

April 14, 2006

Certegy Payment Recovery Services  
Post Office Box 2864  
Tuscaloosa, Alabama 35403

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Phone 205-750-4130  
Fax 800-934-4923

**RE: CG Docket No. 02-278**

My name is Ann Akins, and I am the Vice President of Operations of Certegy Payment Recovery Services, Inc., located in Alabama. I do not perform telemarketing services. Rather I am a debt collector. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone.<sup>1</sup> Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition did not apply to calls made using an autodialer *if the sole purpose of the calls was to recover payments for goods and services already purchased.*

But in July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business harm by substantially increasing our costs.

I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone

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<sup>1</sup> The TCPA defines an autodialer as, "equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator, and to dial such numbers."

- consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

In the specific context of recovering payments, I use predictive dialers to complete transactions for which consumers have obtained a benefit, without payment. They are not used – nor do they have the capacity to be used – to randomly solicit customers to make purchases or advertise goods. In fact, autodialer technology is the most accurate way for me to call consumers about their past due payment obligations. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U.S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers. Additionally, one of the largest creditors in the United States is the federal government. If the FCC does not clarify that the autodialer prohibition does not apply to those making calls to collect past due payment obligations, the federal government will be forced to discontinue its use of autodialers to recover past due payment obligations from tax payers. Such a result would be devastating to the federal government, including the FCC, Department of the Treasury, Department of Education and the Internal Revenue Service and cause all citizens who lawfully pay their federal taxes and other payments owed to the federal government to suffer substantial harm.

The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services *to be purchased in the future*. There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to contact consumers on their wireless phones about *a past due payment obligation for goods and services already purchased and received*.

Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of telephonic communication. If allowed to stand, the long-term consequences of the FCC's decision are foreboding at best.

As it stands today, my business, along with thousands of others, face serious financial hardship due to the FCC's regulatory reversal. The FCC's rule needlessly subjects us to federal enforcement and private litigation, even though Congress never intended such an outcome.

- For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Akins". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Ann Akins  
Vice President/Operations  
Certegy Payment Recovery Services, Inc.

cc: ACA International

Certegy Payment Recovery Services  
Post Office Box 2864  
Tuscaloosa, Alabama 35403



2006 APR 24 P 2:39

FCC Mail Room  
APR 24 2006 Inspected



Chairman Kevin J. Martin  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554



## CHASE RECEIVABLES

April 13, 2006

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

RE: CG Docket # 02-278

My name is Fred Merrill, and I am the President of Chase Receivables located in California. I do not perform telemarketing services. Rather I am a third party debt collector. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you as chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone. Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition did not apply to calls made using an autodialer *if the sole purpose of the calls was to recover payments for goods and services already purchased.*

But in July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business substantial harm.

I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket # 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the AFCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

In the specific context of recovering payments, I use predictive dialers to complete transactions for which consumers have obtained a benefit, without payment. They are not used- nor do they have the capacity to be used – to randomly solicit customers to make purchases or advertise goods. In fact, autodialer technology is the most accurate way for me to call consumers about their past due payment obligations. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U. S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers. Additionally, one of the largest creditors in the United States is the federal government. If the FCC does not clarify that the autodialer prohibition does not apply to those making calls to collect past due payment obligations, the federal government will be forced to discontinue its use of autodialers to recover past due obligations from taxpayers. Such a result would be devastating to the federal government, including the FCC, Department of the Treasury, Department of education and the Internal Revenue Service and cause all citizens who lawfully pay their federal taxes and other payments owed to the federal government to suffer substantial harm.

The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services *to be purchased in the future*.

There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to connect consumers on their wireless phones about a *past due payment obligation for goods and services already purchased and received*.

Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of telephonic communication. If allowed to stand, the long term consequences of the FCC's decisions are foreboding at best.

As it stands today, my business, along with thousands of others, face serious financial hardship due to the FCC's regulatory reversal. The FCC's rule needlessly subjects us to federal enforcement and private litigation, even though Congress never intended such an outcome.

For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations.

Sincerely,



Fred Merrill  
President  
Chase Receivables

cc: ACA International

CHASE RECEIVABLES

1247 Broadway • Sonoma, California 95476-9005

2006 APR 24 P 2: 34

Received & Inspected

APR 24 2006

FCC Mail Room

**CHAIRMAN KEVIN J. MARTIN**  
**Federal Communications Commission**  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554



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POM RECOVERIES INC. 85 East Hoffman Avenue, Lindenhurst, NY 11757  
Telephone (631) 761-1000 Fax (631) 761-1030  
New York City Department of Consumer Affairs License #0975082

April 19,2006

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

**RE: CG Docket No. 02-278**

My name is James Argutto, and I am the President of P'O'M Recoveries, Inc. located in New York State. I do not perform telemarketing services. Rather I am a Debt Collector and Extended Business Office Service Provider. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone.<sup>1</sup> Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition did not apply to calls made using an autodialer *if the sole purpose of the calls was to recover payments for goods and services already purchased.*

But in July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business substantial harm. By taking away our auto dial capability the average per account cost to work on our clients receivables will increase by \$3.25 per account. This equates to more than \$475,000 per year in expense, which will

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<sup>1</sup> The TCPA defines an autodialer as, "equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers."

have to be charged to our clients. Subsequently our clients will have less money to reinvest in their facilities and employee benefits etc.

I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

In the specific context of recovering payments, I use predictive dialers to complete transactions for which consumers have obtained a benefit, without payment. They are not used – nor do they have the capacity to be used – to randomly solicit customers to make purchases or advertise goods. In fact, autodialer technology is the most accurate way for me to call consumers about their past due payment obligations. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U.S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers. Additionally, one of the largest creditors in the United States is the federal government. If the FCC does not clarify that the autodialer prohibition does not apply to those making calls to collect past due payment obligations, the federal government will be forced to discontinue its use of autodialers to recover past due payment obligations from tax payers. Such a result would be devastating to the federal government, including the FCC, Department of the Treasury, Department of Education and the Internal Revenue Service and cause all citizens who lawfully pay their federal taxes and other payments owed to the federal government to suffer substantial harm.

The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services *to be purchased in the future*. There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to contact consumers on their wireless phones about *a past due payment obligation for goods and services already purchased and received*.

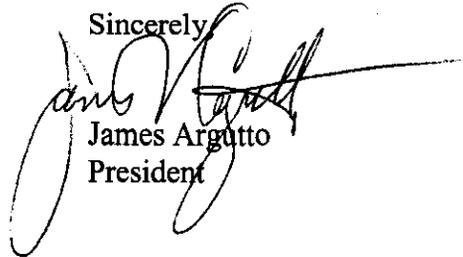
Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of

telephonic communication. If allowed to stand, the long-term consequences of the FCC's decision are foreboding at best.

As it stands today, my business, along with thousands of others, face serious financial hardship due to the FCC's regulatory reversal. The FCC's rule needlessly subjects us to federal enforcement and private litigation, even though Congress never intended such an outcome.

For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

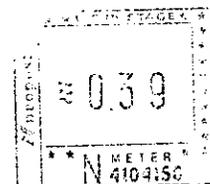
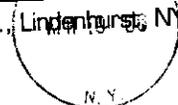
A handwritten signature in black ink, appearing to read "James Argutto", is written over the typed name and title. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James Argutto  
President

cc: ACA International

**P.O.M.**

POM RECOVERIES INC., 85 East Hoffman Ave., Lindenvale, NY 11757



2006 APR 24 P 2:34

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APR 24 2006

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554  
**FCC Mail Room**



# dataSearch®

April 17, 2006

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: CG Docket No. 02-278

My name is Marcia Pehl and I am a department manager of DataSearch Collections, Inc. located in San Antonio, TX. I do not perform telemarketing services. Rather, I am a third party debt collection company. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you, as the chair of the FCC, to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone. Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition *did not apply to calls made using an autodialer if the sole purpose of the calls was to recover payments for goods and services already purchased.*

But in July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business substantial harm in that we have suffered reduction in revenues in order to stay in compliance.

I am aware that ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state



INTERNATIONAL  
The Association of Credit  
and Collection Professionals



AMERICAN COLLECTORS ASSOCIATION, INC.  
healthcare services program

governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. ***To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.***

In the specific context of recovering payments, I use predictive dialers to complete transactions for which consumers have obtained a benefit, without payment. They are not used – nor do they have the capacity to be used – to randomly solicit customers to make purchases or advertise goods. In fact, autodialer technology is the most accurate way for me to call consumers about their past due payment obligations. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the US economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers. Additionally, one of the largest creditors in the United States is the federal government. If the FCC does not clarify that the autodialer prohibition does not apply to those making calls to collect past due payment obligations, the federal government will be forced to discontinue its use of autodialers to recover past due payment obligations from tax payers. Such a result would be devastating to the federal government, including the FCC, Department of the Treasury, Department of Education and the Internal Revenue Service and cause all citizens who lawfully pay their federal taxes and other payment owed to the federal government to suffer substantial harm.

The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services ***to be purchased in the future***. There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to contact consumers on their wireless phones about a ***past due payment obligation for goods and services already purchased and received***.

Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of telephonic communication. If allowed to stand, the long-term consequences of the FCC's decision are foreboding at best.

As it stands today, my business, along with thousands of others, face serious financial hardship due to the FCC's regulatory reversal. The FCC's rule needlessly subjects us to federal enforcement and private litigation, even though Congress never intended such an outcome.

For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

A handwritten signature in cursive script that reads "Marcia Pehl". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Marcia Pehl  
Early Out Department Manager  
DataSearch, Inc.  
800-929-6088, Ext. 107

dataSearch®

P.O. Box 461289  
San Antonio, Texas 78246-1289

2006 APR 24 P 2: 35

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

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APR 24 2006  
FCC Mail Room



**Universal Collection Systems, Inc.**  
**5240 Mendenhall Park Place**  
**Memphis, TN 38115**  
**901-452-8900 (office)**  
**800-635-3197**  
**901-454-1324 (fax)**

April 14, 2006

Chairman Kevin J. Martin  
Federal Communication Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: CG DOCKET NO. 02-278

My name is Larry White and I am the Operations Manager/Secretary of Universal Collection Systems, Inc. in Memphis, TN. I do not perform telemarketing services. Rather, our primary business is the collection of outstanding debt owed to Doctors, Dentist, Banks, Cable Companies and Governments. The purpose of this correspondence is 2 fold. First, I wish to make you aware my business has been harmed as a result of the FCC 2003 regulatory decision to expand the definition of the auto dialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

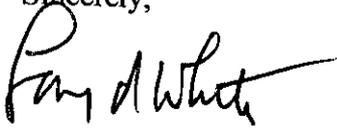
The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of auto dialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services to be purchased in the future. There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to contact consumers on their wireless phones about a past due payment obligation for goods and services already purchased and received.

Moreover, wireless phone usage has grown since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of telephonic communication.

For these reasons, the FCC should promptly clarify that auto dialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

If I can be of further help in this matter, you can call me at 800-635-3197, ext 535.

Sincerely,

A handwritten signature in cursive script that reads "Larry White". The signature is written in black ink and is positioned above the printed name.

Larry White  
Universal Collection Systems, Inc

**UCS**

P.O. BOX 751090  
MEMPHIS, TN 38175-1090

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CHAIRMAN KEVIN MARTIN  
APR 24 2006  
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445 12<sup>th</sup> Floor  
Street, SW  
Washington, DC 20554





April 12, 2006

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

**RE: CG Docket No. 02-278**

My name is Tom Murphy, and I am the Collection Manager of Heartland Financial Services located in Minnesota. I do not perform telemarketing services. Rather I am a debt collector. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry, as well as all consumers who lawfully pay for goods and services they have purchased.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone. Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition did not apply to calls made using an autodialer if the sole purpose of the calls was to recover payments for goods and services already purchased.

But in July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business substantial harm.

I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

In the specific context of recovering payments, I use predictive dialers to complete transactions for which consumers have obtained a benefit, without payment. They are not used - nor do they have the capacity to be used - to randomly solicit customers to make purchases or advertise goods. In fact, autodialer technology is the most accurate way for me to call consumers about their past due payment obligations. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U.S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers. Additionally, one of the largest creditors in the United States is the federal government. If the FCC does not clarify that the autodialer prohibition does not apply to those making calls to collect past due payment obligations, the federal government will be forced to discontinue its use of autodialers to recover past due payment obligations from tax payers. Such a result would be devastating to the federal government, including the FCC, Department of the Treasury, Department of Education and the Internal Revenue Service and cause all citizens who lawfully pay their federal taxes and other payments owed to the federal government to suffer substantial harm.

The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services to be purchased in the future. There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to contact consumers on their wireless phones about a past due payment obligation for goods and services already purchased and received.

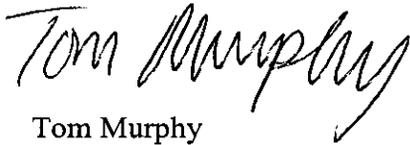
Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of

telephonic communication. If allowed to stand, the long-term consequences of the FCC's decision are foreboding at best.

As it stands today, my business, along with thousands of others, face serious financial hardship due to the FCC's regulatory reversal. The FCC's rule needlessly subjects us to federal enforcement and private litigation, even though Congress never intended such an outcome.

For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

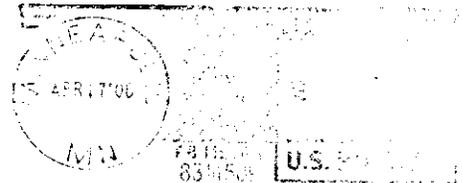
Sincerely,

A handwritten signature in black ink that reads "Tom Murphy". The signature is written in a cursive, slightly slanted style.

Tom Murphy  
Collection Manager  
Heartland Financial Services

Cc: ACA International

P.O. Box 3972  
MINNEAPOLIS, MINNESOTA 55403



2006 APR 24 P 2:30

Chairman Kevin J Martin  
Federal Communications Commission  
445 12th St SW  
Washington DC 20541

Received & Inspected

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FCC Mail Room

