



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

September 11, 2006

MIKE HATCH
ATTORNEY GENERAL

SUITE 1400
445 MINNESOTA STREET
ST. PAUL, MN 55101-2131
TELEPHONE: (651) 296-7575

Mr. Steve Kirsch
13930 La Paloma Road
Los Altos Hills, CA 94022

Re: *State of Minnesota v. Sunbelt Communications and Marketing, LLC*
U.S. District Court File No. 0:02-cv-00770-JNE-JGL

Dear Mr. Kirsch:

I write concerning your inquiry to the Minnesota Attorney General's Office regarding Mike and Greg Horne and the companies The Hot Lead, LLC (a/k/a The Hot Lead Company or My Hot Leads), and Sunbelt Communications. You believe that Sunbelt Communications and its associates have violated an injunctive order obtained by this Office in September 2002, by continuing to send out junk faxes using the company name My Hot Leads.

Under Minnesota law, the Attorney General's Office has limited authority. For instance, it does not have jurisdiction to provide legal advice to private citizens. Notwithstanding this limitation, I can provide the following comments, which I hope will be helpful.

First, this Office shares your outrage over intrusive and fraudulent telemarketing and junk faxing practices. I commend your efforts to combat this conduct and to empower consumers who are victimized by such practices. This very concern led us to file suit against Sunbelt Communications, by means of which we obtained a preliminary injunction forbidding Sunbelt from engaging in certain practices. That preliminary order was subsequently superseded by a permanent injunction after Sunbelt Communications defaulted in the case. The order for default judgment was issued on December 8, 2003, and incorporated the Magistrate's Report and Recommendation. The related permanent injunction is limited to prohibiting certain conduct occurring in the State of Minnesota. It does not purport to bar Sunbelt from engaging in conduct in other states. For your convenience, I attach copies of both the final order and the Magistrate's Report and Recommendation which is incorporated into that final order.

Second, the permanent injunction permits the State of Minnesota, upon a finding of contempt by the Court, to obtain a five million dollar civil penalty against Sunbelt Communications and/or its associates. To seek a contempt order, this Office would need evidence that Sunbelt Communications, Lara Horne, or one of their affiliates, associates, etc. were violating the permanent injunction in Minnesota. I note that on your web page that relates to My Hot Leads, you invite Minnesota consumers who have received faxes with the phone numbers you have found to be associated with the Hornes and My Hot Leads to contact you. Please feel free to encourage any Minnesota consumers who contact you to contact me as well

Facsimile: (651) 296-9663 • TTY: (651) 297-7206 • Toll Free Lines: (800) 657-3787 (Voice) • (800) 366-4812 (TTY) • www.ag.state.mn.us



Mr. Steve Kirsch
September 11, 2006
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(preferably in writing, because written complaints are more useful than verbal complaints) or to obtain their consent to forward their complaints to me.

I hope you find this information helpful. If you have any questions, please do not hesitate to contact me at the address above.

Very truly yours,

A handwritten signature in black ink, appearing to read "Julie Ralston Aoki". The signature is fluid and cursive, with a large initial "J" and a long, sweeping tail.

JULIE RALSTON AOKI
Assistant Attorney General

Enclosures

cc: The Honorable Joan N. Ericksen

AG: #1661628-v1

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

STATE OF MINNESOTA by its
Attorney General, Mike Hatch,

Civil No. 02-770 (JNE/JGL)

Plaintiff,

v.

REPORT AND

**SUNBELT COMMUNICATIONS AND
MARKETING, LLC d/b/a Sunbelt
Communications, d/b/a Sunbelt
Marketing; and LARA HORNE
ALBRECHT, individually, and as
President of Sunbelt
Communications and Marketing,
LLC,**

RECOMMENDATION

Defendants.

APPEARANCES

Catherine Powell, Esq., for Plaintiff State of Minnesota

Mary Wymore, Esq., for Defendants appearing by telephone

JONATHAN LEBEDOFF, Chief United States Magistrate Judge

The above-entitled matter came on for hearing before the undersigned Chief Magistrate Judge of District Court on November 6, 2003 on Plaintiffs Motion for Judgment by Default (Doc. No. 53). The case has been referred to the undersigned for resolution of pretrial matters pursuant to 28 U.S.C. § 636 and D. Minn. LR 72.1.

Plaintiff State of Minnesota brings this Motion for Judgment by Default against Defendants (collectively, "Sunbelt") for failure to produce

FILED NOV - 6 2003
RICHARD D. SILETTEN, CLERK
JUDGMENT ENTERED _____
DEPUTY CLERK _____

documents by October 19, 2003. **The** Motion is supported by: (1) Memorandum in Support of Order for Judgment by Default; (2) Affidavit of Catherine M. Powell; (3) Rule 37(a)(2)(B) Certificate of Catherine M. Powell submitted in support of the State's Motion for an Order Compelling Defendants' Production of Documents; (4) (Revised) Order for Judgment by Default; (5) Affidavit of Debra Strafaccia; and (6) Supplemental Affidavit of Debra Strafaccia filed in support of the State's Motion for Preliminary Injunction.

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that Plaintiff's Motion for Judgment by Default (Doc. No. 53) should be **GRANTED** and judgment in favor of the State be entered:

(1) Declaring that Sunbelt's acts described in this Complaint constitute multiple, separate violations of 47 U.S.C. § 227(b)(1)(C);

(2) Enjoining Sunbelt and Sunbelt's employees, officers, directors, independent contractors, agents, successors, assignees, affiliates, merged or acquired predecessors, parent or controlling entities, subsidiaries, and all other persons acting in concert or participation with it from:

- a. Sending unsolicited facsimiles for commercial purposes to persons in Minnesota who have not provided Sunbelt prior express invitation or permission unless it maintains documentation evidencing the express prior invitation or

permission of every person in Minnesota to whom it sends a ~~fax~~ advertisement, whether the fax advertisement is sent on Sunbelt's own behalf or on behalf of another person or entity;

- b. Entering into, forming, organizing or reorganizing into **any** partnership, corporation, sole proprietorship or any other legal structure for the purpose of avoiding compliance with the terms of the Orders in this case; and
- c. Violation 47 U.S.C. § 227(b)(1)(C) in any other manner in the State of Minnesota;

(3) Awarding judgment against Sunbelt of a stayed civil penalty of \$5,000,000 to be entered against Sunbelt upon a Court Order finding that Sunbelt has violated Paragraph 2 of this Order or 47 U.S.C. § 227 in the State of Minnesota.

Dated: November 6, 2003



JONATHAN LEBEDOFF
Chief United States Magistrate Judge

Under D. Minn. LR 72.1(c)(2), any party may object to this Report and Recommendation by filing with the Clerk of Court and serving all parties by NOV. 25, 2003, a writing which specifically identifies those portions of this Report to which objections are being made and **the basis** of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. All briefs filed under this rule shall be limited to ten pages. A judge shall make a de novo determination of those portions to which objection is made.

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**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**STATE OF MINNESOTA by its Attorney
General, Mike Hatch,**

Civil No. 02-770 (JNE/JGL)

Plaintiff,

v.

ORDER

**SUNBELT COMMUNICATIONS AND
MARKETING, LLC d/b/a Sunbelt
Communications, d/b/a Sunbett Marketing;
and LARA HORNE ALBRECHT,
individually, and as President of Sunbelt
Communications and Marketing, LLC,**

Defendants.

APPEARANCES

Catherine Powell, Esq., for Plaintiff State of Minnesota

Mary Wymore, Esq., for Defendants appearing by telephone

Based upon the Report and Recommendation by Chief United States Magistrate
Judge Jonathan Lebedoff dated November 6, 2003, all the files, records and proceedings herein,
and no objections having been filed to that Report and Recommendation,

IT IS HEREBY ORDERED that Plaintiffs Motion for Judgment by Default
(Doc. No. 53) is GRANTED.

Dated: 12-8, 2003



JOAN N. ERICKSEN
United States District Court

DEC 09 2003
FILED
RICHARD D. SLETTEN, CLERK
JUDGMENT ENTERED
DEC 09 2003
DEPUTY CLERK

UNITED STATES DISTRICT COURT
District of Minnesota

700 Federal Building
316 North Robert Street
St. Paul, MN 55101

202 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

417 Federal Building
515 West First Street
Duluth, MN 55802

CIVIL NOTICE

The purpose of this notice is to summarize the time limits for filing with the District Court Clerk's Office a Notice of Appeal to the Eighth Circuit Court of Appeals from a final decision of the District Court in a civil case.

This is a summary only. For specific information on the time limits for filing a Notice of Appeal, review the applicable federal civil and appellate procedure rules and statutes.

Rule 4(a) of the Federal Rules of Appellate Procedure (Fed. R. App. P.) requires that a Notice of Appeal be filed within:

1. Thirty days (60 days if the United States is a party) after the date of "entry of the judgment or order appealed from;" or
2. Thirty days (60 days if the United States is a party) after the date of entry of an order denying a timely motion for a new trial under Fed. R. Civ. P. 59; or
3. Thirty days (60 days if the United States is a party) after the date of entry of an order granting or denying a timely motion for judgment under Fed. R. Civ. P. 50(b), to amend or make additional findings of fact under Fed. R. Civ. P. 52(b), and/or to alter or amend the judgment under Fed. R. Civ. P. 59; or
4. Fourteen days after the date on which a previously timely Notice of Appeal was filed.

If a Notice of Appeal is not timely filed, a party in a civil case can move the District Court pursuant to Fed. R. App. P. 4(a)(5) to extend the time for filing a Notice of Appeal. This motion must be filed no later than 30 days after the period for filing a Notice of Appeal expires. If the motion is filed after the period for filing a Notice of Appeal expires, the party bringing the motion must give the opposing parties notice of it. The District Court may grant the motion, but only if excusable neglect or good cause is shown for failing to file a timely Notice of Appeal.