

Alex Dourov  
467 Knottingham Circle  
Livermore CA 94551

March 2, 2004

Michelle Haskell  
Performance Publishing, Inc.  
525 S. Douglas St., Suite 270  
El Segundo CA 90245

Dear Ms Haskell,

I am writing to you regarding the recent unsolicited facsimile ("junk fax") sent to me from Performance Publishing. This fax, an advertisement for the Newport Beach Chamber of Commerce, was sent to me without my express consent, invitation, or permission.

Federal law entitled the Telephone Consumer Protection Act (the "TCPA") 47 U.S.C section 227(b)(1) makes it ILLEGAL to use any fax machine, computer, or other device to send an unsolicited advertisement to a fax machine. The TCPA also provides that a person who sends an advertisement by fax (by 3<sup>rd</sup> party or otherwise) is liable for \$500 in statutory remedy for each fax sent without the recipient's express permission. If the court finds that the defendant acted willfully and knowingly the court may triple the damages of the award to \$1500 per violation.

Your company has violated the TCPA and you are now liable to pay a statutory remedy up to the maximum of \$1500 per violation. To date, I have received one fax from Performance Publishing.

Violation of this statute is taken quite seriously by the Small Claims Court of Alameda County, which would have jurisdiction over this matter. Recent rulings have awarded judgments in similar cases.

To save us both time and effort, I am willing to settle this case for a remedy of \$500 based on your one documented violation. If you wish to avoid litigation, please send me payment of \$500 to the address listed above no later than March 15, 2004. If I do not receive payment by that date, I will file a lawsuit for the full \$500 plus expenses for the illegal fax. I will also ask the judge to triple the remedy, which he may do at his discretion. This may result in a fine of more than \$1,500, with your added expenses of travel to Alameda County.

I look forward to hearing from you very soon.

Sincerely,

Alex Dourov

# NEWPORT BEACH CHAMBER OF COMMERCE BUSINESS DIRECTORY

# DON'T MISS OUT!

Don't miss out on the opportunity to advertise your business in 10,000 copies of the new and improved 2004 Newport Beach Chamber of Commerce Business Directory. You will be reaching thousands of Newport Beach businesses, residents and individuals throughout the year.

# YES!

I am interested in:

- Advertising    Corporate Profile
- Classified Listing Upgrade

Ad Decision Maker \_\_\_\_\_

Company \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

Best Time of Day To Call \_\_\_\_\_

## Sales close soon! Please respond by March 12th!

## *CALL TODAY!*

Please fax this page to 310-837-9047,  
call Michelle Haskell at 310-837-4974,  
or email [MichelleHaskell@performancepub.com](mailto:MichelleHaskell@performancepub.com)

If you are already an advertiser, thank you for your support!

We are contacting you as a dues paying member of the Newport Beach Chamber of Commerce.

**GENERAL RELEASE OF CLAIMS**

Effective upon the receipt of and in consideration of Five Hundred Dollars (\$500.00), Alex Dourov ("Releasor") hereby releases and forever fully discharges Performance Publishing Group, Inc., its investment manager, board of directors, officers, employees, stockholders, agents, representatives, predecessors, successors and assigns (collectively "Releasee"), of and from all claims, demands, obligations, indebtedness, breaches of duty or any relationship, acts, omissions, misfeasance, malfeasance, cause or causes of action, debts, sums of money, accounts, compensations, contracts, controversies, promises, damages, costs, losses, rights and liabilities of any kind whatsoever, whether known, unknown, foreseen or unforeseen which Releasor may have against Releasee in connection with, concerning or relating to unsolicited fax received on March 2, 2004.

Releasor hereby acknowledges the provisions of Section 1542 of the Civil Code of California, which provides that:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THIS RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR ..."

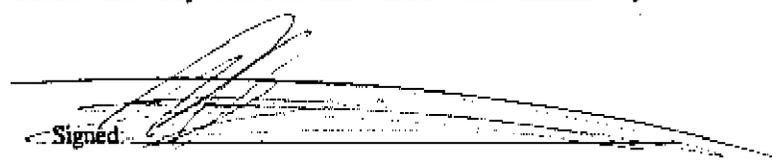
and hereby waives the provisions of Section 1542. Releasor understands and acknowledges the significance and consequence of such specific waiver of Section 1542, and hereby assumes full responsibility for any injuries, damages or losses that Releasor may incur arising as aforesaid.

Releasor understands and acknowledges that the significance and consequence of this waiver of California Civil Code Section 1542 is that even if Releasor should eventually suffer additional damages arising out of, concerning or relating to the subject matter of this Release, Releasor will not be able to make any claim for those damages. Furthermore, Releasor acknowledges that Releasor intends these consequences even as to claims for damages that may exist as of the date of this Release but which Releasor does not know exist, and which, if known, would materially affect Releasor's decision to execute this Release, regardless of whether Releasor's lack of knowledge is the result of ignorance, oversight, error, negligence or any other cause.

Releasor hereby represents and warrants to Releasee that Releasor has obtained advice of counsel of Releasor's own choosing in negotiations for and the preparation of the within Release, has read this Release, has had the within Release fully explained by such counsel and is fully aware of its contents and legal effect. Releasor further represents and warrants to Releasee that the execution, delivery by Certified Mail or fax, signing as an officer of Releasor, and the performance of this Release by Releasor, are duly authorized under the articles of incorporation, bylaws and resolutions of Releasor and constitute the legal, valid and binding obligation of Releasor, enforceable against Releasor in accordance with its terms. Alex Dourov shall indemnify, defend and hold Releasee harmless from and against any claim, damage, loss, liability or expense incurred by Releasee as a result of any breach of the foregoing representations and warranties.

IT IS HEREBY FURTHER UNDERSTOOD AND AGREED that the acceptance of delivery of this Release by Releasee shall not be deemed or construed as an admission of liability by any party released by the terms hereof, and Releasee hereby expressly denies liability of any nature whatsoever to Releasor.

IN WITNESS WHEREOF, Releasor has duly executed this Release this 12<sup>th</sup> day of March, 2004.

Signed: 

03/19/04 04:09A P.004



PERFORMANCE PUBLISHING GROUP, INC.  
525 S. DOUGLAS STREET SUITE 270  
EL SEGUNDO, CA 90245  
310-524-0730 WWW.PERFORMANCEPUB.COM  
GENERAL ACCOUNT

usbank 24-HOUR BANKING  
1-800-673-3555  
90-35821222

15493

3/12/2004

PAY TO THE ORDER OF Alex Dourov

\$ \*\*500.00

Five Hundred and 00/100\*\*\*\*\*

DOLLARS

Alex Dourov  
467 Knottingham Circle  
Livermore CA 94551

TWO SIGNATURES REQUIRED

*[Handwritten signatures]*

MEMO: Fax Settlement-Payment in Full

⑈015493⑈ ⑆122235821⑆153491802986⑈

PERFORMANCE PUBLISHING GROUP, INC.

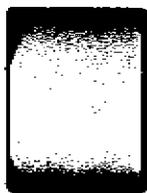
Alex Dourov

Fax Settlement-Payment in Full

3/12/2004

15493

500.00



Checking-US Bank Fax Settlement-Payment in Full

500.00

Security features. Details on back.

OfficeJet R Series  
Professional Printer/Fax/Copier/Scanner

Last Fax  
Date 03-12-04 Time 03:08P Identification 18105240742 Duration 00:49 Pages 1 Type Sent Result OK

0543800230main office livermor  
LIVERMORE, California  
945509998  
0555110230-0096  
(800)275-8777  
03/02/2004 12:31:54 PM

Sales Receipt		Final
Product Description	Sale Qty Unit Price	Price
EL SEGUNDO CA 90245		\$0.37
First-Class		
Return Receipt		\$1.75
Certified		\$2.30
Label Serial #: 70032260000271880714		
Issue PVI:		\$4.42

Total: \$4.42  
Paid by: Cash \$5.00  
Change Due: -\$0.58

Bill #: 1000401470983  
Clerk: 11

All sales final on stamps and postage.  
Refunds for guaranteed services only.  
Thank you for your business.  
Customer Copy

**SENDER: COMPLETE THIS SECTION**

1. Article Addressed to:  
Michelle Maskell  
Livermore Publishing  
525 S Douglas St Ste 270  
El Segundo CA 90245

2. Article Number (Transfer from service label)  
7003 2260 0002 7188 0714  
Domestic Return Receipt

3. Service Type  
 Certified Mail  
 Registered  
 Insured Mail  
 Express Mail  
 Return Receipt for Merchandise  
 C.O.D.  
 Yes  
 No

4. Restricted Delivery? (Extra Fee)  
 Yes  
 No

5. Signature  
 Agent  
 Addressee  
 Received by (Printed Name) Sam Thien  
 Date of Delivery 3/1/04  
 Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

**U.S. Postal Service™  
CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

EL SEGUNDO CA 90245	
Postage	\$ 0.37
Certified Fee	\$ 2.30
Return Receipt Fee (Endorsement Required)	\$ 1.75
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
<b>Total Postage &amp; Fees</b>	<b>\$ 4.42</b>

Stamp: LIVERMORE CA 94550 MAR 2 2004 # 8666-0999

Sent To Michelle Maskell  
Street, Apt. No. or PO Box No. 525 S. Douglas St Ste 270  
City, State, ZIP+4 El Segundo CA 90245

20 9912 2000 0922 8002