

ENTERED  
NOV 13 2018

IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

COURT OF COMMON PLEAS  
ENTER  
*[Signature]*  
HON. ROBERT P. RUEHLMAN 11-9-18  
THE CLERK SHALL SERVE NOTICE  
TO PARTIES PURSUANT TO CIVIL  
RULE 58 WHICH SHALL BE TAXED  
AS COSTS HEREIN.

STATE OF OHIO, *ex rel.*  
OHIO ATTORNEY GENERAL  
MICHAEL DEWINE

Plaintiff,

v.

KEVIN J. CALVIN, et al.

Defendant.

CASE NO. A 0887

JUDGE RUEHLMAN

**FINAL JUDGMENT  
ENTRY AND ORDER**

**RECEIVED**  
ATTORNEY GENERAL OF OHIO

JAN 14 2019

FOR COURT USE ONLY	
S.C.	12
Line #:	

JUDGE RUEHLMAN

CONSUMER PROTECTION SECTION  
PUBLIC INSPECTION FILE

This matter is before the Court on Plaintiff's Motion for Default Judgment and request for relief. The matter was heard on September 25, 2018. The objection period has expired with no objections having been filed and no extensions granted. Upon review of the record and the Magistrate's Decision, the Court hereby AFFIRMS the Magistrate's Decision rendered on [DATE]. Pursuant to Civ. R. 53(D)(4)(c), the Court hereby adopts the Magistrate's Decision and renders the following FINAL JUDGMENT ENTRY AND ORDER:

**FINDINGS OF FACT**

1. Defendant Calvin resided and conducted business from 431 Ohio Pike, Suites 146 and 148, Cincinnati, Ohio 45255, which are located in Hamilton County.
2. Defendant Calvin utilized at least three fictitious business names including: Network Solutions, Rocket Marketing and Made in America Cleaning and Restoration. The business names are not registered with the Ohio Secretary of State nor do they appear to be organized and registered in any other state.



3. Defendant initiated, or caused to be initiated, over 1.6 million telephone calls using artificial or prerecorded voices to deliver messages advertising his cleaning services.
4. Defendant initiated, or caused to be initiated, telephone calls to residential subscribers using artificial or prerecorded voices to deliver messages advertising his cleaning services that invited called parties interested in the offer to press "1" to be connected to a representative or to call a provided telephone number to schedule services.
5. At the conclusion of the prerecorded messages, called parties that attempted to speak to a representative by pressing "1" were often promptly disconnected.
6. The called parties that attempted to reach a representative by calling the telephone number provided in the prerecorded message were often not able to reach a live representative.
7. When called parties reached live representatives and requested not to be called again, Defendant failed to honor consumers' requests.
8. At the conclusion of some of the prerecorded messages, called parties were given the option of pressing a number to automatically opt-out of future calls. However, Defendant failed to honor consumers' requests submitted through the use of the automated opt-out process.
9. Defendant failed to provide reasonable opportunities or methods for consumers to request that the Defendant not call them again. As a result, many consumers were subjected to repeated calls from the Defendant.
10. Defendant repeatedly initiated telephone solicitations to the same telephone numbers causing aggravation for the called parties.

11. Defendant repeatedly initiated telephone solicitations to the same telephone numbers causing some consumers' voicemail boxes or answering machines to reach maximum capacity with Defendant's prerecorded messages.
12. Defendant repeatedly initiated telephone solicitations to the same telephone numbers using many different originating telephone numbers which frustrated consumers' efforts to prevent future solicitations by blocking the originating numbers displayed by caller identification services.
13. Defendant originated telephone solicitations while transmitting at least two fictitious business names to consumers' caller identification services which frustrated consumers' efforts to identify the true originator of the call.
14. Defendant disregarded consumers' privacy rights to opt out or avoid receiving telephone solicitations to which they objected.
15. Defendant initiated telephone solicitations to consumers' residential telephone numbers at unreasonable times or times known to be inconvenient, including before the hour of 8:00 a.m. or after 9:00 p.m. local time at the called parties' locations.
16. Defendant initiated telephone solicitations to consumers' residential telephone numbers at unreasonable times or times known to be inconvenient, including programming an automatic telephone dialing system ("autodialer") to initiate calls continuously for 24-hour periods of time.
17. Defendant initiated telephone solicitations to residential telephone subscribers who had previously registered their telephone numbers on the Federal Trade Commission's National Do Not Call Registry.

18. Defendant initiated, or caused to be initiated, calls to cellular telephones or residential lines using an autodialer to deliver advertising messages from artificial or prerecorded voices without first obtaining the express written consent of the called parties.
19. Defendant solicited using automated or prerecorded voice messages sent, without prior express consent, to consumers' cellular telephones without regard for whether consumers incurred charges for receipt of the calls.
20. By soliciting using automated or prerecorded voice messages sent, without prior express consent, to consumers' cellular telephones, Defendant burdened consumers who were charged for receipt of calls advertising for his cleaning service.
21. Defendant initiated, or caused to be initiated, calls to cellular telephones or residential lines using an autodialer to deliver advertising messages from artificial or prerecorded voices without first obtaining the express written consent of the called parties.
22. Defendant initiated telephone solicitations using artificial or prerecorded voice messages that failed to state clearly, at the beginning of the message, the identity of the individual or business responsible for the call, specifying the name under which the business is registered with the Ohio Secretary of State, or a comparable regulatory authority, to conduct business.
23. Defendant initiated telephone solicitations to cellular or residential telephone lines using artificial or prerecorded voice messages that failed to provide an automated, interactive voice- and/or key press- activated opt out mechanism for the called party to make a do-not-call request, including explanatory instructions within two (2) seconds of providing the identity of the business or individual responsible for the call.

24. Defendant initiated telephone solicitations to cellular or residential telephone lines which left artificial or prerecorded voice messages on voicemail services or answering machines that failed to provide a toll-free number that enables the called party to call back at a later time and connect directly to the automated, interactive voice- and/or key press- activated opt-out mechanism.
25. During the time frame relevant herein, Defendant was not registered as a telephone solicitor with the Ohio Attorney General's Office pursuant to the TSSA, R.C. 4719.02(A).
26. During the time frame relevant herein, Defendant did not have a surety bond as required by the TSSA, R.C. 4719.04(A) on file with the Ohio Attorney General's Office.

#### **CONCLUSIONS OF LAW**

27. Plaintiff, State of Ohio, by and through Attorney General Michael DeWine, is a proper party to commence this action on behalf of the State of Ohio under the authority vested in him by the CSPA, R.C. 1345.01 et seq., the TSSA, R.C. 4719.01 et seq. and R.C. 109.87(D)(1).
28. Plaintiff, State of Ohio, by and through Attorney General Michael DeWine, is a proper party to commence this action under the authority vested in him by the TCPA, 47 U.S.C. 227 and Code of Federal Regulations ("C.F.R.") 64.1200 and R.C. 109.87(D)(1). The Ohio Attorney General is authorized to file an action for violations of the federal TCPA in a state court of common pleas against a seller or telemarketer who violates any provision of federal acts or rules as defined by R.C. 109.87(A)(1).
29. This Court has jurisdiction over the subject matter of this action pursuant to the CSPA, R.C. 1345.04, the TSSA, R.C. 4719.12(A) and R.C. 109.87(D)(1).

30. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3) in that Defendant Calvin conducted activity which gave rise to the claims for relief in Hamilton County.
31. The business practices of Defendant Calvin, as described herein and in the Plaintiff's Complaint, are governed by the CSPA, R.C. 1345.01 et seq., the TSSA, R.C. 4719.01 et seq., the TCPA, 47 U.S.C. 227, 47 C.F.R. 64.1200 and R.C. 109.87(B)(1).
32. Defendant is a "supplier" as he was, at all times relevant herein, engaged in the business of effecting "consumer transactions" either directly or indirectly by soliciting and selling goods or services to consumers in the State of Ohio and nationwide, for purposes that were primarily personal, family or household in nature, as those terms are defined in the CSPA, R.C. 1345.01(A), (C), and (D).
33. Defendant initiated "telephone solicitations" to "purchasers," as he was at all times relevant herein, engaged in initiating "communications" on behalf of "telephone solicitors" or "salespersons" to induce persons to purchase "goods or services," as those terms are defined in the TSSA, R.C. 4719.01(A).
34. Defendant is a "telephone solicitor" as that term is defined in the TSSA, R.C. 4719.01(A)(8), as he was at all times relevant herein, engaged in initiating telephone solicitations directly or through one or more salespersons either from a location in this state or from a location outside this state to persons in this state.
35. Defendant is a "seller" as that term is defined in C.F.R. 64.1200(f)(9) as he is a person or entity on whose behalf telephone calls and messages were initiated for the purpose of encouraging the purchase of goods or services, which were transmitted to persons.

36. Defendant is a “telemarketer” as that term is defined in the C.F.R. 64.1200(f)(11) as he is a person or entity that initiated telephone calls or messages for the purpose of encouraging the purchase of goods or services, which were transmitted to persons.
37. Defendant engaged in “telephone solicitations” as that term is defined in the TCPA, 47 U.S.C. 227(a)(4) and C.F.R. 64.1200(f)(14) as he initiated telephone calls for the purpose of encouraging the purchase of goods or services, which were transmitted to persons.
38. Defendant utilized an automatic telephone dialing system as that term is defined in the TCPA, 47 U.S.C. 227(a)(1) and C.F.R. 64.1200(f)(2) as he used equipment with the capacity to store or produce telephone numbers to be called, using a random or sequential number generator, to dial such numbers.
39. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by engaging in a pattern or practice of soliciting using automated or prerecorded voice messages sent, without prior express consent, to consumers’ cellular telephones without regard for whether consumers incurred charges for receipt of the calls.
40. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by engaging in a pattern or practice of soliciting consumers by telephone using automated or prerecorded messages without providing reasonable opportunities or methods for consumers to opt out of further calls.
41. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by engaging in a pattern or practice of soliciting consumers by telephone using automated or prerecorded messages while

transmitting unregistered or fictitious business names to caller identification services, frustrating consumers' efforts to identify the true originator of the call.

42. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by engaging in a pattern or practice of soliciting consumers by telephone using automated or prerecorded messages that failed to provide the true name of the solicitor and business on whose behalf the solicitation was made. These acts or practices have been previously determined by an Ohio court to violate the CSPA. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
43. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by engaging in a pattern or practice of soliciting consumers by telephone despite the fact that their telephone numbers were listed on the National Do Not Call Registry more than 31 days prior to the calls.
44. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by engaging in a pattern or practice of soliciting consumers by telephone while failing to provide reasonable opportunities or methods for consumers to opt out, request not to be called again or to avoid further solicitations to which they object.
45. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by engaging in a pattern or practice of soliciting consumers by telephone while failing to maintain records of consumers' do-not-call requests. These acts or practices have been previously determined by an Ohio

court to violate the CSPA. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

46. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by engaging in a pattern or practice of soliciting consumers by telephone who previously requested not to be called. These acts or practices have been previously determined by an Ohio court to violate the CSPA. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
47. Defendant committed unfair or deceptive and unconscionable acts or practices in violation of CSPA, R.C. 1345.02(A) and 1345.03(A) by soliciting or engaging in consumer transactions while using business or fictitious names which were not properly registered with the Ohio Secretary of State or exempt from registration. These acts or practices have been previously determined by an Ohio court to violate the CSPA. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
48. Defendant committed unfair or deceptive acts and practices in violation of CSPA, R.C. 1345.02(A) and TSSA, R.C. 4719.02(A) by acting as a telephone solicitor without first having obtained a certificate of registration from the Ohio Attorney General. These acts or practices have been previously determined by an Ohio court to violate the CSPA. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

49. Defendant violated TSSA, R.C. 4719.04(A) by acting as a telephone solicitor without first having obtained and filed with the Ohio Attorney General, a surety bond issued by a surety company authorized to do business in the State of Ohio.
50. Defendant committed unfair or deceptive acts and practices in violation of CSPA, R.C. 1345.02(A) and TSSA, R.C. 4719.06 by failing to disclose the solicitor's true name and the name of the company on whose behalf solicitations were made, within the first sixty seconds of the telephone call. These acts or practices have been previously determined by an Ohio court to violate the CSPA. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
51. Defendant violated R.C. 109.87(B)(1) by initiating telephone calls to residential lines using artificial or prerecorded voices to deliver messages without the prior express written consent of the called parties. Defendant's conduct is prohibited by TCPA, 47 U.S.C. 227(b)(1)(B) and 47 C.F.R. 64.1200(a)(3).
52. Defendant violated R.C. 109.87(B)(1) by initiating telephone calls to residential lines using artificial or prerecorded voices to deliver messages that failed to clearly identify, at the beginning of the message, the business and individual responsible for initiating the call. Defendant's conduct is prohibited by TCPA, 47 U.S.C. 227(d)(3)(A) and 47 C.F.R. 64.1200(b)(1).
53. Defendant violated R.C. 109.87(B)(1) by initiating telephone calls to residential lines using artificial or prerecorded voices to deliver messages that failed to provide a telephone number individuals could call during regular business hours for the duration of the telemarketing campaign to make a do-not-call request. Defendant's conduct is prohibited by TCPA, 47 U.S.C. 227(b)(2)(c), 47 C.F.R. 64.1200(b)(2).

54. Defendant violated R.C. 109.87(B)(1) by initiating telephone calls to residential lines using artificial or prerecorded voices to deliver messages that failed to provide an automated, interactive voice- and/or key press- activated opt-out mechanism that enables the called person to make a do-not-call request prior to terminating the call. Defendant's conduct is prohibited by TCPA, 47 U.S.C. 227(b)(2)(c), 47 C.F.R. 64.1200(b)(3).
55. Defendant violated R.C. 109.87(B)(1) by initiating telephone calls to residential lines using artificial or prerecorded voices to leave messages on answering machines or voicemail services without providing a toll-free number that enables the called parties to call back at later times to connect directly to the automated, interactive voice- and/or key press- activated opt-out mechanism that automatically records the person's number to the seller's do-not-call list. Defendant's conduct is prohibited by TCPA, 47 U.S.C. 227(b)(2)(c), 47 C.F.R. 64.1200(b)(3).
56. Defendant violated R.C. 109.87(B)(1) by initiating telephone solicitations to residential telephone subscribers whose telephone numbers were listed on the National Do Not Call Registry. Defendant's conduct is prohibited by TCPA, 47 U.S.C. 227(c) and 47 C.F.R. 64.1200(c)(2).
57. Defendant violated R.C. 109.87(B)(1) by initiating telephone solicitations to residential telephone subscribers before the hour of 8:00 a.m. or after 9:00 p.m. local time at the called parties' locations. Defendant's conduct is prohibited by TCPA, 47 U.S.C. 227(c) and 47 C.F.R. 64.1200(c)(1).

**THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:**

- A. Plaintiff's request for declaratory judgment is **GRANTED**. It is hereby **DECLARED** that Defendant's acts and practices as described in the Plaintiff's Complaint violate the

CSPA, R.C. 1345.01 et seq., TSSA, R.C. 4719.01 et seq. and R.C. 109.87(B)(1) in the manner set forth therein.

- B. Plaintiff's request for a permanent injunction pursuant to R.C. 1345.07(A)(2) is GRANTED. Defendant, under his own name or any other names, his agents, partners, representatives, employees, salespersons, successors or assigns, including any person or entity acting directly or indirectly on behalf of the Defendant or any person or entity which purchases, acquires, or otherwise receives any interest (whether legal, equitable, contractual or otherwise) in Defendant's business and continues to engage in consumer transactions, are PERMANENTLY ENJOINED from engaging in acts and practices which violate CSPA, R.C. 1345.01 et seq., TSSA, R.C. 4719.01 et seq., the TCPA and R.C. 109.87(B)(1).
- C. Defendant is PERMANENTLY ENJOINED from acting as a "supplier" as that term is defined in R.C. 1345.01(C) by engaging in any consumer transactions in the State of Ohio until the final ordered resolution of this matter is satisfied in its entirety.
- D. Pursuant to CSPA, R.C. 1345.07(D), Defendant is ORDERED to pay of civil penalties in the amount of \$100,000 to the Plaintiff for deposit in the Consumer Protection Enforcement Fund.
- E. Pursuant to TSSA, R.C. 4719.12(B), Defendant is ORDERED to pay civil penalties in the amount of \$5,000 to the Plaintiff for deposit in the Consumer Protection Enforcement Fund.
- F. Pursuant to R.C. 109.87(D)(1) and 47 U.S.C. 227(g)(1), Defendant is ORDERED to pay statutory damages in the amount of \$28,500.

G. Defendant shall pay statutory damages and civil penalties imposed herein, in the total amount of \$133,500 to the Plaintiff by certified check or money order and delivery or mail it to:

Ohio Attorney General's Office  
Consumer Protection Section  
Attn: Compliance Officer  
30 East Broad St., 14<sup>th</sup> Floor  
Columbus, Ohio 43215

H. Defendant shall pay all court costs associated with this action.

**IT IS SO ORDERED.**

---

**JUDGE ROBERT P. RUEHLMAN**

**MAGISTRATE**

**THIS IS A FINAL APPEALABLE ORDER.**

**NOV 07 2018**

**HAS SEEN**

Submitted by:

Erin B. Leahy  
Senior Assistant Attorney General  
Consumer Protection Section  
Ohio Attorney General's Office  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215-3428

The Clerk of Courts is hereby directed to serve notice of this judgment upon all parties:

Erin B. Leahy  
Senior Assistant Attorney General  
Consumer Protection Section  
Ohio Attorney General's Office  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215-3428

Kevin J. Calvin  
431 Ohio Pike, Suites 146/148  
Cincinnati, Ohio 45255