

1 Brian A. Manson SBN 199631
Law Offices of Brian A. Manson
2 14156 Magnolia Blvd., Suite 200
Sherman Oaks, CA 91423-1182
3 (818) 906-0080 - Fax (818) 906-0085

4 David L. Amkraut SBN 127328
Law Offices of David L. Amkraut
5 2272 Colorado Blvd., #1228
Los Angeles, CA 90041-1143
6 (323) 344-4244 - Fax (323) 344-8594

7 **Attorneys for Plaintiff**
8 **JNS COPY SERVICE, INC.**

ORIGINAL FILED
Los Angeles Superior Court

APR 19 2006

John P. [redacted], Clerk
By G. J. [redacted], Deputy

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES, VAN NUYS COURTHOUSE EAST**

11
12 JNS COPY SERVICE, INC.,

13 Plaintiff,

14 v.

15 OPTIMA FUNDING, INC.; ALI SHAH;
16 DAVID TAYANIPOUR; DOES 1
17 through 25, INCLUSIVE,

18 Defendants.

CASE NO.: LC 068480

Filed May 18, 2004

19
20 **LODGING OF ~~PROPOSED~~**
PERMANENT INJUNCTION
AGAINST DEFENDANTS OPTIMA
FUNDING, INC. AND ALI SHAH

Judge: Stanley Weisberg
Dept: D

21 Plaintiff JNS COPY SERVICE, INC. hereby lodges its [Proposed] Permanent
22 Injunction as to defendants OPTIMA FUNDING, INC. ("Optima") and ALI SHAH
23 ("Shah").

24 On May 11, 2005 this Court granted a preliminary injunction as to all three named
25 defendants (and those in concert with them or under their control). That preliminary
26 injunction remains in effect.


27 On August 12, 2005 the Court entered the default of Optima and Shah for repeated
28 discovery violations and disobedience of the Court's orders.

1 The proposed permanent injunction is substantially similar to the preliminary
2 injunction. It differs in adding Section II. 3. and II.4., which makes clear that the enjoined
3 parties can not evade the injunction by using third parties to do their junk faxing for them,
4 or by accepting the benefits of junk faxing done for them by such third parties. In
5 addition, at III. Preservation of Records, the enjoined parties are required not only to keep
6 copies of their junk faxing-related documents, but provide a copy to Plaintiff's counsel
7 for monitoring purposes.

8 The requested permanent injunction applies only to the defaulted defendants
9 Optima and Shah (and those in concert with them or under their control). The present
10 preliminary injunction remains in effect as to defendant Tayanipour.

11
12 Dated: 02/15/06

Respectfully submitted,

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14 
15 BRIAN A. MANSON
16 DAVID L. AMKRAUT
17 Attorneys for Plaintiff
18 JNS Copy Services, Inc.
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APR 19 2006

John A. ...
By G. Jones, ...

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

JNS COPY SERVICE, INC.,

CASE NO.

LC 068480

Filed:

May 18, 2004

Plaintiff,

v.

**[PROPOSED] ORDER FOR
PERMANENT INJUNCTION**

OPTIMA FUNDING, INC.; ALI SHAH;
DAVID TAYANIPOUR; DOES 1 through
25, inclusive,

Judge:
Dept:

Stanley Weisberg
D

Defendants.

The Court, having reviewed all relevant papers, argument and record herein, finds
and orders as follows:

AUTHORITY

The Telephone Consumer Protection Act ("TCPA") provides for injunctive relief
to stop violation of its junk faxing provisions, 47 U.S.C. §227(b)(3)(A).

I.

DEFINITIONS

As used in this Order, the following definitions apply:

"Defendants" shall mean defendants OPTIMA FUNDING, INC. and ALI SHAH.

“**Enjoined Parties**” means the Defendants and their officers, directors, agents, servants, employees, salespersons, attorneys, corporations, subsidiaries, affiliates, successors, and assigns; other entities or persons directly or indirectly under their control; and all persons or entities in active concert or participation with them who receive actual notice of this Order by personal service, certified mail, Fed Ex or similar courier services, facsimile or otherwise.

“Enjoined Parties” also specifically includes without limitation, persons or entities who, through junk faxing, help the defendants obtain sales leads or inquiries.

“Junk Faxing” shall mean “using any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine.” (See 47 U.S.C. §227(b)(1)(C); 47 CFR §64.1200(a)(3).)

“**Faxing**” shall mean “using any telephone facsimile machine, computer, or other device to send a message to a telephone facsimile machine.”

“**Advertisement**” shall mean “any material advertising the commercial availability or quality of any property, goods or services, and disseminated by any media or method.”

“Unsolicited Advertisement” shall mean “any material advertising the commercial availability or quality of any property, goods or services which is transmitted to any person without that person’s prior express invitation or permission.” (See 47 U.S.C. §227(a)(4).)

“**Mortgage**” shall mean “any loan which uses real property as collateral.” (See, e.g., Business & Professions Code §17539.4.)

"Express Consent" shall mean written consent signed by the fax recipient.

II.

PROHIBITIONS ON JUNK FAXING (FAXING UNSOLICITED ADVERTISEMENTS) AND CONCEALMENT OF SENDER'S IDENTITY

IT IS HEREBY ORDERED that, in connection with the promotion, advertising, marketing, sale, offering for sale, or providing of Defendants' products or services, the

1 Enjoined Parties are hereby restrained and enjoined from any of the following:

2 1. Using, or causing to be used, any telephone facsimile machine, computer or
3 other device to send an unsolicited advertisement to a telephone facsimile machine
4 without express consent from the recipient. (See 47 U.S.C. §227(b)(1)(C); 47 CFR
5 §64.1200(a)(3). See also Kaufman v. ACS Systems, Inc. (2003) 110 Cal.App.4th 886
6 (TCPA enforceable in California state courts.)).

7 2. Using, or causing to be used, any computer or other electronic device to send
8 any message via a telephone facsimile machine unless there is clearly marked, in a margin
9 at the top or bottom of each transmitted page or on the first transmitted page, the date and
10 time sent, the identity of the business, other entity, or individual sending the message, and
11 the telephone number of the sending machine or of such business, entity or individual.
12 (See 47 U.S.C. §227(d)(1)(B); 47 CFR §68.318(d).)

13 3. Accepting, or using, sales leads or inquiries obtained through junk faxing,
14 regardless of who is actually doing the junk faxing.

15 4. Failing to take all necessary measures to make sure third parties are not junk
16 faxing on the enjoined parties' behalf or transferring leads or inquiries obtained through
17 junk faxing.

18 III

19 PRESERVATION OF RECORDS

20 IT IS HEREBY ORDERED that the enjoined parties shall keep at least one sample
21 copy of each document related to Defendants' fax advertising, and send one copy of each
22 such document to Plaintiff's counsel, including but not limited to:

- 23 1. Material used for fax advertising and promotion, including without
24 limitation a copy of each faxed Advertisement;
- 25 2. Documents that pertain to the subject matter of this lawsuit, including
26 without limitation contracts for fax advertising or lists of fax numbers;
- 27 3. Any lists of the fax numbers used for fax solicitations, and if available, the
28 corresponding names and addresses of each fax number on the list;

4. Complaints, and documents relating to complaints, alleging Defendants have disseminated fax advertisements.
5. Complaints or inquiries from regulatory or licensing authorities relating to allegations that Defendants have disseminated fax advertisements.
6. Any lawsuit alleging that Defendants have violated the faxing provisions of the TCPA, 47 USC 227.

IV

NOTIFICATION TO MANAGING AGENTS AND OTHERS

IT IS FURTHER ORDERED that within ten (10) calendar days following the date of entry of this Order, Defendants shall provide a copy of this Order to each of their officers, directors, managing agents, supervisory employees, divisions, subsidiaries, corporations, affiliates, successors, independent contractors or consultants involved in the advertising, marketing, promotion or provision of defendants' products or services or use of faxing for advertising or promotional purposes; and to each government agency which licenses or regulates defendants' business, and obtain a dated and signed receipt therefor, which the Defendants shall keep. This paragraph shall not require Defendants to provide a copy of this Order to any employee or independent contractor who performs a purely non-discretionary function.

V

MONITORING PROVISIONS RE EMPLOYEE AND OTHER NOTIFICATION

IT IS FURTHER ORDERED that, within 14 days of giving notice pursuant to the preceding paragraph, Defendants shall write to Plaintiff's counsel, stating the persons and entities to which notice has been given pursuant to the preceding paragraph "NOTIFICATION TO MANAGING AGENTS AND OTHERS."

The information given to Plaintiff's counsel shall include, for each such person or entity given notice, the date notice was given, the method of notice, the full exact

1 company name and individual name, the full exact actual physical address, the full exact
2 mailing address (if different from the physical address), the phone number and fax
3 number, and the role of the person or entity given notice—e.g., “Company which does our
4 fax broadcasting,” “Person who provides lists of fax numbers.” The information to
5 Plaintiff’s counsel shall also include copies of the signed receipts obtained pursuant to the
6 preceding paragraph.

7 IT IS FURTHER ORDERED that Defendants shall notify Plaintiff’s counsel, in
8 writing, within fourteen (14) days of the effective date, of any change in their status,
9 organization, or structure, such as dissolution, assignment, or sale of their business(es)
10 that may affect any compliance obligations arising from this Order, and of any change in
11 defendants’ or any enjoined party’s contact information..

12 For purposes of this Order, any notice shall be sent to the following address (or
13 such other address as Plaintiff may later give defendants in writing) by certified mail,
14 return receipt requested, Fed Ex or other courier company, or hand delivery:

15 Brian A. Manson, Esq.
16 LAW OFFICES OF BRIAN A. MANSON
17 14156 Magnolia Blvd., Suite 200
18 Sherman Oaks, CA 91423

19 IT IS FURTHER ORDERED that, to aid Plaintiff in monitoring compliance with
20 this Order, individual Defendants shall notify Plaintiff’s counsel, in writing, within ten
21 (10) calendar days after the date of entry of this Order, of their current residences,
22 business addresses, and employment status; and that non-individual (entity) Defendants
23 shall notify Plaintiff’s counsel, in writing, within ten (10) calendar days after the date of
24 entry of this Order, of their current name, legal status, corporation registration number,
25 states of registration (if a corporation), and fictitious business names, full exact physical
26 address, full exact mailing address (if different than physical address), phone number and
27 fax number; and that all Defendants shall notify Plaintiff in writing within fourteen (14)
28 calendar days of any changes of the above-mentioned information.

VI

UNDERTAKING OR CASH BOND

There shall be no requirement of a bond or undertaking.

IT IS SO ORDERED.

Dated: 4-19-06


STANLEY WEISBERG
JUDGE OF THE SUPERIOR COURT