

LAW OFFICES OF
SAMAN BEHNAM

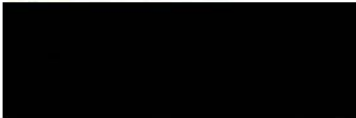
A PROFESSIONAL LAW CORPORATION

ALL CORRESPONDENCE:
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September 30, 2004

VIA U.S. MAIL



Re: EBN Financial

Dear Mr. [REDACTED]:

This office is in receipt of your correspondence dated September 27, 2004. You are instructed to not communicate directly with my client and to forward all future communications via U.S. Mail only to this office.

The phone number listed in your correspondence has been added to a permanent Do-Not-Call list. Upon written request to my office, we will forward to you, my client's Do-Not-Call Policies and Procedures fact sheet and add any additional numbers you may have.

As to the pre-recorded message, my client's position remains that they did not solicit you through a pre-recorded solicitation. Demand is hereby made that you turn over all recorded communications between you and my client, written transcripts, memorandums, notes, writings, journal entries, including the date, and exact time the alleged call was made, telephone records, and related evidence which must include a copy of your utility statement, and your drivers license to verify your identity.

The alleged call in dispute was made by a live call center and there was no prerecorded message of any kind involved and the call was in full compliance with the TCPA.

Marketers use computer aided calling or teldial software to detect an answer or answering machine related to the solicitation and all calls made are in full compliance with, and governed pursuant to the rules mandated by the TCPA. In addition, my client scrubs its call list against the Direct Marketing No Call List (DMA).

Per the TCPA, my client's conduct was not willful or knowingly, hence, not subject to treble damages. The term willful and knowingly has not been specifically addressed in the context of the TCPA, and it is not binding on the court to award a plaintiff's demand for treble damages. To obtain such an award the aggrieved party must show despicable, outrageous, and egregious conduct beyond the realm of reasonableness. None of the conduct by my client warrant the award of treble damages, and having litigated matters concerning the definition of willfulness, I am confident that the conduct of my client was not egregious enough and fails to meet the total recklessness test to allow a juror to award treble damages. While jurors are comprised of consumers like you, they are cognizant of the fact that you are in court to attempt to collect \$2,000 for a telephone call which for the most part did not last for more than three minutes; assuming you conversed with the live caller during the entire solicitation.

In the event you terminated the call mid solicitation, the average call duration may have been no more than twenty seconds hence you would be demanding that the jury award you the equivalent sum of approximately \$6,000 per hour for your alleged inconvenience. I believe that a smart jury will understand your predicament, but realistically recognize my client's position that they are in the business of creating jobs and keeping families employed.

This issue has a nuisance value, which authorizes me to settle the entire matter without the necessity of court action. I am authorized to settle your demand via mutual walk away.

More importantly, I will ensure that your telephone number is added to the DNC, as I am confident that the crux of this problem rests with the fact that you received an unwanted live solicitation.

The above offer will expire ten (10) days from receipt of this correspondence and I can assure you that as in the past, my office and local counsel will vigorously defend this action, which will take approximately one year to proceed to trial, during which time you will have to retain a lawyer and either pay an average hourly rate of \$200/hr or a contingency fee of 33% to 40% of anything you collect.

Furthermore, demand is hereby made and you are placed on notice to immediately remove Andrew Salisbury and Sherie Salisbury as possible parties to your complaint.

You are directed to serve my office via certified mail a letter of retraction no later than ten (10) days from the date of receipt of this demand and apologize for the irresponsible and willful naming of the Salisbury's in your unmeritorious complaint.

Your factually false and fabricated correspondence to Mr. & Mrs. Salisbury is totally egregious, lacks legal grounds, and the reprint and mailing of the same to the FCC is defamatory on its face. You have no factual basis other than an inept threat which has caused substantial emotional trauma to the Salisbury's as well as their reputation.

It is clear that the sole intended purpose of your correspondence to the Salisbury's and the communication of the same to the FCC was designed to create an inference that the Salisbury's are personally culpable in this matter and in the hopes of extorting money from them personally. Rest assured that your conduct will not be tolerated and will be dealt with swiftly as you have no basis for making such an allegation nor could support such a theory if this matter was fully litigated.

Your naming of Mr. Salisbury and Ms. Salisbury is further indicative of your total lack of understanding of the proper structure of the party you complain of. I assure you that after a successful defense on its merits I will immediately file a malicious prosecution complaint against you to seek the maximum monetary penalty together with a request for reimbursement of my attorney fees and costs associated with the defense of your intentional, reckless, willful and inept attempt to extort money from the Salisbury's.

In the event you proceed with litigation on this matter against any other individual or entity, and it is deemed to be frivolous, this office will file a separate action seeking reimbursement of all its attorney fees and costs associated with the defense of the complaint.

Govern yourself accordingly.

Very truly yours,



SAMAN BEHNAM

SB/sab
cc: Client