

| | |
|--|---|
| <p>DISTRICT COURT, CITY, & COUNTY OF DENVER, STATE OF COLORADO</p> <p>Court Address: 1437 Bannock Street, Rm 256 Denver, Colorado 80202 Phone Number: 720.865-8301</p> <hr/> <p>Plaintiff(s): U.S. Fax Law Center, Inc., a Colorado Corporation,</p> <p>v.</p> <p>Defendant(s): A 2 Z Kellatronics, Inc., and Mike Schmidt, Individually, and Bari Schmidt, Individually; Alliance Funding Group, Inc., and Brij Patel, Individually; Cvent, Inc., and Reggie Aggarwal, Individually; Dorsan Suites a/k/a Dawn Property Management, Inc., d/b/a Dorsan Suites Resorts, and Delroy Cowan, Individually; Dust Busters Cleaning Services, Inc., and Daniel Rupoli, Individually and Ellisa L. Rupoli a/k/a Elisa L. Rupoli,, Individually; Everycontractor.com a/k/a List Guy and David M. Johnson, Individually; ExpoTrans, Inc. and Richard "Rick" Farrell, Individually; Fisher Business Systems, Inc., and Dean Bohlen, Individually; James L. Gardner d/b/a Nature-Tone a/k/a Nature-Tone Health Products, and James L. Gardner, Individually; JR Performance Group d/b/a PCS Refurbished, and Johnny Yu, Individually; North American Industries, Inc., and Jay Levenson, Individually; Roller Express, and Steven Saunders, Individually; Signs of Imagination, Inc., a/k/a Imagine This Company, and Michael Moss, Individually, and Beverly J. Moss, Individually; Skyline Federal Mortgage Corporation, and Travis O. Williams, Individually; Steven S. Hopkins, D.D.S., P.C., and Steven S. Hopkins, Individually; Travel Bureau, Inc., and Raymond Reed, Individually, and James E. Street, Individually; and Jane Does #1-100; and John Does #1-100.</p> | <p>FILED Document CO Denver County District Court 2nd JD Filing Date: Sep 29 2005 10:04AM MDT Filing ID: 6900331 Review Clerk: Sean McGowan</p> <p>▲ COURT USE ONLY ▲</p> |
| <p>Attorney: Andrew L. Quiat, Esq.; Reg. #1286 The Law Offices of Andrew L. Quiat, P.C. 8200 So. Quebec Street, Suite A-3304 Centennial, Colorado 80112 Phone Number: 303.471.8558</p> | <p>Case Number: 2005 CV _____ Division Ctrm</p> |
| <p style="text-align: center;">COMPLAINT</p> | |

PLAINTIFF, for its Complaint against the above-named Defendants, states and alleges as follows:

I. PARTIES

- 1.1 Lion Capital, L.L.C., a Colorado Limited Liability Company (hereinafter referred to as “Lion Capital”), and is Assignor to the US Fax Law Center, Inc. (hereinafter referred to as “USFLC”). Lion was an Assignee of Crow Industries, Inc., d/b/a Alpha Graphics #055; also Assignee of Guiry’s, Inc., a Colorado Corporation; and Assignee of Lehrer Metal Products Co. Inc. These are Colorado Companies whose principal offices are located within the City and County of Denver, State of Colorado.
- 1.2 The Gas Connection, a Colorado Corporation, is Assignor to the US Fax Law Center, Inc. (“USFLC”) and whose principal office(s) is/are located within the City and County of Broomfield, State of Colorado.
- 1.3 Grayt Enterprises, d/b/a Mail Boxes Etc., a Colorado Corporation, is Assignor to the USFLC, and whose principal offices(s) is/are located within the City and County of Denver, State of Colorado.
- 1.4 Guys and Dolls, Inc. is Assignor to the USFLC and whose principal office(s) is/are located within the City of Englewood and County of Arapahoe, State of Colorado.
- 1.5 Rocky Mountain Cleaning & Environmental, Inc., is a Colorado Corporation, is Assignor to the USFLC, and whose principal office(s) is/are located within the City of Thornton and County of Adams, State of Colorado.
- 1.6 Electro Systems, Inc. is Assignor to the USFLC and whose principal offices(s) is/are located within the City of Lakewood and County of Jefferson, State of Colorado.

- 1.7 Defendant A 2 Z Kellatronics, Inc., is a company organized and existing under the laws of California, with its principal place of business located at 18401 Eddy St., Northridge, California 91324, who sends unsolicited faxes into the State of Colorado. The owners or shareholders, upon information and belief, include Defendants Mr. Mike Schmidt, individually, and Ms. Bari Schmidt, individually. Ms. Bari Schmidt is the registered Agent for Service of Process at 18401 Eddy St., Northridge, California 91324.
- 1.8 Defendant Alliance Funding Group, Inc., (“AFG”), is a California corporation whose principal address, listed with the California Secretary of State, is 2099 South State College Blvd., Suite 301, Anaheim, California 92806, and who sends unsolicited faxes into the State of Colorado. The owner and President is Brij Patel, who, upon information and belief, resides at 336 River Ranch Way, Oceanside, CA 92057. The agent for service of process, as listed with the California Secretary of State, is Steve Jenkins, 15910 Ventura Blvd, 12th Floor, Encino, CA 91436.
- 1.9 Defendant Cvent, Inc. (“Cvent”), is a Virginia company whose principal address is 200 North Glebe Road, Suite 200, Arlington, Virginia 22203, and who sends unsolicited faxes into the State of Colorado. The founder and CEO is Defendant Reggie Aggarwal.
- 1.10 Defendant Dorsan Suites a/k/a Dawn Property Management, Inc., d/b/a Dorsan Suites Resorts (“Dorsan”), is a Florida company whose principal address, is 201 Simpson Road, Kissimmee, Florida 34744 and whose management office is Dawn Property Management, Inc., located at 6065 NE 167 St., Miami, Florida 33015. Defendant Dorsan sends unsolicited faxes into or within the State of Colorado. As listed with the Florida

Department of State, Division of Corporations, the Registered Agent is Gary Cedens, 6065 NW 167 ST (B-3), Miami, Florida 33015. The President of Dorsan Suites, upon information and belief, is Defendant Mr. Delroy Cowan.

- 1.11 Defendants ExpoTrans, Inc. (“ExpoTrans”), is a company organized and existing under the laws of California, with its principal place of business located at 19 Corporate Park, Irvine, California 92606, who sends unsolicited faxes into the State of Colorado. As listed with the California Secretary of State, the Agent for Service of Process is the owner and individual Defendant, Richard “Rick” Farrell, located at 19 Corporate Park, Irvine, California 92606.
- 1.12 Defendant James L. Gardner d/b/a Nature-Tone a/k/a Nature-Tone Health Products (“Nature-Tone”), is a Texas enterprise whose principal address is 2530A Spring Cypress Rd., Spring, Texas 77388-4653, and who sends unsolicited faxes into the State of Colorado. The owner and a principal, upon information and belief is, Defendant James L. Gardner.
- 1.13 Defendant North American Industries, Inc. (“North American”), is a Massachusetts company whose principal address, listed with the Commonwealth of Massachusetts, is 80 Holton St., Woburn, Massachusetts 01801, and who sends unsolicited faxes into the State of Colorado. The President of North American Industries, Inc., listed by the Secretary of the Commonwealth of Massachusetts, is Defendant Jay Levenson, whose address is listed as 14 Bradley Road, Andover, Massachusetts 01810.
- 1.14 Defendant JR Performance Group d/b/a PCS Refurbished (“JR Performance”), is a California corporation whose principal address, listed with the California Secretary of

State, is 7050 Andasol Ave., Van Nuys, California, and who sends unsolicited faxes into the State of Colorado. The President of the corporation, upon information and belief, is Johnny Yu.

1.15 Defendant Signs of Imagination, Inc., a/k/a Imagine This Company “(Signs)”, and., is a Virginia company whose principal address, listed with the Virginia State Corporation Commission, is 5331 Distributor Drive, Richmond, Virginia 23225, and who sends unsolicited faxes into the State of Colorado. President and Vice-President, upon information and belief, are respectively, Defendant Michael Moss, and Defendant Beverly J. Moss.

1.16 Defendant Travel Bureau, Inc.(“Travel Bureau”), is a Nevada company whose principal address, listed with the Nevada Secretary of State, is 1020 Desert Inn Rd., #601, Las Vegas, Nevada 89109, and who sends unsolicited faxes into the State of Colorado. As listed with the Nevada Secretary of State, the President is James E. Street, and the Resident Agent is Raymond Reed, located at 1020 Desert Inn Rd., #601, Las Vegas, Nevada 89109.

1.17 Defendant Dust Busters Cleaning Services, Inc. (“Dust Busters Cleaning”), is a Colorado company whose principal address, listed with the Colorado Secretary of State, is 11271 W. 54th Ave., Arvada, Colorado 80002, and who sends unsolicited faxes within the State of Colorado. As listed with the Colorado Secretary of State, the Registered Agent is Ellisa L. Rupoli, located at 11271 W. 54th Ave., Arvada, Colorado 80002. Defendants Daniel Rupoli and Ellisa L. Rupoli a/k/a Elisa L. Rupoli, upon information and belief, are officers and shareholders of Dust Busters Cleaning Services, Inc.

- 1.18 Defendant Everycontractor, Inc. (“Everycontractor”), d/b/a Everycontractor.com a/k/a List Guy is a Nevada corporation whose principal address, listed with the Nevada Secretary of State, is 7324 W. Cheyenne Avenue, Las Vegas, Nevada 89129, and who sends unsolicited faxes into the State of Colorado. The President and Treasurer, listed with the Nevada Secretary of State, is Defendant David M. Johnson, located at 2116 Hillsgate St., Las Vegas, NV 89134.
- 1.19 Defendant Fisher Business Systems, Inc. (“Fisher”) is an Arizona company whose principal address, listed with the State of Arizona, is 102 S. River Dr., Tempe, Arizona 85281, and who sends unsolicited faxes into the State of Colorado. As listed with the State of Arizona, the President/CEO and Statutory Agent is Defendant Dean Bohlen.
- 1.20 Defendant Roller Express, Ltd. (“Roller”) is a Colorado corporation whose principal address, listed with the Colorado Secretary of State, is 8412 N. Huron Street, Denver, Colorado 80221, and who sends unsolicited faxes within the State of Colorado. As listed with the Colorado Secretary of State, the Registered Agent is Defendant Steven W. Saunders, whose address is 8412 N. Huron Street, Denver, Colorado 80221. Upon information and belief, the owner is Steven Saunders.
- 1.21 Defendant Skyline Federal Mortgage Corporation (“Skyline”) is a Colorado company who sends unsolicited faxes within the State of Colorado. As listed with the Colorado Secretary of State the Registered Agent is Defendant Travis O. Williams. Upon information and belief, Mr. Williams is also the President of Skyline Federal Mortgage Corporation, whose principal address, listed with the Colorado Secretary of State, is 7730 E. Belleview Ave., Ste. 305, Greenwood Village, Colorado 80111.

- 1.22 Defendant Steven S. Hopkins, D.D.S., P.C. (“Hopkins”) is a Colorado company whose principal address, listed with the Colorado Secretary of State, is 7400 E. Arapahoe Rd., Ste. 200, Centennial, Colorado 80112, and who sends unsolicited faxes within the State of Colorado. As listed with the Colorado Secretary of State, the Registered Agent is Defendant Steven. S. Hopkins, DDS., with address of 7400 E. Arapahoe Rd., Ste. 200, Centennial, Colorado 80112. Upon information and belief, Dr. Hopkins is an owner and the principal manager or chief operating officer.
- 1.23 Jane Doe Defendants #1-100 and John Doe Defendants #1-100 are currently unknown individuals, corporations, LLC’s or other statutory or de-facto entities that have either sent or caused to be sent to the Plaintiff, unsolicited fax advertisements in violation of Federal law and/or the Colorado Consumer Protection Act, or have been or are commercial “fax blasters”.

II. JURISDICTION AND VENUE

- 2.1 Jurisdiction is proper in this court pursuant to the Constitution of the State of Colorado which provides that the District Court shall be the trial court of record with general jurisdiction and shall have original jurisdiction of all civil cases, except as otherwise provided by statute, and shall have such jurisdiction as may be prescribed by law (Colo. Const. Art. VI § 9.)
- 2.2 47 USC § 227(b)(3) of The Telephone Consumer Privacy Act (“TCPA”) provides that a private action for its violation may be brought in an appropriate court of a State.

- 2.3 Venue is proper in this Court pursuant to C.R.C.P. 98(c) on account of service of process upon at least one of the Defendants named herein took place or shall take place within The City and County of Denver.
- 2.4 This Court has jurisdiction over each out-of-state Defendant by virtue of C.R.S. § 13-1-124.

III. GENERAL ALLEGATIONS

- 3.1 This matter is a civil action for damages and injunctive relief against the Defendants under the Federal Telephone Consumer Protection Act (“TCPA”), 47 USC § 227, *et seq.* and the Colorado Consumer Protection Act, C.R.S. Section 6-1-701 *et seq.* (“CCPA”).
- 3.2 Each Defendant engaged in acts or practices that violated the federal TCPA and/or the CCPA, to the detriment of the Plaintiff, as hereinafter more particularly set forth.
- 3.3 The TCPA at 47 USC § 227(b)(1)(C), provides that it is unlawful for any person to use any telephone facsimile machine to send an unsolicited advertisement to a telephone facsimile machine.
- 3.4 An “unsolicited advertisement” is defined by Section 227(a)(4), United States Code, Title 47 to 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”.

IV. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO DEFENDANTS A 2 Z KELLATRONICS, INC., MIKE SCHMIDT, INDIVIDUALLY, AND BARI SCHMIDT, INDIVIDUALLY

- 4.1 Guiry's received on or about October 21, 2003, one unsolicited fax advertisement ("fax"), sent on behalf of A 2 Z Kellatronics, Inc. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #1.
- 4.2 The fax referred to in Paragraph 4.1 above was sent without Guiry's express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).
- 4.3 The fax referred to in Paragraph 4.1 above was sent without having clearly marked in a margin at the top, the date and time it was sent; an identification of the business, other entity or individual sending the message; and the telephone number of the sending fax machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.
- 4.4 The fax referred to in Paragraph 4.1 above failed to include therein, a proper toll-free telephone number for removal as required under CRS Section 6-1-702(1)(b)(I).
- 4.5 Owners of A 2 Z Kellertronics, Inc., upon information and belief, include Mike Schmidt, Individually, and Bari Schmidt, Individually. The Schmidt's have conducted business with inadequate or thin capitalization for the business in which they have been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and the Schmidt's held liable for all damages under any and all counts of the Complaint attributable to A 2 Z Kellertronics, Inc. Alternatively, Mike Schmidt and Bari Schmidt are the persons in control of A 2 Z Kellertronics, Inc.'s activities, A 2 Z Kellertronics, Inc.'s advertising policies, and A 2 Z Kellertronics, Inc.'s facsimile transmittal policies.

Therefore, Mike Schmidt and Bari Schmidt are personally liable for all damages under any and all counts of the Complaint attributable to A 2 Z Kellertronics, Inc.

- 4.6 The fax referred to in Paragraph 4.1 contains a total of two (2) separate and distinct violations of 47 USC § 227, and an additional one (1) violation of the Colorado Consumer Protection Act, for a total of three (3) statutory violations.

V. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO DEFENDANTS ALLIANCE FUNDING GROUP, INC.

- 5.1 The Gas Connection Corp., in June, 2003 received one (1) unsolicited facsimile advertisement (“fax”), sent on behalf of Alliance. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #2.
- 5.2 The fax referred to in Paragraph 5.1 above was sent without The Gas Connection Corp.’s prior express permission or invitation, and therefore, constitutes a separate and distinct violation of 47 USC § 227(b)(1)(C).
- 5.3 The fax referred to in Paragraph 5.1 above was sent without having clearly marked in a margin at the top, the date and time it was sent, an identification of the business, other entity or individual sending the message; and the telephone number of the sending fax machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.
- 5.4 The owner and President of Alliance Funding Group is Brij Patel. Brij Patel has conducted business with inadequate or thin capitalization for the business in which he/she is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced

or disregarded, and Brij Patel held liable for all damages under any and all counts of the Complaint attributable to Alliance. Alternatively, Brij Patel is the person in control of Alliance's activities, Alliance's advertising policies, and Alliance's facsimile transmittal policies. Therefore, Brij Patel is personally liable for all damages under any and all counts of the Complaint attributable to Alliance Funding Group.

- 5.5 The fax referred to in Paragraph 5.1 contains a total of two (2) separate and distinct violations of 47 USC § 227.

VI. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO DEFENDANTS CVENT, INC. AND REGGIE AGGARWAL, INDIVIDUALLY

- 6.1 On or about May 20, 2003, Guiry's, Inc. received two unsolicited facsimile advertisement sent on behalf of Cvent, Inc. Copies of the subject faxes are attached hereto and incorporated by reference as Exhibits #3 and 4.
- 6.2 The faxes referred to in Paragraph 6.1 above were sent without Guiry's prior express permission or invitation, and therefore, constitute a distinct violation of 47 USC § 227(b)(1)(C).
- 6.3 The faxes referred to in Paragraph 6.1 above were sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it was sent, an identification of the business, other entity or individual sending the message, and the telephone number of the sending machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.
- 6.4 Founder and Chief Executive Officer of Cvent, Inc. is Reggie Aggarwal. Mr. Aggarwal has conducted business with inadequate or thin capitalization for the business in which he

is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Mr. Aggarwal held liable for all damages under any and all counts of the Complaint attributable to Cvent, Inc. Alternatively, Mr. Aggarwal is the person in control of Cvent, Inc.'s activities, Cvent, Inc.'s advertising policies, and Cvent, Inc.'s facsimile transmittal policies. Therefore, Mr. Aggarwal is personally liable for all damages under any and all counts of the Complaint attributable to Cvent, Inc.

- 6.5 The faxes referred to in Paragraph 6.1 contain a total of four (4) separate and distinct violations of 47 USC § 227.

VII. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO DEFENDANT DORSAN SUITES a/k/a DAWN PROPERTY MANAGEMENT, INC., d/b/a DORSAN SUITES RESORTS, AND DELROY COWAN, INDIVIDUALLY

- 7.1 On or about June 19, 2003, The Gas Connection Corp. received an unsolicited facsimile advertisement ("fax") sent on behalf of Dorsan Suites a/k/a Dawn Property Management, Inc., d/b/a Dorsan Suites Resorts. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #5.
- 7.2 The fax referred to in Paragraph 7.1 above was sent without The Gas Connection Corp.'s prior express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).
- 7.3 The fax referred to in Paragraph 7.1 above was sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it was sent, an identification of the business, other

entity or individual sending the message, and the telephone number of the sending machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.

7.4 Upon information obtained from the Florida Department of State, Division of Corporations, Defendant Delroy Cowan, is Director of the Corporation. Defendant Cowan has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Defendant Cowan held liable for all damages under any and all counts of the Complaint attributable to Dorsan. Alternatively, Delroy Cowan is in control of Dorsan's activities, Dorsan's advertising policies, and Dorsan's facsimile transmittal policies. Therefore, Delroy Cowan is personally liable for all damages under any and all counts of the Complaint attributable to Dorsan Suites a/k/a Dawn Property Management, Inc., d/b/a Dorsan Suites Resorts.

7.5 The fax referred to in Paragraph 7.1 contains a total of two (2) separate and distinct violations of 47 USC § 227.

VIII. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO DEFENDANTS EXPOTRANS, INC. AND RICHARD "RICK" FARRELL, INDIVIDUALLY

8.1 On or about August 7, 2003, Guiry's, Inc. received one unsolicited facsimile advertisement ("fax") sent on behalf of ExpoTrans, Inc., A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #6.

- 8.2 The fax referred to in Paragraph 8.1 above was sent without Guiry's prior express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).
- 8.3 The fax referred to in Paragraph 8.1 above was sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it was sent, an identification of the business, other entity or individual sending the message, and the telephone number of the sending machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.
- 8.4 The fax referred to in Paragraph 8.1 above failed to include therein, a proper toll-free telephone number for removal as required under CRS Section 6-1-702(1)(b)(I).
- 8.5 An owner of ExpoTrans Inc. is Richard "Rick" Farrell. Mr. Farrell has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Mr. Farrell held liable for all damages under any and all counts of the Complaint attributable to ExpoTrans, Inc. Alternatively, Mr. Farrell is the person in control of ExpoTrans, Inc.'s activities, ExpoTrans, Inc.'s advertising policies, and ExpoTrans, Inc.'s facsimile transmittal policies. Therefore, Mr. Farrell is personally liable for all damages under any and all counts of the Complaint attributable to ExpoTrans, Inc.

8.6 The fax referred to in Paragraph 8.1 contains a total of two (2) separate and distinct violations of 47 USC § 227, and an additional one (1) violation of CRS Section 6-1-702(1)(b)(I) for a total of three (3) statutory violations.

**IX. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO
DEFENDANTS JAMES L. GARDNER d/b/a NATURE-TONE a/k/a NATURE-TONE
HEALTH PRODUCTS AND JAMES L. GARDNER, INDIVIDUALLY**

9.1 On or about April 4, 2003, Crow Industries, Inc., d/b/a Alpha Graphics #055, received an unsolicited facsimile advertisement (“fax”) sent on behalf of Nature-Tone Health Products. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #7.

9.2 The fax referred to in Paragraph 9.1 above was sent without Crow Industries’ prior express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).

9.3 The fax referred to in Paragraph 9.1 above was sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it was sent, an identification of the business, other entity or individual sending the message, and the telephone number of the sending machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.

9.4 A principal or owner of “Nature-Tone” is, upon information and belief, Defendant James L. Gardner. Mr. Gardner has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers

of unsolicited fax advertisements) in violation of the law. Accordingly, the entity veil should be pierced or disregarded, and Mr. Gardner held liable for all damages under any and all counts of the Complaint attributable to Nature-Tone. Alternatively, Mr. Gardner is the person in control of Nature-Tone's activities, Nature-Tone's advertising policies, and Nature-Tone's facsimile transmittal policies. Therefore, Mr. Gardner is personally liable for all damages under any and all counts of the Complaint attributable to Nature-Tone Health Products.

- 9.5 The fax referred to in Paragraph 9.1 contains a total of two (2) separate and distinct violations of 47 USC § 227.

**X. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF
AS TO DEFENDANTS NORTH AMERICAN INDUSTRIES, INC.
AND JAY LEVENSON, INDIVIDUALLY**

- 10.1 The Gas Connection Corp. received one (1) unsolicited fax advertisement ("fax"), sent on behalf of North American Industries, Inc. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #8.
- 10.2 The fax referred to in Paragraph 10.1 above was sent without The Gas Connection Corp.'s prior express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).
- 10.3 The fax referred to in Paragraph 10.1 above was sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time each was sent, an identification of the business, other entity or individual sending the message, and the telephone number of the sending

machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.

10.4 The President of “North American”, upon information provided by the Secretary of the Commonwealth of Massachusetts, Defendant Jay Levenson. Mr. Levenson has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Mr. Levenson held liable for all damages under any and all counts of the Complaint attributable to North American Industries, Inc. Alternatively, Mr. Levenson is the person in control of North American Industries, Inc’s activities, North American Industries, Inc’s advertising policies, and North American Industries, Inc’s facsimile transmittal policies. Therefore, Mr. Levenson is personally liable for all damages under any and all counts of the Complaint attributable to North American Industries, Inc.

10.5 The fax referred to in Paragraph 10.1 contains two (2) distinct violations of 47 USC § 227.

**XI. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO
DEFENDANT JR PERFORMANCE GROUP d/b/a PCS REFURBISHED
AND JOHNNY YU, INDIVIDUALLY**

11.1 On or about April 10, 2003, The Gas Connection Corp. received an unsolicited facsimile advertisement (“fax”) sent on behalf of JR Performance. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit # 9.

- 11.2 The fax referred to in Paragraph 11.1 above was sent without The Gas Connection Corp.'s prior express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).
- 11.3 The fax referred to in Paragraph 11.1 above was sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it was sent, an identification of the business, other entity or individual sending the message, and the telephone number of the sending machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.
- 11.4 A principal or owner of JR Performance is, upon information and belief, Defendant Johnny Yu. Mr. Yu has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the entity veil should be pierced or disregarded, and Mr. Yu held liable for all damages under any and all counts of the Complaint attributable to JR Performance. Alternatively, Mr. Yu is the person in control of JR Performance's activities, JR Performance's advertising policies, and JR Performance's facsimile transmittal policies. Therefore, Mr. Johnny Yu is personally liable for all damages under any and all counts of the Complaint attributable to JR Performance Group d/b/a PCS Refurbished.
- 11.5 The fax referred to in Paragraph 11.1 contains a total of two (2) separate and distinct violations of 47 USC § 227.

**XII. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO
DEFENDANTS SIGNS OF IMAGINATION, INC. A/K/A IMAGINE THIS COMPANY
AND MICHAEL MOSS, INDIVIDUALLY AND BEVERLY J. MOSS, INDIVIDUALLY**

- 12.1 On or around September 19, 2002, Lion Capital, an Assignee of Guiry's, Inc., received an unsolicited fax advertisements ("fax"), sent on behalf of Signs of Imagination, Inc. a/k/a Imagine This Company. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #10.
- 12.2 The fax referred to in Paragraph 12.1 above was sent without Guiry's prior express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).
- 12.3 The fax referred to in Paragraph 12.1 above failed to include therein, a proper toll-free telephone number for removal as required under CRS Section 6-1-702(1)(b)(I).
- 12.4 Upon information obtained from the Commonwealth of Virginia State Corporation Commission, Defendants Michael Moss and Beverly J. Moss, are President and Vice-President, respectively, of the Company. Defendants Moss have conducted business with inadequate or thin capitalization for the business in which they are or have been engaged and/or have used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Defendants Moss held liable for all damages under any and all counts of the Complaint attributable to Signs. Alternatively, Michael Moss as well as Beverly J. Moss are in control of Signs' activities, Signs' advertising policies, and Signs' facsimile transmittal policies. Therefore, Michael Moss and Beverly J. Moss are personally liable for all

damages under any and all counts of the Complaint attributable to Signs of Imagination, Inc. a/k/a Imagine This Company.

- 12.6 The fax referred to in Paragraph 12.1 contains one (1) distinct violation of 47 USC § 227, and an additional one (1) violation of CRS Section 6-1-702(1)(b)(I) for a total of two (2) statutory violations.

**XIII. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO
DEFENDANTS TRAVEL BUREAU, INC. AND RAYMOND REED, INDIVIDUALLY
AND JAMES E. STREET, INDIVIDUALLY**

- 13.1 On or about July 1, 2003, The Gas Connection Corp. received an unsolicited facsimile advertisement (“fax”) sent on behalf of Travel Bureau, Inc. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #11. On or about January 27, 2004, Electro Systems, Inc. received an unsolicited facsimile advertisement (“fax”) sent on behalf of Travel Bureau, Inc. Copies of the subject faxes are attached hereto and incorporated by reference as Exhibits #11 and #11A.
- 13.2 The faxes referred to in Paragraph 13.1 above were sent without The Gas Connection Corp.’s or Electro Systems’s prior express permission or invitation, and therefore, constitute distinct violations of 47 USC § 227(b)(1)(C).
- 13.3 The faxes referred to in Paragraph 13.1 above were sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time each was sent, an identification of the business, other entity or individual sending the message, and the telephone number of the sending machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.

- 13.4 The fax identified as Exhibit #11 referred to in Paragraph 13.1 above failed to include therein, a proper toll-free telephone number for removal as required under CRS Section 6-1-702(1)(b)(I).
- 13.5 The President of Travel Bureau Inc., according to the Nevada Secretary of State, is Defendant Raymond Reed. Mr. Reed, upon information and belief, is a shareholder of Travel Bureau, Inc. as well. Defendant Reed has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Mr. Reed held liable for all damages under any and all counts of the Complaint attributable to Travel Bureau Inc. Alternatively, Mr. Reed is the person in control of Travel Bureau Inc.'s activities, Travel Bureau Inc.'s advertising policies, and Travel Bureau Inc.'s facsimile transmittal policies. Therefore, Mr. Reed is personally liable for all damages under any and all counts of the Complaint attributable to Travel Bureau Inc.
- 13.6 The faxes referred to in Paragraph 13.1 contain a total of four (4) separate and distinct violations of 47 USC § 227, and an additional one (1) violation of CRS Section 6-1-702(1)(b)(I) for a total of five (5) statutory violations.

XIV. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO DEFENDANTS DUST BUSTERS CLEANING SERVICES, INC., AND DANIEL RUPOLI, INDIVIDUALLY AND ELLISA L. RUPOLI, A/K/A ELISA L. RUPOLI, INDIVIDUALLY

- 14.1 On or about May 8, 2002 and De 15, 2003 (sic), Rocky Mountain Cleaning & Environmental, Inc. (hereinafter referred to as "RM Cleaning") received one unsolicited

facsimile advertisement (“fax”) sent on behalf of Dust Busters Cleaning Services, Inc. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #12.

- 14.2 The faxes referred to in Paragraph 14.1 above were sent without RM Cleaning’s prior express permission or invitation, and therefore, constitute a distinct violation of 47 USC § 227(b)(1)(C).
- 14.3 The faxes referred to in Paragraph 14.1 above were sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time each was sent, an identification of the business, other entity or individual sending the message, and the telephone number of the sending machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.
- 14.4 The fax referred to in Paragraph 4.1 above failed to include therein, a proper toll-free telephone number for removal as required under CRS Section 6-1-702(1)(b)(I).
- 14.5 The Registered Agent of Dust Busters Cleaning Services, Inc., according to the Colorado Secretary of State, is Ellisa L. Rupoli. Upon information and belief, Defendant Daniel Rupoli and Defendant Ellisa L. Rupoli a/k/a Elisa L. Rupoli are the officers and owners of Dust Busters Cleaning Services, Inc. They have conducted business with inadequate or thin capitalization for the business in which they have been engaged and have used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Mr. and Ms. Rupoli held liable for all damages under any and all counts of the Complaint attributable to Dust

Busters Cleaning. Alternatively, Mr. and Ms. Rupoli are the persons in control of Dust Busters Cleaning's activities, Dust Buster Cleaning's advertising policies, and Dust Busters Cleaning's facsimile transmittal policies. Therefore, Mr. and Ms. Rupoli are personally liable for all damages under any and all counts of the Complaint attributable to Dust Busters Cleaning Services, Inc.

- 14.6 The fax referred to in Paragraph 14.1 contains a total of two (2) separate and distinct violations of 47 USC § 227, and an additional one (1) violation of CRS Section 6-1-702(1)(b)(I) for a total of three (3) statutory violations.

**XV. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO
DEFENDANTS EVERYCONTRACTOR.COM A/K/A LIST GUY
AND DAVID M. JOHNSON, INDIVIDUALLY**

- 15.1 On or about October 30, 2002, Guiry's, Inc. received two (2) unsolicited facsimile advertisements ("faxes") sent on behalf of Everycontractor.com a/k/a List Guy. Copies of the subject faxes are attached hereto and incorporated by reference as Exhibits #13 and #14.
- 15.2 The faxes referred to in Paragraph 15.1 above were sent without Guiry's prior express permission or invitation, and therefore, constitute distinct violations of 47 USC § 227(b)(1)(C).
- 15.3 The faxes referred to in Paragraph 15.1 above were sent without having clearly marked in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it was sent, an identification of the business, other entity or individual sending the message, and the telephone number of the sending

machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.

15.4 The President of Everycontractor.com is David M. Johnson. He is also, upon information and belief, a shareholder. Mr. Johnson has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Mr. Johnson held liable for all damages under any and all counts of the Complaint attributable to Everycontractor.com a/k/a List Guy. Alternatively, Mr. Johnson, or other individuals to be named, is upon information and belief, the person in control of Everycontractor.com's activities, Everycontractor.com's advertising policies, and Everycontractor.com's facsimile transmittal policies. Therefore, Mr. Johnson is personally liable for all damages under any and all counts of the Complaint attributable to Everycontractor.com a/k/a List Guy.

15.5 Each of the faxes referred to in Paragraph 15.1 contain a total of two (2) separate and distinct violations per fax of 47 USC § 227, for a total of four (4) statutory violations.

**XVI. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF AS TO
DEFENDANTS FISHER BUSINESS SYSTEMS, INC.
AND DEAN BOHLEN, INDIVIDUALLY**

16.1 On or about November 15, 2002, Grayt Enterprises, d/b/a Mail Boxes Etc., received an unsolicited facsimile advertisement ("fax") sent on behalf of Fisher Business Supply. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #15.

- 16.2 The fax referred to in Paragraph 16.1 above was sent without Grayt Enterprises, d/b/a Mail Boxes Etc.'s prior express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).
- 16.3 The President and Chief Executive Officer of Fisher Business Supply, according to the Arizona Corporate Commission, is Defendant Dean Bohlen. Upon information and belief, Mr. Bohlen is shareholder. Mr. Bohlen has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Mr. Bohlen held liable for all damages under any and all counts of the Complaint attributable to Fisher Business Supply. Alternatively, Mr. Bohlen is the person in control of Fisher Business Supply's activities, Fisher Business Supply's advertising policies, and Fisher Business Supply's facsimile transmittal policies. Therefore, Mr. Bohlen is personally liable for all damages under any and all counts of the Complaint attributable to Fisher Business Supply.
- 16.4 The fax referred to in Paragraph 16.1 contains a total of one (1) separate and distinct violation of 47 USC § 227.

XVII. FACTUAL ALLEGATIONS AND CLAIMS FOR RELIEF
AS TO DEFENDANTS ROLLER EXPRESS, LTD., AND
STEVEN W. SAUNDERS, INDIVIDUALLY

- 17.1 Rocky Mountain Cleaning & Environmental, Inc. ("RM Cleaning") received on or about February 12, 2003 one unsolicited fax advertisement ("fax"), sent on behalf of Roller

Express, Ltd. A copy of the subject fax is attached hereto and incorporated by reference as Exhibit #16.

- 17.2 The fax referred to in Paragraph 17.1 above was sent without RM Cleaning's express permission or invitation, and therefore, constitutes a distinct violation of 47 USC § 227(b)(1)(C).
- 17.3 The fax referred to in Paragraph 17.1 above was sent without having clearly marked in a margin at the top, the date and time it was sent; an identification of the business, other entity or individual sending the message; and the telephone number of the sending fax machine or of such business, other entity or individual. This constitutes an additional violation of the statutory prohibitions of 47 USC § 227.
- 17.4 The fax referred to in Paragraph 17.1 above failed to include therein, a proper toll-free telephone number for removal as required under CRS Section 6-1-702(1)(b)(I).
- 17.5 The Registered Agent, listed with the Colorado Secretary of State, is Steven W. Saunders, whose address is 8412 N. Huron Street, Denver, Colorado 80221. Upon information and belief, Mr. Saunders is a shareholder of Roller. Mr. Saunders has conducted business with inadequate or thin capitalization for the business in which he is or has been engaged and/or has used the business for an illegal or fraudulent purpose, (i.e., to engage in the practice of transmitting large numbers of unsolicited fax advertisements) in violation of the law. Accordingly, the corporate veil should be pierced or disregarded, and Mr. Saunders held liable for all damages under any and all counts of the Complaint attributable to Roller. Alternatively, Mr. Saunders, upon information and belief, is the person in control of Roller's activities, Roller's advertising policies, and