

**STATE OF NEW YORK  
DEPARTMENT OF STATE**

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

**CONSENT ORDER**  
**File No. 2012-2121**

- by-

**ACADEMY CHIMNEY CONTRACTING, INC.**  
**DbA ACADEMY CHIMNEY,**  
**Respondent**

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1. The New York State Department of State, Division of Licensing Services (the "Department") is a department of the State of New York charged with administration and enforcement of General Business Law § 399-z and 21 New York Codes, Rules and Regulations (NYCRR) Parts 4602 and 4603.
2. An enforcement action and proceeding against ACADEMY CHIMNEY CONTRACTING, INC., dba ACADEMY CHIMNEY ("Company") was initiated based upon 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's investigation confirms that Company has apparently violated New York General Business Law (GBL) Section 399-z and 21 NYCRR Parts 4602 and 4603 by making no less than nineteen (19) unsolicited telemarketing sales calls to nineteen (19) consumers whose telephone numbers were validly registered on the National Do Not Call Registry.
4. Company has been advised of their right to be represented by counsel, and has elected through the authorized representative, owner, Timothy Doran, to represent themselves *pro se* in these proceedings.
5. By executing this Consent Order, Company affirmatively waives the 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.
6. Company enters into this agreement in order to resolve a disputed matter. Company affirms that all violations alleged in the Department's Notice of Apparent Liability, 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 the Company made no less than nineteen (19) unsolicited telemarketing sales calls to nineteen (19) consumers whose telephone numbers were validly registered on the National Do Not Call Registry, in violation of New York General Business Law (GBL) Section 399-z and 21 NYCRR Parts 4602 and 4603, Company agrees that a fine shall be entered against Company in the amount of **Nineteen Thousand (\$19,000) Dollars.**

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

1. That **Respondent Company shall execute and forward the within Consent Order to the NYS Department of State, Office of General Counsel, Attn: Linda D. Cleary, Esq., One Commerce Plaza, 99 Washington Avenue, 5<sup>th</sup> Fl., Albany, NY 12231, so that the original of same is received on or before March 7, 2016, or this agreement shall be considered void and of no effect.**
2. **The Department agrees to grant a stay of execution, or enforcement of the fine entered against Company by reason of this Consent Order, provided that Company immediately ceases all operations within the State of New York. If after the effective date of this Consent Order, Company, its' owners, agents, employees, successors and assigns or other persons, firms, corporations acting under or for Company conduct any business within the State of New York, then such stay may, at the Department's discretion, be vacated without any prior notice to Company.**

**In the event that the stay provided for in the preceding paragraph is vacated, Company shall pay such fines as required by this Consent Order within 30 days' notice as directed by the Department. UNLESS OTHERWISE SPECIFIED BY LATER WRITTEN NOTICE, ALL PAYMENTS MUST BE IN THE FORM OF ATTORNEY'S CHECK, CASHIER'S/CERTIFIED CHECK OR MONEY ORDER. PERSONAL OR BUSINESS CHECKS ARE NOT ACCEPTABLE. The mailing address for all payments is: NYS Department of State, Office of General Counsel, Attn: Linda D. Cleary, Esq., One Commerce Plaza, 99 Washington Avenue, 5<sup>th</sup> Fl., Albany, NY 12231.**

3. That upon execution of this Order by the Secretary of State or his designee, the disciplinary file involving the referenced telemarketing calls, being pursued by virtue of issuance of a Notice of Apparent Liability in this matter, shall be terminated, withdrawn and discontinued with prejudice with respect to Company in accordance with the terms hereof.
4. That the Consent Order herein expressly depends upon representations made by the Company, 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 of State. If any such representation is determined to be limited, inaccurate or untruthful, the Department of State shall not be bound by the terms herein and shall initiate any action it deems appropriate in the administrative, civil or criminal prosecution of the Company.
5. The effective date of this Order shall be the date on which the Secretary of State or his designee signs the same and shall expire when Company has fully complied with the requirements of this Order. The Department will provide Company or Company's 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 Company to comply fully and in a timely fashion with any provision of this Consent Order shall constitute a default and a failure to perform an obligation under this Consent Order. Such default shall result in an administrative hearing for the purpose of determining whether additional penalties should be imposed due to Company's 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 intent to modify this Order.
8. The provisions of this Order shall be deemed to bind Respondents, Respondents' agents, employees, successors and assigns and all persons, firms, corporations acting under or for the Respondents;
9. 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 Company; (2) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Order; (3) any right of the Department to bring any future action, either administrative or judicial for any other violations of the General Business Law or conditions contained in orders if any, issued by the Department to Company.

Dated: 2/29/2016  
New York, New York

NEW YORK STATE  
DEPARTMENT OF STATE

By:   
David A. Mossberg, Esq.

**CONSENT OF ACADEMY CHIMNEY CONTRACTING, INC.,**  
**by and through Timothy Doran, designated agent and owner**

Respondent **ACADEMY CHIMNEY CONTRACTING, INC., dba ACADEMY CHIMNEY, by and through designated agent, and owner Timothy Doran**, hereby consents to the issuing and entering of this Order, waives the right to a hearing and agrees to be bound by the terms and conditions herein.

**ACADEMY CHIMNEY CONTRACTING, INC.**  
**DbA ACADEMY CHIMNEY**

By:   
Timothy Doran, owner

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

On this 25<sup>th</sup> day of February in the year 2016 before me, the undersigned, personally appeared Timothy Doran, 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.

  
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Notary Public

NICOLE MANN  
Notary Public - State of New York  
No. 01MA6318699  
Qualified in Albany  
My Commission Exp. 02/02/2019