

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

 , 2002

Re: Violation of Telephone Consumer Protection Act

Dear Sir or Madam:

I am writing to you regarding your recent unsolicited facsimile transmission of advertising to my company, Propel Software Corporation (see enclosed copy). This was sent without the express invitation or permission of the recipient at Propel Software Corporation.

A federal law enacted in 1991 called the Telephone Consumer Protection Act (the "TCPA") makes it illegal to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine. 47 U.S.C. § 227(b)(1). The federal law also provides that a person who sends such an advertisement by fax is liable for \$500 in damages for each fax. If the court finds that the defendant acted willfully **or** knowingly (that is, you knew you were sending unsolicited faxes, regardless of whether you knew about the TCPA), the court may **triple the damage award**. *See* 47 U.S.C. § 227(b)(3).

By sending this unsolicited fax advertisement, you violated the TCPA and are now liable to pay a statutory remedy of not less than \$500 per violation under 47 U.S.C. § 227(b)(3). A single faxed page may have multiple TCPA violations, such as headers that do not comply with FCC regulations (47 C.F.R. § 68.318(d)). We have reason to believe that you willfully or knowingly violated the law, which would make you liable for up to \$1,500 per fax.

Our CEO is one of the leading experts in the country on the TCPA. In his spare time, he has created a website, **www.junkfax.org** to discuss the law and litigation options against junk faxers. I encourage you to check out the site.

Our CEO has also recently filed \$500 billion class action lawsuits in both federal and state court against Fax.com, the leading offender of the TCPA. He has retained the top consumer class action law firm of Lief Cabraser Heimann & Bernstein, LLP to represent him in these cases.

As you can see, our CEO is serious about enforcing the TCPA and will spare no expense to ensure that federal laws in this area are enforced. To save us both time and effort, we are willing to settle this case for a remedy of \$1,000 per violation. To do this, call me at (408) 571-6332 and I will send you our standard settlement agreement.

If you do not choose to settle, I can assure you that we will do our part to help enforce the law as Congress intended and we will sue you for violation of the TCPA and the California Unfair Business Practices Act and a demand for treble damages and attorneys' fees.

We may decide to bring a class action against you. **In addition to the two Fax.com class actions, we have also filed several other class action lawsuits in Superior Court against individual junk faxers.** In a class action, if you sent only 1,000 unsolicited faxes, you could be liable for one and a half million dollars plus our attorney's fees. A court in Georgia has recently ordered another fax advertiser, Hooters of Augusta, to pay treble damages totaling \$11,889,000. *See Nicholson v. Hooters of Augusta, Inc.*, Richmond County, Georgia, Superior Court case number 95-RCCV-616. That award was made after 6 years of litigation and numerous appeals by Hooters.

We also demand at this time that you immediately cease and desist from sending any facsimiles to Propel in the future and remove our fax numbers from your databases. We also suggest you not send unsolicited faxes to anyone in the future.

If you have any questions, please do not hesitate to contact me at (408) 571-6332.

Very truly yours,

Jeffrey Batuhan
Sr. Executive Aide to the President and CEO