SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

In the Matter of the Agreed Case: **THE PEOPLE OF THE STATE OF CALIFORNIA,** **and** **YP CORP., d/b/a YP.COM, YP.NET, and YELLOW-PAGE.NET, A Nevada Corporation, and TELCO BILLING, INC., a Nevada Corporation,**	Case No. **FINAL JUDGMENT PURSUANT TO AGREED CASE [C.C.P. § 1138, ET SEQ.]**

The People of the State of California (hereinafter "People") are represented by Bill Lockyer, Attorney General of the State of California, by and through Herschel T. Elkins, Special Assistant Attorney General and David M. Tiede, Deputy Attorney General. YP Corp., d/b/a YP.com, YP.net, and Yellow-Page.net, A Nevada Corporation, and Telco Billing, Inc., a Nevada Corporation, (YP Corp. and Telco Billing, Inc. are hereinafter collectively referred to as "YP") are represented by Perkins Coie LLP, by and through Katherine M. Dugdale.

The People of the State of California and YP have submitted a controversy without action upon an agreed case to the Court for determination and judgment pursuant to section 1138, et

seq., of the Code of Civil Procedure. The parties have agreed to submit the controversy prior to the taking of any proof and without this Final Judgment Pursuant to Agreed Case constituting evidence or an admission of any kind by YP regarding any issue set forth in the Agreed Statement, without YP admitting any liability or wrongdoing, or an admission by the People that it will be unable to prove its case at trial.

The Court having examined the Agreed Case and after due deliberation finds upon the facts submitted that judgment should be entered as follows:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. **JURISDICTION AND VENUE**. The Court has jurisdiction over the parties to this action, and finds that venue is proper.

2. **SCOPE**. The injunctive provisions of this Final Judgment Pursuant to Agreed Case ("Judgment") are entered pursuant to Business and Professions Code sections 17203 and 17535 relating to the use of activation checks in connection with the sale of advertising services and are applicable to YP Corp., a Nevada Corporation, and Telco Billing, Inc., a Nevada corporation, their officers, directors, employees, agents, servants, representatives, their successors and assigns, and all persons, corporations, partnerships, and other entities acting in concert or participating with either of them who have actual or constructive knowledge of this Judgment. This Judgment applies to natural persons only in their respective capacities as directors, officers, employees, agents, servants or representatives of YP Corp. or Telco Billing, Inc., or other relevant entity.

3. **DEFINITIONS**. The following definitions shall be used in interpreting the terms of this Judgment:

A. **Activation Check** means a negotiable instrument in the form of a check that, by its deposit, is intended by the sender or payor to evidence the acceptance by the recipient or payee of an offer to sell goods or services or the acceptance of an obligation to pay for any goods or services, or the establishment or activation of a relationship, which is reasonably expected to create a future obligation on the recipient or payee to pay for goods or services.

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B. **Bill or Billing** means the submission of any billing information to a third party billing processor or aggregator for the purpose of ultimate submission of that billing information to a customer's bank account, local exchange company (telephone company), credit card, or through any other automated billing channel intended to elicit payment by the customer, but, for purposes of this Judgment, does not include a written invoice delivered through the United States mail.

C. **Activation Check Customer** means any individual, business, church, institution, governmental agency or other organization which was initially solicited by YP Corp. or Telco Billing, Inc. on behalf of YP Corp., through an Activation Check, was subjected to billing by YP Corp. or Telco Billing, Inc., through an automated billing channel including a Local Exchange Company (LEC) or telephone bill, an automatic bank draft or ACH draft posted against the Activation Check Customer's bank account, or a recurring charge posted against the credit card and that made at least one payment to YP Corp. or Telco Billing, Inc.

D. **Current Activation Check Customer** means any Activation Check Customer which made a payment to YP Corp. or Telco Billing, Inc., directly or through a third party, during the billing cycle which expired immediately prior to the Effective Date of this Judgment or that billing cycle which includes December 1, 2006, whichever date is earlier in time, through or in response to any automated billing channel. Current Activation Check Customer does not include any customer whose payment during this same recent period was made by mailing a check to YP Corp. or Telco Billing, Inc., in response to a written invoice mailed to it by YP Corp. or Telco Billing, Inc.

E. **Effective Date** means the date this Judgment is filed with the Court.

F. **Merchandise** shall include any objects, wares, goods, commodities, intangibles, real estate, services or anything offered, directly or indirectly, to the public for sale.

G. **Represent** means to state, or to imply through statements, questions, conduct, graphics, symbols, lettering, formats, devices, language, documents, messages, or

through any other manner or means by which meaning might be conveyed. For purposes of this Judgment, this definition applies to other forms of the word "Represent," including without limitation "Representation." In determining the express or implied meaning of a Representation that appears from the outside of a mailing envelope, only matter visible without opening the envelope shall be considered.

H. **Settling States** are: Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Washington, West Virginia, and Wyoming.

I. The **State** means the Office of the Attorney General.

4. **INJUNCTIVE TERMS**.

A. **Promotional Practices**

(1) Termination of Use of Activation Checks. In connection with the advertisement, offer for sale or sale of goods or services, YP Corp. and Telco Billing, Inc., shall not, directly or indirectly, send to individuals, businesses, churches, institutions, governmental agencies or other organizations any solicitation that contains an Activation Check.

B. **Notification of Current Activation Check Customers**

(1) Notice to Current Activation Check Customers. YP Corp. and Telco Billing, Inc., shall not bill any Activation Check Customer for merchandise initially sold, in part or in full, through the use of an Activation Check unless and until YP Corp. and Telco Billing, Inc., mail to such customer the letter attached hereto and incorporated herein as Exhibit "A" in compliance with the following terms:

(a) Notice Mailing Requirements. YP Corp. and/or Telco Billing, Inc., shall mail to each Current Activation Check Customer the letter and envelope

attached hereto as Exhibit "A" by first class mail to the last known address of each Current Activation Check Customer. Also enclosed with the Exhibit "A" mailing shall be a return envelope addressed to YP Corp. Such mailing shall occur within twenty (20) days of the Effective Date of this Judgment. The letter and envelope attached hereto as Exhibit "A" shall have no other purpose and shall not contain any documents or other information not depicted by or expressly allowed by this sub-paragraph.

(b) Customer Service. YP Corp and Telco Billing, Inc., shall ensure that the telephone number reflected on Exhibit "A" as a "customer service" number is the same "customer service" number used in other contexts by YP Corp. and Telco Billing, Inc., so as to ensure that recipients of Exhibit "A" might also locate that "customer service" number through YP.com, YP.net., Yellow-Page.net, and other correspondence or communications between them and YP Corp. or Telco Billing, Inc. That "customer service" number shall be manned during regular business hours so that a recipient calling in response to Exhibit "A" may speak to a representative of YP Corp. or Telco Billing, Inc., following no more than one automated menu option.

(c) Returned Mail and Non-Mailable Addresses. YP Corp. and Telco Billing, Inc. shall inform the State of any mailing made of Exhibit "A" which is returned for either an incorrect or non-mailable address or due to a refusal by the apparent addressee to receive the mailing. YP Corp. and Telco Billing, Inc., shall not commence billing for the affected account unless and until they obtain reliable third party confirmation that the address is currently on file with the United States Postal Service as the valid and current address for the Current Activation Check Customer. Evidence of that confirmation shall be retained under the terms of this Judgment and made available to the State upon request. YP Corp. or Telco Billing, Inc., will mail (or re-mail) Exhibit "A" to any confirmed or corrected address prior to commencing any

billing effort, making such modifications as necessary to allow recipients or re-mailed recipients a sixty (60) day period to make any response.

(2) Reporting. YP Corp. and Telco Billing, Inc., shall retain all written responses to Exhibit "A" for a period of at least three years from the Effective Date. YP Corp. and/or Telco Billing, Inc., shall identify, within twenty (20) business days of receiving a request by the State, the name, address, telephone number, and account number of any customer which responded to Exhibit "A," along with the amount paid to that customer by YP Corp. or Telco Billing, Inc., and the date that payment was made. YP Corp. and/or Telco Billing, Inc., shall also provide, within twenty (20) days of receiving a request by the State, the name, address and telephone number associated with any customer account for which Exhibit "A" was returned to YP Corp. or Telco Billing, Inc., under paragraph 1(C) or any address confirmation obtained pursuant to paragraph 1(C) above.

(3) Handling of Redress Offered to Current Activation Check Customers. YP Corp. and Telco Billing, Inc., shall accept all qualified requests that were postmarked within sixty (60) days following the last date on which Exhibit "A" was mailed by first class mail.

(a) Qualified Requests. YP Corp. and Telco Billing, Inc., shall accept as "qualified" all requests for refunds which substantially comply with the requirements set forth in Exhibit "A." "Substantially complying" requests would include those requests which may be completed on copies of Exhibit "A" or replicated forms which otherwise reflect the content of the "refund request" portion of Exhibit "A," including the affirmation contained thereon.

(b) Payment to Qualified Requests for Refund. YP Corp. and Telco Billing, Inc., shall remain responsible for ensuring that payment of any requested refund shall be made under the terms of this Section and shall take all reasonable efforts to complete that payment. If, after reasonable efforts, a

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payment has not been made to a qualified Current Activation Check Customer, YP Corp. and Telco Billing, Inc., shall provide a written report to the State identifying such recipients and the efforts made to complete payment. Within ninety days of receiving such report, the State may direct payment by YP Corp. of those claimed amounts to any designated State agency responsible for holding unclaimed funds for the benefit of that qualified Current Activation Check Customer.

(4) Non-Exclusivity of Redress. Nothing in this Judgment shall be construed as limiting the ability of YP Corp. or Telco Billing, Inc., to offer additional refunds, credits or other redress which exceeds the requirements of this judgment. YP Corp. and Telco Billing, Inc., shall continue to honor any private agreements reached with individual customers in resolving any disputes, provided they offer at least the refunds described by Exhibit "A." YP Corp. will not, during the time period covered by the above-described notification process change the cancellation and refund policy that was in effect on August 31, 2006, and shall, if applicable, pay any higher amount in response to qualified requests. That policy included an unconditional refund upon request by an Activation Check Customer within 120 days from the date on which YP Corp. began providing its Internet Advertising Package services to the Activation Check Customer.

(5) Limitation on Collection Efforts. YP Corp. and Telco Billing, Inc., shall not, directly or indirectly, pursue collection of unpaid or past-due amounts owed on any account which was obtained through the deposit of an Activation Check, or represent that such collection may occur.

(6) Reporting. Within sixty (60) days following the conclusion of the 60-day notification period described above, YP Corp. and/or Telco Billing, Inc., shall provide to the State a record in electronic form (e.g., Microsoft Excel or other compatible database) itemizing all customers which responded to Exhibit "A,"

and the following details: their name, address, telephone number, account number, the date their response was postmarked, and the amount they were paid by YP Corp. or by Telco Billing, Inc. and the date that payment was mailed.

5. **MONETARY PROVISIONS**

A. Reimbursement and Redress Payment

(1) Payment. The Settling States shall recover and YP Corp. and Telco Billing, Inc., shall pay the amount of Two Million Dollars ($2,000,000.00). Such monies shall be paid by YP Corp. and Telco Billing, Inc., upon the filing of the parties' stipulation to the entry of this Judgment to the Attorney General of the State of Missouri on behalf of the Settling States. In the event such funds are not paid by the date on which this Judgment is filed, interest on any unpaid balance shall accrue at the rate of nine percent (9%) per annum from the date due until paid in full.

(2) Distribution. As soon as practicable following receipt of the above funds, the Attorney General of the State of Missouri shall cause such funds to be distributed among the Settling States pursuant to an agreement between and among the Settling States, to which YP Corp. and Telco Billing, Inc., are not parties, for the purposes of implementing restitution programs and being applied to their consumer protection efforts, reimbursement of their litigation costs, attorneys fees, and investigative costs. The Attorney General, in his sole discretion, shall determine the eligibility of recipients of restitution and the amount of restitution to all claimants who apply for restitution within six months from the date of this judgment. All amounts not paid as restitution pursuant to this Judgment shall, as permitted by the laws of the State, be used for investigations of possible violations of, and prosecutions for violations of Business and Professions Code section 17200 and deposited in the Unfair Competition Fund.

6. **RECORDS AND COMPLIANCE**

A. Provision of Records. Within twenty (20) business days of the Effective Date of

this Judgment, YP Corp. and Telco Billing, Inc., shall provide to the State:

(1) Current Activation Check Customer Records. A record in electronic form (e.g., Microsoft Excel or other compatible database) itemizing all Current Activation Check Customers (those customers to whom Exhibit "A" is to be mailed), including the following details: the customer's full name, address, telephone number, current billing method, and account number. Notwithstanding the above twenty (20) business day deadline, the foregoing record shall be provided by the date on which Exhibit "A" is mailed.

(2) Other Activation Check Customer Records. YP Corp. shall provide, within two business days of receipt of any request from one of the Settling States, the customer's full name, address, telephone number, current method of billing (if any), account number, the dates during which the customer's account was open, the total amount paid by the customer to YP Corp. or Telco Billing, Inc., since January 1, 2003, and any amount that was refunded, reimbursed or credited against those amounts paid prior to the Effective Date of this Judgment (i.e., any set-off asserted by YP Corp. or Telco Billing, Inc.). YP Corp. will accept such requests from a Settling State by e-mail, telefax or telephone, in addition to mail.

B. Availability of Records. In addition to all foregoing obligations to provide information or records to the States, YP Corp. and Telco Billing, Inc., shall maintain and make available to the State, upon its written request, all books, records and other documents reflecting the use of any Activation Check or any account created following the use of an Activation Check or which otherwise reflect the implementation of the terms of this Judgment and compliance with its terms. Any such records requested by the State shall be made available for inspection within twenty (20) business days. YP Corp. and Telco Billing, Inc., shall honor any request from the State to make such records available without further legal process.

7. **GENERAL AND ADMINISTRATIVE PROVISIONS**

A. Modification. Jurisdiction is retained for the purpose of enabling any party to this

Judgment to apply to the Court at any time for such further orders and directions as might be necessary or appropriate for the modification, construction, or carrying out of the injunctive provisions of this Judgment, or for the enforcement of and the punishment of violations of any provisions hereof. The parties by stipulation may agree to a modification of this Judgment, which agreement shall be presented to this Court for consideration, provided that the parties may jointly agree to a modification only by a written instrument signed by or on behalf of both the State and YP Corp. and Telco Billing, Inc.

Any party to this Judgment may petition the Court for modification on thirty (30) days' notice to all other parties to this Judgment. If YP Corp. or Telco Billing, Inc., wishes to seek a stipulation for a modification from the State, it shall send a written request for agreement to such modification to the Attorney General of the State at least thirty (30) days prior to filing a motion with the Court for such modification.

B. Modification for Conflict of Law. If, after the Effective Date of this Judgment, the State, its Attorney General, or any agency of the State charged with the administration of its consumer protection statutes, enacts or promulgates legislation, rules, or regulations with respect to the matters governed by this Judgment that conflict with any provision of this Judgment, including, specifically allowing, under certain conditions, that which is prohibited under this Judgment, or if the applicable law of the State shall otherwise change so as to conflict with any provision of this Judgment, the Attorney General of such State shall not unreasonably withhold its consent to the modification of such provision to the extent necessary to eliminate such conflict.

Laws, rules, or regulations, or other change in State law, with respect to the matters governed by this Judgment, shall be deemed to "conflict" with a provision of this Judgment if YP Corp. and Telco Billing, Inc., cannot reasonably comply with both such law, rule, or regulation and an applicable provision of this Judgment. If YP Corp. and Telco Billing, Inc. believe that they cannot reasonably comply both with this Judgment and with applicable federal law, rules, or regulation, they may seek

modification hereof.

C. Release of Claims. The State acknowledges by its execution hereof that this Judgment constitutes a complete settlement and release of all civil claims on behalf of the State against YP Corp. and Telco Billing, Inc., and all of their officers, directors, employees, agents, servants, representatives, and their successors and assigns (all such released parties shall be collectively referred to as the "Releasees"), with respect to all claims and causes of action which were asserted or which could have been asserted prior to the Effective Date under the above-cited consumer protection statutes and which were based upon the use of Activation Checks. The State agrees that it shall not proceed with or institute any additional civil action or proceeding based upon the above-cited consumer protection statutes against the Releasees (including but not limited to an action or proceeding seeking restitution, injunctive relief, fines, penalties, attorneys' fees, costs, or other relief) for the use of any Activation Check by the Releasees prior to the Effective Date.

Notwithstanding the foregoing, the State may institute an action or proceeding to enforce the terms and provisions of this Judgment or to take action based on future conduct by the Releasees. YP Corp. and Telco Billing, Inc., acknowledge that a violation of this Judgment may be evidence of a violation of state law.

D. Preservation of Law Enforcement Action. Nothing herein precludes the State from enforcing the provisions of this Judgment, or from pursuing any law enforcement action with respect to the acts or practices of YP Corp. or Telco Billing, Inc., not covered by this Judgment or any acts or practices conducted after the Effective Date of this Judgment.

E. Compliance with and Application of State Law. Nothing in this Judgment will be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State. Accordingly, nothing herein relieves YP Corp. and Telco Billing, Inc., of their continuing duty to comply with applicable laws of the State nor constitutes authorization by the State for YP Corp. or Telco Billing, Inc., to engage

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in acts and practices prohibited by such laws. This Judgment shall be governed by the laws of the State.

F. Non-Admission. This Judgment shall not be construed as, or deemed to be evidence of, an admission or concession on the part of YP Corp. or Telco Billing, Inc., of any liability or wrongdoing whatsoever, which is hereby expressly denied and disclaimed by YP Corp. and Telco Billing, Inc.

G. Past and Future Pactices. Nothing herein constitutes approval by the State of YP Corp.'s or Telco Billing, Inc.'s past or future practices. YP Corp. and Telco Billing, Inc., shall not make any representation contrary to this paragraph.

H. No Change to Substantive Rights. Nothing herein shall be construed to waive, modify or change any substantive rights of other persons or entities against YP Corp. or Telco Billing, Inc., or of YP Corp. or Telco Billing, Inc., against other persons or entities with respect to the acts and practices covered by this Judgment.

I. Representations and Warranties. YP Corp. and Telco Billing, Inc., represent and warrant that they ceased the mailing of Activation Checks by 5:00 p.m. P.S.T. on October 30, 2006. YP Corp. and Telco Billing, Inc., further represent and warrant that they will implement the terms of this Judgment in good faith and will advise the State of any errors or omissions in the implementation discovered by them. YP Corp. and Telco Billing, Inc., acknowledge the State's reliance on the foregoing representations.

J. Assessment of Court Costs. Any court costs which may be assessed in this action, including any filing fees or other charges, shall be assessed against YP Corp. and Telco Billing, Inc. No charges shall be assessed against the State.

8. This Judgment shall take effect immediately upon entry hereof.

9. The clerk is ordered to enter this Judgment forthwith.

DATED:

JUDGE OF THE SUPERIOR COURT