

NO. S-07-5333CV-C

STATE OF TEXAS,  
Plaintiff

IN THE DISTRICT COURT

v.

SAN PATRICIO COUNTY, TEXAS

RADIOSHACK CORPORATION  
Defendant

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343<sup>rd</sup> JUDICIAL DISTRICT

**AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION**

1. On this the 14 day of July, 2008, came before this court, plaintiff, STATE OF TEXAS and defendant, RADIOSHACK CORPORATION ("RADIOSHACK"), in the above entitled and numbered cause. The STATE OF TEXAS, by and through Texas Attorney General GREG ABBOTT, and RADIOSHACK, by and through their attorneys of record, announced to the Court that all matters of fact and things in controversy between them had been fully and finally compromised and settled and pursuant thereto present to the Court this Agreed Final Judgment and Permanent Injunction ("Judgment"). By their duly authorized signatures, the parties stipulated to the Court the following: that the STATE OF TEXAS acknowledges that RADIOSHACK had in place policies and procedures intended to safeguard the personal information of its customers and employees at the time of the incident on which this suit is premised; that in the course of these negotiations RADIOSHACK has agreed to modify certain of its policies and procedures; that RADIOSHACK does not enter into this Agreed Final Judgment and Permanent Injunction as an admission of liability; and that neither this Judgment nor the payment of money by RADIOSHACK constitute an admission by RADIOSHACK of any violations of the Identity Theft Enforcement and Protection Act or any other law. RADIOSHACK represents that entering into

this judgment reflects its continued commitment to protect the personal information of its customers and employees and to join with the STATE OF TEXAS in acknowledging and addressing the seriousness of the risks of identity theft; that they understand the terms of this Judgment; that they agree to the terms of this Judgment; that they are waiving all rights of appeal from this Judgment; that they actively participated in the negotiations leading up to this Judgment and are aware of the duties placed upon them by it and are desirous and capable of carrying out those duties in full; that they acknowledge receipt of copies of this Judgment and have full and actual notice of the terms of this Judgment; that the issuance and service of a writ of injunction are waived; that the terms of this Judgment are sufficiently detailed and specific to be enforceable by the Court in conformance with Tex.R.Civ.P. 683; that this Judgment represents a compromise and settlement of all matters arising out of facts alleged by the STATE OF TEXAS in this cause.

2. Pursuant to the agreement, the parties submit to the jurisdiction of the Court and do not contest the entry of this Judgment.

3. It appearing to the Court that all parties agree to the entry of this Judgment and that they have approved its entry by their duly authorized signatures and the signature of their respective attorneys below, the Court, upon the stipulations of the parties and after being fully advised in this matter, finds as follows:

- a. THAT it has jurisdiction of the parties and subject matter of this suit;
- b. THAT the settlement of this dispute is fair, reasonable, and just; and
- c. THAT it would be in the best interests of the parties if the Court approved the settlement and rendered judgment accordingly.

4. Based on these findings, and having heard and considered the representations made by the

parties, the Court is of the opinion that a permanent injunction should be issued as granted in this judgment and that plaintiff STATE OF TEXAS is entitled to recover of and from defendant RADIOSHACK as set forth below.

### DEFINITIONS

5. For purposes of this Judgment, these words are defined as follows:
- a. "Personal identifying information" means an individual's first name or initial and last name in combination with any one or more of the following items:
- (1) social security number, date of birth, or government-issued identification number;
  - (2) mother's maiden name;
  - (3) unique biometric data, including the individual's fingerprint, voice print, and retina or iris image;
  - (4) unique electronic identification number, address, or routing code;
  - (5) telecommunication access device, including debit and credit card information;
- or
- (6) financial institution account number or any other financial information
- b. "Sensitive personal information" means:
- (1) an individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
    - (a) social security number;
    - (b) driver's license number or government-issued identification number; or
    - (c) account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to

an individual's financial account; and

(2) does not include publicly available information that is lawfully made available to the general public from the federal government or a state or local government.

- c. "Retail Store(s)" means RadioShack stores owned by RADIOSHACK and located in Texas.
- d. "State privacy protection laws" includes but is not limited to Tex. Bus. & Com. Code Ann. § 35.48 (hereinafter "Section 35.48") and Chapter 48 of the Tex. Bus. & Com. Code Ann. § 48.001, *et seq* (titled "Identity Theft Enforcement and Protection Act").

#### **INJUNCTIVE RELIEF**

6. IT IS THEREFORE, ORDERED that defendant RADIOSHACK its agents, servants, employees and any other persons or entities in active concert or participation with RADIOSHACK shall be permanently enjoined from disposing of business records that contain personal identifying information or sensitive personal information unless:

- a. RADIOSHACK destroys the personal identifying information or sensitive personal information by shredding, erasing, or other means, to make it unreadable or undecipherable; or
- b. RADIOSHACK arranges for the destruction of its customer records containing personal identifying information or sensitive personal information by contracting with a business that is engaged in the disposal of confidential business records by shredding, erasing or by other means to make such information unreadable or undecipherable.

7. IT IS FURTHER ORDERED that defendant RADIOSHACK shall maintain a comprehensive Information Security Program to protect and safeguard from unlawful use, disposal or disclosure of any personal identifying information or sensitive personal information (hereafter, "Personal Information") maintained or accessible by its Retail Stores in the regular course of business. Such Information Security Program ("Program"), comprised of various policies and procedures relating to the operation of RADIOSHACK'S Retail Stores, shall protect and safeguard electronic as well as hard copy personal information and, at a minimum, must include the elements set forth in Paragraphs 8 through 20 below:

**CORPORATE LEVEL COMPLIANCE OFFICER**

8. RADIOSHACK shall designate a corporate level representative to be responsible for assuring compliance with the requirements of the Program and, more generally, for overseeing efforts to comply with the terms of this Judgment and State Privacy Protection laws.

**WRITTEN PROGRAM**

9. The Program will be fully documented in writing and contain administrative, technical, and physical safeguards appropriate to RADIOSHACK'S Retail Store operations and activities and the sensitivity of the information collected from or about consumers.

**RECORD DESTRUCTION**

10. When disposing of records, whether electronic or hard copy, which contain Personal Information of its customers, RADIOSHACK will either destroy or arrange for the destruction of those records by shredding, erasing or otherwise modifying the personal information in the records to make such information unreadable or undecipherable. If RADIOSHACK elects to contract with a records disposal or destruction company, that company must provide certification to

RADIOSHACK describing its disposal or destruction methods and further certifying that all Personal Information has been shredded, erased or otherwise rendered unreadable or undecipherable. RADIOSHACK shall maintain records identifying the specific recycling company which services each of its Retail Stores and shall further maintain in its records the required certifications for no less than a three year period. Hard copy records containing Personal Information which are pending disposal or destruction must be (i) placed in a secured locked container (ii) maintained in a secured area; or otherwise (iii) stored securely to prevent the unlawful use, dissemination or disposal of such records.

## **EMPLOYEE TRAINING**

### **Retail Store New Employees**

11. RADIOSHACK Retail Store employees hired after the Effective Date for the implementation of the Program as set forth in paragraph 18, shall receive, within 30 days of hire, the following training:

- a. A review of the Program's policies and procedures applicable to new hires and the fact that compliance with these policies and procedures will be taken into account in connection with compensation, promotion and retention decisions;
- b. An explanation of the identity theft related reasons that it is important to abide by the policies and procedures;
- c. The name and telephone number and/or email address of the corporate level person to whom they can direct questions regarding the Program;
- d. The name and telephone number and/or email address of the corporate level person to whom they can anonymously report failures to comply with or concerns

regarding compliance with the Program.

The training shall include a written or electronic test to establish that the employee has fully acquired the knowledge needed to assure compliance with RADIOSHACK'S policies and procedures relating to the proper safeguarding and disposal of Personal Information. RADIOSHACK shall retain current test completion records throughout the tenure of the employee.

### **Training for Retail Store Management**

12. In addition to the training requirements of the preceding section, the training program required for employees to become Retail Store manager or assistant manager will be revised to include training which will include the following:

- a. Locale specific instructions regarding proper disposal of Personal Information;
- b. That compliance with the Program's policies and procedures applicable to managers and assistant managers will be taken into account in connection with compensation, promotion, and retention;
- c. That RADIOSHACK monitors employee and store compliance with these policies and procedures; and
- d. That failure to comply with the policy and procedures and privacy protection laws may constitute grounds for termination.

The training shall include a written or electronic test, a portion of which will relate to the Program's policies and procedures applicable to Retail Store managers and assistant managers. RADIOSHACK shall retain current test completion records throughout the tenure of the employee.

### **Training of Current Retail Store Employees**

13. Within 60 days of the date of entry of this Judgment RADIOSHACK shall provide all current employees with the training described in paragraph 11 above provided, however, that RADIOSHACK is not required to provide such training to any of its employees who have received this training in the preceding 12 months. The training shall include a written or electronic test to establish that the employee has fully acquired the knowledge needed to assure compliance with the Program's policies and procedures applicable to new hires. RADIOSHACK shall retain test completion records for the tenure of the employee.

### **Retail Store Training Updates**

14. RADIOSHACK shall provide all Retail Store managers and employees with additional, periodic training to ensure that they maintain the requisite knowledge, skill and motivation regarding compliance with the Program's applicable policies and procedures. Such training shall occur no less frequently than annually and shall include:

- a. A review of the Program's policies and procedures including reminders that RADIOSHACK monitors employee and store compliance with these policies and procedures, and that failure to comply with the policy and procedures and privacy protection laws may constitute grounds for termination; and
- b. An explanation of the identity theft related reasons that it is important to abide by the policies and procedures.

### **Certification of Training**

15. For a period of three years after entry of this Judgment, RADIOSHACK shall on the anniversary date of the entry of this Judgment forward to the Office of the Attorney General a

sworn statement signed by a corporate representative, stating that RADIOSHACK has provided its employees with the above-training and the description of RADIOSHACK'S documentation evidencing such training.

#### **COMPLIANCE CHECKS**

16. RADIOSHACK agrees that at least twice every year it will conduct a visit to each of its Retail Stores to evaluate compliance with the Program. RADIOSHACK will not inform the manager or employees of the retail store in advance, directly or indirectly, of the date when a particular retail store will be the subject of a compliance visit. In the event that the compliance visit reflects that the store is not complying with any requirement of the Program, RADIOSHACK agrees that it will document the violations and implement corrective action as soon as practicably possible.

#### **STORES NOT OWNED BY RADIO SHACK**

17. At the time that RADIOSHACK enters into an Authorized Sales Center Agreement with an independent owner or franchisee in Texas, RADIOSHACK agrees to incorporate a provision into that agreement requiring compliance with all applicable laws, rules, regulations and ordinances in operating the business -including State Privacy Protection laws- and providing that a material breach of the agreement will be grounds for terminating the contract.

#### **EFFECTIVE DATE AND MODIFICATIONS**

18. The Program shall be implemented within 120 days of the entry of this Judgment. RADIOSHACK shall provide a description of the Program to the Attorney General and will, upon request of the Attorney General, provide descriptions of any changes or modifications to the Program within thirty business days of its receipt of such request.

19. To the extent that the provisions of this Judgment conflict with any Texas, local or federal law or regulation which now exists, or is later enacted or amended, such law and not this Judgment shall apply where such conflict exists. For the purposes of this Judgment, a conflict exists if conduct prohibited by this Judgment is required or permitted by such Texas, local or federal law or regulation, or if conduct required by this Judgment is prohibited by such Texas, local or federal law or regulation. In the event that RADIOSHACK believes that any such conflict exists, RADIOSHACK shall provide the Office of the Attorney General with written notice explaining that such conflict exists and proposing a modification to this Judgment. Such notice shall be provided by RADIOSHACK prior to implementation of any changes to the Program.

20. In the event that RADIOSHACK concludes, based upon changed circumstances, including but not limited to, continued compliance with the terms of this Judgment for a reasonable period of time, that the terms of this Judgment would place an undue hardship or burden on RADIOSHACK or restrict its business practices, then RADIOSHACK may submit a written request to the Attorney General seeking to modify the injunctive terms of this Judgment including requesting that any or all of RADIOSHACK'S obligations under the injunctive terms cease. The Attorney General shall make a good faith evaluation of RADIOSHACK'S request after obtaining all necessary information and shall respond to the request within ninety days of receipt of such request (or 30 days after receiving all necessary information from RADIOSHACK, whichever is later). The decision regarding modification of the Judgment shall rest within the discretion of the Attorney General, who will not unreasonably deny such request.

## NOTICES

21. All notices required by this Judgment shall be sent by certified or registered mail, return receipt requested, postage prepaid or by hand deliver to:

If to the Attorney General:

Ric Madrigal, Assistant Attorney General  
Consumer Protection and Public Health Division  
3201 N. McColl, Ste B.  
McAllen, Texas 78501  
Telephone: 956 682 4547

And

D. Esther Chavez, Deputy Chief  
John Owens, Deputy Chief  
Consumer Protection and Public Health Division  
300 West 15<sup>th</sup> Street  
Austin, TX 78701  
Telephone: 512 475 4628

If to RADIOSHACK:

RadioShack Corporation  
General Counsel  
300 RadioShack Circle  
MS CF4-101  
Fort Worth, Texas 76102

## MONETARY PAYMENT

22. On or before July 8th, 2008, RADIOSHACK agrees to pay to the State of Texas the sum of Six Hundred Thirty Thousand Dollars (\$630,000.00) which includes Fifty Thousand Dollars (\$50,000.00) in payment of attorney's fees in this matter. The remaining Five Hundred and Eighty Thousand Dollars (\$580,000.00) shall be deposited in the general revenue fund and as provided by Tex Bus. & Com. Code Ann. § 48.201, may be appropriated only for the investigation and prosecution of cases under the Identity Theft Enforcement and Protection Act.

Such payment shall be made in the form of a certified check or wire transfer made payable to the Office of the Attorney General of Texas, bearing the Attorney General Number 072444383 and shall be delivered to the Office of the Attorney General, Consumer Protection and Public Health Division, 300 West 15<sup>th</sup> Street, 9<sup>th</sup> Floor Austin, Texas, 78711—Attention: Janie Salazar.

**MISCELLANEOUS**

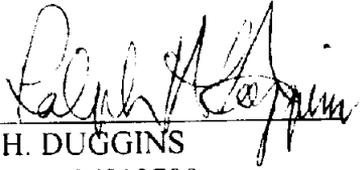
23. All costs of court expended or incurred in this cause are adjudged against the party incurring same.
24. After signing by the Court, this agreement constitutes final judgment.
25. All relief not expressly granted herein is denied.

SIGNED on July 14, 2008

Janna Whaley  
PRESIDING JUDGE

APPROVED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:

FOR DEFENDANT



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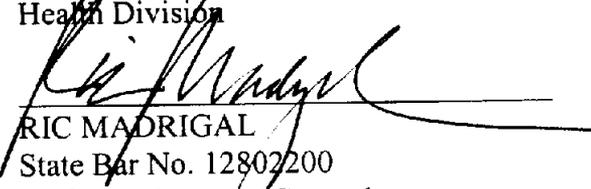
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