

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

October 24, 2012

IN RE:

**ALLEGED VIOLATIONS OF TENN. CODE ANN.
65-4-501 *et seq.*, DO-NOT-FAX, AGAINST
ROBERT ANDERSON D/B/A VACATION
EXPRESS USA, CORP .**

**DOCKET NO.
12-00107**

ORDER APPROVING SETTLEMENT AGREEMENT

This matter came before Director Sara Kyle, Director Herbert H. Hilliard, and Director James M. Allison of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 15, 2012, for consideration of a proposed Settlement Agreement between the Consumer Services Division of the TRA (the "CSD") and Robert Anderson d/b/a Vacation Express USA, Corp. ("Vacation Express") related to alleged violations of the Tennessee Unsolicited Facsimiles ("Do-Not-Fax") Law, Tenn. Code Ann. § 65-4-501 *et seq.* The Settlement Agreement resolves three complaints received by the CSD alleging that Vacation Express violated the Do-Not-Fax Law by sending facsimile advertisements to three separate Tennessee consumers. The proposed Settlement Agreement is attached hereto as Exhibit A.

Tenn. Code Ann. § 65-4-502 prohibits persons and entities from sending unsolicited facsimile advertisements to Tennessee facsimile numbers. Tenn. Code Ann. § 65-4-504(a) authorizes the Authority to initiate proceedings relative to violations of the Do-Not-Fax statutes. "Such proceedings include, without limitation, proceedings to: issue a cease and desist order; issue an order imposing a civil penalty up to a maximum of two thousand dollars (\$2,000) for

each violation; and to seek additional relief in any court of competent jurisdiction.”¹

In negotiating the terms and conditions of this Settlement Agreement, the CSD took into consideration Tenn. Code Ann. § 65-4-116(b), which provides:

In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the person, firm or corporation charged, the gravity of the violation and the good faith of the person, firm or corporation charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, may be deducted from any sums owing by the state to the person, firm or corporation charged or may be recovered in a civil action in the courts of this state.

The proposed Settlement Agreement was negotiated as the result of the CSD’s investigation into the complaints against Vacation Express. The maximum penalty faced by Vacation Express in this docket was six thousand dollars (\$6,000) arising from the three complaints. In the proposed Settlement Agreement, Vacation Express agreed to cease all unsolicited facsimile advertisements. In addition, Vacation Express agreed to pay a civil penalty of \$2,000 to the Authority in settlement of these violations within thirty days after the Directors’ approval of the Settlement Agreement.

A representative of Vacation Express appeared telephonically at the Authority Conference on October 15, 2012. Following a review of the Settlement Agreement, the Directors voted unanimously to accept and approve the Settlement Agreement.

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement, attached hereto as Exhibit A, is accepted and approved and is incorporated into this Order as if fully rewritten herein.
2. The amount of \$2,000 shall be paid by Robert Anderson d/b/a Vacation Express USA, Corp. to the Tennessee Regulatory Authority as set out herein.

¹ Tenn. Code Ann. § 65-4-504(a).

3. Upon payment of the amount of \$2,000 and compliance with the terms of the Settlement Agreement attached hereto, Robert Anderson d/b/a Vacation Express USA, Corp. is excused from further proceedings in this matter, provided that, in the event of any failure on the part of Robert Anderson d/b/a Vacation Express USA, Corp. to comply with the terms and conditions of the Settlement Agreement, the Authority reserves the right to re-open this investigation and Robert Anderson d/b/a Vacation Express USA, Corp. shall pay any and all costs incurred by the TRA to enforce the Settlement Agreement.

Director Sara Kyle, Director Herbert H. Hilliard, and Director James M. Allison concur.

ATTEST:



Earl R. Taylor, Executive Director

12-00107

THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

IN RE:

ALLEGED VIOLATIONS OF Tenn. Code Ann.
§ 65-4-501, *et seq.* DO-NOT-FAX LAW BY:

ROBERT ANDREW DAWSON
VACATION EXPRESS USA CORP.
3495 PIEDMONT RD.
BUILDING 11 SUITE 400
ATLANTA, GA 30305

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) DO NOT FAX 12-0022
) PROGRAM 12-0039
) FILE NOS. 12-0042
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SETTLEMENT AGREEMENT

This settlement agreement has been entered into between the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority ("TRA") and Vacation Express USA Corp. ("Respondent"), and is subject to the approval of the directors of the TRA. The subject of this settlement agreement are three (3) separate complaints received by the CSD alleging that Respondent violated the Tennessee Do-No-Fax law, T.C.A. § 65-4-501 *et seq.* by making or causing to be made unsolicited facsimiles transmissions. Upon notification of violations, Respondent immediately ceased unsolicited facsimile transmissions to the State of Tennessee.

In an effort to resolve these three (3) complaints represented by the file numbers above, the CSD and Respondent agree to settle these complaints on the following terms subject to approval by the directors of the TRA:

1. Respondent admits that the three (3) complaints against Vacation Express USA Corp. were true and valid complaints.

2. Respondent agrees to immediately stop all unsolicited fax transmissions in the State of Tennessee.
3. Respondent agrees to pay a civil penalty in the amount of two thousand dollars (\$2,000.00) to the TRA within thirty (30) days after the directors of the TRA approve this settlement agreement.
4. Respondent agrees to appear in person or telephonically at the TRA conference at which this settlement agreement will be considered for approval.
5. Respondent agrees to remain in compliance with all the statutory and regulatory requirements of the TRA.
6. In the event that Respondent fails to comply with the terms and conditions of this Settlement Agreement, the TRA reserves the right to re-open this investigation and Respondent shall pay any and all costs incurred by the TRA to enforce the Settlement Agreement.



LISA COOPER
CHIEF, CONSUMER SERVICES DIVISION

9/12/12

Date



ROBERT ANDREW DAWSON
SECRETARY, VACATION EXPRESS USA CORP.

29 August 2012

Date