cristiana.**

As of January 2008, New Man Magazine and SpiritLed Woman moved to an online format. As of July 2009, Vida Cristiana moved to an online format. These are all of the known paid and DTP records on file. The addresses are NCOA'd regularly.

Enhanced data is available for the masterfile as well as individual titles.

SELECTS	
ADULT / CHILDREN AGES	$15.00/M
GENDER/SEX	$6.00/M
HOUSEHOLD INCOME RANGES	$15.00/M
KEYING	$2.00/M
LIFESTYLE SELECTS	$15.00/M
MAIL ORDER BUYERS	$15.00/M
MARRIED	$5.00/M
PAID SUBSCRIBERS	$8.00/M
PAID/ DIRECT TO PUBLISHER	$8.00/M
SCF	$6.00/M
SINGLE	$5.00/M
STATE	$6.00/M
TELEMARKETING	$25.00/M
ZIP	$6.00/M

ADDRESSING	
KEY CODING	$5.00/M
EMAIL	$30.00/F
FTP	$30.00/F

RELATED LISTS

- CHRISTIANITY TODAY
- WORLD NEWS GROUP ACTIVE MEMBERS
- AMERICAN BIBLE SOCIETY
- NATIONAL COMMITTEE FOR FAMILY, FAITH AND PRAYER (FORMERLY KNOWN AS NCFF)
- DISABLED AMERICAN VETERANS

See **Exhibit A** hereto.

3. By renting, exchanging, or otherwise disclosing the Private Reading Information of its Michigan-based subscribers during the relevant pre-July 30, 2016 time period, Charisma violated the PPPA. Subsection 2 of the PPPA provides:

> [A] person, or an employee or agent of the person, engaged in the business of selling at retail, renting, or lending books or other written materials ... shall not disclose to any person, other than the customer, a record

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> or information concerning the purchase ... of those materials by a customer that indicates the identity of the customer.

PPPA § 2.

4. Accordingly, Plaintiffs bring this Class Action Complaint against Charisma for its intentional and unlawful disclosure of its customers' Private Reading Information in violation of the PPPA.

NATURE OF THE CASE

5. To supplement its revenues, Charisma rents, exchanges, or otherwise discloses its customers' information—including their full names, titles of publications subscribed to, and home addresses (collectively "Private Reading Information"), as well as myriad other categories of individualized data and demographic information such as age, gender, income, marital status, and childrens' age—to data aggregators, data appenders, data cooperatives, and other third parties without the written consent of its customers.

6. By renting, exchanging, or otherwise disclosing – rather than selling – its customers' Private Reading Information, Charisma is able to disclose the information time and time again to countless third parties.

7. Charisma's disclosure of Private Reading Information and other individualized information is not only unlawful, but also dangerous because it allows for the targeting of particularly vulnerable members of society. For example, anyone

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could buy a customer list provided by Charisma that contains the names and addresses of all unmarried women over the age of 60 with an annual income of greater than $80,000 who reside in Detroit, Michigan and subscribe to *Charisma* magazine. Such a list is available for sale on the open market for approximately $132.00 per thousand subscribers listed.

8. While Charisma profits handsomely from the unauthorized rental, exchange, and/or disclosure of its customers' Private Reading Information and other individualized information, it does so at the expense of its customers' statutory privacy rights (afforded by the PPPA) because Charisma does not obtain its customers' written consent prior to disclosing their Private Reading Information.

PARTIES

9. Plaintiff Ruby Hester is a natural person and citizen of the State of Michigan and resides in Lansing, Michigan. Plaintiff was a subscriber to *Charisma* magazine, including during the relevant pre-July 30, 2016 time period. *Charisma* magazine is published by Charisma. While residing in, a citizen of, and present in Michigan, Plaintiff purchased her subscription to *Charisma* magazine directly from Charisma. Prior to and at the time Plaintiff subscribed to *Charisma*, Charisma did not notify Plaintiff that it discloses the Private Reading Information of its customers, and Plaintiff has never authorized Charisma to do so. Furthermore, Plaintiff was never provided any written notice that Charisma rents, exchanges, or otherwise

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