

ENTERED

August 15, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

STATE OF TEXAS, et al.;

Plaintiffs,

vs.

RISING EAGLE CAPITAL GROUP, LLC, et
al.;

Defendants.

Case No. 4:20-cv-02021

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT
AGAINST SCOTT SHAPIRO**

PREAMBLE

Plaintiffs, the Attorneys General of the States of Arkansas, Indiana, Michigan, North Carolina, North Dakota, Ohio, and Texas (collectively “Plaintiffs”)¹, filed their Second Amended Complaint (ECF No. 56) (“Complaint”) in this matter against Scott Shapiro (hereinafter referred to as “Defendant”), and others. The Complaint sought a permanent injunction, damages, civil penalties, and other equitable relief in this matter pursuant to the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227(g)(1)-(2), and respective telemarketing and deceptive acts and practices laws of the Plaintiff states:

¹ The State of Missouri is also a Plaintiff in this matter, but it does not bring any claims against Shapiro and certain other defendants.

Unless otherwise provided, this Stipulated Order shall apply to Defendant and his agents, employees, officers, members, directors, affiliates, subsidiaries, representatives, trustees, attorneys, successors, heirs, and assignees, and any other Person acting under his direction and control, including through any corporation, trust, or other device, and it shall constitute a continuing obligation.

Plaintiffs and Defendant stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment against Defendant (“Order”) to resolve all matters in dispute in this action between Plaintiffs and Defendant.

THEREFORE, IT IS ORDERED as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This Court has jurisdiction over this matter, and it has the authority to issue this Order pursuant to the TCPA, 47 U.S.C § 227(g)(2), the Telemarketing and Consumer Fraud and Abuse Prevention Act (the “Telemarketing Act”), 15 U.S.C. § 6103, the Telemarketing Sale Rule (“TSR”), 16 C.F.R. § Part 310, the respective telemarketing and deceptive acts and practices laws of the Plaintiffs’ states, and Federal Rule of Civil Procedure 65.

2. The Complaint alleges that Defendant and others initiated millions of Robocalls, advertising various goods and services, including healthcare products to residential and/or cellular telephone numbers of residents located within the jurisdiction of the Plaintiffs and other states throughout the United States without the prior express consent of the called parties in violation of multiple sections of the TCPA and its implementing rules, 47 C.F.R. § 64.1200(c)(2), 47 U.S.C. § 227(c), 47 C.F.R. §

64.1200(a)(3), 47 U.S.C. § 227(b)(1)(B), 47 C.F.R. § 64.1200(a)(1)(iii), 47 U.S.C. § 227(b)(1)(A)(iii), 47 C.F.R. § 64.1200(a)(2), 47 C.F.R. § 64.1200(b)(1), 47 U.S.C. § 227(d)(3)(A), 47 C.F.R. § 64.1604(a), and 47 U.S.C. § 227(e)(1), and the state statutes listed below.

STATE STATUTES ALLEGEDLY VIOLATED BY DEFENDANT	
Arkansas	Ark. Code Ann. § 4-88-107(a)(10); Ark. Code Ann. § 4-99-104; Ark. Code Ann. § 4-99-201(a)(1); and Ark. Code Ann. § 4-99-405(1).
Indiana	Ind. Code 24-4-7-4; Ind. Code 24-5-14; Ind. Code § 24-5-12-10; and Ind. Code § 23-0.5-5-2.
Michigan	MCL 445.111a(1), (5); MCL 445.111b(1); MCL 445.111c(1)(f); and MCL 445.903(1)(gg).
North Carolina	N.C. GEN. STAT. §§ 75-1.1, <i>et seq.</i> ; N.C. GEN. STAT. §§ 75-100, <i>et seq.</i>
North Dakota	N.D.C.C. §§ 10-32.1-74, 51-15-02, 51-28-02, 51-28-06, and 51-28-07.
Ohio	O.R.C 1345.01, <i>et seq.</i> and O.R.C. 4719.01 <i>et seq.</i>
Texas	TEX. BUS. & COM. CODE § 304.052

3. Defendant denies the allegations of wrongdoing against him in the Complaint, except as specifically stated in this Order. Only for this Stipulated Order, Defendant does not contest the facts necessary to establish jurisdiction.

4. Defendant waives any claim that he may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order and agrees to bear his own costs and attorney fees. Similarly, Plaintiffs agree to bear their own costs and attorney fees concerning the prosecution of this action.

5. Defendant and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

6. The Court approves the terms of the parties' agreement and now adopts them as its determination of this matter and the parties' respective rights and obligations.

7. Entry of this Order is in the public interest.

I. DEFINITIONS

For this Order, the following definitions apply:

A. **“Complaint,” “Defendant,” “Order,” “Plaintiffs,” “TCPA,” “Telemarketing Act”,** and **“TSR”** mean those definitions described above in the Preamble and Findings.

B. **“Assist and Facilitate”** and **“Assisting and Facilitating”** mean providing substantial assistance or support.

C. **“Communication”** means any contact, whether formal or informal, between two or more Persons, at any time or place, and under any circumstances whatsoever, whereby information of any kind or nature was transmitted, transferred, disclosed, exchanged, or recorded. It includes, without limitation, any oral, written, and Electronically Stored Information that is opened or unopened, active, or deleted.

D. **“Click-to-Call”** means a telephone call in which a Person clicks an object on a website or web-based application (for example, a button, image, phone number, or text) and is immediately connected with a Person.

E. **“Customer”** means any Person for whom or for which the Defendant and his companies, officers, agents, and employees, and all other Persons in active concert or participation with him, whether acting directly or indirectly, provide consulting or any

other services, including, without limitation, those that include or are related to Lead Generation, Robocalls, Click-to-Call, and/or Telemarketing.

F. **“DNC Registry”** means the National Do Not Call Registry maintained by the Federal Trade Commission.

G. **“Documents”** is synonymous in meaning and equal in scope to the usage of “document” in Federal Rule of Civil Procedure 34(a) and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including email and instant messages, contracts, accounting data, advertisements, FTP Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, customer or sales databases and any other Electronically Stored Information, including other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate Document within the term’s meaning.

H. **“Electronically Stored Information”** means, without limitation, computer or electronic files stored on file servers, email servers, workstations, desktops, hard drives, solid-state drives, cloud storage, personal digital assistants, smartphones (e.g., Blackberrys, iPhones, Androids), tablets (e.g., iPads) and other mobile electronic devices, or other electronic social or industrial/business web-based media (e.g., Facebook®, Twitter®, LinkedIn®, Skype®, WhatsApp®, etc.), records, data, reports, and queries derived from or residing in applications and databases, computer printouts, contracts, cost sheets, data

compilations from which information can be obtained, derived, or can be translated through detection devices or converted or translated into reasonably usable form, magnetic discs, magnetic strips, magnetic tape, recognition characters, microfiche, microfilm, optical characters, punched cards, punched paper tapes, audio tapes or recordings, or video tapes or recordings.

I. **“Lead Generation”** means the assignment, creation, sourcing, sale, subscription, leasing, renting, distribution, provisioning, purchase, reselling, wholesaling, or transfer of any list or compilation of telephone numbers utilized or intended to be utilized for the purpose of generating or initiating Outbound Telephone Calls and/or Telemarketing.

J. **“Outbound Telephone Call”** means a telephone call initiated to:

1. Induce the purchase of goods or services;
2. Advertise or offer a loan or extension of credit; or
3. Obtain information that may be used to induce the purchase of goods or services.

K. **“Person”** means any individual, group, organization, unincorporated association, limited or general partnership, corporation, subsidiary, affiliate, or other legal entity.

L. **“Robocall(s)”** means a telephone call that delivers artificial or prerecorded voice messages, in whole or in part, including, without limitation, telephone calls utilizing soundboard technology and ringless voicemail messages, whether acting directly or through an intermediary.

M. **“Telemarketing”** means any plan, program, or campaign that initiates Outbound Telephone Calls by use of a telephone or VoIP-related technology and which involves a telephone call.

N. **“VoIP”** means Voice over Internet Protocol.

ORDER

II. PROHIBITION ON VIOLATING THE TCPA, TSR, AND STATE LAWS

IT IS ORDERED that Defendant and his existing and future companies, officers, agents, and employees, and all other Persons in active concert or participation with him, whether acting directly or indirectly, are permanently restrained and enjoined from engaging in, causing others to engage in, Assisting and Facilitating others engaging in, or consulting, brokering, planning, investing, or advising regarding conduct that violates the TCPA, 47 U.S.C. § 227, its implementing rules, 47 C.F.R. §§ 64.1200 and 64.1604, the TSR, 16 C.F.R. Part 310, and the state statutes listed below, each as amended and also attached as “Appendix.”

STATE STATUTES	
Arkansas	Ark. Code Ann. §§ 4-88-101, <i>et seq.</i> ; Ark. Code Ann. §§ 4-99-101, <i>et seq.</i>
Indiana	Ind. Code § 23-0.5-5-2; Ind. Code 24-4.7-4; Ind. Code 24-5-0.5; Ind. Code 24-5-12; Ind. Code 24-5-14; and Ind. Code 24-5-14.5.
Michigan	MCL 445.111, <i>et seq.</i> ; MCL 445.901, <i>et seq.</i>
North Carolina	N.C. GEN. STAT. §§ 75-1.1, <i>et seq.</i> ; N.C. GEN. STAT. §§ 75-100, <i>et seq.</i>
North Dakota	N.D.C.C. §§ 10-32.1-01, <i>et seq.</i> ; 51-15-01, <i>et seq.</i> ; 51-28-01, <i>et seq.</i>
Ohio	O.R.C 1345.01, <i>et seq.</i> ; O.R.C. 4719.01, <i>et seq.</i>
Texas	TEX. BUS. & COM. CODE § 304.052

These prohibitions include, but are not limited to, initiating, causing the initiation of, or transmitting:

A. any telephone call displaying a caller ID number that the calling party does not have the legal authority to use; and

B. any telephone call that is placed to a telephone number on the DNC Registry or any state equivalent which has been registered for the time period required by the DNC Registry or state equivalent, when the calling party does not have the requisite consent from the called party.

III. PERMANENT BAN ON ROBOCALLING PLAINTIFF STATES

IT IS FURTHER ORDERED that Defendant and his existing and future companies, officers, agents, and employees, and all other Persons in active concert or participation with him, whether acting directly or indirectly, are permanently restrained and enjoined from engaging in, Assisting and Facilitating others to engage in, or consulting, brokering, planning, investing, or advising regarding any of the following conduct to persons in the Plaintiff States:

A. Initiating, causing others to initiate, or Assisting and Facilitating others in initiating, any Outbound Telephone Call that plays or delivers a Robocall, unless Defendant proves that such prerecorded message was delivered in compliance with 16 C.F.R. § 310.4(b)(4)(iii), as amended;

B. Controlling, holding a managerial post in, consulting for, serving as an officer of, having any revenue sharing agreement with, or holding any ownership interest, share, or stock in any Person that Defendant knows or reasonably should know engages in

conduct prohibited in Section III.A above; *provided, however*, that it is not a violation of this Order to (i) own a non-controlling interest in a publicly traded company that engages in such conduct, or (ii) consult on matters that do not in any way constitute, contribute to, or facilitate conduct prohibited in section III.A above.

**IV. TEN-YEAR BAN ON TELEMARKETING, DID PROVISIONING, AND
LEAD GENERATION IN PLAINTIFF STATES**

IT IS FURTHER ORDERED that, for ten (10) years from the date of this Order, Defendant and his existing and future companies, officers, agents, and employees, and all other Persons in active concert or participation with him, whether acting directly or indirectly, are restrained and enjoined from engaging in, Assisting and Facilitating others to engage in, or consulting, brokering, planning, investing, or advising regarding any of the following conduct to persons in the Plaintiff States:

- A. All Telemarketing;
- B. Providing, leasing, provisioning, reselling, or assigning telephone numbers, including those related to direct inward dialing (“DID”);
- C. All Lead Generation; and
- D. Initiating, causing the initiation of, or transmitting any telephone calls placed to telephone numbers on the DNC Registry or any state equivalent thereof.
- E. Notwithstanding Sections III.A – D above, it shall not be a violation of this Section for Defendant to receive inbound calls if Defendant can prove that the call, whether

it came from Defendant’s website or web-based application, or a third-party’s website or web-based application, is a Click-to-Call that meets each of the following criteria:

1. The individual on the other end of the telephone line (i.e., the individual to whom Defendant delivers or intends to deliver a solicitation) has expressly consented to a one-time communication with Defendant by clicking an object on a website or web-based application (for example a button, image, phone number, or text) (“Object”);
2. Prior to clicking the Object, the individual was conspicuously and accurately informed regarding the purpose of clicking the Object and communication;
3. Immediately after clicking the Object—that is, no later than ten seconds after clicking the Object—the individual is connected with Defendant; and
4. Does not seek consent from the individual who clicked the Object for consent for any additional, other, and/or future communications through Lead Generation, Telemarketing, or by automated or prerecorded or artificial voice telephone calls as defined by the TCPA and/or TSR.

**V. TWO-YEAR NATIONWIDE BAN ON ROBOCALLING,
TELEMARKETING, LEAD GENERATION, AND DID PROVISIONING**

IT IS FURTHER ORDERED that, for two (2) years from the date of this Order, Defendant and his existing and future companies, officers, agents, and employees, and all

other Persons in active concert or participation with him, whether acting directly or indirectly, are restrained and enjoined from engaging in, Assisting and Facilitating others to engage in, or consulting, brokering, planning, investing, or advising regarding any of the following conduct to all states, commonwealths, districts, and territories in the United States that are not defined as the Plaintiff States in this Order:

A. Initiating, causing others to initiate, or Assisting or Facilitating others in initiating, any Outbound Telephone Call that plays or delivers a Robocall, unless Defendant proves that such prerecorded message was delivered in compliance with 16 C.F.R. § 310.4(b)(4)(iii), as amended;

B. Controlling, holding a managerial post in, consulting for, serving as an officer of, having any revenue sharing agreement with, or holding any ownership interest, share, or stock in any Person that Defendant knows or reasonably should know engages in conduct prohibited in Section V.A above;

C. All Telemarketing;

D. Providing, leasing, provisioning, reselling, or assigning telephone numbers, including those related to direct inward dialing;

E. All Lead Generation; and

F. Initiating, causing the initiation of, or transmitting any telephone calls placed to telephone numbers on the DNC Registry or any state equivalent thereof.

G. Notwithstanding Sections V.C – F above, it shall not be a violation of this Section for Defendant to receive inbound calls if Defendant can prove that the call, whether

it came from Defendant’s website or web-based application, or a third-party’s website or web-based application, is a Click-to-Call that meets each of the following criteria:

1. The individual on the other end of the telephone line (i.e. the individual to whom Defendant delivers or intends to deliver a solicitation) has expressly consented to a one-time communication with Defendant by clicking an object on a website or web-based application (for example a button, image, phone number, or text) (“Object”);
2. Prior to clicking the Object, the individual was conspicuously and accurately informed regarding the purpose of clicking the Object and communication;
3. Immediately after clicking the Object—that is, no later than ten seconds after clicking the Object—the individual is connected with Defendant; and
4. Does not seek consent from the individual who clicked the Object for consent for any additional, other, and/or future communications through Lead Generation, Telemarketing, or by automated or prerecorded or artificial voice telephone calls as defined by the TCPA and/or TSR.

VI. COMPLIANCE MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS

IT IS FURTHER ORDERED that Defendant and his existing and future companies make timely submissions to the Plaintiffs, allow Plaintiffs to monitor his compliance, and keep records, including:

A. Within sixty (60) days after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury.

1. Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Plaintiffs may use to communicate with him; (b) identify all of Defendant's businesses, to the extent that such businesses make, initiate, or Assist and Facilitate Outbound Telephone Calls, Telemarketing, Robocalls, and/or Click-to-Call, by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including, without limitation, the involvement of any other defendant named in the Complaint if he knows or should know of the involvement or activities due to his involvement; (d) describe in detail whether and how Defendant and his existing and future companies are in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order unless previously submitted to the Plaintiffs.

2. Additionally, Defendant must: (a) identify all telephone numbers and all physical, postal, email, and internet addresses, including all residences; (b)

identify all business activities, including any business for which Defendant performs services, whether as an employee, consultant, independent contractor, or otherwise, and any entity in which Defendant has any ownership interest, to the extent that such businesses make, initiate, or Assist and Facilitate Outbound Telephone Calls, Telemarketing, Robocalls, and/or Click-to-Call; and (c) describe in detail Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For ten (10) years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within thirty (30) days of any change in the following:

1. Defendant must report any change that he knew or reasonably should have known have been made in: (a) name, including aliases or fictitious or dba name of any business or entity; (b) any designated point of contact; (c) contact information, including physical address, mailing address, email address, and any website address; (d) the structure of any Person; or (e) Defendant's title or role in any business activity (i) in which Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, or (ii) for which Defendant performs services, whether as an employee, consultant, independent contractor, or otherwise. Such changes further include creation, merger, sale, or dissolution of the entity or any subsidiary, parent, affiliate, or Person that engages in any acts or practices subject to this Order.

2. Additionally, Defendant must report any new contract or agreement, whether formal or informal, into which Defendant or any of his existing and future companies enters if such contract or agreement is for consulting services, to the extent that such contract related to Telemarketing, Lead Generation, Outbound Telephone Call, and/or Click-to-Call.

C. For ten (10) years after entry of this Order, and within forty-five (45) days of a written request from a representative of any Plaintiff:

1. Defendant must appear for depositions and produce Documents and other requested information, which must be sworn under penalty of perjury, for inspection and copying. It is expressly agreed that Defendant shall not have to travel for any deposition sought farther than he would be required to travel if he were issued a valid subpoena pursuant to Rule 45 of the Federal Rules of Civil Procedure. Each Plaintiff is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69. Nothing in this Order limits any Plaintiff's lawful demand for Documents or other evidence pursuant to applicable law. Nothing in this Order prohibits Defendant's right to counsel, at his expense, to represent him in any deposition requested under this Order.

2. For matters concerning this Order, each Plaintiff is authorized to communicate directly with Defendant and his existing and future companies, officers, agents, and employees, and all other Persons in active concert or participation with them, whether acting directly or indirectly. Defendant must

permit representatives of any Plaintiff to interview any employee or other individual affiliated with Defendant and his existing and future companies who has agreed to such an interview. The individual interviewed may have counsel present.

3. Any Plaintiff may use all other lawful means, including posing, through its representatives as consumers, donors, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Plaintiffs' lawful use of relevant state or federal laws governing pre-suit investigation and discovery.

D. For ten (10) years, Defendant must submit to Plaintiffs any notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against him or any entity in which Defendant has any ownership interest or any filing for voluntary dissolution, within thirty (30) days of its filing.

E. Any submission required by this Order shall comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

F. Unless otherwise directed by a Plaintiffs' representative in writing, all submissions to the Plaintiffs under this Order must be emailed or sent by overnight courier (not the U.S. Postal Service) to:

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Assistant Attorney General

Office of the Arkansas Attorney General

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The subject line must begin with the following text: *State of Texas, et al. v. Rising Eagle Capital Group, LLC, et al.*, Case No. 4:20-cv-02021. Should Defendant's emailed communication under this section be undeliverable, Defendant shall send submissions via courier to the mailing addresses provided.

G. Defendant expressly consents to the sharing of any and all Documents submitted as part of his compliance reporting to any Plaintiff with all other Plaintiffs.

H. Upon written request from a representative of any Plaintiff, any consumer reporting agency must furnish consumer reports concerning Defendant under Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), as amended.

I. Defendant may not impede any Plaintiff's ability to audit any call center Defendant has a contract or agreement with, whether such agreement is formal or informal, within twenty-one (21) days of receipt of a written request to Defendant from a representative of any Plaintiff.

J. Defendant and his existing and future companies must create certain records for ten (10) years after entry of the Order and retain each such record for no less than five (5) years; Defendant and his existing and future companies must retain certain records for ten (10) years after entry of the Order and retain each such record for no less than five (5) years when Defendant and his existing and future companies have control, directly or indirectly, over the certain records; for the avoidance of doubt, this includes any and all records currently in their possession, including, without limitation, Documents, contracts, call detail records, invoices, and Communications, must be retained for no less than five (5) years after the entry of this Order. Specifically, any business that Defendant, individually or collectively with any other defendant named in the Complaint, is a majority owner or controls directly or indirectly must create and retain the following records, and Defendant and his existing and future companies must retain the following records Defendant and his existing and future companies' control, directly or indirectly:

1. Accounting records showing the revenues from all goods or services sold, Lead Generation, Telemarketing, Outbound Telephone Call, and/or Click-to-Call;
2. Records of all contracts, service agreements, invoices, and sales agreements with each Customer, client, supplier, or vendor, including, without limitation, any Communications or Documents related thereto;
3. Personnel records showing, for each individual providing services, whether as an employee, consultant, independent contractor, or otherwise, that

individual's name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason(s) for termination;

4. Records of all consumer complaints concerning the subject matter of the complaint, whether received directly or indirectly, such as through a third party, and any response;

5. All formal written requests from law enforcement agencies, subpoenas, civil investigative demands, search warrants, and related records, and other complaints about unwanted, fraudulent, or abusive Telemarketing, autodialed, prerecorded, or artificial voice telephone calls, or Click-to-Call, and all responses thereto;

6. All call detail records for any Customer engaged in Telemarketing and/or initiating or generating Robocalls and all such call detail records must be retained for at least five (5) years from the date of each call;

7. All Click-to-Call records, including but not limited to, call detail records, recordings, consent, sales, and contracts from all Click-to-Calls transmitted to Defendant and his existing and future companies, officers, agents, and employees, and all other Persons in active concert or participation with them, whether acting directly or indirectly, including Persons Defendant provides consulting services to;

8. Records of all provisioning and/or assigning of telephone numbers, including the dates provisioned or assigned to Defendant and/or his existing and future companies and the dates such party provisioned or assigned to third parties;

and

9. All records related to Section VII for “Due Diligence on Business Relationships.”

VII. DUE DILIGENCE ON BUSINESS RELATIONSHIPS

IT IS FURTHER ORDERED that Defendant and his existing and future companies, officers, agents, and employees, and all other Persons in active concert or participation with him, whether acting directly or indirectly, are required to conduct reasonable due diligence into all current and prospective Customers, and that Defendant is permanently restrained and enjoined from engaging in, or Assisting and Facilitating others to engage in, entering into or continuing any business relationship, including, without limitation, consulting services, with a Customer if Defendant knows or reasonably should know that such Customer is or is likely engaging in any conduct prohibited in Sections II, III, IV, or V of this Order. Defendant further agrees to conduct reasonable due diligence before entering into any business relationship to ensure that such Customer does not or is not likely engaging in any prohibited conduct. To the extent that Defendant has a preexisting business relationship with a Customer as of this Order, Defendant further agrees to conduct such reasonable due diligence to ensure that such Customer does not engage in, or is not likely engaging in, any prohibited conduct. Defendant agrees that failure to conduct such reasonable due diligence shall be deemed conscious avoidance of knowledge and does not eliminate liability for this Section. Reasonable due diligence means reasonable efforts to determine the following items:

A. The name, physical and mailing addresses, contact telephone number(s), and email address of the principal(s) and controlling Person(s) of the prospective Customer, and any Person(s) with a majority ownership interest with the prospective Customer;

B. A list of all business and trade names, fictitious names, DBAs, and websites under or through which the prospective Customer currently transacts or advertises business or has transacted or advertised business in the two years prior to conducting business with, or on behalf of, the Customer;

C. A description of the nature of the prospective Customer's business, including a description of the nature of the goods and services sold, methods of sale, and whether they are involved in Lead Generation, Robocalls, Click-to-Call, and/or Telemarketing;

D. A list of each physical address at which the prospective Customer has conducted business or will conduct the business(es) identified pursuant to subsection (A) of this Section;

E. The prospective Customer's means and source of payment for Defendant's services;

F. The billing address and email address associated with the prospective Customer's means and source of payment for Defendant's services, as well as the name, physical and mailing addresses, contact telephone number(s), and email address of the Person or entity paying for such services;

G. For U.S.-domiciled companies, the Customer's federal taxpayer identification number;

H. The prospective Customer's state or country of incorporation or organization;

I. Whether the prospective Customer (including the principal(s), controlling Person(s) of the entity, and any Person(s) with a majority ownership interest in the entity) has ever been the subject of a lawsuit alleging claims under the TSR, the TCPA, or any other lawsuit regarding illegal Robocalls, illegal automated dialing, calls to the DNC Registry or any state do not call registry, spoofed caller ID numbers, or otherwise illegal telemarketing or solicitations;

J. If the prospective Customer engages in Lead Generation, Robocalls, Click-to-Call, and/or Telemarketing, such prospective Customer's written policies, practices, and procedures documenting its compliance with the TSR, TCPA, and any other state or federal laws governing Robocalls, telemarketing, solicitations, caller IDs, and/or automated dialing; and

K. Whether the Customer (including the principal(s), controlling Person(s) of the entity, and any Person(s) with a majority ownership interest in the entity) has been issued any formal written requests from law enforcement agencies, subpoenas, civil investigative demands, and/or search warrants concerning illegal Robocalls, illegal automated dialing, calls to the DNC Registry or any state do not call registry, spoofed caller ID numbers, or otherwise illegal telemarketing or solicitations.

VIII. COOPERATION

IT IS FURTHER ORDERED that Defendant must fully cooperate with representatives of the Plaintiffs in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Defendant must provide truthful and complete information, evidence (including any and all Documents, Communications, and other records), and testimony. Defendant must appear and take all reasonable steps necessary to urge any of his officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a Plaintiff's representative may reasonably request upon twenty-one (21) days written notice at such reasonable places and times as a Plaintiff's representative may reasonably designate, without the service of a subpoena. Further, it is expressly agreed that Defendant shall not have to travel in connection with his obligations pursuant to this Section of the Order farther than he would be required to travel if he were issued a valid subpoena pursuant to Rule 45 of the Federal Rules of Civil Procedure.

Further, to assist the Plaintiffs with any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint, and with monitoring of the Defendant's compliance with this Order, Defendant consents, for purposes of the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2523 to the disclosure, by electronic communications service providers and remote computing service providers of the contents of or Communications regarding any auto-dialed, telemarketing, or prerecorded telephone calls or Communications with Customers regarding services provided by the Defendant. Defendant further agrees to execute, within seven (7) business

days of a request from a Plaintiff, any forms, Documents, Communications, or other documentation evidencing consent that may be required by such electronic communications service providers or remote computing service providers.

IX. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of seventy-three million, seventy-six thousand, nine hundred and thirty dollars (\$73,076,930) (the “Monetary Judgment Amount”) is entered in favor of the Plaintiffs and against the Defendant as monetary judgment to be split in equal amounts of \$10,439,561.43 to each Plaintiff as follows:

- Arkansas –\$10,439,561.43 (\$5,219,780.71 in statutory damages pursuant to section 227(g) of the TCPA and \$5,219,780.71 in civil penalties pursuant to the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-113(a)(3).)
- Indiana – \$10,439,561.43 (\$5,219,780.71 in statutory damages pursuant to section 227(g) of the TCPA and \$5,219,780.72 civil penalties pursuant to Ind. Code § 24-5-14.)
- Michigan – \$10,439,561.43 (\$5,219,780.71 in statutory damages pursuant to section 227(g) of the TCPA and \$5,219,780.72 in civil penalties pursuant to section 5(1) of the Michigan Consumer Protection Act, MCL 445.905(1).)
- North Carolina – \$10,439,561.43 (\$5,219,780.71 in statutory damages pursuant to section 227(g) of the TCPA and \$5,219,780.72 in civil penalties

and attorneys' fees and costs pursuant to the North Carolina Unfair or Deceptive Trade Practices Act, N.C.G.S. § 75-105)

- North Dakota – \$10,439,561.43 (\$5,219,780.71 in statutory damages pursuant to section 227(g) of the TCPA and \$5,219,780.72 in civil penalties pursuant to N.D.C.C. §§ 51-15-11 and 51-28-17 of the North Dakota Unlawful Sales or Advertising Practices Act and Telephone Solicitations Law.)
- Ohio – \$10,439,561.43 (\$3,479,853.81 in statutory damages pursuant to section 227(g) of the TCPA, \$3,479,853.81 in civil penalties pursuant to O.R.C. section 1345.07 of Ohio's Consumer Sales Practices Act, and \$3,479,853.81 in civil penalties pursuant to O.R.C. section 4719.12 of Ohio's Telephone Solicitation Sales Act.)
- Texas –\$10,439,561.43 (\$5,219,780.71 in statutory damages pursuant to section 227(g) of the TCPA and \$5,219,780.72 in civil penalties pursuant to section 304.252(1) of the Texas Telemarketing Disclosure and Privacy Act.)

B. Defendant Shapiro is ordered to pay the Plaintiff States the amount of \$250,000 (Two Hundred and Fifty Thousand Dollars 00/100) in civil penalties. Defendant shall pay the total \$250,000 over (6) equal monthly installments. The first payment will be made within (14) days of entry of this Order. Such payments shall be made to the Plaintiff State of North Dakota and shall be in the form of a check or money order payable to **Office of Attorney General –North Dakota** for further equal distribution to the remaining Plaintiffs. Upon such payments, the remainder of the Monetary Judgment Amount

specified in Subsection A above is suspended due Defendant Shapiro's financial situation, subject to the remaining Subsections of this Section IX set forth below.

C. Defendant relinquishes dominion and all legal and equitable rights, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

D. Plaintiffs' agreement to the suspended portion of the Monetary Judgment Amount is expressly premised upon the truthfulness, accuracy, and completeness of the following (collectively, "Financial Representations"):

1. The sworn Financial Statement of Scott Shapiro as last updated and signed on July 28, 2023 and submitted to the Plaintiffs by counsel via electronic mail and DropBox on July 28, 2023, and addendum provided on August 3, 2023 and submitted to the Plaintiffs by counsel via electronic mail on August 3, 2023.
2. The taxpayer identification numbers (Social Security Number and Employer Identification Number) for the Defendant submitted to the Plaintiffs in the Financial Statement of Scott Shapiro signed on July 28, 2023 and submitted to the Plaintiffs by counsel via electronic mail and DropBox on July 28, 2023;

E. If, upon motion by a Plaintiff, the Court finds that Defendant violated any provision of this Order, failed to disclose any material asset or liability, materially misstated the value of any asset or amount of any liability, or made any other material misstatement or omission in the Financial Representations, the suspended portion of the

Monetary Judgment Amount shall become unsuspended and the entire Monetary Judgment Amount becomes immediately due, plus interest computed from the date of entry of this Order.

F. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Plaintiffs, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

G. Defendant acknowledges that their Taxpayer Identification Numbers (Social Security Number and Employer Identification Number), which Defendant previously submitted to the Plaintiffs, may be used for collecting and reporting on any delinquent amount arising out of this Order.

X. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtains acknowledgments of receipt of this Order:

A. Defendant, within seven (7) days of entry of this Order, must submit to Plaintiff State of Texas an acknowledgment of receipt of this Order sworn under penalty of perjury;

B. For ten (10) years after entry of this Order, Defendant, for any business that he, individually or collectively with any other defendant named in this Complaint, is the majority owner or control directly or indirectly, must deliver a copy of this Order to (1) all principals, officers, directors, and Limited Liability Company managers and members; (2) all employees, agents, and representatives with managerial responsibilities for conduct

related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in Section VI. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before he assumes his responsibilities;

C. For ten (10) years after entry of this Order, Defendant and his existing and future companies must deliver a copy of this Order to any new Customers before executing an agreement to provide any services or before providing any services, whichever is earlier;


D. Existing Customers of the Defendant, and his existing and future companies that utilize must receive a copy of this Order within fourteen (14) days of the entry of this Order; and

E. From each individual or entity to which Defendant delivered a copy of this Order, Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

XI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for construction, modification, and enforcement of this Order.

SO ORDERED this 15th day of August, 2023.


UNITED STATES DISTRICT JUDGE
GEORGE HANKS, JR.

SO STIPULATED AND AGREED:

FOR DEFENDANT:

**Kutch,
Raymond M.**

Digitally signed by: Kutch, Raymond M.
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Date: 2023.08.01 20:21:28 -05'00'

_____, 2023

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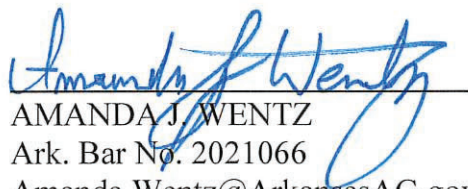
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_____, 2023

Scott Shapiro

FOR PLAINTIFFS:

FOR THE STATE OF ARKANSAS:

TIM GRIFFIN
Attorney General for the State of Arkansas

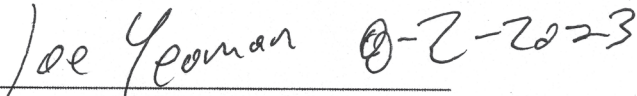


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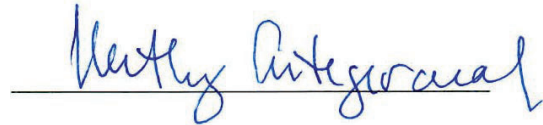
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Attorney General for the State of Michigan

A handwritten signature in blue ink that reads "Kathy Fitzgerald". The signature is written in a cursive style and is positioned above a horizontal line.

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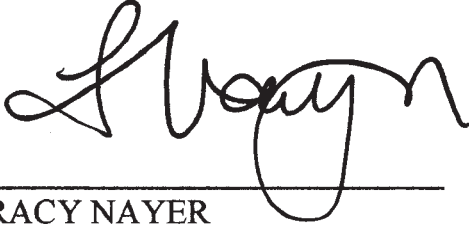
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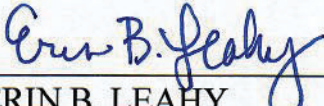


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