

Affidavit of Jimmy A. Sutton

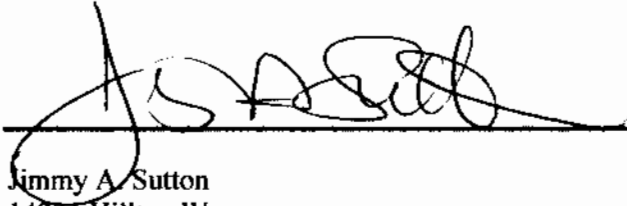
I, Jimmy A. Sutton, hereby declare as follows:

1. Between January 14, 2004, and November 5, 2004, I have received at least 110 unsolicited facsimiles advertising the availability of mortgage loans and/or refinancing from Optima Funding of Santa Ana, California.
2. I did not invite or otherwise approve of the sender transmitting these facsimiles to me.
3. I called the numbers on each of the facsimiles; in each case the call was answered "Mortgage Services". After giving a name and telephone number, I was immediately transferred to Optima Funding. In every case, the representative with whom I spoke was aware of the content of the facsimile and acknowledged the specific offer contained in the facsimile.
4. In each case, I was able to positively identify Optima Funding because a recorded message during the transfer stated that I had reached Optima Funding and gave the Hutton Centre address of Optima Funding and/or the agents with whom I was subsequently connected in each case stated that the agent was from Optima funding (only when asked).
5. I have sent a total of 10 demand letters to Optima Funding starting on January 21, 2004, including 7 directly addressed to Mr. Shah starting May 4, 2004. In each of these letters, I pointed out that Optima Funding was violating the TCPA with its unsolicited faxes.
6. On April 16, 2004, I had reason to call Optima Funding to complain about their causing the sending of unsolicited facsimiles advertising mortgage products. I requested their license number and the name of their designated officer; Optima representatives refused to reveal either.
7. In the course of that April 16, 2004, telephone call, I was eventually transferred to an Optima Funding representative who would only identify himself as "Ali". Ali exhibited knowledge in this conversation that made it apparent that he was running Optima funding and was personally responsible for faxing decisions. This led me to the conclusion that I was undoubtedly speaking with Ali Shah-Velayati (AKA Shah), the sole officer of Optima Funding. Having subsequently met Mr. Shah-Velayati, I can identify the voice and mannerisms from that telephone conversation as those of Mr. Shah-Velayati. Ali explained in detail that they contracted with Lighthouse Marketing and Impact Marketing, and he stated multiple times that he knew that Impact Marketing was sending unsolicited facsimiles on Optima Funding's behalf. Ali further stated that he had "an indemnity letter from Impact Marketing that they will take care of all fax cases—of course I know they send faxes for us." Ali further stated that Impact Marketing handled all legal issues surrounding unsolicited facsimiles for him and represented Optima Funding in court. Ali again refused to give me the license number under which they were offering mortgages, but he did specify that Optima was registered with the California Department of Corporations (as opposed to the Department of Real Estate).

8. The attached hand-written notes were taken during that April 16, 2004, conversation with Ali.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 4, 2005, 2005, in Saratoga, California.

A handwritten signature in black ink, appearing to read "Jimmy A. Sutton", written over a horizontal line.

Jimmy A Sutton
14231 Hilltop Way
Saratoga, CA 95070
408-741-8173

STATE OF CALIFORNIA
DEPARTMENT OF REAL ESTATE

The license information shown below represents public information taken from the Department of Real Estate's database at the time of your inquiry. It will not reflect pending changes which are being reviewed for subsequent database updating. Also, the license information provided includes formal administrative actions that have been taken against licensees pursuant to the Business and Professions Code and/or the Administrative Procedure Act. All of the information displayed is public information. Although the business and mailing addresses of real estate licensees are included, this information is not intended for mass mailing purposes.

License information taken from records of the Department of Real Estate on 4/16/04 4:10:13 PM

License Type: CORPORATION
Name: Optima Funding Inc
Mailing Address: 5 HUTTON CENTRE STE 120
SANTA ANA, CA 92707
License ID: 01400725
Expiration Date: 09/29/07
License Status: LICENSED NBA
Original License Date: 09/30/03 (Unofficial -- taken from secondary records)
Former Name(s): NO FORMER NAMES
Main Office: NO CURRENT MAIN OFFICE ADDRESS ON FILE
Licensed Officer(s): DESIGNATED OFFICER
00996522 - Expiration Date: 09/29/07
Tayanipour, David H
CANCELED AS OF 03/05/04
DBA NO CURRENT DBAS
Branches: NO CURRENT BRANCHES
Comment: NO DISCIPLINARY ACTION
NO OTHER PUBLIC COMMENTS

"Ali" refused to give my designation off-icer's name or Dir for license

*Impact Mkt. sends faxes
called 4116
Contract w/ LH MKTNS.
ATH = desig
"Yes, I know they are sending faxes"*

>>>> Public information request complete <<<<

*Jeff @ impact mkt
4:45 P 4/16/04
No answer*

sent this multiple times

*"Ali" Have indemnity letter from J.M. & want they will take care of all fax cases - of course I know they send faxes for us"
Impact Mkt. provides all legal support
949-265-5748
Brandon
5704
Alz Jeff*