

MICHAEL A. DELANEY, ATTORNEY GENERAL
STATE OF NEW HAMPSHIRE

V.

ONMESSAGE, INC.

CONSENT AGREEMENT

NOW COME the parties, State of New Hampshire (the "State"), by the Attorney General, and OnMessage, Inc. ("OnMessage") and hereby agree to undertake the following in settlement of the violations and claims asserted by the State in this case.

BACKGROUND

1. This Consent Agreement is entered into by and among the State and OnMessage to resolve the State's claims for violations of the New Hampshire Push-Poll statute, RSA 664:16-a, I.

2. Push Polling is defined under New Hampshire law as:

- (a) Calling voters on behalf of, in support of, or in opposition to, any candidate for public office by telephone; and
- (b) Asking questions related to opposing candidates for public office which state, imply, or convey information about the candidates character, status, or political stance or record; and
- (c) Conducting such calling in a manner which is likely to be construed by the voter to be a survey or poll to gather statistical data for entities or organizations which are acting independent of any particular political party, candidate, or interest group.

RSA 664:2, XVII.

3. The State has alleged that OnMessage engaged in push-polling, as defined in RSA 664:2, XVII, by being responsible for push-poll calls to residents of New Hampshire in September 2010. The State has alleged that OnMessage wrote the script used for the calls and then hired another company to use the script to make 400 calls, which met the

definition of a push-poll RSA 664:2, XVII, to New Hampshire residents in September 2010.

4. To comply with New Hampshire law, the disclosures set forth in RSA 664:16-a, I must be made at some point during a push-poll call. The script used for the calls at issue consisted of 52 questions. The State has alleged that in drafting the script used for such calls, OnMessage violated RSA 664:16-a, I in that the script did not instruct the caller to provide the persons contacted with the telephone number from where the push-polling was being conducted. Further, the State has alleged that the script violated RSA 664:16-a, I because it instructed the caller to provide the persons contacted with the name of the candidate that the polling was being made on behalf of *only if* the caller asked for that information after question number 44 in the poll had already been asked. As a result, the State has alleged that OnMessage engaged in push polling in a manner that violated New Hampshire law.

5. OnMessage acknowledges that it prepared and was responsible for the script of the calls referred to above but disputes that the script violated the statute as alleged by the State. On Message denies liability and wrongdoing and is entering into this agreement to avoid further dispute.

6. At all times during the resolution of this matter, OnMessage has cooperated with the Office of the Attorney General.

7. The State takes the position that RSA 664:21 authorizes the Attorney General to levy a civil penalty upon violators of RSA 664:16-a in an amount not to exceed \$1,000 per violation.

8. This Consent Agreement is executed to resolve all of the State's claims arising from the OnMessage polling using the script at issue in September 2010. The State is not aware of any other claims against OnMessage for any actions or omissions prior to the date of this Consent Agreement. By executing this agreement, the State is not waiving any claims for past conduct that it may be unaware of.

9. OnMessage agrees to pay a total settlement of \$15,000 to the State for the alleged violations of RSA 664:16-a, I.

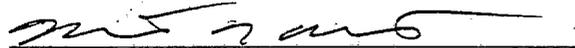
10. All payments shall be paid by check drawn in the name of "Treasurer, State of New Hampshire," and mailed to the Office of the Attorney General, 33 Capitol Street, Concord, New Hampshire 03301, Attn: Matthew G. Mavrogeorge, no later than March 1, 2012.

11. The effective date of this Consent Agreement shall be the date on which it is executed by the Office of the Attorney General.

12. This Consent Agreement shall be construed in accordance with the laws of the State of New Hampshire.

FOR: ONMESSAGE, INC.

Dated: January 13, 2012

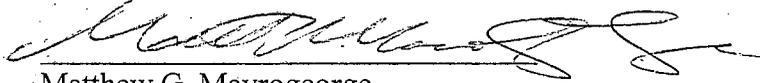


Brent M. Ahalt, Esq.
McNamee Hosea
6411 Ivy Lane, Suite 200
Greenbelt, MD 20770
(301) 441-2420

FOR: THE STATE OF NEW HAMPSHIRE

MICHAEL A. DELANEY
ATTORNEY GENERAL

Dated: January 17, 2012



Matthew G. Mavrogeorge
Assistant Attorney General
33 Capitol Street
Concord, New Hampshire 03301-6397
(603) 271-3650