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**STATE OF TEXAS,
Plaintiff**

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IN THE DISTRICT COURT OF

v.

**E-TELEMATION, INC. d/b/a
U.S. CREDIT, MICHAEL C.
CORBELL and ROBERT F.
LEAUMONT, JR.,
Defendants**

HARRIS COUNTY, TEXAS

_____ **JUDICIAL DISTRICT**

EX PARTE TEMPORARY RESTRAINING ORDER

Plaintiff, State of Texas, has filed its Original Petition in this cause seeking a Temporary and Permanent Injunction against Defendants E-Telemation, Inc. d/b/a U.S. Credit, Michael C. Corbell, and Robert F. Leaumont, Jr. and in the same petition has presented its request for an Ex Parte Temporary Restraining Order. The Court FINDS that Defendants may be violating §§17.46(a) and (b) of the Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN §17.41 *et. seq.* and the Telephone Solicitation Act, TEX. BUS. & COM. CODE (Chapters 37 & 38). It appears from facts set forth in the Plaintiff's Original Petition and the exhibits and sworn affidavits attached thereto that unless Defendants are immediately restrained from the acts prohibited below, Defendants will commit such acts before notice can be given and a hearing can be held on the State of Texas' request for a Temporary Injunction. Furthermore, Defendants will continue to use deception in their solicitation of bank account numbers and funds from consumers, and may well dissipate and secrete their assets before a judgment for restitution can be rendered. Such injury would be irreparable because continued violations of the DTPA may well cause many more consumers to lose their money by deception. Given the likelihood of dissipation of Defendants' assets prior to rendition of a final

judgment, the possibility of restitution for consumers will be remote unless an order freezing assets is granted.

1. **IT IS THEREFORE ORDERED** that Defendants, E-Telemation, Inc. d/b/a U.S. Credit and Michael C. Corbell and Robert F. Leaumont, Jr., their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, including but not limited to, all financial institutions such as **Bank One of Texas, N.A.,¹ Guaranty Bank², JP Morgan Chase Bank,³ Bank of America, N.A.,⁴ and Moody National Bank⁵** holding money in the name and/or for the benefit of the above named Defendants, who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

A. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing or allowing the transfer, removal, or withdrawal from any financial institution or from the jurisdiction of this Court any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal or mixed, wherever situated, belonging to or owned by, in the possession or custody of, standing in the name

¹ The following (known) Bank One Texas accounts of Defendants are covered by this order: Account Numbers [REDACTED]

² The following (known) Guaranty Bank account of Defendants are covered by this order: Account Number [REDACTED]

³ The following (known) JP Morgan Chase Bank accounts of Defendants are covered by this order: Account Numbers [REDACTED], [REDACTED] and [REDACTED].

⁴ The following (known) Bank of America, N.A. account of Defendants are covered by this order: Account Number [REDACTED]

⁵ The following (known) Moody National Bank account of Defendants are covered by this order: Account Number [REDACTED]

of, or claimed by Defendants without further order of this court;

B. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of Defendants or any of Defendants' assumed names, or subject to access or control by Defendants, without providing Plaintiff and the Court prior notice by motion seeking such access;

2. **IT IS FURTHER ORDERED** that Defendants, E-Telemation, Inc., Michael C. Corbell and Robert F. Leaumont, Jr., their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials relating to the business of Defendants currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause;

B. Orally or verbally soliciting bank account numbers or bank account routing information from consumers while on the telephone;

C. Making withdrawals of monies from consumers' bank accounts without their prior, express and written authorization and consent;

D. Withdrawing money from consumers' bank accounts unless Defendants have a signed, written consent and authorization form, from each consumer who owns the account, authorizing such funds to be withdrawn in a specific amount, on a specific date, and from a specific bank account;

E. Representing, expressly or by implication, that Defendants are affiliated with, endorsed by, authorized by, supported by, associated with or in any way related to Visa, MasterCard,

American Express, or any other credit card provider unless they are in fact affiliated, associated with or endorsed by such company, and have written documentation of such association/affiliation at the time such representation is made;

F. Representing to consumers, expressly or by implication, that Defendants will provide consumers with a credit card or that Defendants will assist consumers in obtaining a credit card;

G. Representing to consumers, expressly or by implication, that they have been approved for a credit card and/or will receive a credit card within a specified time;

H. Representing to consumers, expressly or by implication, that they have been approved for a credit card with a particular credit limit;

I. Representing to banks and financial institutions, expressly or by implication, that a particular consumer has authorized or agreed to an ACH withdrawal or debit from their bank account, when in fact there is no such authorization or agreement from said consumer;

J. Advertising in any manner for guaranteed approval or any approval of a Visa, MasterCard, or other credit card;

K. Failing to fully inform and affirmatively disclose to consumers in all advertisements and in any form of oral or written solicitation or communication that Defendants do not provide credit cards to consumers, but rather a list of credit card companies to which consumers can apply for credit cards;

L. Representing to consumers, expressly or by implication, that there are tape recordings which depict the consumer consenting to or authorizing some action, when in fact such tape recordings do not exist or do not exist in the format or form represented by Defendants;

M. Failing to fully advise and disclose to consumers in all oral or written solicitations the

complete terms and conditions of any refund policy, including, the fact that refunds will not be given if that is the case;

N. Engaging in telephone solicitation without filing a full and complete registration statement with the Secretary of State pursuant to §38.102 of the Texas Business and Commerce Code;

O. Engaging in telephone solicitation without first filing a complete registration statement with the Texas Secretary of State which discloses:

- 1) the seller's name and the name under which the seller is doing or intends to do business, if it is different from the seller's name pursuant to TEX. BUS. & COM. CODE §38.151(1);
- 2) the name of each parent and affiliated organization of the seller that will engage in business transactions with purchasers relating to sales solicited by the seller or accepts responsibility for statements made by, or acts of, the seller relating to sales solicited by the seller pursuant to TEX. BUS. & COM. CODE §38.151(2)(a)(b);
- 3) the seller's business form and place of organization and if the seller is a corporation or partnership, a copy of its articles of incorporation and bylaws or a copy of the partnership agreement pursuant to TEX. BUS. & COM. CODE §38.151(3)-(5);
- 4) the location where any assumed name has been registered pursuant to TEX. BUS. & COM. CODE §38.151(6);
- 5) for any parent or affiliated organization, the applicable information that is required of a seller under the two immediately preceding subsections above, pursuant to

TEX. BUS. & COM. CODE §38.151(7);

- 6) the complete street address of each location of the seller, designating the principal location from which the seller will be conducting business pursuant to TEX. BUS. & COM. CODE §38.151(8);
- 7) a listing of each telephone number to be used by the seller and the address where each telephone using the number is located pursuant to TEX. BUS. & COM. CODE §38.151(10);
- 8) the name, title, complete address of principal residence, date of birth, number and state of issuance of the drivers license of each of the seller's officers, directors, trustees, general and limited partners, sole proprietors and owners, as applicable, and the name of each of those persons who has management responsibilities in connection with the seller's business activities pursuant to TEX. BUS. & COM. CODE §38.151(11) & (12);
- 9) the name and principal residence address of each person the seller leaves in charge at each location from which the seller does business in this state and the business location at which each of these persons is or will be in charge pursuant to TEX. BUS. & COM. CODE §38.151(13);
- 10) the name and principal residence address of each salesperson who solicits on behalf of the seller or a copy of the "Employer's Quarterly Report" for employee wages the seller files with the Texas Workforce Commission and the name the salesperson uses while soliciting pursuant to TEX. BUS. & COM. CODE §38.151(14);

- 11) the name and address of the seller's agent in this state, other than the Secretary of State, authorized to receive service of process pursuant to TEX. BUS. & COM. CODE §38.151(15); and
- 12) the name and address of each financial institution with which banking or similar monetary transactions are made by the seller and the identification number of each of the seller's accounts in each institution pursuant to TEX. BUS. & COM. CODE §38.151(16).

P. Failing to complete a registration statement, pay the registration fee and post the required security as required by TEX. BUS. & COM. CODE §§38.103, 38.104 and 38.107 prior to engaging in telephone solicitation;

Q. Misrepresenting the character, extent, or amount of a consumer debt, or misrepresenting the consumer debt's status in a judicial or governmental proceeding, in violation of TEX. FIN. CODE ANN. §392.304(a)(8);

R. Falsely representing the status or nature of the services rendered by the debt collector or the debt collector's business, in violation of TEX. FIN. CODE ANN. §392.304(a)(14); and

S. Engaging in telephone solicitation unless and until Defendants have fully complied with Chapter 38 of the Texas Business and Commerce Code.

3. **IT IS FURTHER ORDERED** that the Defendants advise any financial or brokerage institution, escrow agent, title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other asset of Defendants E-Telemation, Inc. d/b/a U.S. Credit, Michael C. Corbell and Robert F. Leaumont, Jr., which receives actual notice of this Order by personal service or otherwise, to within five (5) business days of the

date of service of this Order, provide to counsel for the Plaintiff and the defendants/account holders a statement or letter setting forth:

A. The identification of each account or asset titled in the name, individually or jointly, of Defendants, or held on behalf of, or for the benefit of, Defendants;

B. The balance of each such account, or a description and estimated value of such assets, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other assets was remitted; and

C. The identification of any safe deposit box or storage facility that is either titled in the name individually or jointly, of Defendants, or is otherwise subject to access or control by Defendants;

4. **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that, as used in this Judgment, the following terms are defined as follows:

A. “Consumer” means an individual, partnership, corporation, or entity of any kind, including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services;

B. “Defendant(s)” means E-Telemation, Inc., dba U.S. Credit, Michael C. Corbell and Robert F. Leaumont, Jr., their successors, assigns, officers, agents, subcontractors, servants, present and former employees, corporations and any other persons in active concert or participation with them;

C. “Item” means property or service and includes the type of “credit card kit” Defendants

sometimes send to consumers;

D. “Owner” means a person who has any control of or is entitled to, by ownership or other claim, at least a percent of the net income of a seller;

E. “Person” means an individual, sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity, however organized;

F. “Purchaser” means a person who either is solicited to become or becomes obligated for the purchase or rental of an item, or is offered the opportunity to claim or receive an item.

G. “Salesperson” means a person employed or authorized by a seller to make a telephone solicitation;

H. “Seller” means a person who makes a telephone solicitation on the person’s own behalf;

I. “Solicits” or “solicited” means any type of contact with a person or entity for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, or anything of value from said person or entity for any reason whatsoever;

J. “Telemarketer” or “paid solicitor” means a person employed or authorized by a seller to make telephone solicitations; and

K. “Telephone solicitation” and “engaging in telephone solicitation” means engaging in any type of business or being employed by or for any type of business that makes telephone calls initiated by a seller or salesperson to or from a person or entity for the purpose of inducing the person or entity to purchase, rent, claim, or receive an item. The term includes a call made by a consumer or contributor in response to a solicitation sent by mail or made by any other means. The term also includes any use of the Internet for any type of solicitation purposes;

5. **IT IS FURTHER ORDERED** that Plaintiff shall be granted leave to take telephonic, video,

written, and other depositions prior to any scheduled temporary injunction hearing upon reasonable shortened notice to Defendants;

6. **IT IS FURTHER ORDERED** that Defendants in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14) day after entry or until further order of this Court, whichever is less.

7. The Clerk of the above-entitled Court shall forthwith issue an ex parte temporary restraining order in conformity with the law and the terms of this Order. This Order shall be effective without the execution and filing of a bond as Plaintiff, State of Texas is exempt from such bond under TEX. BUS. & COM. CODE ANN. §17.47(b).

Hearing on Plaintiff, State of Texas' Application for an Temporary Injunction is hereby set for the _____ day of _____ 2003 at _____ o'clock, ____ m.

SIGNED this _____ day of _____, 2003 at _____ o'clock, ____ m.

JUDGE PRESIDING