

Jay Connor  
P.O. Box 20302  
Charleston, SC 29413  
(864) 834-6141

November 15, 2015

Mr. David Jackson  
Agent Franchise, LLC  
9518 9<sup>th</sup> St. Suite C-2  
Rancho Cucamonga, CA 91730

Dear Mr. Jackson:

This is a follow up to my telephone conversations Friday with Sean McCloskey and Sylvia Chaney. I am writing in reference to complaints I have against Agent Franchise for violations of 47 U.S.C. § 227 (b) (1) (B) and the implementing rules, commonly referred to as the Telephone Consumer Protection Act or the TCPA. Agent Franchise, or someone on its behalf, made multiple, anonymous, unsolicited calls that contain prerecorded messages to my residential telephone number to sell health insurance. These calls violate federal law and regulations promulgated by the FCC.

While the statutorily recoverable damages are large, I am willing to consider a reasonable settlement in order to conclude this matter expeditiously and without further time and expense involving separate counsel and potentially a class action attorney. If you wish to discuss such a settlement, please contact me. Otherwise, I will proceed with other remedies.

For your convenience, I have included a draft complaint to communicate the specifics of the case.

Sincerely,

  
Jay Connor

cc: Blue Cross Blue Shield Compliance Dept.  
Mr. Sean McCloskey  
Ms. Sylvia Chaney

This letter and related communications are made in an effort to compromise and settle a claim, and subject to Rule 408 at the Rules of Evidence.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Civil Action No. 2015-CV-

Jay Connor,

Plaintiff,

Vs.

Agent Franchise, LLC, David Lee Jackson aka David Jackson Individually, Sean Aaron McCloskey aka Sean McCloskey Individually, Sylvia Yolonda Chaney aka Sylvia Chaney Individually and John Doe

Defendants.

**VERIFIED COMPLAINT**

**ADDRESS FOR REGISTERED AGENT OF DEFENDANT AGENT FRANCHISE, LLC:**

Corporation Service Company  
2710 Gateway Oaks Drive #150  
Sacramento, CA 95833

**ADDRESS FOR DEFENDANT DAVID LEE JACKSON:**

9518 9<sup>th</sup> St. Suite C-2  
Rancho Cucamonga, CA 91730

**ADDRESS FOR DEFENDANT SEAN AARON MCCLOSKEY:**

321 W. Howell Ave.  
Ridgecrest, CA 93555

**ADDRESS FOR DEFENDANT SYLVIA YOLONDA CHANEY:**

1800 E. Old Ranch Road  
Colton, CA 92324

**TYPE OF ACTION**

1. This is an action to recover statutory damages imposed by 47 U.S.C. § 227, and trebled damages constituting forfeiture or other penalty.

## **PARTIES**

2. JAY CONNOR (hereinafter “Connor” or “Plaintiff”) is a resident of Charleston County, South Carolina.
3. The calls alleged in this complaint were made to Plaintiff’s residential phone numbers in South Carolina.
4. AGENT FRANCHISE LLC (hereinafter “Agent Franchise”) is a limited liability company located in California.
5. Agent Franchise either directly or by those on its behalf, makes calls to residents of South Carolina.
6. DAVID LEE JACKSON (hereinafter “Jackson”) is a managing member of Agent Franchise.
7. Jackson is a South Carolina licensed insurance agent. (License #629515)
8. Jackson is licensed to sell policies for Blue Cross Blue Shield.
9. Jackson either directly or by those on his behalf, makes calls to residents of South Carolina.
10. SEAN AARON MCCLOSKEY (hereinafter “McCloskey”) is a South Carolina licensed insurance agent. (License #726842)
11. McCloskey either directly or by those on his behalf, makes calls to residents of South Carolina.
12. SYLVIA YOLNDA CHANEY (hereinafter “Chaney”) is a South Carolina licensed insurance agent. (License #792965)
13. Chaney either directly or by those on his behalf, makes calls to residents of South Carolina.
14. The true identity of John Doe is unknown at this time.

## **VENUE AND JURISDICTION**

15. The Telephone Consumer Protection Act ("the TCPA or "the Act") consists of 47 U.S.C. § 227 as amended and the FCC's implementing rules (see generally 47C.F.R. Part 64 Subpart 1200 and Part 318). The TCPA places conduct, record keeping, and disclosure requirements on entities engaged in telephone calls, solicitations and facsimile transmissions, and it provides a private right of action by a consumer in State court in response to violations of the TCPA's regulations.

16. This cause of action arises out of conduct of Defendants initiating telephone calls to Plaintiff, to his residential telephone numbers.
17. Venue and jurisdiction are proper in this Court pursuant to 47 USC § 227, South Carolina Magistrate Court Rules and the laws of the United States and Constitution as they may apply.

#### **ACTS OF THOSE MAKING CALLS ON BEHALF OF DEFENDANTS**

18. Whenever it is alleged in this complaint that Defendants did any act, it is meant that the Defendants performed, caused to be performed, and/or participated in the act and/or that Defendants' officers, employees, contractors, assigns, successors, predecessors, affiliates, or other agent performed or participated in the act on behalf of, for the benefit of, and/or under the apparent or actual authority of the Defendants.

#### **DEFENDANTS' USE OF PRERECORDED TELEPHONE MESSAGES**

19. Defendants use, directly and/or by those on their behalf, one or more devices that calls residential telephone subscribers and delivers messages using a prerecorded or artificial voice.
20. Defendants directly and/or by those on their behalf, did initiate the calls alleged herein with a device that delivered messages using a prerecorded or artificial voice.
21. Defendants directly and/or by those on their behalf, are aware of this device's designed operation and/or have knowledge that calls were being made using an artificial or prerecorded voice to deliver messages.
22. Defendants directly and/or by those on their behalf, can exercise control over the content of the messages delivered by the artificial or prerecorded voice.
23. Defendants directly and/or by those on their behalf, can exercise control over the people who make the calls that deliver messages by artificial or prerecorded voice.
24. Jackson directly participated in the call alleged herein, had knowledge of the calls or by failure to act, allowed the calls to be made.
25. McCloskey directly participated in the calls alleged herein, had knowledge of the calls, or by failure to act, allowed the calls to be made.
26. Chaney directly participated in the calls alleged herein, had knowledge of the calls, or by failure to act, allowed the calls to be made.

## **TELEPHONE CALLS MADE TO PLAINTIFF**

### **First Call**

27. At all times relevant, Plaintiff had residential telephone service in South Carolina.
28. On or about November 13, 2015, a telephone call (FIRST CALL) was initiated to the Plaintiff's residential telephone number by or on behalf of the Defendants.
29. The caller ID number transmitted in the FIRST CALL was (803) 403- 0190.
30. The purpose of the FIRST CALL was, among other things, to deliver a telephone message to the called party on behalf of the Defendants.
31. The FIRST CALL consisted of a message delivered by prerecorded or artificial voice.
32. In the FIRST CALL described herein, Defendants willfully and/or knowingly intended to deliver a recorded message to the called party.
33. A true and accurate transcript of the recorded message in the FIRST CALL is attached hereto and incorporated herein Exhibit A.

### **Second Call**

34. At all times relevant, Plaintiff had residential telephone service in South Carolina.
35. On or about November 13, 2015, a telephone call (SECOND CALL) was initiated to the Plaintiff's residential telephone number by or on behalf of the Defendants.
36. The purpose of the SECOND CALL was, among other things, to deliver a telephone message to the called party on behalf of the Defendants.
37. The SECOND CALL consisted of a message delivered by prerecorded or artificial voice.
38. In the SECOND CALL described herein, Defendants willfully and/or knowingly intended to deliver a recorded message to the called party.
39. A true and accurate transcript of the recorded message in the SECOND CALL is attached hereto and incorporated herein Exhibit B.

**CAUSE OF ACTION - 47 U.S.C. 227 (b) (1) (B)**

- 40. Paragraphs 1 through 39 are restated as if set forth herein.
- 41. Defendants did make the TWO (2) telephone calls referenced above to Plaintiff's residential telephone numbers using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party.

**Violation of identification requirements – 47 C.F.R. 64.1200 (b) (1)**

- 42. Paragraphs 1 through 41 are restated as if set forth herein.
- 43. The recorded message in the TWO (2) calls did not fulfill the requirements of 47 C.F.R. 64.1200 (b) (1) in that during or after the messages, state clearly the identity of such individual, business, or other entity making the call.

**Violation of identification requirements – 47 C.F.R. 64.1200 (b) (2)**

- 44. Paragraphs 1 through 43 are restated as if set forth herein.
- 45. The recorded message in the TWO (2) calls did not fulfill the requirements of 47 C.F.R. 64.1200 (b) (2) in that during or after the message, state clearly the telephone number of such individual, business, or other entity making the call.

**Willful or Knowing Violations**

- 46. Defendants' actions, as described in paragraph 41 manifests TWO knowing and/or willful actions in violation of 47 U.S.C. § 227 within the meaning of the 1934 Communications Act and the Federal Communications Commission.

**PRAYER FOR RELIEF**

- 47. WHEREFORE, Plaintiff prays for the following relief, temporarily and permanently:
- 48. For the statutory damages of \$500 per violation, to be awarded to the Plaintiff in accordance with the TCPA, for the Defendant's violation of that TCPA and;
- 49. For trebled damages to be awarded to the Plaintiff in accordance with the TCPA, for each of Defendant's willful and/or knowing violation of that TCPA listed in paragraph 46 above; and
- 50. For unspecified punitive damages in an amount to be determined by this Court.
- 51. For such other and further relief as the Court may deem just and proper.

52. Plaintiff waives the excess of any award above the jurisdiction of the Court in effect at the time at the time judgment is rendered.

Respectfully submitted,  
This is the 16th day of November 2015.

  
Jay Connor Plaintiff, *Pro Se*  
P.O. Box 20302  
Charleston, SC 29413  
(864) 834-6141  
(843) 937-4172

### **Exhibit A**

As you may already know, effective January 1<sup>st</sup> of this year, federal law mandates that all Americans have health insurance. If you missed open enrollment, you can still avoid tax penalties and get covered during this special enrollment period, often at little or no cost to you. Press 1 for more information...

### **Exhibit B**

.....January 1<sup>st</sup> of this year, federal law mandates that all Americans have health insurance. If you missed open enrollment, you can still avoid tax penalties and get covered during this special enrollment period, often at little or no cost to you. Press 1 for more information; press two to opt out of future communications. Thank you

As you may already know, effective January 1<sup>st</sup> of this year, federal law mandates that all Americans have health insurance. If you missed open enrollment, you can still avoid tax penalties and get covered during this special enrollment period, often at little or no cost to you. Press 1 for more information, press two to opt out of future communications. Thank you



### **VERIFICATION**

The Undersigned states and swears that all the forgoing allegations are true and correct to the best of his knowledge and belief.

\_\_\_\_\_  
Jay Connor

Subscribed and sworn to before me by Jay Connor on this the \_\_\_\_ day of November 2015.

\_\_\_\_\_  
Notary Public for South Carolina

My commission expires on \_\_\_\_\_