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To: All Clients

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FTC REQUIRES WEBSITE OPERATOR TO IMPLEMENT DATA SECURITY MEASURES TO PROTECT PERSONALLY IDENTIFIABLE INFORMATION COLLECTED

The Federal Trade Commission (FTC) recently adopted a consent decree with a website operator, LifeisGood.com, that includes a requirement that the website operator implement data security measures to protect the personally identifiable information collected from consumers who use the website for 20 years. The FTC found that LifeisGood.com engaged in an unfair trade practice because its website failed to protect consumers' personal information and thereby did not honor its representations to the public in its website's privacy policy that it would protect personal information collected during commercial transactions.

Although the consent decree is not yet final, the mandated data security measures adopted in the consent decree are considered typical, and website operators should treat these data security measures as *minimum* standards. These include:

- Designating employee(s) to oversee data security
- Assessing the risk of possible data security problems in all areas of operations, including: 1) employee training and management, 2) information systems design and how personally identifiable information is processed, stored, transmitted and

disposed, and 3) procedures and policies for preventing, detecting, and responding to security breaches and system failures.

- Designing and implementing reasonable safeguards to control the risks identified by the risk assessment, including regular testing and monitoring of the effectiveness of the safeguards.
- Developing and using reasonable steps to retain service providers who can safeguard data supplied by the website operator, including requiring service providers to agree that they will maintain appropriate safeguards and allow for monitoring of their safeguarding of personal information.
- Evaluating and adjusting data security measures in response to the results of website operator's testing and monitoring. Changes in business operations may also require adjusting data security measures.

If you have any questions concerning these requirements, please contact S. Jenell Trigg in our office.

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This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired. To discuss any of the issues presented here, please contact any attorney in our office.