

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

v.

REPAIR ALL PC, LLC, *et al.*,

Defendants.

CASE NO. 1:17CV0869

JUDGE DAN AARON POLSTER

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT
AS TO DEFENDANTS LALIT CHADHA AND ROOPKALA CHADHA**

Plaintiffs the Federal Trade Commission (“FTC” or “Commission”) and the State of Ohio, Office of Attorney General, (collectively, “Plaintiffs”), filed their Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the Ohio Consumer Sales Practice Act, R.C. § 1345.01 *et seq.* (“CSPA”). Plaintiffs and Defendants Lalit Chadha and Roopkala Chadha (collectively, the “Chadha Defendants”) stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and the CSPA, R.C. 1345.02 and

II. PROHIBITION AGAINST DECEPTIVE TELEMARKETING

IT IS FURTHER ORDERED that Chadha Defendants, their officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the Telemarketing of any product or service, are permanently restrained and enjoined from:

- A. Making a false or misleading statement to induce any Person to pay for goods or services;
- B. Violating the Telemarketing Sales Rule, 16 C.F.R. Part 310, attached as Attachment A; and
- C. Violating the CSPA, R.C. § 1345.02 and § 1345.03, attached as Attachment B.

III. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Chadha Defendants, their officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, offering for sale, selling, or providing of any goods or services, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

- A. That Chadha Defendants are part of, affiliated with, certified or authorized by, or acting on behalf of any entity;
- B. That Chadha Defendants have detected security or performance issues on consumers' computers, including, but not limited to, system errors, viruses, spyware, malware, or the presence of hackers;

Order. Such payments must be made by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiffs.

C. Chadha Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

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

E. The facts alleged in the Complaint establish all elements necessary to sustain an action by Plaintiffs pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

F. Chadha Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Chadha Defendants must submit to Plaintiffs, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

G. All money paid to Plaintiffs pursuant to this Order may be deposited into a fund administered by the FTC or its designee on behalf of Plaintiffs to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Plaintiffs decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, Plaintiffs may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the practices alleged in the Complaint. Any money not

used for such equitable relief is to be deposited to an account or accounts pursuant to instructions provided by Plaintiff State of Ohio, Office of Attorney General. This money may be used for purposes that may include, but are not limited to, reimbursement of attorneys' fees and costs of investigation and litigation, placement in or application to any consumer protection law enforcement fund, including future consumer protection or privacy enforcement, consumer education, litigation, local consumer aid or revolving funds, defraying the costs of the inquiry leading to this Order, or for other uses permitted by state law, and all at the sole discretion of Plaintiff State of Ohio, Office of Attorney General. Any money not used for such equitable relief or such other purposes is to be deposited to the U.S. Treasury as disgorgement. Chadha Defendants have no right to challenge any actions Plaintiffs or their representatives may take pursuant to this Subsection.

H. The asset freeze ordered in this case in the Preliminary Injunction Order entered on June 22, 2017 (Doc. 79) is modified as to Chadha Defendants to permit the payments and transfers identified in this Section. Upon completion of those payments and transfers, the asset freeze is dissolved as to Chadha Defendants.

I. The FTC may request any tax-related information, including amended tax returns and any other filings, that Chadha Defendants have the authority to release. Within 14 days of receipt of a written request from a representative of the FTC, Chadha Defendants must take all necessary steps (such as filing a completed IRS Form 4506 or 8821) to cause the Internal Revenue Service or other tax authority to provide the information directly to the FTC.

Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Chadha Defendant delivered a copy of this Order, that Chadha Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

IX. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Chadha Defendants make timely submissions to the Commission:

A. One year after entry of this Order, each Chadha Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Chadha Defendant must:
 - a. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of Plaintiffs may use to communicate with the Chadha Defendant;
 - b. Identify all of that Chadha Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
 - c.

e. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, each Chadha 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 such Chadha Defendant performs services whether as an employee or otherwise and any entity in which such Chadha Defendant has any ownership interest; and

c. Describe in detail such Chadha Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 12 years after entry of this Order, each Chadha Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Chadha Defendant must report any change in:

a. Any designated point of contact; or

b. The structure of any entity that such Chadha Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

b. Title or role in any business activity, including any business for which such Chadha Defendant performs services whether as an employee or otherwise and any entity in which such Chadha Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Chadha Defendant must submit to Plaintiffs notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Chadha Defendant within 14 days of its filing.

D. Any submission to Plaintiffs required by this Order to be sworn under penalty of perjury must be true and accurate and 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.

E. Unless otherwise directed by a representative of Plaintiffs in writing, all

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.

B. For matters concerning this Order, Plaintiffs are authorized to communicate directly with each Chadha Defendant. Chadha Defendants must permit representatives of Plaintiffs to interview any employee or other person affiliated with any Chadha Defendant who

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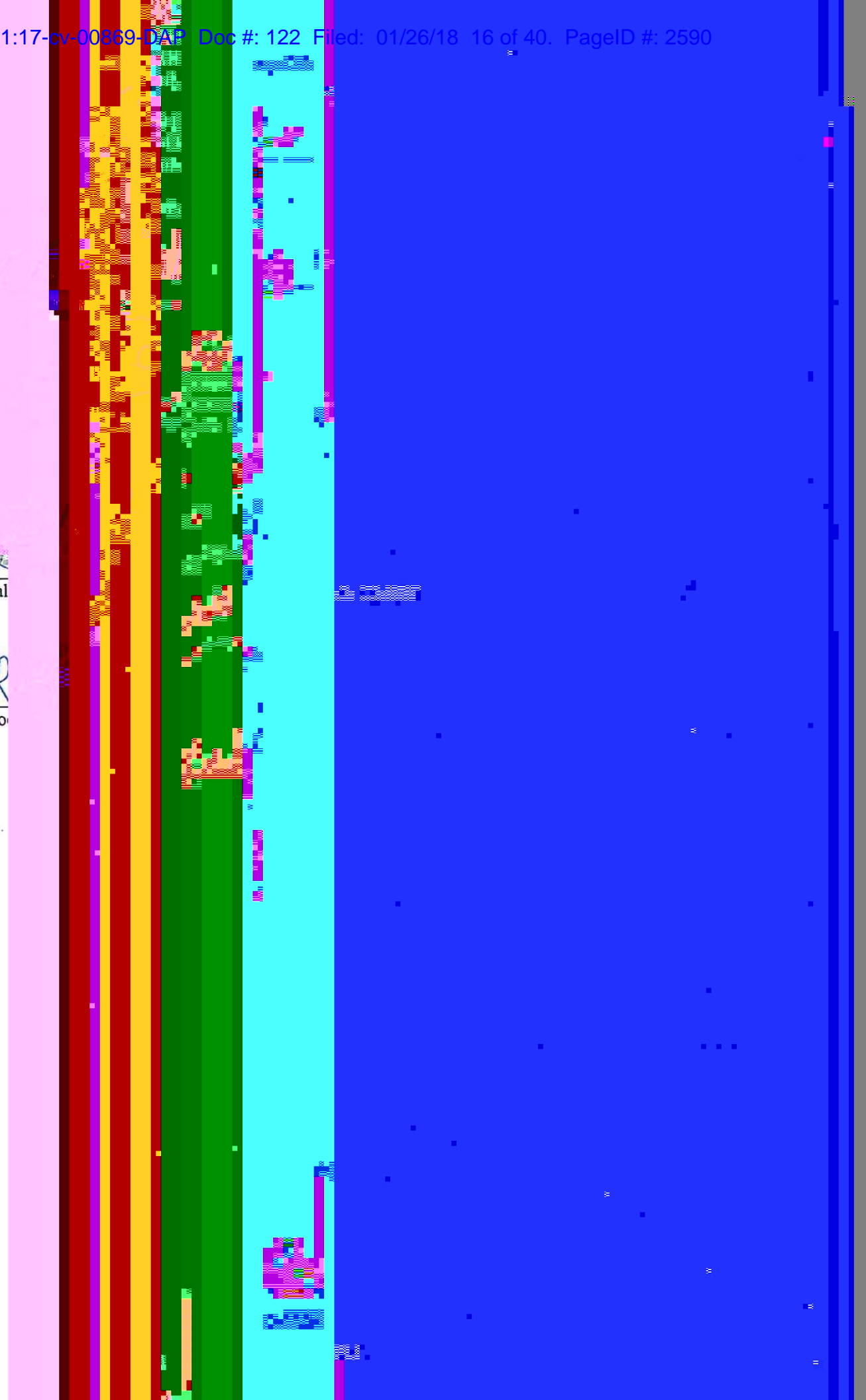
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ATTACHMENT A

TELEMARKETING SALES RULE 16 C.F.R. PART 310

Section Contents

§ 310.1 Scope of regulations in this part.

§ 310.2 Definitions.

- institution.
- (g) Cash reload mechanism makes it possible to convert cash into an electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006(2)) form that a person can use to add money to a general-use prepaid card, as defined in Regulation E, 12 CFR part 1005.2, or an online account with a payment intermediary. For purposes of this definition, a cash reload mechanism (1) is purchased by a person on a prepaid basis, (2) enables access to the funds via an authorization code or other security measure, and (3) is not itself a general-use prepaid card.
 - (h) Charitable contribution means any donation or gift of money or any other thing of value.
 - (i) Commission means the Federal Trade Commission.
 - (j) Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.
 - (k) Credit card means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.
 - (l) Credit card sales draft means any record or evidence of a credit card transaction.
 - (m) Credit card system means any method or procedure used to process credit card

- honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.
- (w) Negative option feature means, in an offer or agreement to sell or provide any goods or services, a provision under which the customer's silence or failure to take an affirmative action to reject goods or services or to cancel the agreement is interpreted by the seller as acceptance of the offer.
 - (x) Outbound telephone call means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.
 - (y) Person means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.
 - (z) Preacquired account information means any information that enables a seller or telemarketer to cause a charge to be placed against a customer's or donor's account without obtaining the account number directly from the customer or donor during the telemarketing transaction pursuant to which the account will be charged.
 - (aa) Prize means anything offered, or purportedly offered, and given, or purportedly given, to a person by chance. For purposes of this definition, chance exists if a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telemarketer does not identify the specific item that the person will receive.

not include providing the customer with information about, or attempting to sell, any

- subject of the prize promotion;
- (vi) In the sale of any goods or services represented to protect, insure, or otherwise limit a customer's liability in the event of unauthorized use of the customer's credit card, the limits on a cardholder's liability for unauthorized use of a credit card pursuant to 15 U.S.C. 1643;
- (vii) If the offer includes a negative option feature, all material terms and conditions of the negative option feature, including, but not limited to, the fact that the customer's account will be charged unless the customer takes an affirmative action to avoid the charge(s), the date(s) the charge(s) will be submitted for payment, and the specific steps the customer must take to avoid the charge(s); and
- (viii) In the sale of any debt relief service:
 - (A) the amount of time necessary to achieve the represented results, and to the extent that the service may include a settlement offer to any of the customer's creditors or debt collectors, the time by which the debt relief service provider will make a bona fide settlement offer to each of them;
 - (B) to the extent that the service may include a settlement offer to any of the customer's creditors or debt collectors, the amount of money or the percentage of each outstanding debt that the customer must accumulate before the debt relief service provider will make a bona fide settlement offer to each of them;
 - (C) to the extent that any aspect of the debt relief service relies upon or results in the customer's failure to make timely payments to creditors or debt collectors, that the use of the debt relief service will likely adversely affect the customer's creditworthiness, may result in the customer being subject to collections or sued by creditors or debt collectors, and may increase the amount of money the customer owes due to the accrual of fees and interest; and
 - (D) to the extent that the debt relief service requests or requires the customer to place funds in an account at an insured financial institution, that the customer owns the funds held in the account, the customer may withdraw from the debt relief service at any time without penalty, and, if the customer withdraws, the customer must receive all funds in the account, other than funds earned by the debt relief service in compliance with § 310.4(a)(5)(i)(A) through (C).
- (2) Misrepresenting, directly or by implication, in the sale of goods or services any of the following material information:
 - (i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a sales offer;
 - (ii) Any material restriction, limitation, or condition to purchase, receive, or use goods or services that are the subject of a sales offer;
 - (iii) Any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer;
 - (iv) Any material aspect of the nature or terms of the seller's refund,

obtaining a loan or other extension of credit when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

- (5) (i) Requesting or receiving payment of any fee or consideration for any debt relief service until and unless:
 - (A) The seller or telemarketer has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a settlement agreement, debt management plan, or other such valid contractual agreement executed by the customer;
 - (B) The customer has made at least one payment pursuant to that settlement agreement, debt management plan, or other valid contractual agreement between the customer and the creditor or debt collector; and
 - (C) To the extent that debts enrolled in a service are renegotiated, settled, reduced, or otherwise altered individually, the fee or consideration either:
 - (1) Bears the same proportional relationship to the total fee for renegotiating, settling, reducing, or altering the terms of the entire debt balance as the individual debt amount bears to the entire debt amount. The individual debt amount and the entire debt amount are those owed at the time the debt was enrolled in the service; or
 - (2) Is a percentage of the amount saved as a result of the renegotiation, settlement, reduction, or alteration. The percentage charged cannot change from one .1(e)-0.9(nt plau]TJ 0.0 setvice ard the cm
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- (6) Disclosing or receiving, for consideration, unencrypted consumer account numbers for use in telemarketing; provided, however, that this paragraph shall not apply to the disclosure or receipt of a customer's or donor's billing information to process a payment for goods or services or a charitable contribution pursuant to a transaction;
- (7) Causing billing information to be submitted for payment, directly or indirectly, without the express informed consent of the customer or donor. In any telemarketing transaction, the seller or telemarketer must obtain the express informed consent of the customer or donor to be charged for the goods or services or charitable contribution and to be charged using the identified account. In any telemarketing transaction involving preacquired account information, the requirements in paragraphs (a)(7)(i) through (ii) of this section must be met to evidence express informed consent.
 - (i) In any telemarketing transaction involving preacquired account information and a free-to-pay conversion feature, the seller or telemarketer must:
 - (A) Obtain from the customer, at a minimum, the last four (4) digits of the account number to be charged;
 - (B) Obtain from the customer his or her express agreement to be charged for the goods or services and to be charged using the account number pursuant to paragraph (a)(7)(i)(A) of this section; and,
 - (C) Make and maintain an audio recording of the entire telemarketing transaction.
 - (ii) In any other telemarketing transaction involving preacquired account information not described in paragraph (a)(7)(i) of this section, the seller or telemarketer must:
 - (A) At a minimum, identify the account to be charged with sufficient specificity for the recipient to identify the account (and, if necessary, to charge the

person has not stated that he or she does not wish to receive outbound telephone calls under paragraph (b)(1)(iii)(A) of this section; or

- message. The mechanism must:
- (1) Automatically add the number called to the seller's entity-specific Do Not Call list;
 - (2) Once invoked, immediately disconnect the call; and
 - (3) Be available for use at any time during the message; and
- (B) In the case of a call that could be answered by an answering machine or voicemail service, that the person called can use a toll-free telephone number to assert a Do Not Call request pursuant to § 310.4(b)(1)(iii)(A). The number provided must connect directly to an automated interactive voice or keypress-activated opt-out mechanism that:
- (1) Automatically adds the number called to the seller's entity-specific Do Not Call list;
 - (2) Immediately thereafter disconnects the call; and
 - (3) Is accessible at any time throughout the duration of the telemarketing campaign; and
- (iii) Complies with all other requirements of this part and other applicable federal and state laws.
- (C) Any call that complies with all applicable requirements of this paragraph (v) shall not be deemed to violate § 310.4(b)(1)(iv) of this part.
- (D) This paragraph (v) shall not apply to any outbound telephone call that delivers a prerecorded healthcare message made by, or on behalf of, a covered entity or its business associate, as those terms are defined in the HIPAA Privacy Rule, 45 CFR 160.103.
- (2) It is an abusive telemarketing act or practice and a violation of this Rule for any person to sell, rent, lease, purchase, or use any list established to comply with § 310.4(b)(1)(iii)(A), or maintained by the Commission pursuant to § 310.4(b)(1)(iii)(B), for any purpose except compliance with the provisions of this Rule or otherwise to prevent telephone calls to telephone numbers on such lists.
- (3) A seller or telemarketer will not be liable for violating § 310.4(b)(1)(ii) and (iii) if it can demonstrate that, as part of the seller's or telemarketer's routine business practice:
- (i) It has established and implemented written procedures to comply with § 310.4(b)(1)(ii) and (iii);
 - (ii) It has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to § 310.4(b)(3)(i);
 - (iii) The seller, or a telemarketer or another person acting on behalf of the seller or charitable organization, has maintained and recorded a list of telephone numbers the seller or charitable organization may not contact, in compliance with § 310.4(b)(1)(iii)(A);

be made before or in conjunction with the description of the prize to the person called. If requested by that person, the telemarketer must disclose the no-purchase/no-payment entry method for the prize promotion; provided, however, that, in any internal upsell for the sale of goods or services, the seller or telemarketer must provide the disclosures listed in this section only to the extent that the information in the upsell differs from the disclosures provided in the initial telemarketing transaction.

- (e) *Required oral disclosures in charitable solicitations.* It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer, in an outbound telephone call to induce a charitable contribution, to fail to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call, the following information:
- (1) The identity of the charitable organization on behalf of which the request is being made; and
 - (2) That the purpose of the call is to solicit a charitable contribution.

§ 310.5 Recordkeeping requirements.

- (a) Any seller or telemarketer shall keep, for a period of 24 months from the date the record is produced, the following records relating to its telemarketing activities:

- (1) All substantially different advertising, brochures, telemarketing scripts, and promotional materials;
- (2) The name and last known address of each prize recipient and the prize awarded for prizes that are represented, directly or by implication, to have a value of \$25.00 or more;
- (3) The name and last known address of each customer, the goods or services purchased, the date such goods or services were shipped or provided, and the amount paid by the customer for the goods or services;⁹
- (4) The name, any fictitious name used, the last known home address and telephone number, and the job title(s) for all current and former employees directly involved in telephone sales or solicitations; provided, however, that if the seller or telemarketer permits fictitious names to be used by employees, such fictitious names shall be disclosed to the consumer.

Admitted by public access to be used by multiple parties and) TJEMC /Lbl A

maintain any required record(s), or if no such agreement exists, the seller shall be responsible for complying with §§ 310.5(a)(1)-(3) and (5); the telemarketer shall be responsible for complying with § 310.5(a)(4).

- (d) In the event of any dissolution or termination of the seller's or telemarketer's business, the principal of that seller or telemarketer shall maintain all records as required under this section. In the event of any sale, assignment, or other change in ownership of the seller's or telemarketer's business, the successor business shall maintain all records required under this section.

§ 310.6 Exemptions.

- (a) Solicitations to induce charitable contributions via outbound telephone calls are not covered by § 310.4(b)(1)(iii)(B) of this Rule.
- (b) The following acts or practices are exempt from this Rule:
- (1) The sale of pay-per-call services subject to the Commission's Rule entitled "Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992," 16 CFR Part 308, *provided*, however, that this exemption does not apply to the requirements of §§ 310.4(a)(1), (a)(7), (b), and (c);
 - (2) The sale of franchises subject to the Commission's Rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising," ("Franchise Rule") 16 CFR Part 436, and the sale of business opportunities subject to the Commission's Rule entitled "Disclosure Requirements and Prohibitions Concerning Business Opportunities," ("Business Opportunity Rule") 16 CFR Part 437, *provided*, however, that this exemption does not apply to the requirements of §§ 310.4(a)(1), (a)(7), (b), and (c);
 - (3) Telephone calls in which the sale of goods or services or charitable solicitation is not completed, and payment or authorization of payment is not required, until after a face-to-face sales or donation presentation by the seller or charitable organization, *provided*, however, that this exemption does not apply to the requirements of §§ 310.4(a)(1), (a)(7), (b), and (c);
 - (4) Telephone calls initiated by a customer or donor that are not the result of any solicitation by a seller, charitable organization, or telemarketer, *provided*, however, that this exemption does not apply to any instances of upselling included in such telephone calls;
 - (5) Telephone calls initiated by a customer or donor in response to an advertisement through any medium, other than direct mail solicitation, *provided*, however, that this exemption does not apply to:
 - (i) Calls initiated by a customer or donor in response to an advertisement relating to investment opportunities, debt relief services, business opportunities other than business arrangements covered by the Franchise Rule or Business Opportunity Rule, or advertisements involving offers for goods or services described in §§ 310.3(a)(1)(vi) or 310.4(a)(2)-(4);
 - (ii) Calls to sellers or telemarketers that do not comply with the prohibitions in §§ 310.4(a)(9) or (10); or
 - (iii) Any instances of upselling included in such telephone calls;
 - (6) Telephone calls initiated by a customer or donor in response to a direct mail

- (b) It is a violation of this Rule for any telemarketer, on behalf of any seller, to initiate an outbound telephone call to any person whose telephone number is within a given area code unless that seller, either directly or through another person, first has paid the annual fee, required by § 310.8(c), for access to the telephone numbers within that area code that are included in the National Do Not Call Registry; provided, however, that such payment is not necessary if the seller initiates, or causes a telemarketer to initiate, calls solely to persons pursuant to §§ 310.4(b)(1)(iii)(B)(i) or (ii), and the seller does not access the National Do Not Call Registry for any other purpose.
- (c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is \$54 for each area code of data accessed, up to a maximum of \$14,850; provided, however, that there shall be no charge to any person for accessing the first five area codes of data, and provided further, that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing area codes of data in the National Do Not Call Registry if the person is permitted to access, but is not required to access, the National Do Not Call Registry under this Rule, 47 CFR 64.1200, or any other Federal regulation or law. No person may participate in any arrangement to share the cost of accessing the National Do Not Call Registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.
- (d) Each person who pays, either directly or through another person, the annual fee set forth in § 310.8(c), each person excepted under § 310.8(c) from paying the annual fee, and each person excepted from paying an annual fee under § 310.4(b)(1)(iii)(B), will be provided a unique account number that will allow that person to access the registry data for the selected area codes at any time for the twelve month period beginning on the first day of the month in which the person paid the fee (“the annual period”). To obtain access to additional area codes of data during the first six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay \$54 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay \$27 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.
- (e) Access to the National Do Not Call Registry is limited to telemarketers, sellers, others engaged in or causing others to engage in telephone calls to consumers, service providers acting on behalf of such persons, and any government agency that has law enforcement authority. Prior to accessing the National Do Not Call Registry, a person must provide the identifying information required by the operator of the registry to collect the fee, and must certify, under penalty of law, that the person is accessing the registry solely to comply with the provisions of this Rule or to otherwise prevent telephone calls to telephone numbers on the registry. If the person is accessing the registry on behalf of sellers, that person also must identify each of the sellers on whose behalf it is accessing the registry, must provide each seller’s unique account number for access to the national registry, and must certify, under penalty of law, that the sellers will be using the information gathered from the registry solely to comply with the provisions of this Rule or otherwise to prevent telephone calls to telephone numbers on the registry.

§ 310.9 Severability.

The provisions of this Rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

ATTACHMENT B

1345.02 Unfair or deceptive acts or practices.

(A) No supplier shall commit an unfair or deceptive act or practice in connection with a consumer transaction. Such an unfair or deceptive act or practice by a supplier violates this section whether it occurs before, during, or after the transaction.

(B) Without limiting the scope of division (A) of this section, the act or practice of a supplier in representing any of the following is deceptive:

- (1) That the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits that it does not have;
- (2) That the subject of a consumer transaction is of a particular standard, quality, grade, style, prescription, or model, if it is not;
- (3) That the subject of a consumer transaction is new, or unused, if it is not;
- (4) That the subject of a consumer transaction is available to the consumer for a reason that does not exist;
- (5) That the subject of a consumer transaction has been supplied in accordance with a previous representation if

it has not, except that the act of a supplier in furnishing similar merchandise of equal or greater value as a good,

1345.03 Unconscionable consumer sales acts or practices.

(A) No supplier shall commit an unconscionable act or practice in connection with a consumer transaction. Such

[REDACTED]

transaction.

(B) In determining whether an act or practice is unconscionable, the following circumstances shall be taken into

[REDACTED]