NORTH CAROLINA		IN THE GENERAL COURT OF JUSTIC	Œ
WAKE COUNTY	2013 001 23 AN 9: 05	SUPERIOR COURT DIVISION	
	WARE CO., C.S.C. BY	File No.	
STATE OF NORTH CAROLINA, ex rel.) ROY COOPER, ATTORNEY GENERAL,) ATTORNEY GENERAL,)			
Plaintiff,			
v.)		COMPLAINT	
ISI ALARMS NC, INC., a North Carolina) Corporation, and WILLIAM JASON) WALLER, individually and as agent and) principal officer of ISI ALARMS NC, INC.,)			
Γ	Defendants.		

I. INTRODUCTION

Plaintiff State of North Carolina, by and through its Attorney General, brings this action against defendants alleging that they engaged in widespread violations of the Telephone Solicitations Act, N.C. Gen. Stat. § 75-100, et seq., and the Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, et seq. Plaintiff contends that defendants regularly placed, or facilitated and rewarded the placement of, prerecorded telephone solicitation calls in violation of those Acts. Plaintiff seeks civil penalties for each of those violations, together with injunctive relief and recovery of its costs.

II. PARTIES

1. Plaintiff is the State of North Carolina, on relation of its Attorney General, Roy Cooper, who brings this action pursuant to authority found in Chapters 75 and 114 of the North Carolina

General Statutes.

- 2. Defendant ISI Alarms NC, Inc. (hereinafter "defendant ISI") is a corporation that was formed under the laws of the State of North Carolina in May, 2006.
- 3. Defendant ISI's principal place of business is in Iredell County, North Carolina.
- 4. Defendant William Jason Waller is a resident of Iredell County. Defendant Waller is the principal officer of defendant ISI, and he formulated, directed and controlled the marketing practices of defendant ISI which constitute the basis for this legal action.
- 5. Defendant Waller is sued in both his individual capacity and his capacity as agent and controlling officer of defendant ISI.

III. FACTS

- 6. From its creation until approximately April of this year, defendant ISI solicited customers for other companies' residential security alarm systems and alarm monitoring services.
 It also installed those systems in the customers' homes.
- 7. From early 2012 until approximately April of this year, defendants' regular solicitation practice was to receive sales leads directly and, in many cases, immediately from third parties who had just placed anonymous, automatically dialed, pre-recorded telephone calls (hereinafter "robocalls") to residential telephone service subscribers in North Carolina and other states.

 Those robocalls advised the call recipients of the occurrence of home break-ins in their area.
- 8. Most of those robocalls also mentioned reports from "the FBI" about nearby home breakins. The robocalls encouraged the call recipients to press a particular number on their telephone keypad in order to speak with a representative about the problem. The robocall messages also advised the call recipients that pressing another number on their keypad would put their number on the company's do not call list.

- 9. Call recipients who pressed a number that, according to the robocall message, would keep them from receiving further calls regularly received further calls that were identical to those described above.
- 10. Home owners who responded to the robocalls by pressing the specified number for speaking to a company representative were connected immediately to defendants' call center in Mooresville, North Carolina. Defendants' call center employees then pitched a residential alarm system plus alarm system monitoring services.
- 11. Whenever the aforementioned sales pitch was successful, defendants dispatched a technician to the customer's home to install the security alarm system and obtain the home owner's signature on a contract for security alarm monitoring services.
- 12. The security alarm monitoring company for whom defendants secured these contracts with North Carolina home owners was Monitronics International of Dallas, Texas.
- 13. The manufacturer of the alarm systems defendants installed was Honeywell, Inc.
- 14. The aforesaid robocalls routinely were placed to North Carolina residential telephone numbers that had been enrolled in the National Do Not Call Registry. Thousands of such calls were placed to North Carolina residential telephone numbers on behalf of defendants during the past two years, and defendants' sales quadrupled as a result.
- 15. Since the summer of 2012, the Consumer Protection Division of the North Carolina Attorney General's Office has received more than 60 written complaints against defendant ISI from consumers who disapproved of:
 - a. Receiving prerecorded telephone solicitation calls;
 - Receiving telephone solicitations at numbers that were enrolled in the national Do
 Not Call Registry;

- c. Receiving such calls after directing the callers not to call their number again;
- d. Not receiving proper notification of their 3-day rights to cancel the contract or not having their contracts cancelled after exercising those rights.
- 16. Complaints to the Attorney General about such calls continued to be lodged against defendant ISI for months after the Attorney General's staff initiated conversations with defendants' representatives to address the telemarketing practices described above.
- 17. Defendants regularly received invoices from sales lead generators who had located and forwarded prospective customers via widespread robocalls. Defendants routinely paid those invoices.
- 18. Defendants knew that these lead generators were employing robocalls to find prospective customers for defendants.
- 19. Defendants were aware that these lead generators regularly called numbers enrolled in the national Do Not Call Registry when searching for sales leads to forward to defendant ISI.
- 20. Defendants were aware that these lead generators regularly refused to honor prospective customers requests not to receive such calls again.
- 21. Defendants have declined to provide plaintiff with the addresses and contact information for the aforesaid lead generators or disclose how much defendants paid those lead generators for the prospective customers they transferred to defendants' call center. Instead, defendants simply provided the names of ten supposed lead generators they used. Only one company on that list could be located by plaintiff, and it claimed it did not place robocalls.
- 22. Defendants and their robocalling lead generators acted in concert in placing the robocalls described above. In the alternative, the lead generators acted as defendants' agents in

placing the robocalls.

- 23. The acts, practices, representations and omissions alleged above were in and affecting commerce in this state and had a substantial impact thereon.
- 24. Defendants' utilization of the solicitation scheme described above was knowing and willful.

IV. FIRST CLAIM FOR RELIEF: VIOLATION OF THE TELEPHONE SOLICITATIONS ACT; N.C. GEN. STAT. § 75-100, et seq.

- 25. Plaintiff incorporates herein by reference paragraphs one through twenty-two, above, and alleges further that defendants' customer solicitation practices repeatedly violated the following prohibitions found in the North Carolina Telephone Solicitations Act, N.C. Gen. Stat. § 75-100, et seq.:
 - a. The prohibition against robocalls found in § 75-104(a);
 - b. The prohibition against placing telephone solicitation calls to residential phone numbers enrolled in the national Do Not Call Registry, which prohibition is found at § 75-102(a); and
 - c. The prohibition against placing telephone solicitation calls to residential phone numbers after receiving a direct request not to call that number again, which prohibition is found at § 75-102(b).
- 26. Defendants' widespread violations of the Telephone Solicitations Act entitle plaintiff to the relief prayed for below.

V. SECOND CLAIM FOR RELIEF: UNFAIR AND DECEPTIVE TRADE PRACTICES ACT, N.C. GEN. STAT. § 75-1.1, et seq.

27. Plaintiff incorporates herein by reference paragraphs one through twenty-five, above, and alleges further, in the alternative to its First Claim for Relief, that defendants regularly and

repeatedly violated the Unfair and Deceptive Trade Practices Act by knowingly assisting, facilitating and paying for the illegal robocall practices of their lead generators, as set forth in subparagraphs 25(a), (b) and (c), above.

- 28. Defendants further violated the Unfair and Deceptive Trade Practices Act by failing to provide customers who signed up for the security alarms and 24-hour monitoring service with properly executed notices of three-day cancellation rights, as required by N.C. Gen. Stat. § 14-401.13 (Failure to give right to cancel in off-premises sales) and the Door-to-Door Sales Rule promulgated by the Federal Trade Commission at 16 Code of Federal Regulations 429.1, pursuant to authority found in Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(A).
- 29. Defendants' widespread violations of the Unfair and Deceptive Trade Practices Act entitle plaintiff to the relief prayed for below.

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THE COURT for the following relief:

- a. That plaintiff recover from defendants, jointly and severally, civil penalties of \$500 for the first violation of the North Carolina Telephone Solicitations Act, \$1,000 for the second violation, and \$5000 all successive violations thereof, as specified in N.C. Gen. Stat. § 75-105(a)(1);
- b. That defendants be enjoined from further violations of the North Carolina Telephone Solicitations Act, pursuant to N.C. Gen. Stat. § 75-105(a);
- c. That defendants be ordered to pay plaintiff's attorney costs, as provided in N.C.
 Gen. Stat. § 75-105(d);
- d. In the alternative to subparagraphs (a), (b) and (c) of this Prayer for Relief, that

plaintiff recover from defendants, jointly and severally, civil penalties of \$5000 for each violation of the Unfair and Deceptive Trade Practices Act, in accordance with N.C. Gen. Stat. § 75-15.2, that defendants be enjoined from further violations of that Act, pursuant to N.C. Gen. Stat. § 75-14, and that they be required to reimburse plaintiff's attorneys' fees, pursuant to N.C. Gen. Stat. § 75-16.1.

- e. That the costs of this action be taxed to defendants; and
- f. That plaintiff be granted such other and further relief as to the Court seems just and appropriate.

This the 23²⁴ day of October, 2013.

STATE OF NORTH CAROLINA, *ex rel*. ROY COOPER, Attorney General

By:

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