

STATE OF NEW YORK
DEPARTMENT OF STATE

In the Matter of the Alleged Violations of the
Do Not Call Registry

- by -

CONSENT ORDER
2020-C-090101

Yodel Technology Services, LLC

1. The New York State Department of State is an executive agency of the State of New York charged with the regulation of the “Do Not Call” law and the enforcement of § 399-z of the General Business Law.
2. This enforcement action against Yodel Technology Services, LLC (referred to as “Respondent”) was initiated based upon a review of complaints received by the Department alleging violations of New York State General Business Law § 399 z and 19 New York Codes, Rules and Regulations (NYCRR), Part 221.
3. The Department alleges violations of New York General Business Law 399-z and 19 NYCRR Part 221.
4. The Department’s staff conducted an investigation, which investigation resulted in the commencement of the above-captioned administrative action.
5. By executing this Consent Order, Respondent affirmatively waives its right to a hearing in the manner provided by law, consents to the issuance and entry of this Order and agrees to be bound by the terms, provisions and conditions contained herein. Respondent has been advised of its right to counsel and is represented by Allen, Mitchell and Allen PLLC in Salt Lake City, Utah.
6. In executing this Consent Order, Respondent enters into this agreement to resolve and settle allegations contained in a Demand Letter issued on September 2, 2020, bearing Department File # 2020-C-090101, and subsequent complaint lists provided by the Department to Respondent. Respondent represents that all violations under investigation by the Department, regarding a pattern of business practices which allegedly violated the relevant sections of the General Business Law have been, or will be rectified, in accordance with the terms set forth herein.
7. To resolve the Department's allegations presently under investigation, Respondent admits that it has not demonstrated consent sufficient to the Department for thirty-two (32) violations of New York General Business Law section 399- z(5a), to wit: being a company that utilizes telemarketing and having knowingly made or caused to be made thirty-two (32) unsolicited telemarketing sales calls to customers under a declared state of emergency or disaster emergency as described in Executive Law §24 or 28.
8. For the thirty-two (32) violations referenced in paragraph 7, the Department and Respondent agree to a civil penalty of **\$16,000**, subject to the conditions set forth below.

9. Respondent is aware that the Department is investigating additional violations of New York General Business Law section 399-z. The Department consents to close and discontinue the investigation into those additional violations, with prejudice, and seek neither prosecution nor penalty, if Respondent (1) is not adjudicated to have violated any provision of New York General Business Law section 399-z within the next twelve months, and (2) satisfies the civil penalty referenced in paragraph 8.

NOW, in consideration of the above premises, the parties consent to entry of an **ORDER** with the following terms and conditions:

- TC1. That Respondent shall return the fully executed and notarized Consent Order to the Department **on or before December 16, 2022**. Such Consent Order shall be mailed to: NYS Department of State, Division of Consumer Protection, Attn: Paula J. O'Brien, Division Director, One Commerce Plaza, 99 Washington Avenue, Suite 640, Albany, NY 12231.
- TC2. That Respondent shall pay the fine in the amount of **Sixteen Thousand Dollars (\$16,000.00)** in the **form of a certified check, or money order**, payable to "**NYS Department of State**," **on or before December 31, 2022**. Such payment shall be mailed to: NYS Department of State, Division of Consumer Protection, Attn: Paula J. O'Brien, Division Director, One Commerce Plaza, 99 Washington Avenue, Suite 640, Albany, NY 12231.
- TC3. That the Consent Order herein expressly depends upon representations made by Respondent both oral or written, formal or informal which relate to the subject matter of the Consent Order and that such representations have fully, accurately and truthfully disclosed all relevant facts to the Department. If any such representation is determined to be limited, inaccurate or untruthful, the Department shall not be bound by the terms herein and shall initiate any lawfully authorized action against Respondent.
- TC4. The effective date of this Order shall be the date on which the Secretary of State or his designee signs the same. The Department will provide Respondent with a fully executed copy of this Order as soon as practicable after the Secretary of State, or his designee signs the same.
- TC5. The failure of Respondent to comply fully and in timely fashion with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order. Such default shall result in a referral to the Office of Attorney General for collection of the civil penalty, in full, pursuant to NY Executive Law § 63. Respondent hereby acknowledges the fine owed under this agreement, accepts the same as valid and waives the right to contest the same. Specifically, the civil penalty is owed by reason of Respondent's violations of, *inter alia*, Section 399-z of the GBL and the regulations promulgated thereunder as further indicated in paragraph 7 above.
- TC6. This Order constitutes the entire agreement of the parties and no provision of the agreement shall be deemed waived or otherwise modified except as is specifically set forth in a writing executed by the Secretary of State or his designee indicating an intent to modify this Order.

TC7. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demand whatsoever that the Department may have against anyone, other than Respondent, its parents, subsidiaries or affiliates; (2) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Order; or (3) any right of the Department to bring any future action, either administrative or judicial, for any future violations of the applicable laws, the implementing regulations or conditions contained in orders if any, issued by the Department to Respondent.

The penalty per offense set forth in this Consent Order is neither intended to be nor shall not be construed by Respondent as consent by the Department as a benchmark for any penalty that may be imposed upon any determination against Respondent of future violations of New York General Business Law section 399-z.

TC8. By entering into this Order, the Department expressly waives and releases Respondent, its parents, subsidiaries or affiliates, from all claims or liability arising out of the allegations at issue in File # 2020-C-090101, and any and all complaints based on telephone calls that were made or allegedly made, or other facts that occurred or allegedly occurred, prior to the date of this Order, subject to the provisions contained in paragraph 9 above.

Dated: December 15, 2022
Albany, New York

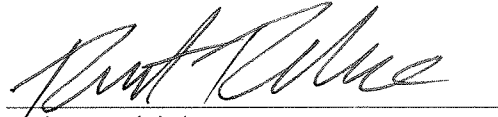
NEW YORK STATE
DEPARTMENT OF STATE

By: B.C. Hughes
Paula J. O'Brien, Esq.
~~Director, Division of Consumer Protection~~

Brendan C. Hughes
Executive Deputy Secretary of State

CONSENT OF YODEL TECHNOLOGY SERVICES

Robert Pulsipher on behalf of Yodel Technology Services, LLC, hereby consents to the issuing and entering of this Order, affirms that they are an officer of Yodel Technology Services, LLC and is authorized to enter into this consent order on its behalf, waives the right to a hearing and agrees to be bound by the terms and conditions herein.



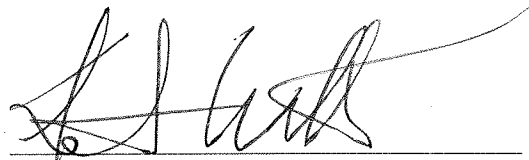
Robert Pulsipher
Owner

STATE OF FLORIDA

ss.:

COUNTY OF PINELLAS)

On this 13 day of December in the year 2022 before me, the undersigned, personally appeared Robert Pulsipher, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

