

STATE OF INDIANA)
)
COUNTY OF BROWN)

IN THE BROWN CIRCUIT COURT
CAUSE NO. 07C01- 0609M10425

STATE OF INDIANA,)
)
Plaintiff,)

v.)

ECONOMIC FREEDOM FUND and)
JOHN DOES 1-10,)
)
Defendants.)

FILED

SEP 18 2006

Benita Fox
CLERK BROWN CIRCUIT COURT

**VERIFIED COMPLAINT FOR INJUNCTION,
CIVIL PENALTIES, REASONABLE ATTORNEYS FEES AND COSTS**

The Plaintiff, State of Indiana, by Attorney General Stephen Carter and Deputy Attorney General Marguerite M. Sweeney, pursuant to the Indiana Regulation of Automatic Dialing Machines Act, Ind. Code 24-5-14-13, and Ind. Code § 24-5-0.5-4, petitions the Court for injunctive relief, civil penalties, reasonable attorneys fees and costs, and other relief.

PARTIES

1. Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 25-5-14-13 and § 24-5-0.5-4.
2. Economic Freedom Fund is an unincorporated association located at 455 Capitol Mall, Suite 801, Sacramento, CA 95814.
3. The identities of John Does 1-10 are unknown to Plaintiff at this time.
4. Reference in this Complaint to any act of Defendants shall mean the Defendants performed or authorized its agents, employees, members or sub-contractors to perform such act within the scope of their duties, employment, or agency.

FACTS

5. From on or before September 12, 2006 and continuing to the present date, Defendants made or caused to be made telephone calls to certain telephone numbers in Indiana.

6. Said telephone calls were made via an automated dialing-announcing device, as defined by Ind. Code § 24-5-14-1, and disseminated a prerecorded voice message.

7. By making, contacting or attempting to contact a subscriber in Indiana by using a telephone or telephone line, Defendants are callers, as the term is defined by Ind. Code § 24-5-14-2.

8. The recipients of the prerecorded message described in paragraph 6 were subscribers, as the term is defined in Ind. Code 24-5-14-4.

9. The recipients of the prerecorded message described in paragraph 6 did not knowingly or voluntarily request, consent, permit or authorize receipt of said message.

10. The prerecorded message described in paragraph 6 was not preceded by a live operator who obtained the recipient's consent before the message was delivered.

11. The Office of the Attorney General has received at least seven (7) complaints from Indiana subscribers regarding the telephone calls described in paragraphs 5 and 6.

12. By using or connecting to one or more telephone lines in Indiana an automatic dialing-announcing device as described in paragraphs 5 and 6, and not obtaining the subscribers' consent, as described in paragraphs 9 and 10, Defendants violated Ind. Code §24-5-14-5(b).

13. By committing violations of §24-5-14-5(b), Defendants committed one or more deceptive acts and are subject to the remedies and penalties provided under Ind. Code § 24-5-14-13 and § 24-5-0.5-4.

WHEREFORE, the Plaintiff, State of Indiana, requests that the Court enter Judgment against the Defendants, as follows:

a. Permanently enjoining the Defendants, their agents, representatives, employees, successors, assigns and any other person acting on behalf of the Defendants, from engaging in deceptive acts, specifically, making or causing to be made telephone calls via an automated dialing-announcing device, and disseminating a prerecorded voice message in violation of Ind. Code § 24-5-14-5(b);

b. Imposing upon the Defendants a civil penalty up to five thousand dollars (\$5,000.00) for each violation of Ind. Code § 24-5-14-5(b), as provided by Ind. Code § 24-5-14-13 and § 24-5-0.5-4(g);

c. Awarding the Office of Attorney General its reasonable costs and attorney fees incurred in the investigation and prosecution of this matter pursuant to Ind. Code § 24-5-14-13 and § 24-5-0.5-4(c); and

d. For all other proper relief.

Respectfully submitted,

STEPHEN CARTER
Attorney General of Indiana
Atty. No. 4150-64

By: Marguerite Sweeney
Marguerite M. Sweeney
Deputy Attorney General
Atty. No. 2052-49

VERIFICATION

I affirm under the penalties for perjury, that the foregoing representations are true.

Marguerite Sweeney
Marguerite M. Sweeney

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