

**STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY**

IN THE MATTER OF:

File No. 04-144-CZ

**Talk Too Me, LLC, d/b/a/ 00 Operator
Services, and formerly d/h/a/ American
Directory Services,**

Hon. Paula J. M. Manderfield

Respondent.

AG No. 200406921

ASSURANCE OF DISCONTINUANCE

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Attorney General

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Dated Filed: May 11, 2004

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COUNTY OF INGHAM

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The Complainant is Michael A. Cox, Attorney General of the State of Michigan, on behalf of the People of the State of Michigan. Respondent is Talk Too Me, LLC, d/b/a 00 Operator Services, and formerly d/b/a American Directory Services, (hereinafter, where not otherwise specified, referred to as "Respondent.")

Respondent, by its counsel, agrees to the entry of this Assurance pursuant to section 6 of the Michigan Consumer Protection Act ("MCPA"), MCL 445.906, without admission of any violation of law or fact referenced herein.

I. Background

1.1 Respondent Talk Too Me, LLC is a limited liability company organized under Delaware law and maintains a place of business at 503 Sarasota Quay, Sarasota, Florida 34236.

1.2 Talk Too Me, LLC uses the fictitious name "00 Operator." "00 Operator" is registered with the Florida Secretary of State as a fictitious name for Talk Too Me., LLC.

1.3 Talk Too Me, LLC used the fictitious name "American Directory Services" from

on or about December 6, 2002 when "American Directory Services" was registered with the Florida Secretary of State as a fictitious name for Talk Too Me, LLC, until on or about May 28, 2003, when such fictitious name was cancelled by a filing with the Florida Secretary of State.

1.4 The Michigan Department of Attorney General, Consumer Protection Division alleges that Respondent, at all times relevant hereto, engaged in trade and commerce within the State of Michigan by billing or causing Michigan consumers to be billed for collect telephone call charges for unsolicited telemarketing calls. For purposes of this Assurance, "Michigan consumer" means any person, corporation, business or other entity located in the State of Michigan.

1.5 Beginning at a time unknown to Complainant, but not later than May, 2003, numerous Michigan consumers were sent a "FINAL NOTICE" billing statement in the mail from Respondent, containing charges of approximately \$28.84 allegedly incurred by the recipient for a three-minute collect call accepted from a long distance telephone number located in New Mexico several months earlier. The billing states that:

To avoid late payment fees, penalties and collection charges payment must be received by [due date].... [Respondent] will immediately refer all past due amounts to a collections group. This will result in the following: 1) A 1.5% late payment charge per month, or the maximum amount allowed 2) all additional mailing costs will be charged, per occurrence, 3) a \$20 collection fee will be charged, per mailing, 4) Notices may be sent to one or more credit agencies and 5) Based on the state or FCC regulatory and notice requirements, once your bill is past due, some or all our your service may be suspended. A deposit to reestablish your service may also be required.

A redacted example of such a final notice is attached hereto as "Attachment 1."

1.6 Respondent's billing statements represent that the recipient is indebted to Respondent for collect call charges, Federal Excise tax, a Number Portability fee and Universal Service fee.

1.7 Michigan consumers who have complained to the Consumer Protection Division of the Department of Attorney General and the Michigan Public Service Commission deny having received an initial bill, second notice, or other previous notice of the claimed charges from anyone and further deny having accepted the subject collect telemarketing call.

1.8 Respondent is not authorized to charge a Number Portability fee, Universal Service fee, or for collect calls that are not authorized and/or accepted by the person called.

1.9 Respondent's collect call charges were not billed on Michigan consumers' telephone bills and, therefore, such consumers are not subject to service suspension for failure to pay any disputed amount.

1.10 The conduct alleged above constitutes a violation of the MCPA, MCL 445.901, et seq. and the Collection Practices Act, MCL 445.251, et. seq.

II. Jurisdiction of the 30th Judicial Circuit Court and Authority of the Attorney General

2.1 The 30th Judicial Circuit Court for the State of Michigan has jurisdiction over the subject matter of this Assurance pursuant to MCL 445.253(3) and MCL 445.905(1). The Michigan Attorney General has enforcement authority over the subject matter of this Assurance pursuant to MCL 445.253 and MCL 445.905.

2.2 Respondent waives all objections and defenses it may have as to the jurisdiction of the 30th Judicial Circuit Court for the State of Michigan and enforcement authority of the Attorney General over the matters covered by this Assurance.

III. Compliance Measures

3.1 Respondent agrees from the date of the execution of this Assurance for itself, its successors, officers, directors, agents, employees, assigns and all other persons acting on its behalf, directly or through any corporate or other business device, that it shall permanently refrain from:

A. Providing operator services or arranging to provide the same to any person or entity for the purpose of placing or attempting to place collect calls to Michigan consumers for the purpose of directing telemarketing solicitations to such consumers;

B. Failing to take reasonable steps to ensure that persons or entities to which Respondent provides or arranges to provide collect call services and persons or entities which place collect calls on the behalf of the person or entity clearly and completely identify themselves to the person before the latter is asked whether to accept or decline a collect call;

C. Representing, expressly or by implication, to Michigan consumers that they are legally obligated to pay Respondent's collect call charges unless such is the case;

D. Directing "final notices" to Michigan consumers for charges allegedly incurred by accepting collect calls when Respondent has not directed any previous notices to such consumers or caused such notices to be sent;

E. Failing to disclose its rates clearly and conspicuously before charging Michigan consumers for a collect telephone call;

F. Representing, expressly or by implication, to Michigan consumers that failure to pay Respondent's charges:

1. will result in enforcement of Respondent's late payment policy when, in fact, Respondent does not intend to enforce its late payment policy or when Respondent has not enforced its late payment policy in similar situations; or
2. may subject the consumer to disconnection of their telephone service when such is not the case.

IV. Consumer Redress

4.1 Respondent represents that as of May 2, 2003, it ceased sending bills or causing them to be sent to Michigan consumers, and that by not later than June 16, 2003, it ceased attempting to collect money from Michigan consumers for collect call charges allegedly incurred when Respondent American Directory Services, Inc. placed calls to Michigan consumers. Respondent shall provide a full credit of all amounts claimed to be owed and permanently refrain from billing or otherwise attempting to collect these charges and from reporting any unpaid billings to any entity.

4.2 Respondent shall provide a refund to every Michigan consumer who meets all of the following criteria:

A. Respondent sent the consumer a bill, or caused the consumer to be sent a bill, for collect call charges allegedly incurred by the consumer when American Directory Services, Inc. placed collect calls to that consumer;

B. The consumer paid the bill in part or in full; and

C. The consumer complains, within 60 days of the effective date of this Assurance, or has complained previously to Respondent, to the Complainant, or to the Michigan Public Service Commission, about such collect call charges, including, but not limited to, a

complaint that such collect call charges, including, but not limited to, a complaint that such collect call charges were unauthorized.

4.3 The refund described in paragraph 4.2 above shall be in the amount equal to all amounts paid by such consumer for such collect call charges, less any credits or refunds previously granted to the consumer.

V. Payment to the State

5.1 Respondent shall pay enforcement costs in the amount of \$1,350.00 to the State of Michigan. Payment shall be in the form of a cashier's check or certified check made payable to the State of Michigan. Payment in the amount of \$1,350.00 is due upon Respondent's execution of this Assurance, and shall be mailed or hand-delivered to the attention of Stewart Freeman, Assistant Attorney General In Charge, Consumer Protection Division, Michigan Department of Attorney General, 525 W. Ottawa, 6th Floor, P.O. Box 30213, Lansing, MI 48909.

VI. Notices

6.1 All notices, deliveries or other communications required or permitted shall be in writing and shall be deemed given when addressed as follows:

- A. If to Complainant:
Consumer Protection Division
Department of Attorney General
Assistant Attorney General In Charge
G. Mennen Williams Bldg.
525 W. Ottawa, 6th Floor
P.O. Box 30213
Lansing, MI 48909
Fax: 517-335-1935

B. If to Respondent:
Talk Too Me, LLC
Attn. Alfred Forrest, President
503 Sarasota Quay
Sarasota, Florida 34236

6.2 Respondent shall promptly notify Complainant, in writing, of any change of address or person to whom notice hereunder is to be sent.

VII. General Provisions

7.1 This Assurance shall apply to and be binding upon Respondent, whether acting with or through associates, principals, officers, employees, representatives, successors, assigns or through any other subsidiary, corporation, assumed name or business entity.

7.2 This Assurance shall be binding upon, inure to the benefit of, and apply to the parties and their successors-in-interest only. This Assurance shall not limit, bind or affect the authority, rights or remedies of the Attorney General as to any violation of law other than the MCPA or the Collection Practices Act arising from the acts described in this Assurance, or of any other agencies, boards, commissions or offices of the State of Michigan or any other state or governmental authority.

7.3 This Assurance shall not be construed to deprive or otherwise affect the rights of any consumer or other person or entity of any private right available under applicable law. Further, this Assurance shall not create any private right or cause of action to any third party.

7.4 No change or modification of this Assurance shall be valid unless in writing and signed by all parties.

7.5 Any party to this Assurance may apply to the 30th Judicial Circuit Court, County

of Ingham, State of Michigan, which shall retain jurisdiction, for such orders as may be necessary or appropriate for the construction or modification of any of the provisions hereof, or to enforce compliance herewith.

7.6 The signatories to this Assurance certify that they are authorized to execute for and legally bind the parties they represent.

VIII. Effective Date

8.1 The effective date of this Assurance is the date it is filed with the Ingham County Circuit Court.

TALK TOO ME, LLC

Dated: May 10, 2004

By: Alfred Forrest
Alfred Forrest,
President, Talk Too Me, LLC.

Dated: May 6, 2004

By: E. Wayne Campbell
E. Wayne Campbell
14100 San Pedro, Suite 608
San Antonio, Texas 78232
Attorney for Respondent

MICHAEL A. COX, Attorney General,
on behalf of the People of the State of Michigan

Dated: May 11, 2004

By: Kathy Fitzgerald
Kathy Fitzgerald
Assistant Attorney General
Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
Telephone: 517-335-0855

ATTACHMENT 1

PAGE 2 OF 2

00 Operator

OPERATOR SERVICES

Thank you for your
prompt payment

About Your Bill

How to pay your bill

Pay by Phone: (877) 230-4654

Pay by Mail: Please mail your payment using the return envelope. Include the payment stub to ensure proper credit.

Be sure to write your 10-digit telephone number shown above on your check or money order

Questions about your bill

If you have questions regarding your bill, please call (877) 230-4654. You can find answers to your questions by visiting our website at www.00Operator.com or direct your questions to Billing Department, 00 Operator, PO Box 939, Sarasota FL 34230

Previous payments

You may have sent us a payment not processed in time to be reflected on your current billing statement. Please deduct any amount already paid to 00 Operator before sending your current payment.

How a call is processed?

Prior to processing all collect calls the automated operator first announces who is calling and provides the recipient of the call with 3 options. The recipient of the call is provided the option to receive a rate quote and choose to accept the call by pressing 1 or decline and hang-up the call before the call is processed and billed. Of course the recipient of the call is free to hang up at anytime without charge. In order to accept the collect call the recipient must positively press 1 on their telephone keypad. Only then is the collect call processed and billed.

Returned Checks

In some states, a returned check charge may apply for each check returned for any reason. The returned check fee will be \$25.00 or the maximum amount allowed by the state, whichever is greater. All returned checks are subject to Late Payment Policy.

Late Payment Policy

Our late payment policy is strictly enforced. We immediately refer all past due amounts to a collections group. This will result in the following: 1) A 1.5% late payment charge per month, or the maximum amount allowed 2) all additional mailing costs will be charged, per occurrence, 3) a \$20 collection fee will be charged, per mailing, 4) Notices may be sent to one or more credit agencies and 5) Based on the state or FCC regulatory and notice requirements, once your bill is past due, some or all of your service may be suspended. A deposit to reestablish your service may also be required.

All negative credit reporting can and will detrimentally affect your credit status for up to seven (7) years. Always make your payments by the due date.

Whereas 00 Operator processes operator service calls, we have no control to regulate over who makes such calls. The choice of whether or not to accept a collect, 3rd party, or person-to-person call is entirely that of the individual answering the phone. Prior to the call being processed and billed this individual has the freedom to select a rate quote, by pressing 9, select to accept the call, by pressing 1, select to decline the call if they wish and hang-up. The responsible party of the telephone line service has the responsibility of paying for any collect calls that have been positively accepted on their telephone line service. 00 OPERATOR bills only collect calls that were positively accepted as demonstrated by the recipient of the call by pressing 1 on their telephone keypad to accept the call and the call charges. As part of your agreement to receive telephone line services you are also responsible and must pay for all collect calls accepted on your telephone line.