

MAY 1 1 2005

JOHN A. CLARKE, CLERK

BY H. HART, DEPUTY

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA 8 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT 9 10 JNS COPY SERVICE, INC., CASE NO. LC 068480 I1May 18, 2004 Plaintiff, 12 [PROPOSED] ORDER FOR PRELIMINARY INJUNCTION 13 14 OPTIMA FUNDING, INC.; ALI SHAH; DAVID TAYANIPOUR; DOES 1 through 15 25, inclusive, Defendants. 16 17 18 The Court, having reviewed all moving and opposition papers and argument, finds 19 and orders as follows: 20 AUTHORITY 21 The Telephone Consumer Protection Act ("TCPA") provides for injunctive relief 22 to stop violation of its junk faxing provisions, 47 U.S.C. §227(b)(3)(A). 23 24 Ţ. 25 DEFINITIONS 26 As used in this Order, the following definitions apply: 27 "Defendants" shall mean the defendants named in the operative Complaint. 28

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ORDER FOR PRELIMINARY INJUNCTION

"Enjoined Parties" means the Defendants and their officers, directors, agents, servants, employees, salespersons, attorneys, corporations, subsidiaries, affiliates, successors, and assigns; other entities or persons directly or indirectly under their control; and all persons or cutities in active concert or participation with them who receive actual notice of this Order by personal service, Certified mail, FedEx or similar courier services, facsimile or otherwise.

"Enjoined Parties" also specifically includes without limitation, persons or cutities who, through junk faxing, help the defendants obtain sales leads or inquiries.

"Junk Faxing" shall mean "using any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine." (See 47 U.S.C. §227(b)(1)(C); 47 CFR §64.1200(a)(3).)

"Faxing" shall mean "using any telephone facsimile machine, computer, or other device to send a message to a telephone facsimile machine."

"Advertisement" shall mean "any material advertising the commercial availability or quality of any property, goods or services; and disseminated by any media or method."

"Unsolicited Advertisement" shall mean "any material advertising the commercial availability or quality of any property, goods or services which is transmitted to any person without that person's prior express invitation or permission." (See 47 U.S.C. §227(a)(4).)

"Mortgage" shall mean "any loan which uses real property as collateral." (See, e.g., Business & Professions Code §17539.4.)

II.

PROHIBITIONS ON JUNK FAXING (FAXING UNSOLICITED ADVERTISEMENTS) AND CONCEALMENT OF SENDER'S IDENTITY

IT IS HEREBY ORDERED that, in connection with the promotion, advertising, marketing, sale, offering for sale, or providing of Defendants' products or services, the enjoined parties are hereby restrained and enjoined from either of the following:

- 1. Using, or causing to be used, any telephone facsimile machine, computer or other device to send an unsolicited advertisement to a telephone facsimile machine. (See 47 U.S.C. §227(b)(1)(C); 47 CFR §64.1200(a)(3). See also Kaufman v. ACS Systems, Inc. (2003) 110 Cal.App.4th 886 (TCPA enforceable in California state courts.)).
- 2. Using, or causing to be used, any computer or other electronic device to send any message via a telephone facsimile machine unless there is clearly marked, in a margin at the top or bottom of each transmitted page or on the first transmitted page, the date and time send, the identity of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, entity or individual. (See 47 U.S.C. §227(d)(1)(B); 47 CFR §68.318(d).)

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PRESERVATION OF RECORDS

IT IS HEREBY ORDERED that the enjoined parties are hereby restrained and enjoined from failing to keep at least one sample copy of each document related to Defendants' fax advertising, including but not limited to:

- Material used for fax advertising and promotion, including without limitation a copy of each faxed advertisement;
- Documents that pertain to the subject matter of this lawsuit, including without limitation contracts for fax advertising or lists of fax numbers;
- Any lists of the fax numbers used for fax solicitations, and if available, the corresponding names and addresses of each fax number on the list;
- 4. Complaints, and documents relating to complaints, about Defendants' fax advertising.
- Complaints or inquiries from regulatory or licensing authorities relating to Defendants' fax advertising.
- Any lawsuit alleging that defendants have violated the faxing provisions of the TCPA, 47 USC 227.

NOTIFICATION TO MANAGING AGENTS AND OTHERS

IT IS FURTHER ORDERED that within ten (10) calendar days following the date of entry of this Order, defendants shall provide a copy of this Order to each of their officers, directors, managing agents, supervisory employees, divisions, subsidiaries, corporations, affiliates, successors, independent contractors or consultants involved in the advertising, marketing, promotion or provision of defendants' products or services or use of faxing for advertising or promotional purposes; and to each government agency which licenses or regulates defendants' business, and obtain a dated and signed receipt therefor, which the Defendants shall keep. This paragraph shall not require defendants to provide a copy of this Order to any employee or independent contractor who performs a purely non-discretionary function.

V

MONITORING PROVISIONS RE EMPLOYEE AND OTHER NOTIFICATION

IT IS FURTHER ORDERED that, within 14 days of giving notice pursuant to the preceding paragraph, the defendants shall write to Plaintiff's counsel, stating the persons and entities to which notice has been given pursuant to the preceding paragraph "NOTIFICATION TO MANAGING AGENTS AND OTHERS."

The information given to Plaintiff's counsel shall include, for each such person or entity given notice, the date notice was given, the method of notice, the full exact company name and individual name, the full exact actual physical address, the full exact mailing address (if different from the physical address), the phone number and fax number, and the role of the person or entity given notice—E.g., "Company which does our fax broadcasting," "Person who provides lists of fax numbers." The information to Plaintiff's counsel shall also include copies of the signed receipts obtained pursuant to the preceding Paragraph.

IT IS FURTHER ORDERED that Defendants shall notify Plaintiff's counsel, in writing, within fourteen (14) days of the effective date, of any change in their status, organization, or structure, such as dissolution, assignment, or sale of their business(es) that may affect any compliance obligations arising from this Order, and of any change in defendants' or any enjoined party's contact information..

For purposes of this Order, any notice shall be sent to the following address (or such other address as Plaintiff may later give defendants in writing) by Certified Mail, Return Receipt Requested, FedEx or other courier company, or hand delivery:

Brian A. Manson, Esq. LAW OFFICES OF BRIAN A. MANSON 14156 Magnolia Blvd., Suite 200 Sherman Oaks, CA 91423

IT IS FURTHER ORDERED that, to aid Plaintiff in monitoring compliance with this Order, individual defendants shall notify Plaintiff's counsel, in writing, within ten (10) calendar days after the date of entry of this Order, of their current residences, business addresses, and employment status; and that non-individual (entity) defendants shall notify Plaintiff's counsel, in writing, within ten (10) calendar days after the date of entry of this Order, of their current name, legal status, corporation registration number, states of registration (if a Corporation), and fictitious business names, full exact physical address, full exact mailing address (if different than physical address), phone number and fax number; and that all Defendants shall notify Plaintiff in writing within fourteen (14) calendar days of any changes of the above-mentioned information.

VI.

UNDERTAKING OR CASH BOND

□ Bond is waived.

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This Injunction shall not take effect unless and until Plaintiff posts a bond, undertaking, or each pursuant to CCP §529, in the amount of \$35.00.

\$1,000.

by 4:00 p.m. on the tenth business day following signing of

PROOF OF SERVICE

JNS COPY SERVICE, INC. V OPTIMA FUNDING, INC. ET.AL.

STATE OF CALIFORNIA

)ss.

COUNTY OF LOS ANGELES

I am employed in Los Angeles County, CA; over 18; and not a party to this action, My business address is 2272 Colorado Blvd., #1228, Los Angeles, CA 90041-1143.

On the date shown below, I served the document(s) described below on the interested parties in this action, by placing true copies thereof enclosed in sealed envelopes addressed as follows.

DOCUMENTS: Notice of Rulings on Motions (heard May 11, 2005); Order for Preliminary Injunction (signed and dated May 11, 2005)

RECIPIENTS:

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SEE ATTACHED MAILING LIST

(FAX 714 444-1532) □: Terri Breer, Esq. Breer Law Offices 940 South Coast Drive, Ste. 115 Costa Mesa, CA 92626

Brian A. Manson, Esq. (FAX 818 906-0085) LAW OFFICES OF BRIAN A. MANSON 14156 Magnolia Boulevard, Suite 200 Sherman Oaks, CA 91423-1182

BY MAIL - I deposited such envelope in the mail at Glendale, California, with postage thereon fully prepaid.

BY COURTER SERVICE - I placed such envelope in the carrier envelope provided by Federal Express and deposited said carrier envelope in that firm's deposit box at Glendale, California with payment thereon fully prepaid.

BY FACSIMILE - With prior permission for fax service, I faxed the document(s) to the office(s) of the addressee(s). The transmission to each party served was reported as complete and without error by the transmitting fax machine.

I declare under penality of perjury under the laws of the STATE State of California that the above is true and correct.

Executed on

AMKRAUT

(Signed Name)

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2	PROOF OF SERVICE JNS COPY SERVICE, INC. V OPTIMA FUNDING,
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5	MAILING LIST
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7	David Tayanipour (in pro per) 27371 Vineza
8	Mission Viejo, CA 92691-2226
9	Optima Funding, Inc. (in pro per) 5 Mutton Centre
10	Santa Ana, CA 92707
11	Ali Shah, President (in pro por) Optima Funding, Inc.
12	5 Hutton Centre Santa Ana, CA 92707
13	Terri Breer, Esq. (FAX 714 444-1532)
14	Breer Law Offices 940 South Coast Drive, Ste. 115
15	Costa Mesa, CA 92626
16	Michael K. Wolder (FAX 949 622-8985) Pistone & Wolder LLP
17	2020 Main Street, Suite 900 Irvine, CA 92614-8203
18	Brian A. Manson, Esq. (FAX 818 906-0085)
19	LAW OFFICES OF BRIAN A. MANSON 14156 Magnolia Boulevard, Suite 200
20	Sherman Oaks, CA 91423-1182
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INC. ET.AL.

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