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BEFORE THE TENNESSEE REGULATORY AUTHORITY

T.R.A. DOCKET ROOM

IN RE:

SIRIUS XM RADIO INC., FOR ALLEGED
VIOLATIONS OF TENN. CODE ANN.
§ 65-4-401 *et seq.*

Docket No. 16-00047

SETTLEMENT AGREEMENT

1. This Settlement Agreement ("Agreement") has been entered into between the Compliance Division ("Compliance Division") of the Tennessee Regulatory Authority ("TRA" or "Authority") and Sirius XM Radio Inc. ("Respondent" or "Sirius XM"), and is subject to the approval of the applicable directors of the TRA. Sirius XM is a Delaware corporation headquartered at 1221 Avenue of the Americas, New York, NY 10020 that is in the business of, among other things, offering satellite radio services to consumers in Tennessee.
2. The subject of this Agreement are fourteen (14) separate complaints reviewed by the Authority's Compliance Division alleging that Respondent violated the Tennessee Do-Not-Call Telephone Sales Solicitation law, Tenn. Code Ann. § 65-4-401 *et seq.*, and TRA Rules and Regulations 1220-4-11-.07, by making or causing to be made telephone sales solicitation calls to the residential telephone numbers of the Tennessee consumers whose residential telephone numbers were registered on the Tennessee Do-Not-Call Register.

Statement of Facts

3. The Compliance Division, in conjunction with the Consumer Advocate and Protection Division of the Attorney General's Office ("Consumer Advocate") conducted an investigation of telemarketing calls vendors made on behalf of Respondent to Tennessee

consumers. The Compliance Division alleges that Respondent, its vendors, or its agents placed fourteen (14) telephone calls to consumers who were on the Authority's Do Not Call lists.

4. Further, prior to making calls into the State of Tennessee, Respondent, its call center vendors, and agents failed to register as a solicitor pursuant to Tenn. Code Ann. § 65-4-405(d).
5. Other than the calls alleged above, Respondent has had no previous allegations of call violations with the TRA.
6. Respondent has fully cooperated with the Tennessee investigation. Respondent believed that all calls to Tennessee consumers were permissible under state and federal Do Not Call laws. Respondent denies that it has violated Do Not Call Laws.
7. Nothing contained in this Agreement shall constitute an admission or concession by Sirius XM, nor evidence or findings supporting any of the allegations of fact or law raised by the State or asserted in this Agreement, or of any violation or applicability of any state or federal law, rule or regulation, or any other liability or wrongdoing whatsoever. Neither this Agreement, nor any negotiations, statements or documents related thereto shall be offered or received in any legal or administrative process, proceeding or action as an admission, evidence, proof of, or to establish any violation of, liability under, wrongdoing in connection with, or applicability of any statute, rule or regulation, except as expressly allowed by state law.
8. Tenn. Code Ann. § 65-4-405(f) authorizes the TRA to assess penalties for violations of the Tennessee Do-Not-Call statutes, including the issuance of a cease and desist order and the imposition of civil penalties for knowing violations.

Terms of Settlement

9. In an effort to resolve these fourteen (14) complaints as well as Respondent's alleged failure to register as a solicitor, Respondent agrees to settle these concerns on the following terms subject to approval by the directors of the TRA:
- A. Respondent agrees that any telemarketers calling on its behalf shall register as a solicitor pursuant to Tenn. Comp. R. & Reg. 1220-4-11-.04 of the Telephone Solicitations Regulations.
 - B. Sirius XM shall comply with Tenn. Code Ann. § 65-4-401, *et seq.*, regarding telemarketing practices to Consumers residing in the State of Tennessee.
 - C. Within thirty (30) days of the issuance of the Authority's order approving this Settlement Agreement, Sirius XM shall advise its telemarketing vendors in writing of the terms of this Agreement and Sirius XM's expectation that such telemarketing agents will comply with the terms of this Agreement.
 - D. Sirius XM shall not be liable for conduct of third parties not controlled by Sirius XM that violates the terms of this Agreement.
 - E. As applicable, Sirius XM shall register with all Tennessee governmental entities and agencies as it relates to telemarketing activities.
 - F. Sirius XM, in connection with telemarketing calls to Tennessee Consumers or made from Tennessee, shall record and honor Tennessee Consumers' requests to be placed on Sirius XM's internal Do Not Call list within a reasonable time after receiving a request.
 - G. If a Tennessee Consumer indicates he/she should not have received a telephone call from Sirius XM because they are listed on the state or federal Do Not Call

list, Sirius XM shall notify the Consumer it is placing them on Sirius XM's internal Do Not Call list and will not call them again.

10. Pursuant to Tenn. Code Ann. § 65-4-405(f) Respondent agrees to pay the amount of \$15,000 to the TRA. Said amount reflects a \$1,000 for each call identified in paragraph 4 above and \$1,000 for failing to register as a solicitor with the Authority. Respondent shall pay \$15,000 to the TRA by certified check made payable to the Tennessee Regulatory Authority within 10 business days of receipt from the Authority of written notice that it has approved this Agreement. This negotiated amount reflects Respondents good faith belief that it was not in violation of any laws and its cooperation in this investigation.
11. Respondent's local counsel will appear in person or by telephone at the Authority Conference at which this Agreement is considered.
14. In the event that Respondent fails to comply with the terms and conditions of this 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 this Agreement.
15. By signing this Agreement, Respondent waives service of process of the Compliance Division's Show Cause Petition and this Agreement, and voluntarily submits to the continuing jurisdiction of the TRA for the purposes of entry and enforcement of this Agreement and for any related purposes, such as entry of further orders as might be necessary for the construction or carrying out of this Agreement or for modifications thereof.
16. All notices to Sirius XM under this Agreement or other communications required or permitted under this Agreement shall be in writing and shall be delivered in person or sent by a reputable express courier, via telecopy with telephonic (voice) confirmation of receipt, or via

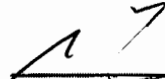
certified mail, return receipt requested, addressed to Sirius XM Radio Inc., 1221 Avenue of the Americas, 36th Floor, New York, New York 10020, Attention: General Counsel, Telecopy No.: (212) 584-5353. Notices delivered by any other means, or to any other person, shall have no force and effect.

17. As consideration for the relief agreed to herein, if the TRA determines that Sirius XM has failed to comply with any of the material terms and conditions of this Agreement, and if the TRA determines, in its sole discretion, that the failure to comply does not threaten the health or safety of the citizens of Tennessee or does not create an emergency requiring immediate action, the TRA shall notify Sirius XM in writing of its failure to comply. Sirius XM shall then have 15 business days after receipt of the written notice to provide a written response to the TRA. The response shall be signed by one of Sirius XM's executive officers and contain, at a minimum, one of the following:

- A. A statement explaining why Sirius XM believes it is in compliance with this Agreement;
- B. A statement explaining how the alleged breach occurred, and how it will be or has been corrected; or
- C. A statement explaining that the alleged breach cannot be reasonably corrected within 15 business days from receipt of the notice but that:
 - i. Sirius XM has begun to take action to correct the alleged breach (with an explanation of the corrective action it is taking);
 - ii. Sirius XM is pursuing corrective action with reasonable and due diligence; and

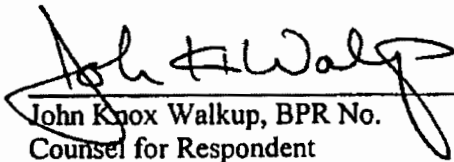
- iii. Sirius XM has provided the TRA with a detailed and reasonable time frame for correcting the alleged breach.

Respectfully submitted,



Shiva K. Bozarth, BPR No.22685
Chief of Compliance Division
Tennessee Regulatory Authority
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

Agreed to on behalf of Respondent:



John Knox Walkup, BPR No.
Counsel for Respondent
Wyatt, Tarrant & Combs
2525 West End Avenue
Suite 1500
Nashville, TN 37203

Date: April 28, 2016