

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

– v. –

AMERICAN EVOICE, LTD., et al.,

Defendants,

and

BIBLIOLOGIC, LTD.,

Relief Defendant.

**CIVIL ACTION
NO. 9:13-cv-00003-DLC**

[PROPOSED]

**STIPULATED ORDER FOR
PERMANENT INJUNCTION
AND MONETARY JUDGMENT
AS TO DEFENDANT
TERRY D. LANE a/k/a
TERRY D. SANN**

Plaintiff Federal Trade Commission (“FTC” or “Commission”) filed its
Complaint (Doc. 1) for a permanent injunction and other equitable relief in this

matter pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), against Defendants American eVoice, Ltd.; Emerica Media Corp.; FoneRight, Inc.; Global Voice Mail, Ltd.; HearYou2, Inc.; Network Assurance, Inc.; SecurDat, Inc.; Techmax Solutions, Inc.; Voice Mail Professionals, Inc.; Steven V. Sann; Terry D. Lane (a/k/a Terry D. Sann); Nathan M. Sann; and Robert M. Braach (“Defendants”); and Relief Defendant Bibliologic, Ltd.

Plaintiff FTC and Defendant Terry D. Lane a/k/a Terry D. Sann (“Lane”) stipulate to the entry of this this Stipulated Permanent Injunction (“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 FTC’s Complaint charges that Defendants engaged in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, by placing unauthorized charges on consumers’ telephone bills (“cramming”).
3. Defendant Lane neither admits nor denies any of the allegations in the Complaint, except as specifically st3.3.

purposes of this action, Defendant Lane admits the facts necessary to establish jurisdiction.

4. Defendant Lane waives any claim that she may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear her own costs and attorney fees.
5. Defendant Lane waives all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. **“Clearly and Conspicuously”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:
 - a. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if

the representation requiring the disclosure is made in only one means.

- b. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
- c. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
- d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
- e. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
- f. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
- g. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

- h. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.
2. “**Corporate Defendants**” means American eVoice, Ltd.; Emerica Media Corp.; FoneRight, Inc.; Global Voice Mail, Ltd.; HearYou2, Inc.; Network Assurance, Inc.; SecurDat, Inc.; Techmax Solutions, Inc.; Voice Mail Professionals, Inc., as well as any affiliates, subsidiaries, successors, or assigns, and any fictitious business entities or business names created or used by these entities, or any of them.
3. “**Defendants**” means the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.
4. “**Individual Defendants**” means Steven V. Sann; Terry D. Lane (a/k/a Terry D. Sann); Nathan M. Sann; and Robert M. Braach.
5. “**Person**” means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

which each charge will be billed, have been clearly and conspicuously disclosed prior to the authorization of the charge and in close proximity to any request that the consumer provide his or her name, address, telephone number, email address, account number or any other payment information.

III. PROHIBITION AGAINST USE OF CONSUMER INFORMATION

IT IS FURTHER ORDERED that Defendant Lane and her officers, agents, servants, 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, are hereby restrained and enjoined from:

- A. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Order in connection with the placement of charges on consumers' telephone bills; and
- B. failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

IV. MONETARY JUDGMENT

payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

- C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission 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.
- D. Defendant Lane acknowledges that her Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendant Lane previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.
- E. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee 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 Commission decides that direct redress to consumers is wholly or partially impracticable or if money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information

remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited into the U.S. Treasury as disgorgement. Defendant Lane has no right to challenge any actions the Commission or its representatives may take pursuant to this Section V.E.

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

IX. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant Lane makes timely submissions to the Commission.

- A. One year after entry of this Order, Defendant Lane must submit a compliance report, sworn under penalty of perjury.
1. Defendant Lane must:
 - a. identify all of her telephone numbers and all of her physical, postal, email and Internet addresses, including residences;
 - b. identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with her;
 - c. identify all of her business activities, including any business for which she performs services whether as an employee or otherwise and any entity in which she has any ownership interest;

- d. identify all of her businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
- e. describe in detail her involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership;
- f. describe the activities of each business, including the goods and services offered, the means of advertising, marketing, sales, methods of payment, and the involvement of any other Defendant (which Defendant Lane must describe if she

- B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. a copy of each unique advertisement or other marketing material.

XI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for purposes of monitoring Defendant Lane's compliance with this Order, including the financial representations identified in Section IV.B:

- A. Within 14 days of receipt of a written request from a representative of the Commission, Defendant Lane must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain

discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

- B. For matters concerning this Order, the Commission is authorized to communicate directly with Defendant Lane. Defendant Lane must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.
- C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendant Lane or any individual or entity affiliated with Defendant Lane, without the necessity of identification or prior notice. Nothing in this

SO STIPULATED AND AGREED:

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

Date: 6/20/17

RICHARD McKEWEN, WSBA #45041

Federal Trade Commission

Northwest Regional Office

915 Second Ave. Suite 2896

Seattle, WA 98102

Phone: 206-462-3333

Fax: 206-220-6966

E-mail: rmckewen@ftc.gov

Counsel for Plaintiff Federal Trade Commission

FOR DEFENDANT TERRY E. SANN aka TERRY E. SANN

Date: May 25, 2017

TERRY E. SANN aka TERRY E. SANN

individually