

Federal Enforcement Actions

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Federal Enforcement

- FTC

- Do Not Call Settlements

- DirecTV liable for acts of telemarketers
 - \$5.3 MM Settlement

- Executive Home Loan liable for unscrubbed “lead lists”

- Can’t rely on representation of leads seller that list was “scrubbed”
- \$1.1MM Penalty, but all but \$50K suspended for inability to pay

- Peoples Benefit Services - \$350K settlement

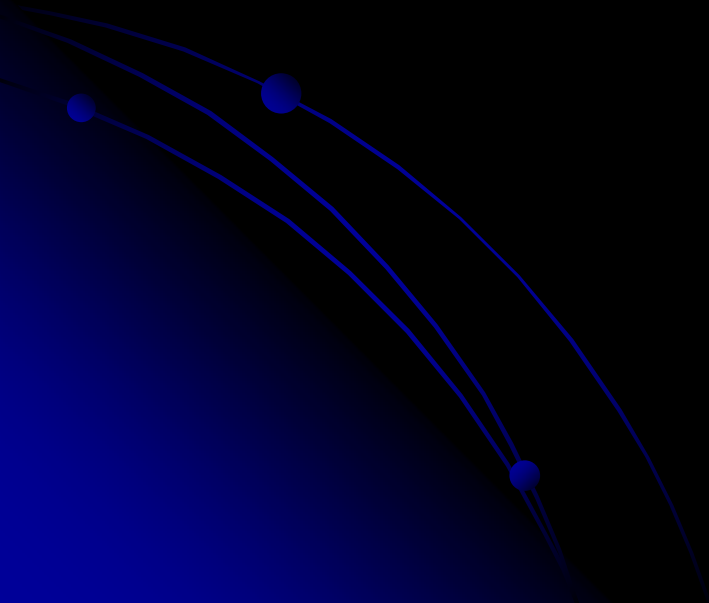
- Application of DNC Rule to Affiliates
- Established Business Relationship didn’t carry over to affiliate where different names and services

Federal Enforcement

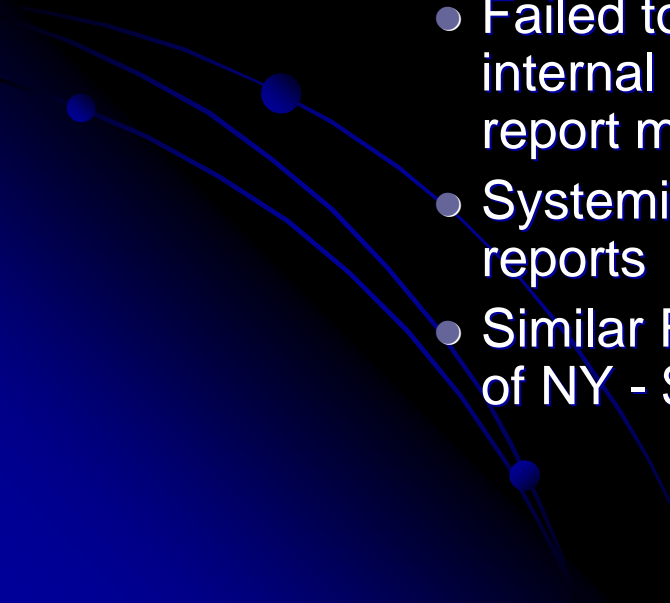
- **FTC CAN-SPAM Settlements**
 - **Kodak Imaging Network**
 - 2 million emails sent failed to:
 - contain an opt-out mechanism,
 - disclose right of opt-out
 - Include valid physical postal address
 - Disgorged all proceeds from emails: \$26K
 - **Optin Global - \$475K**
 - Millions of emails sent by affiliates selling mortgage loans, other services, by hyperlinks to defendant's web site
 - Contained false or forged header information
 - Didn't identify e-mail as advertisements or solicitations
 - No notice to consumers of opt out right
 - No opt-out mechanism
 - Didn't include valid physical postal address

Federal Enforcement

- FTC Safeguard Rule Settlements
 - Nations Title Agency
 - Consumer info discarded in unsecured dumpster
 - Violated Representation as to Safeguards
 - Violated Privacy Rule Safeguard Requirement



Federal Enforcement

- Banking Agency Actions
 - OCC Developments – IG Audit Report on Wells BSA Compliance
 - Scrutiny on OCC reversal of examiner recommendation
 - AML/BSA Settlements
 - OTS, FinCEN action against BankAtlantic of Fort Lauderdale - \$10 MM Penalty
 - Failed to implement BSA/AML program that included internal controls and other measures to detect and report money laundering and other suspicious activity
 - Systemic failures to timely file suspicious activity reports
 - Similar FDIC and FinCen action against Liberty Bank of NY - \$600K Penalty
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Federal Enforcement

- Banking Agency Actions
 - Variety of small actions on NFIP failures
- Fair Lending
 - Today HMDA Report released
 - DOJ/Banking Agency inquiries from list of 200
 - OTS, NCUA concluded, after review, additional objective credit information used by their institutions to price loans fully explained disparities in Fed's analysis

Federal Enforcement

- **FTC Antitrust Action - Austin Board of Realtors**
 - ABOR allegedly prevented non-traditional Multiple Listing Service (MLS) listings from being transmitted to publicly-available websites, such as “Realtor.com.”
 - Exclusive Agency Listings (EALs)—allowing owner to purchase limited brokerage services at discount rates—were blocked from public websites