

FILED

AUG 17 2001

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY SA
DEPUTY CLERK

STATE OF TEXAS §
§
VS. § **NO. A 00 CA 085 SS**
§
AMERICAN BLASTFAX, INC., et al. §

JUDGMENT

BE IT REMEMBERED on February 9, 2001, the Court granted in part the plaintiff's motion for summary judgment in the above-captioned lawsuit, finding defendant American Blastfax, Inc. had violated the TCPA and the DTPA; and

BE IT FURTHER REMEMBERED on March 16, 2001, the Court called the above-captioned lawsuit for trial and the parties appeared through authorized representatives and counsel and announced ready for trial, and the case proceeding to bench trial before the Court on March 16, 2001, and the trial concluding the same day, at which time the plaintiff rested its case and the defendants rested their case, both parties closed, and both parties subsequently filed Proposed Findings of Fact and Conclusions of Law; and

BE IT FURTHER REMEMBERED on August 17, 2001 the Court entered its Findings of Fact and Conclusions of Law in the above-captioned lawsuit, finding defendants Greg and Michael Horne personally liable for violating the TCPA and the DTPA, awarding joint and several damages against all defendants for violations of both statutes, awarding the plaintiff attorneys' fees, and issuing an injunction against the defendants, the Court enters the following judgment based on the pleadings, evidence, and orders of this Court:

IT IS ORDERED, ADJUDGED, and DECREED that plaintiff the State of Texas do have and recover judgment from and against defendants American Blastfax, Inc., Greg Horne and Michael Horne, jointly and severally, for the total sum of \$465,375.00 with interest of 3.50% percent per annum until paid, plus attorney fees in the amount of \$20,000.00, plus all costs taxed by the Court, for which let execution issue.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that defendants American Blastfax, Inc., Greg Horne and Michael Horne are enjoined from:

- a. Using any telephone facsimile machine, computer, or other device to send an advertisement, either on the defendants' own behalf or on behalf of another person, to a telephone facsimile machine in Texas, without the recipient's prior express invitation or permission;
- b. Failing to include on any facsimile advertisement sent, even if sent with the express consent of the recipient, information identifying the entity sending the facsimile, along with the date and time the facsimile is sent;
- c. Using any telephone facsimile machine, computer or other device to make any transmission to a telephone facsimile machine in Texas if the recipient has previously requested that the defendants not send any further transmissions to that telephone number;
- d. Sending or offering to send any fax advertisement on behalf of another person to a facsimile machine in Texas without disclosing to such person the existence of the TCPA and this Court's rulings in this lawsuit;
- e. Misrepresenting the defendants' compliance with the TCPA;
- f. Representing, directly or by implication, that this Court or the Texas Attorney General has approved of the defendants' practice of sending unsolicited intrastate fax advertisements within Texas; and
- g. Entering into, forming, organizing, or reorganizing into any partnership, corporation, sole proprietorship or any other legal structure for the purpose of avoiding compliance with the terms of the Orders and Judgment in this case.

IT IS FINALLY ORDERED, ADJUDGED, and DECREED that defendants American Blastfax, Inc., Greg Horne and Michael Horne shall maintain documentation evidencing the express prior invitation or permission of every person in Texas to whom they send a fax advertisement, whether the fax advertisement is sent on the defendants' own behalf or on behalf of another

SIGNED this the 17th day of August 2001.



SAM SPARKS
UNITED STATES DISTRICT JUDGE