

STATE OF NEW YORK  
DEPARTMENT OF STATE  
In the Matter of a Proceeding Pursuant to Articles 26  
of the General Business Law and  
Regulations promulgated thereunder,

CONSENT ORDER

- by-

File #11 DNC 04  
#14 DNC 1654

Sirius XM Radio, Inc.

Respondent.

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1. The New York State Department of State (the "Department") is an executive agency of the State of New York charged with the regulation of the "Do Not Call" law and the enforcement of Article 26 of the General Business Law.
2. This enforcement action and proceeding against Sirius XM Radio, Inc. ("Sirius") was initiated based upon a review of complaints received by the Department alleging violations of the Do Not Call Registry, in violation of General Business Law § 399-z and 21 New York Codes, Rules and Regulations (NYCRR), Parts 4602 and 4603.
3. The Department alleges that Sirius has apparently violated New York General Business Law § 399-z and 21 NYCRR Parts 4602 and 4603 by making no less than thirty (30) unsolicited telemarketing sales calls to thirty five (35) consumers whose telephone numbers were validly registered on the Do Not Call Registry.
4. The Department's staff conducted an investigation, which investigation resulted in commencement of the above-captioned administrative proceeding.
5. Sirius has been advised of its right to be represented by an attorney and it is represented by Clayton S. Friedman, Attorney at Law, of Manatt, Phelps & Phillips, LLP with an office address located at 695 Town Center Drive, 14<sup>th</sup> Floor, Costa Mesa, California 92626.
6. By executing this Consent Order, Sirius 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.
7. Sirius enters into this agreement in order to resolve a disputed matter. Sirius agrees that the violations alleged in the Department's Notice of Apparent Liability (11 DNC 04) and Amended Notice of Apparent Liability (14 DNC 1654), 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:

To resolve the Department's allegations that Sirius made no less than thirty (30) unsolicited telemarketing sales calls to thirty five (35) consumers whose telephone numbers were validly registered on the National Do Not Call Registry, in violation of New York General Business Law Section 399-z and 21 NYCRR Parts 4602 and 4603, Sirius agrees to a settlement payment in the amount of \$500.00 per alleged call, for a total payment due of **\$15,000.00**.

*NOW*, in consideration of the above premises, it is **ORDERED**:

1. That Sirius shall return the fully executed and notarized Consent Order such that same is received by the Department on or before January 31, 2015. The mailing address to send the Consent Order is: NYS Department of State, Division of Licensing Services, Attn: John E. Kenny, Senior Attorney, One Commerce Plaza, 99 Washington Avenue, 5<sup>th</sup> Floor, Albany, NY 12231.
2. That Sirius shall pay **\$15,000.00 (Fifteen Thousand Dollars)**, on or before January 31, 2015. Said payment must be in the **form of a check from Manatt, Phelps & Phillips Client Trust Account**, payable to NYS Department of State.
3. That upon execution of this Order by the Secretary of State or his designee, the Notice of Apparent Liability and Amended Notice of Apparent Liability in this matter shall be terminated, withdrawn and discontinued with prejudice with respect to Sirius in accordance with the terms hereof.
4. That the Consent Order herein expressly depends upon representations made by Sirius 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 action it deems appropriate in the administrative, civil or criminal prosecution of Sirius.
5. 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 Sirius and its counsel with a fully executed copy of this Order as soon as practicable after the Secretary of State signs the same.
6. The failure of Sirius 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 an administrative hearing for the purpose of determining whether additional penalties should be imposed due to Sirius' default and failure to perform an obligation under this Order.
7. 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.

8. 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 Sirius, 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 Sirius.
9. By entering into this Order, the Department expressly waives and releases Sirius from all claims or liability arising out of the allegations at issue in File #11 DNC 04 and File #14 DNC 1654, 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. The Department also agrees to vacate the Department's Decision and Order in this matter dated September 4, 2014.

Dated:

1/12/15

New York, New York

NEW YORK STATE  
DEPARTMENT OF STATE

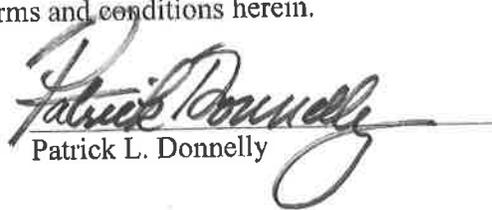
By: 

David Mossberg  
Associate Attorney



**CONSENT OF PATRICK L. DONNELLY**

Patrick L. Donnelly, Executive Vice President, General Counsel and Secretary, on behalf of Sirius XM Radio, Inc., hereby consents to the issuing and entering of this Order, waives his right to a hearing and agrees to be bound by the terms and conditions herein.

  
Patrick L. Donnelly

STATE OF NEW YORK    )  
  )    ss.:  
COUNTY OF                    )

On this 9<sup>th</sup> day of January in the year 2015 before me, the undersigned, personally appeared Patrick L. Donnelly, 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  
Paul Malangone  
Commission Expires 10-29-16