

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BAIS YAAKOV OF SPRING VALLEY, on behalf of
itself and all others similarly situated,

Plaintiff,

-vs.-

RICHMOND, THE AMERICAN INTERNATIONAL
UNIVERSITY IN LONDON, INC. and AMERICAN
INSTITUTE FOR FOREIGN STUDY, INC.

Defendants.

7:13 CV 4564 (CS)(PED)

First Amended Complaint

Class Action

Jury Demanded

FIRST AMENDED COMPLAINT

Plaintiff Bais Yaakov of Spring Valley (“Plaintiff”), on behalf of itself and all
others similarly situated, alleges as follows:

INTRODUCTION

1. Plaintiff brings this action against Richmond, The American International
University in London, Inc. (“Richmond”) and the American Institute for Foreign Study,
Inc. (“AIFS”) (collectively, “Defendants”) for violating the Telephone Consumer
Protection Act, 47 U.S.C. § 227 (the “TCPA”). Congress enacted the TCPA in 1991 to
prevent the faxing of unsolicited advertisements to persons who had not provided express
invitation or permission to receive such faxes. In addition, the TCPA and regulations
promulgated pursuant to it prohibit the sending of unsolicited as well as solicited fax
advertisements that do not contain properly worded opt-out notices.

2. Upon information and belief, Defendants have caused to be sent out more
than nine thousand (9,000) unsolicited and solicited fax advertisements for goods and/or

services without proper opt-out notices to persons throughout the United States within the applicable four-year limitations period. As a result, Defendants are liable under the TCPA to Plaintiff and the proposed classes of similarly situated persons.

JURISDICTION AND VENUE

3. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

4. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) because this is the judicial district in which a substantial part of the events or omissions giving rise to the claims in this case occurred.

THE PARTIES

5. Plaintiff is a New York religious corporation, with its principal place of business located at 11 Smolley Drive, Monsey, New York 10952.

6. Upon information and belief, Richmond is a Delaware corporation.

7. Upon information and belief, AIFS is a Delaware corporation, with its principal place of business located at 9 West Broad Street, Stamford, Connecticut 06902.

DEFENDANTS' ILLEGAL JUNK FAXES

8. At all times relevant to this action, Plaintiff had telephone service on the number 845-356-3132 at its place of business at 11 Smolley Drive, Monsey, New York 10952. Plaintiff receives facsimile transmissions at this number, using a telephone facsimile machine.

9. On or about November 27, 2012, Defendants, without Plaintiff's express invitation or permission, arranged for and/or caused a telephone facsimile machine, computer, or other device to send an unsolicited fax advertisement (the "Fax Advertisement") advertising the commercial availability or quality of property, goods, or

services, to Plaintiff's fax machine located at 11 Smolley Drive, Monsey, New York 10952. A copy of the Fax Advertisement is attached as Exhibit A and incorporated into this First Amended Complaint.

10. Plaintiff did not provide Defendants with express invitation or permission to send Plaintiff any fax advertisements. The Fax Advertisement was wholly unsolicited. The Fax Advertisement also does not contain any opt-out notice. The Fax Advertisement violates the TCPA and regulations thereunder.

11. Upon information and belief, Defendants either negligently or willfully and/or knowingly arranged for and/or caused the Fax Advertisement to be sent to Plaintiff's fax machine.

12. Richmond, from July 1, 2009 through July 1, 2013, either negligently or willfully and/or knowingly sent and/or arranged to be sent well over nine thousand (9000) *unsolicited and/or solicited* fax advertisements advertising the commercial availability or quality of its property, goods, or services to fax machines and/or computers belonging to thousands of persons all over the United States. Those fax advertisements did not contain any opt-out notice.

13. Richmond, from July 1, 2009 through July 1, 2013, either negligently or willfully and/or knowingly sent and/or arranged to be sent well over nine thousand (9000) *unsolicited* fax advertisements advertising the commercial availability or quality of its property, goods, or services, to fax machines and/or computers belonging to thousands of persons throughout the United States. Those facsimile advertisements did not contain any opt-out notice.

14. Richmond caused all the faxes advertising itself to be sent out from July 1, 2009 through July 1, 2013 in the following manner: Richmond contracted with AIFS to

send out fax advertisements about Richmond. In furtherance of its responsibilities under the contract, AIFS created lists of persons to whom to fax the advertisements were to be sent, worked with Richmond on the text and design of the fax advertisements, and paid other companies to physically transmit the faxes on AIFS's behalf, so that AIFS could fulfill its contractual obligation to Richmond to send out the fax advertisements.

15. AIFS, on behalf of Richmond, staffed some of the "College Fairs" procured by AIFS, on behalf of Richmond, through some of the fax advertisements broadcast about Richmond. At those College Fairs, AIFS staff also advertised AIFS's programs.

16. Upon information and belief, AIFS has, from four years prior to the date of the filing of the First Amended Complaint in this action through the present, either negligently or willfully and/or knowingly sent and/or arranged to be sent well over nine thousand (9000) *unsolicited and/or solicited* fax advertisements advertising the commercial availability or quality of its or others' property, goods, or services, to fax machines and/or computers belonging to thousands of persons all over the United States. Upon information and belief, those fax advertisements did not contain any opt-out notice.

17. Upon information and belief, AIFS has, from four years prior to the date of the filing of the First Amended Complaint in this action through the present, either negligently or willfully and/or knowingly sent and/or arranged to be sent well over nine thousand (9000) *unsolicited* fax advertisements advertising the commercial availability or quality of its or others' property, goods, or services, to fax machines and/or computers belonging to thousands of persons throughout the United States. Upon information and belief, those facsimile advertisements did not contain any opt-out notice.

18. Upon information and belief, AIFS arranged for all of the fax

advertisements described above, including the Fax Advertisement attached as Exhibit A, to be physically sent out by creating lists of persons to whom to fax the advertisements would be sent, by participating in the design and wording of the fax advertisements, and by using third parties to arrange for the physical transmission of the fax advertisements over telephone lines to persons on the lists created by AIFS.

19. Some of the fax advertisements described in paragraphs 16-18 advertised AIFS's own programs and services. AIFS was the "sender" of those faxes for purposes of the TCPA. The remaining fax advertisements described in paragraphs 16-18 were fax advertisements that AIFS was contractually obligated to others to cause to be sent out. By using third parties to arrange for the physical transmission of such fax advertisements, AIFS was the "sender" of them for purposes of the TCPA because the third parties caused the transmission of those fax advertisements on behalf of AIFS to fulfill AIFS's contractual responsibilities.

CLASS ALLEGATIONS

20. Plaintiff brings this class action on behalf of itself and all others similarly situated under Rules 23(a) and 23(b)(1)-(3) of the Federal Rules of Civil Procedure.

21. Plaintiff seeks to represent four classes (collectively, the "Classes") of persons, each defined as follows:

Class A: All persons to whom Richmond sent or caused to be sent, from July 1, 2009 through July 1, 2013, at least one *solicited or unsolicited* facsimile advertisement advertising the commercial availability or quality of property, goods, or services that lacked an opt-out notice.

Class B: All persons to whom Richmond sent or caused to be sent, from July 1, 2009 through July 1, 2013, at least one *unsolicited* facsimile advertisement

advertising the commercial availability or quality of property, goods, or services that lacked an opt-out notice.

Class C: All persons to whom AIFS sent or caused to be sent, from four years prior to the date of the filing of the First Amended Complaint through the present, at least one *solicited or unsolicited* facsimile advertisement advertising the commercial availability or quality of property, goods, or services that lacked an opt-out notice.

Class D: All persons to whom AIFS sent or caused to be sent, from four years prior to the date of the filing of the First Amended Complaint through the present, at least one *unsolicited* facsimile advertisement advertising the commercial availability or quality of property, goods, or services that lacked an opt-out notice.

22. Numerosity: The Classes are so numerous that joinder of all individual members in one action would be impracticable. The disposition of the individual claims of the respective class members through this class action will benefit the parties and this Court. Upon information and belief there are, at a minimum, thousands of class members of Classes A, B, C and D. The Classes' sizes and the identities of the individual members thereof are ascertainable through Defendants' records, including Defendants' fax and marketing records.

23. Members of the Classes may be notified of the pendency of this action by techniques and forms commonly used in class actions, such as by published notice, e-mail notice, website notice, fax notice, first class mail, or combinations thereof, or by other methods suitable to the Classes and deemed necessary and/or appropriate by the Court.

24. Typicality: Plaintiff's claims are typical of the claims of the members of Class A because the claims of Plaintiff and members of Class A are based on the same legal theories and arise from the same unlawful conduct. Among other things, Plaintiff and members of Class A were sent or caused to be sent by Richmond at least one fax advertisement advertising the commercial availability or quality of property, goods, or services that lacked any opt-out notice.

25. Plaintiff's claims are typical of the claims of the members of Class B because the claims of Plaintiff and members of Class B are based on the same legal theories and arise from the same unlawful conduct. Among other things, Plaintiff and members of Class B were sent or caused to be sent by Richmond, without Plaintiff's or the Class B members' express permission or invitation, at least one fax advertisement advertising the commercial availability or quality of property, goods, or services that lacked any opt-out notice.

26. Plaintiff's claims are typical of the claims of the members of Class C because the claims of Plaintiff and members of Class C are based on the same legal theories and arise from the same unlawful conduct. Among other things, Plaintiff and members of Class C were sent or caused to be sent by AIFS at least one fax advertisement advertising the commercial availability or quality of property, goods, or services that lacked any opt-out notice.

27. Plaintiff's claims are typical of the claims of the members of Class D because the claims of Plaintiff and members of Class D are based on the same legal theories and arise from the same unlawful conduct. Among other things, Plaintiff and members of Class D were sent or caused to be sent by AIFS, without Plaintiff's or the Class D members' express permission or invitation, at least one fax advertisement

advertising the commercial availability or quality of property, goods, or services that lacked any opt-out notice.

28. Common Questions of Fact and Law: There is a well-defined community of common questions of fact and law affecting the Plaintiff and members of the Classes. The questions of fact and law common to Plaintiff and Class A predominate over questions that may affect individual members, and include:

(a) Whether Richmond's sending and/or causing to be sent to Plaintiff and the members of Class A, by facsimile, computer or other device, fax advertisements advertising the commercial availability or quality of property, goods or services that lacked any opt-out notice violated 47 U.S.C. § 227(b) and the regulations thereunder;

(b) Whether Richmond's sending and/or causing to be sent such fax advertisements was knowing or willful;

(c) Whether Plaintiff and the members of Class A are entitled to statutory damages, triple damages and costs for Richmond's conduct; and

(d) Whether Plaintiff and members of Class A are entitled to a permanent injunction enjoining Richmond from continuing to engage in its unlawful conduct.

29. The questions of fact and law common to Plaintiff and Class B predominate over questions that may affect individual members, and include:

(a) Whether Richmond's sending and/or causing to be sent to Plaintiff and the members of Class B, without Plaintiff's or the Class B members' express invitation or permission, by facsimile, computer or other device, fax advertisements advertising the commercial availability or quality of property,

goods, or services that lacked any opt-out notice violated 47 U.S.C. § 227(b) and the regulations thereunder;

(b) Whether Richmond's sending and/or causing to be sent to Plaintiff and the members of Class B such unsolicited fax advertisements was knowing or willful;

(c) Whether Plaintiff and the members of Class B are entitled to statutory damages, triple damages and costs for Richmond's conduct; and

(d) Whether Plaintiff and members of Class B are entitled to a permanent injunction enjoining Richmond from continuing to engage in its unlawful conduct.

30. The questions of fact and law common to Plaintiff and Class C predominate over questions that may affect individual members, and include:

(a) Whether AIFS's sending and/or causing to be sent to Plaintiff and the members of Class C, by facsimile, computer or other device, fax advertisements advertising the commercial availability or quality of property, goods or services that lacked an opt-out notice violated 47 U.S.C. § 227(b) and the regulations thereunder;

(b) Whether AIFS's sending and/or causing to be sent such fax advertisements was knowing or willful;

(c) Whether Plaintiff and the members of Class C are entitled to statutory damages, triple damages and costs for AIFS's conduct; and

(d) Whether Plaintiff and members of Class C are entitled to a permanent injunction enjoining AIFS from continuing to engage in its unlawful conduct.

31. The questions of fact and law common to Plaintiff and Class D

predominate over questions that may affect individual members, and include:

(a) Whether AIFS's sending and/or causing to be sent to Plaintiff and the members of Class D, without Plaintiff's or the Class D members' express invitation or permission, by facsimile, computer or other device, fax advertisements advertising the commercial availability or quality of property, goods, or services that lacked any opt-out notice violated 47 U.S.C. § 227(b) and the regulations thereunder;

(b) Whether AIFS's sending and/or causing to be sent to Plaintiff and the members of Class D such unsolicited fax advertisements was knowing or willful;

(c) Whether Plaintiff and the members of Class D are entitled to statutory damages, triple damages and costs for AIFS's conduct; and

(d) Whether Plaintiff and members of Class D are entitled to a permanent injunction enjoining AIFS from continuing to engage in its unlawful conduct.

32. Adequacy of Representation: Plaintiff is an adequate representative of the Classes because its interests do not conflict with the interests of the members of the Classes. Plaintiff will fairly, adequately and vigorously represent and protect the interests of the members of the Classes, and has no interests antagonistic to the members of the Classes. Plaintiff has retained counsel who are competent and experienced in litigation in the federal courts, class action litigation, and TCPA cases.

33. Superiority: A class action is superior to other available means for the fair and efficient adjudication of the Classes' claims. While the aggregate damages that may be awarded to the members of the Classes are likely to be substantial, the damages suffered by individual members of the Classes are relatively small. The expense and burden of individual litigation makes it economically infeasible and procedurally

impracticable for each member of the Classes to individually seek redress for the wrongs done to them. The likelihood of the individual Class members' prosecuting separate claims is remote. Plaintiff is unaware of any other litigation concerning this controversy already commenced against either of the Defendants by any member of the Classes.

34. Individualized litigation also would present the potential for varying, inconsistent or contradictory judgments, and would increase the delay and expense to all parties and the court system resulting from multiple trials of the same factual issues. The conduct of this matter as a class action presents fewer management difficulties, conserves the resources of the parties and the court system, and would protect the rights of each member of the Classes. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

35. Injunctive Relief: Defendants have acted on grounds generally applicable to the members of Classes A, B, C and D, making final injunctive relief appropriate with respect to Classes A, B, C and D.

FIRST CLAIM AGAINST RICHMOND FOR VIOLATION OF THE TCPA

36. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-35.

37. By the conduct described above, Richmond committed more than nine thousand (9000) violations of 47 U.S.C. § 227(b) against Plaintiff and the members of Class A, to wit: the fax advertisements Richmond sent and/or caused to be sent to Plaintiff and the members of Class A were either (a) unsolicited and did not contain a notice satisfying the requirements of the TCPA and regulations thereunder, or (b) solicited and did not contain a notice satisfying the requirements of the TCPA and regulations thereunder.

38. Plaintiff and the members of Class A are entitled to statutory damages under 47 U.S.C. § 227(b) in an amount greater than four million, five hundred thousand dollars (\$4,500,000).

39. If it is found that Richmond willfully and/or knowingly sent and/or caused to be sent fax advertisements that did not contain a notice meeting the requirements of the TCPA and regulations thereunder to Plaintiff and the members of Class A, Plaintiff requests that the Court increase the damage award against Richmond to three times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3).

SECOND CLAIM AGAINST RICHMOND

FOR VIOLATION OF THE TCPA

40. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-35.

41. By the conduct described above, Richmond committed more than nine thousand (9000) violations of 47 U.S.C. § 227(b) against Plaintiff and the members of Class B, to wit: the fax advertisements Richmond sent and/or caused to be sent to Plaintiff and the members of Class B were unsolicited and did not contain notices satisfying the requirements of the TCPA and regulations thereunder.

42. Plaintiff and the members of Class B are entitled to statutory damages under 47 U.S.C. § 227(b) in an amount greater than four million, five hundred thousand dollars (\$4,500,000).

43. If it is found that Richmond willfully and/or knowingly sent and/or caused to be sent unsolicited fax advertisements that did not contain a notice satisfying the requirements of the TCPA and regulations thereunder to Plaintiff and the members of

Class B, Plaintiff requests that the Court increase the damage award against Richmond to three times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3).

THIRD CLAIM AGAINST RICHMOND FOR INJUNCTIVE RELIEF

44. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-35.

45. Richmond committed thousands of violations of 47 U.S.C. § 227(b).

46. Under 47 U.S.C. § 227(b)(3)(A), Plaintiff and the members of Classes A and B are entitled to an injunction against Richmond, prohibiting Richmond from committing further violations of the TCPA and regulations thereunder.

FOURTH CLAIM AGAINST AIFS FOR VIOLATION OF THE TCPA

47. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-35.

48. By the conduct described above, AIFS committed more than nine thousand (9000) violations of 47 U.S.C. § 227(b) against Plaintiff and the members of Class C, to wit: the fax advertisements AIFS sent and/or caused to be sent to Plaintiff and the members of Class C were either (a) unsolicited and did not contain a notice satisfying the requirements of the TCPA and regulations thereunder, or (b) solicited and did not contain a notice satisfying the requirements of the TCPA and regulations thereunder.

49. Plaintiff and the members of Class C are entitled to statutory damages under 47 U.S.C. § 227(b) in an amount greater than four million, five hundred thousand dollars (\$4,500,000).

50. If it is found that AIFS willfully and/or knowingly sent and/or caused to

be sent fax advertisements that did not contain a notice meeting the requirements of the TCPA and regulations thereunder to Plaintiff and the members of Class C, Plaintiff requests that the Court increase the damage award against AIFS to three times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3).

FIFTH CLAIM AGAINST AIFS FOR VIOLATION OF THE TCPA

51. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-35.

52. By the conduct described above, AIFS committed more than nine thousand (9000) violations of 47 U.S.C. § 227(b) against Plaintiff and the members of Class D, to wit: the fax advertisements AIFS sent and/or caused to be sent to Plaintiff and the members of Class D were unsolicited and did not contain notices satisfying the requirements of the TCPA and regulations thereunder.

53. Plaintiff and the members of Class D are entitled to statutory damages under 47 U.S.C. § 227(b) in an amount greater than four million, five hundred thousand dollars (\$4,500,000).

54. If it is found that AIFS willfully and/or knowingly sent and/or caused to be sent unsolicited fax advertisements that did not contain a notice satisfying the requirements of the TCPA and regulations thereunder to Plaintiff and the members of Class D, Plaintiff requests that the Court increase the damage award against AIFS to three times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3).

SIXTH CLAIM AGAINST AIFS FOR INJUNCTIVE RELIEF

55. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-35.

56. AIFS committed thousands of violations of 47 U.S.C. § 227(b).

57. Under 47 U.S.C. § 227(b)(3)(A), Plaintiff and the members of Classes C and D are entitled to an injunction against AIFS, prohibiting AIFS from committing further violations of the TCPA and regulations thereunder.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, on behalf of itself and the members of the Classes, requests:

A. An order certifying the Classes, appointing Plaintiff as the representative of the Classes, and appointing the lawyers and law firms representing Plaintiff as counsel for the Classes;

B. an award to Plaintiff and the members of Classes A and B of statutory damages in excess of \$4,500,000 against Richmond for each of Classes A and B, pursuant to 47 U.S.C. § 227(b), for Richmond's violations of that statute and the regulations promulgated thereunder;

C. if it is found that Richmond willfully and/or knowingly sent and/or caused to be sent such fax advertisements to Classes A and/or B, an award of three times the amount of damages against Richmond described in the previous paragraph, as authorized by 47 U.S.C. § 227(b)(3);

D. an injunction against Richmond prohibiting it from committing further violations of the TCPA and regulations described above;

E. an award to Plaintiff and the members of Classes C and D of statutory damages in excess of \$4,500,000 against AIFS for each of Classes C and D, pursuant to

47 U.S.C. § 227(b), for AIFS's violations of that statute and the regulations promulgated thereunder;

F. if it is found that AIFS willfully and/or knowingly sent and/or caused to be sent such fax advertisements to classes C and/or D, an award of three times the amount of damages against AIFS described in the previous paragraph, as authorized by 47 U.S.C. § 227(b)(3);

G. an injunction against AIFS prohibiting it from committing further violations of the TCPA and regulations described above; and

H. such further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: White Plains, New York
July 1, 2014

BAIS YAAKOV OF SPRING VALLEY, ON
BEHALF OF ITSELF AND ALL OTHERS
SIMILARLY SITUATED

By: /s/Aytan Y. Bellin

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