

BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE:)	
)	
SHOW CAUSE PROCEEDING AGAINST)	DOCKET NO. 14-00031
NOACH PALATNIK DBA PURE AIR, INC.)	
DBA AIR DUCT CLEANING)	
FOR ALLEGED VIOLATIONS OF TENN. CODE)	
ANN. § 65-4-401 <i>et seq.</i>)	

PETITION

Comes now the Tennessee Regulatory Authority (“TRA” or “Authority”) Compliance Division (“Compliance”) by and through counsel and requests that the Hearing Officer appointed by the Directors on April 17, 2014, issue an Order requiring that Noach Palatnik DBA Pure Air Inc. DBA Air Duct Cleaning (“Respondent”) appear and show cause before the Authority why it should not be found liable for violations of the Tennessee Do-Not-Call law. Compliance further requests that at the hearing before the Authority that the Directors impose the maximum civil penalty allowed by law and order that Respondent cease and desist making or causing to be made telephone solicitations to Tennessee consumers on the Tennessee Do-Not-Call registry.

ALLEGATIONS OF FACT

1. Respondent contacts consumers by telephone and solicits those consumers to purchase goods and or services.
2. Respondent is not registered as a solicitor with the TRA.
3. Between on or about July 1, 2013 and on or about July 17, 2013, Respondent made at least eight (8) telephone calls to at least eight (8) Tennesseans soliciting them to purchase goods and/or services.
4. Each of these Tennesseans was on the Do-Not-Call registry.

5. The Authority's Consumer Services Division ("CSD") investigation determined that these Tennesseans had never given Respondent permission to contact them for solicitation purposes.
6. As evidence of the above allegations Compliance submits the Affidavit of Slayde Warren (Exhibit A) and requests that it be entered into the record in this cause.

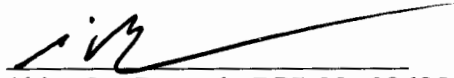
CAUSES OF ACTION

7. The facts alleged in paragraph 2 constitute a violation of Tenn. Code Ann. §65-4-405(d).
8. The facts alleged in paragraph 2 constitute a violation on Tenn. Comp. R. & Regs. 1220-04-11-.04(1) & (4).
9. The facts alleged in paragraphs 3 – 5 constitute 8 (8) violations of Tenn. Code Ann. §65-4-404.
10. The facts alleged in paragraphs 3 – 5 constitute 8 (8) violations of Tenn. Comp. R. & Regs. 1220-04-11-.07(1).

PRAYER FOR RELIEF

11. The Compliance Division requests that the Hearing Officer place this matter on the docket for hearing at the September 15, 2014, Authority Conference.
12. That at that hearing the Authority issue a cease and desist order barring Respondent from soliciting Tennessee consumers for goods or services.
13. Pursuant to Tenn. Code Ann. §65-4-405(f) the Authority may impose a civil penalty of up to two thousand dollars (\$2,000) per violation of law for a total of at least eighteen thousand dollars (\$18,000).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Shiva K. Bozarth', written over a horizontal line.

Shiva K. Bozarth, BPR No.22685
Legal Counsel
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

IN RE:)	Tennessee Regulatory Authority
)	TRA Docket No.
SHOW CAUSE PROCEEDING AGAINST PURE)	14-00031
AIR, INC. DBA AIR DUCT CLEANING, FOR)	
ALLEGED VIOLATIONS OF TENN. CODE ANN.)	
§ 65-4-401 et seq.)	

**AFFIDAVIT OF SLAYDE WARREN IN SUPPORT OF ALLEGATIONS OF VIOLATIONS
OF TENN. CODE ANN. § 65-4-401 et seq. PURSUANT TO A PROCEEDING REQUIRING
PURE AIR, INC. DBA AIR DUCT CLEANING TO SHOW CAUSE WHY A CEASE AND
DESIST ORDER AND/OR FINE SHOULD NOT BE IMPOSED**

I, Slayde Warren, being first duly sworn upon oath, do hereby state as follows:

1. I have personal knowledge of the facts stated herein.
2. I am employed by the State of Tennessee in the capacity of Investigator with the Do Not Call-Do Not Fax Program of the Tennessee Regulatory Authority ("Authority" or "TRA").
3. As an Investigator in the Do Not Call-Do Not Fax programs my duties include investigation of complaints from Tennessee consumers alleging violation of the Tennessee Do Not Call Law, Tenn. Code Ann. § 65-4-401, et seq.
4. I am submitting this affidavit in support of allegations of violations of Tenn. Code Ann. § 65-4-401 et seq. pursuant to a Show Cause proceeding in TRA Docket No. 14-00031.
5. On September 18, 2013 a Notice of Alleged Violations ("NAV") was sent via certified mail to Pure Air, Inc, dba Air Duct Cleaning at 1019 S. Big Bend Blvd, St. Louis, MO 63117-1065.



6. On November 4, 2013 a NAV was sent via certified mail to Pure Air, Inc, dba Air Duct Cleaning at 7138 Tulane Ave, St Louis, MO, 63130.
7. Between July 1, 2013 and July 17, 2013, the Consumer Services Division ("CSD") received complaints from eight (8) Tennessee consumers. The complaints total eight (8) alleged violations of the TENN. CODE ANN. § 65-4-401 *et seq.* The following is a summary of the complaints.
 - Gil Cawood received an unsolicited telemarketing call at (615) 883-0621 from the Respondent on July 1, 2013. On September 18, 2013 and November 4, 2013 the CSD sent a NAV related to the complaint filed by Gil Cawood to the Respondent via certified mail. Respondent did not respond.
 - Don Kerce received an unsolicited telemarketing call at (615) 315-5544 from the Respondent on July 2, 2013. On September 18, 2013 and November 4, 2013 the CSD sent a NAV related to the complaint filed by Don Kerce to the Respondent via certified mail. Respondent did not respond.
 - Sandra Sanders received an unsolicited telemarketing call at (615) 865-9347 from the Respondent on July 2, 2013. On September 18, 2013 and November 4, 2013 the CSD sent a NAV related to the complaint filed by Sandra Sanders to the Respondent via certified mail. Respondent did not respond.
 - Brenda Williams received an unsolicited telemarketing call at (615) 441-3696 from the Respondent on July 9, 2013. On September 18, 2013 and November 4, 2013 the CSD sent a NAV related to the complaint filed by Brenda Williams to the Respondent via certified mail. Respondent did not respond.

- Charles Ruark received an unsolicited telemarketing call at (615) 847-2941 from the Respondent on July 10, 2013. On September 18, 2013 and November 4, 2013 the CSD sent a NAV related to the complaint filed by Charles Ruark to the Respondent via certified mail. Respondent did not respond.
 - Robert Blackford received an unsolicited telemarketing call at (615) 385-4829 from the Respondent on July 11, 2013. On September 18, 2013 and November 4, 2013 the CSD sent a NAV related to the complaint filed by Robert Blackford to the Respondent via certified mail. Respondent did not respond.
 - Chris Glenn received an unsolicited telemarketing call at (615) 886-7177 from the Respondent on July 16, 2013. On September 18, 2013 and November 4, 2013 the CSD sent a NAV related to the complaint filed by Chris Glenn to the Respondent via certified mail. Respondent did not respond.
 - Patricia Suddarth received an unsolicited telemarketing call at (615) 230-6737 from the Respondent on July 17, 2013. On September 18, 2013 and November 4, 2013 the CSD sent a NAV related to the complaint filed by Patricia Suddarth to the Respondent via certified mail. Respondent did not respond.
8. On August 22, 2013, documents provided by 8x8 Communications indicated that the telephone number 615-334-3532 is assigned to Noach Palatnik and Air Duct Cleaning (Exhibit 1). On September 12, 2013, an email from Dennis E. Mullen, Deputy Attorney General for the state of Indiana, provided additional information regarding Air Duct Cleaning and Mr. Noach Palatnik, including a current address of record and a copy of a summons served on Mr. Noach Palatnik in Indiana (Exhibit 2). The CSD has not received a response to the NAV's sent on September 18, 2013 (Exhibit 3) and

November 4, 2013 (Exhibit 4). Both NAV's were sent certified mail and both NAV's have signed receipts (Exhibits 5 and 6).

9. Respondent has failed to respond to a total of eight (8) complaints. NAVs have been issued on all complaints to Pure Air, Inc, dba Air Duct Cleaning.
10. Attempts have been made to contact Noach Palatnik with Pure Air Inc, dba, Air Duct Cleaning with no success. On November 27, 2013, Eliza Bradley of the Indiana Attorney General's office contacted our office by phone and supplied our office with a current phone number for Mr. Noach Palatnik. A message was left for Mr. Noach Palatnik; however, he has failed to make contact. Air Duct Cleaning is not registered with the Tennessee Secretary of State or the Tennessee Regulatory Authority to conduct telemarketing activities. Mr. Noach Palatnik has obtained legal representation from attorney Bryan Kaemmerer of McCarthy, Leonard & Kaemmerer, L.C. Mr. Kaemmerer can be contacted at 314-392-5200. Mr. Kaemmerer is representing Mr. Palatnik in actions brought by Indiana and Missouri alleging telemarketing violations.

FURTHER AFFIANT SAITH NOT.

Slaw W
Name

Subscribed to and signed before me on this 25 day of April, 2014.
Reene Lawless
NOTARY PUBLIC

My Commission Expires: 11/9/2018

(SEAL)



EXHIBIT 1

THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

**IN RE: ALLEGED VIOLATIONS OF
TENN. CODE ANN. § 65-4-401, *et seq.***

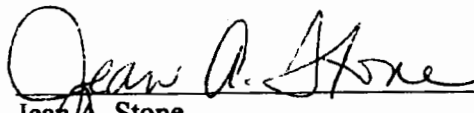
)	Consumer Services Division
)	
)	FILE NOS.
)	T13-00989
)	T13-00992
)	T13-00999
)	T13-01023
)	T13-01028
)	T13-01030
)	T13-01046
)	T13-01061

SUBPOENA DUCES TECUM IN AID OF INVESTIGATION

The Consumer Services Division of the Tennessee Regulatory Authority requires that 8X8, Inc produce certain documents to aid in an investigation instituted pursuant to Tenn. Code Ann § 65-4-401, *et seq.*, known as the Tennessee "Do Not Call" Law.

8X8, Inc is hereby subpoenaed pursuant to Tenn. Code Ann. § 65-4-401, *et seq.*, known as the Tennessee "Do Not Call" Law, to produce and certify the accuracy of the information requested in the Data Request Notice attached hereto. Hard copies of such documents shall be provided to the Consumer Services Division of the Tennessee Regulatory Authority at 460 James Robertson Parkway, Nashville, TN 37243 on or before 2:00 p.m. on August 23, 2013.

August 9 2013
Date of Issuance


Jean A. Stone
General Counsel
Tennessee Regulatory Authority

DATA REQUEST NOTICE

Pursuant to the *Subpoena Duces Tecum in Aid of Investigation* issued on August 9, 2013 please provide the following:

1. Documentation reflecting service, billing and subscriber information for the telephone/fax number **615-334-3532**, but not limited to any and all associated numbers in the possession of 8X8, Inc. This request includes any and all names of parties or entities responsible for payment of the charges related to the above-referenced telephone number, physical addresses and billing addresses, contact telephone and fax numbers for the time period beginning 12:00 a.m., January 15, 2013 through the period ending 12:00 a.m., August 1, 2013.
2. Affidavit from records custodian certifying that the documents and information provided to the Consumer Services Division of the Tennessee Regulatory Authority pursuant to the *Subpoena Duces Tecum in Aid of Investigation* dated August 9, 2013, accurately reflects the records of 8X8, Inc.

EXHIBIT 2

Slayde Warren

From: Mullen, Dennis [Dennis.Mullen@atg.in.gov]
Sent: Thursday, September 12, 2013 1:47 PM
To: Slayde Warren
Subject: RE: Air Duct
Attachments: I475648 (Pure Air Summons).pdf

Hi Slayde,

Sorry it took me a few days to get back to you, it has been a hectic week! I have attached our summons which includes Pure Air's new address. Their MO attorney is a gentleman named Bryan M. Kaemmerer of McCarthy, Leonard & Kaemmerer, L.C.
tel 314-392-5200. Let me know if you have any additional questions,

Thanks,

Dennis

Dennis E. Mullen | Deputy Attorney General
Office of the Indiana Attorney General | Telephone Privacy Enforcement
IGCS 5th Floor | 302 W. Washington Street | Indianapolis, IN 46204
317-234-2265 | Fax: 317-232-7979 | Dennis.Mullen@atg.in.gov

This communication and any attachments are privileged and confidential, are the property of the sender and are intended for use by the individual(s) for whom this communication and any attachments are intended. Please be advised that unauthorized disclosure, duplication, distribution, or the taking of any action in reliance on the contents of this communication and/or any attachments is strictly prohibited.

From: Slayde Warren [<mailto:Slayde.Warren@tn.gov>]
Sent: Tuesday, September 10, 2013 10:41 AM
To: Mullen, Dennis
Subject: Air Duct

Good Morning Dennis

Our subpoena came back listing Noach Palatnik as the end user, in regard to our "Air Duct" complaints. I have listed his address of record below. Can you tell me if you have the same or different address? We are preparing a "Notice of Alleged Violation" to be delivered to him. Also, I remember you mentioning that he had obtained legal representation. If so, would you be able to provide that information, as well? Any help would be greatly appreciated. In the event you have any questions or would like to talk, feel free to reach me at your convenience.

Slayde Warren
Tennessee Regulatory Authority
615-741-3939 (ext 195)

Noach Palatnik
7138 Tulane Ave
St Louis, MO
63130

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

SUMMONS

STATE OF INDIANA,

Plaintiff,

v.

IN THE MARION CIRCUIT/SUPERIOR COURT

Marion County

200 E. Washington St.

Suite W122

Indianapolis, IN 46204

Tel: (317) 327-4740

PURE AIR, INC. doing business as
AIR DUCT CLEANING and doing business as
AIR CARE and NOACH PALATNIK,

Defendants.

CAUSE NO.: 49D04-1306-MI-024297

TO DEFENDANT: Pure Air, Inc. dba Air Duct Cleaning dba Air Care
1019 S Big Bend Blvd.
St. Louis MO 63117-1605.

You have been sued by the person named "Plaintiff", in the court stated above.

The nature of the suit against you is stated in the complaint that is attached to this summons. It also states the relief sought or the demand made against you by the plaintiff.

You must answer the complaint in writing, by you or your attorney, within twenty (20) days, commencing the day after you receive this summons (you have twenty-three (23) days to answer if this summons was received by mail), or a judgment by default may be rendered against you for the relief plaintiff has demanded.

If you have a claim for relief against the plaintiff arising from the same transaction or occurrence, you must assert it in your written answer.

Dated: _____


JUN 20 2013

(Seal)

Clerk of the Courts of Marion County

The following manner of service of summons is hereby designated.

- ☐ Registered or certified mail.
- ☐ Service by Sheriff – (Personal or copy) at above address.
- ☒ Service by Process Server – (Personal or copy) at above address
- ☐ Service on agent.
- ☐ Other service. Specifically:


Dennis E. Mullen, Atty No. 30049-49
Attorney for Plaintiff
Office of the Attorney General
302 W. Washington St.
IGCS, 5th Floor
Indianapolis, IN 46204
(317) 234-2265

RETURN ON SERVICE OF SUMMONS

I hereby certify that I have served the within summons:

(1) By delivering a copy of the Summons and a copy of the complaint to the defendant, _____
_____ on the _____ day of _____, 20____.

(2) By leaving a copy of the summons and a copy of the complaint at _____
_____, the dwelling place or usual place of abode of the said defendant, with a person of
suitable age and discretion residing therein, namely _____
whose approximate age is _____.

(3) Other: _____

Sheriff's Fees: _____

Additional: _____

Sheriff of Marion County

By: _____
Deputy

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on the _____ day of _____, 20____, I mailed a copy of this summons and a copy
of the complaint to the defendant, _____
by _____ mail, requesting a return receipt, at the address furnished by the plaintiff.

Clerk of the Courts of Marion County

Dated _____, 20____ By: _____
Deputy

RETURN OF SERVICE OF SUMMONS BY MAIL

I hereby certify that the attached return receipt was received by me showing that the summons and a copy of the complaint mailed
to defendant, _____, was accepted by the defendant on the
_____ day of _____, 20____.

I hereby certify that the attached return receipt was received by me showing that the summons and a copy of the complaint was
returned not accepted on the _____ day of _____, 20____.

I hereby certify that the attached return receipt was received by me showing that the summons and a copy of the complaint mailed
to defendant, _____, was accepted by
_____ on behalf of said defendant on the _____ day of
_____, 20____.

Clerk of the Courts of Marion County

By: _____
Deputy

EXHIBIT 3

TENNESSEE REGULATORY AUTHORITY



September 18, 2013

460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Pure Air, Inc dba Air Duct Cleaning
Noach Palatnik
1019 S. Big Bend Blvd
St. Louis, MO 63117-1065

Reference our Files: T1300999, T1301028, T1301061, T1300989, T1300992, T1301046, T1301030, T1301023

NOTICE OF ALLEGED VIOLATION

The Tennessee Regulatory Authority ("TRA") Consumer Services Division has received allegations that you, and/or your organization have violated the Tennessee "Do-Not-Call" law, Tenn. Code Ann. §65-4-401 *et seq.* which became effective May 17, 2000. It is alleged that on seven (7) separate days, you or your organization called eight (8) telephone number(s) which are on the Do-Not-Call Register. A list of the phone numbers and corresponding dates are enclosed. This statute provides that Tennesseans who have registered with the TRA will have their telephone number placed on the Tennessee Do-Not-Call Register, which is updated monthly. For further information, about the law and the Do-Not-Call Register, you may visit the TRA Internet web site at **www.tn.gov/tra**, or call 615-741-3939 ext. 195. The rules and regulations regarding this program, a solicitor application, and other information can be obtained by clicking on "Telemarketer Do-Not-Call Program."

Generally, it is illegal for a person engaged in telephone solicitation to call a number that appears on the current Tennessee Do-Not-Call Register. The Do-Not-Call Register is provided electronically to you on a monthly basis. A penalty of up to \$2,000 for each violation of this law may be assessed. Each telephone call will be considered as a separate violation.

This notice is being sent to alert you about the law, and to advise you that its provisions will be vigorously enforced. There are certain exceptions to the law, some of which are:

- Communications to a residential subscriber with prior express invitation or permission;
- Communications made on behalf of a not-for-profit by a bona fide member of the exempt organization;
- Communications to an existing customer.

If you have any questions regarding the law's applicability to you, and/or your organization, please call this office at 615-741-3939 ext. 231. You are presumed to know the requirements of the law, and will be held accountable to comply with its requirements.

A written response must be received by the TRA within ten (10) business days from the date of this letter. If you believe that you and/or your organization are exempt from the provisions of this law, please provide the necessary documentation to substantiate the exemption. If we do not receive a written response within ten (10) business days, we will commence with the appropriate enforcement action.

Sincerely,

Slayde Warren
Investigator
Tennessee Do-Not-Call – Do-Not-Fax Programs

Enclosure: Alleged violations

Alleged Call Violations

7/1/13	615-883-0621	1
7/2/13	615-315-5544	1
7/2/13	615-865-9347	1
7/9/13	615-441-3696	1
7/10/13	615-847-2941	1
7/11/13	615-385-4829	1
7/16/13	615-886-7177	1
7/17/13	615-230-6737	1

Total Alleged Violations: 8

EXHIBIT 4

TENNESSEE REGULATORY AUTHORITY



November 4, 2013

460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Pure Air, Inc dba Air Duct Cleaning
Noach Palatnik
7138 Tulane Ave
St. Louis, MO, 63130

Reference our Files: T1300999, T131028, T1301061, T1300989, T1300992, T1301046, T1301030, T1301023

NOTICE OF ALLEGED VIOLATION

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Sincerely,

Slayde Warren
Investigator
Tennessee Do-Not-Call – Do-Not-Fax Programs

Enclosure: Alleged violations

Alleged Call Violations

7/1/13	615-883-0621	1
7/2/13	615-315-5544	1
7/2/13	615-865-9347	1
7/9/13	615-441-3696	1
7/10/13	615-847-2941	1
7/11/13	615-385-4829	1
7/16/13	615-886-7177	1
7/17/13	615-230-6737	1

Total Alleged Violations: 8

EXHIBIT 5

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article addressed to:

Pure Air Inc, dba
 Carpet Cleaning
 Norch Palatnik
 1019 S. Big Bend Blvd
 ST. LOUIS, MO 63117

2. Article Numbr 7006 2150 0005 8041 0122
 (Transfer from service label)

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Milomir Vesh ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7006 2150 0005 8041 0122

U.S. Postal Service
CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

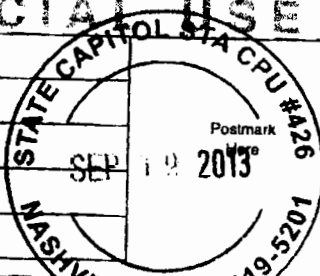
Postage \$

Certified Fee

Return Receipt Fee
 (Endorsement Required)

Restricted Delivery Fee
 (Endorsement Required)

Total Postage & Fees \$



Sent To

Pure Air Norch Palatnik
 Street, Apt. No. or PO Box No. 1019 S. Big Bend Blvd
 City, State, ZIP+4 ST LOUIS, MO 63117

PS Form 3800, August 2005

See Reverse for Instructions

EXHIBIT 6

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Pure Air, dba Air Dxt Clean
Noach Palatnik
7138 Tulane, Ave
ST. LOUIS, MO
63130

2. Article Number 7006 2150 0005 8041 0115
(Transfer from back of mailpiece)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee
(Endorsement Required)

Restricted Delivery Fee
(Endorsement Required)

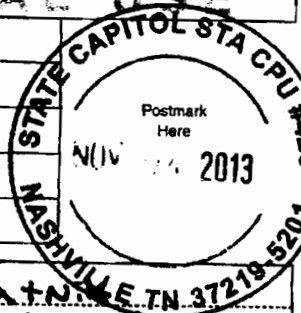
Total Postage & Fees \$

Sent To

Noach Palatnik
Street, Apt. No.,
or PO Box No. 7138 Tulane Ave
City, State, ZIP+4 ST. LOUIS, MO 63130

PS Form 3800, August 2006

See Reverse for Instructions



7006 2150 0005 8041 0115