

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)
)
Rules and Regulations Implementing)
) **CG Docket No. 02-278**
the Telephone Consumer Protection)
)
Act of 1991)

Joe Shields Submission For The Record on the American Bankers Association

Petition for Exemption

The Commission has requested comments on the American Bankers Association Petition for Exemption. The petition asks that the Commission exempt time sensitive informational calls from the prior express consent of the called party requirement. One such “informational call” the petition seeks an exemption for are “remediation” messages.

One entity is already pulling the “remediation” message defense in a TCPA case. In *Coniglio v Bank of America NA*, Case No.: 8:14-cv-01628 (M.D.Fla. Dec. 4, 2014) the defendant is claiming that their 700+ debt collection calls: “...were not to collect a debt but rather to help them avoid foreclosure...” See attached ABC News article. See also the attached court Order and Order on Motions to Set Aside or Modify and Vacate Default Judgment.

As one can see from the attached, Bank of America NA was never trying to help the Coniglios. As the attached article and Orders show the banking industry will claim that debt collection calls are remediation messages. The Commission must deny the petition because any leeway given will be exploited well beyond the reasoning given in the petition.

The article and Orders also show that the banking industry thumbs their nose at consumers that revoke consent. The article and Orders apply equally to the Santander Consumer USA petition that seeks to have the Commission issue an anti-consumer Order that consent cannot be revoked.

The Commission should exercise its authority to protect the privacy and safety of cell phone users and strengthen the TCPA as it applies to the banking industry. Any action to exempt entirely certain types of banking industry calls will increase consumer frustration and lead to even more legitimate litigation for automated calls that consumers never authorized.

The banking industry is the worst offender of the TCPA. The banking industry sees the TCPA as interfering with their bottom line. That's why the banking industry has filed so many petitions with the Commission to neuter the TCPA.

For that reason the Commission can and should deny the ABA petition in its entirety.

Respectfully submitted,

_____/s/

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