

VT SUPERIOR COURT
WASHINGTON UNIT

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

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WASHINGTON UNIT

ORDER
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2012 APR 26 P 1:03

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STATE OF VERMONT,)
Plaintiff)
)
v.)
)
MEMBER'S EDGE, LLC,)
RESIDENTIAL VOICE MAIL, INC., and)
ILD CORP.,)
Defendants)

CIVIL DIVISION
Docket No. 766-12-11 Wncv

STIPULATION OF SETTLEMENT AND CONSENT DECREE

WHEREAS, as evidenced by their signatures below, Plaintiff State of Vermont, through its Attorney General, and Defendants Member's Edge, LLC ("Member's Edge"), Residential Voice Mail, Inc. ("Residential Voice Mail"), and ILD Corp. ("ILD") have agreed to the entry of this Stipulation and Consent Decree;

WHEREAS the parties have waived any requirement that the Court make findings of fact or conclusions of law;

WHEREAS this Stipulation and Consent Decree appears to be just; and

WHEREAS the Court approves the terms of the parties' agreement and adopts them as its own determination of the parties' respective rights and obligations;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. *Injunctive relief.* Member's Edge and Residential Voice Mail shall comply strictly with the Vermont Consumer Fraud Act, 9 V.S.A. chapter 63, relating to the placement of charges on local telephone bills associated with telephone numbers in area

code 802 and the prohibition of the Act on unfair and deceptive acts and practices in commerce.

2. *Payments to and by Settlement Administrator*

a. No later than April 20, 2012, Member's Edge and Residential Voice Mail shall each pay to their counsel, Klein Zelman Rothermel LLP, 485 Madison Avenue, New York, New York 10022 ("Counsel"), for deposit in an escrow account or accounts at that firm, the sum of (i) all monies, not previously refunded, that were received from consumers by Member's Edge or Residential Voice Mail, respectively, through a charge that appeared on a local telephone bill with a number in area code 802 from August 10, 2005 to the present, said payment to be made for the express purpose of paying refunds to those consumers as described in subparagraphs 2(c) and (d), below, and (ii) ten thousand dollars (\$10,000.00) each (that is, twenty thousand dollars (\$20,000.00) total), said payment to be made for the express purpose of reimbursing the State of Vermont's reasonable fees and costs in this matter as described in subparagraph 2(e), below, *provided that* neither company shall be obligated to pay for consumers whom it can demonstrate to the Vermont Attorney General's Office used its services. By the same date, Member's Edge and Residential Voice Mail shall also provide to Klein Zelman electronic files containing the consumer name, last-known address, and amount of all unrefunded monies received, for each consumer described in subpart (i) of this subparagraph.

b. Within five (5) business days of deposit of the payments described in subparagraph 2(a) above, Counsel shall pay the sums described in the preceding subparagraph 2(a) to KCC Class Action Services, LLC, 75 Rowland Way, Suite 250,

Novato, California 94945 ("Settlement Administrator"), and shall direct the Settlement Administrator to manage those funds as described in subparagraphs 2(c) through (g), below.

c. For each consumer from whom Member's Edge has received money through a charge that appeared on a local telephone bill with a number in area code 802 from August 10, 2005, to the present, the Settlement Administrator shall, within fifteen (15) business days of its receipt of the payment described in paragraph 2(c) above, send to the consumer, by first-class mail, postage prepaid, a check in the amount of all monies that have not been previously refunded to the consumer's last known address, accompanied by a letter in substantially the same form attached as Exhibit 1, *provided that* the Settlement Administrator shall not be obligated to issue refunds to consumers who Member's Edge has demonstrated to the Vermont Attorney General's Office used its services.

d. For each consumer from whom Residential Voice Mail has received money through a charge that appeared on a local telephone bill with a number in area code 802 from August 10, 2005, to the present, the Settlement Administrator shall, within fifteen (15) business days of its receipt of the payment described in paragraph 2(c) above, send to the consumer, by first-class mail, postage prepaid, a check in the amount of all monies that have not been previously refunded to the consumer's last known address, accompanied by a letter in substantially the same form attached as Exhibit 2, *provided that* the Settlement Administrator shall not be obligated to issue refunds to consumers who Residential Voice Mail has demonstrated to the Vermont Attorney General's Office used its services.

e. Within five (5) business days of the completion of the mailing described in subparagraphs 2(c) and (d) above, the Settlement Administrator shall provide to the Vermont Attorney General's Office in electronic Excel format on a compact disk the names

and addresses of the consumers to whom letters and payments were sent under subparagraphs 2(c) and (d), above, along with the date and amount of each payment.

f. No later than ninety-five (95) days following the mailing described in subparagraphs 2(c) and (d) above, the Settlement Administrator shall mail to the Vermont Attorney General's Office, 109 State Street, Montpelier, VT 05609, a single check, payable to "Vermont State Treasurer," in the total dollar amount of all checks described in subparagraphs 2(c) and (d), above, that were returned as undeliverable or that went uncashed, to be treated as unclaimed funds, along with a list, in electronic Excel format on a compact disk, of the consumers whose checks were returned or were not cashed (which list shall set out the first and last names of the consumers in distinct fields or columns), and for each such consumer, the last known address and dollar amount due.

g. Within five (5) business days upon deposit of the payments described in subparagraph 2(a) above, Counsel shall pay to the State of Vermont, in care of the Vermont Attorney General's Office, the sum of twenty thousand dollars (\$20,000.00) as reimbursement, one-half from Member's Edge and one-half from Residential Voice Mail, for reasonable attorneys' fees and costs.

3. *Binding effect.* This Consent Decree shall be binding on Member's Edge, Residential Voice Mail and their respective successors and assigns.

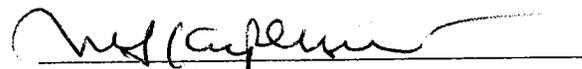
4. *Release.* Subject to paragraph 5, below, the State of Vermont hereby releases and discharges any and all claims that it had or may have had against Residential Voice Mail, Member's Edge, ILD, and any of their respective affiliates, officers, directors, members, managers and employees, based on conduct or activities arising under or in connection with the Vermont Consumer Fraud Act prior to the date of this Consent Decree.

5. *Dismissal.* This action is dismissed without prejudice as to all Defendants, until such time as the payment required by subparagraph 2(a) has been made and any checks paid under said subparagraph have cleared. The parties will then file a separate dismissal with prejudice as to all Defendants. Jurisdiction is retained by this Court for the sole purpose of enabling any of the parties to this Consent Decree to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations thereof.

6. *Admissibility.* Defendants do not admit any violation of Vermont law, and nothing in this Stipulation and Consent Decree may be used or admitted as evidence or as an admission in any other adverse proceeding or action relating to any Defendant, nor shall anything in this document be considered first-party evidence. Entry into this Stipulation and Consent Decree does not constitute or result from any finding of wrongdoing by the Court or by the Attorney General against any of Defendants.

7. *Execution.* This Stipulation may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. A signed faxed or e-mailed copy of this Stipulation shall be treated the same as an original.

Dated this 7 day of March, 2012.


Superior Judge I

STIPULATION

The undersigned parties stipulate and agree to the foregoing Consent Decree.

Dated at _____, this _____ day of March, 2012.

Authorized Agent of Member's Edge

Dated at _____, this _____ day of March, 2012.

Authorized Agent of Residential Voice Mail

Dated at _____, this _____ day of March, 2012.

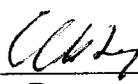
Authorized Agent of ILD

Dated at Montpelier, Vermont this 25th day of ^{APRIL}~~March~~, 2012.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:

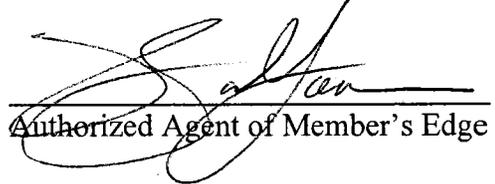


Elliot Burg
Assistant Attorney General

STIPULATION

The undersigned parties stipulate and agree to the foregoing Consent Decree.

Dated at New York, this 28 day of March, 2012.



Authorized Agent of Member's Edge

Dated at _____, this _____ day of March, 2012.

Authorized Agent of Residential Voice Mail

Dated at _____, this _____ day of March, 2012.

Authorized Agent of ILD

Dated at Montpelier, Vermont this _____ day of March, 2012.

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

By: _____
Elliot Burg
Assistant Attorney General

STIPULATION

The undersigned parties stipulate and agree to the foregoing Consent Decree.

Dated at _____, this _____ day of March, 2012.

Authorized Agent of Member's Edge

Dated at New York, this 29 day of March, 2012.



Authorized Agent of Residential Voice Mail

Dated at _____, this _____ day of March, 2012.

Authorized Agent of ILD

Dated at Montpelier, Vermont this _____ day of March, 2012.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: _____

Elliot Burg
Assistant Attorney General

STIPULATION

The undersigned parties stipulate and agree to the foregoing Consent Decree.

Dated at _____, this ____ day of March, 2012.

Authorized Agent of Member's Edge

Dated at _____, this ____ day of March, 2012.

Authorized Agent of Residential Voice Mail

Dated at Atlanta, GA, this 30th day of March, 2012.



Authorized Agent of ILD

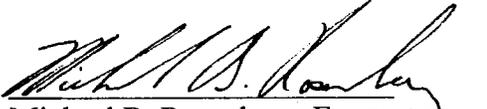
Dated at Montpelier, Vermont this _____ day of March, 2012.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

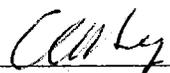
By: _____
Elliot Burg
Assistant Attorney General

APPROVED AS TO FORM:



Michael B. Rosenberg, Esq.
Burak Anderson & Melloni, PLC
30 Main Street – Suite 210
P.O. Box 787
Burlington, Vermont 05402-0787
Attorney for Member's Edge and Residential Voice Mail

Eileen I. Elliott, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
91 College Street
Burlington, VT 05401
Attorney for ILD



Elliot Burg
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, Vermont 05609
Attorney for State of Vermont

APPROVED AS TO FORM:

Michael B. Rosenberg, Esq.
Burak Anderson & Melloni, PLC
30 Main Street – Suite 210
P.O. Box 787
Burlington, Vermont 05402-0787
Attorney for Member's Edge and Residential Voice Mail



Eileen I. Elliott, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
91 College Street
Burlington, VT 05401
Attorney for ILD

Elliot Burg
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, Vermont 05609
Attorney for State of Vermont

Exhibit 1 (Letter to Consumers)

Dear [Name of Consumer]:

Under a settlement with the Vermont Attorney General's Office, we are enclosing a check to reimburse you for charges by our company, Member's Edge, that appeared on your local telephone bill.

If you have any questions about the settlement, you may contact the Attorney General's Office at (802) 828-5507.

Sincerely,

Member's Edge

Exhibit 2 (Letter to Consumers)

Dear [Name of Consumer]:

Under a settlement with the Vermont Attorney General's Office, we are enclosing a check to reimburse you for charges by our company, Residential Voice Mail, that appeared on your local telephone bill.

If you have any questions about the settlement, you may contact the Attorney General's Office at (802) 828-5507.

Sincerely,

Residential Voice Mail