

STATE OF NEW YORK  
DEPARTMENT OF STATE

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

- by-

**CONSENT ORDER**

15-DNC-0149

FAMILY ENERGY, INC.  
GERRY HAGGARTY <sup>1</sup>

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1. The New York State Department of State (“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. Respondent Family Energy, Inc. (“Company”) is a domestic business corporation with an address of 77 Water Street, 8<sup>th</sup> Floor, New York, NY 10005.
3. The Department of State’s Division of Consumer Protection received numerous complaints stating that Company violated the Do Not Call law.
4. The Department’s staff conducted an investigation, which investigation resulted in commencement of the above-captioned administrative proceeding.
5. The Company has been advised of its right to be represented by an attorney and is represented by Thomas Puchner, Esq., Phillips Lytle LLP, Omni Plaza, 30 South Pearl Street, Albany, NY 12207-3425.
6. 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 Consent Order and agrees to be bound by the terms, provisions and conditions contained herein.
7. 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 by Company 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 Company made no less forty-six (46) unsolicited telemarketing sales calls to twenty (20) consumers whose telephone numbers

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<sup>1</sup> This is the caption as it appeared in the Notice of Apparent Liability in this matter. Gerry Haggarty has been released as a defendant. The caption remains the same for consistency.

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 to a settlement for a total payment due of **\$23,000.00**.

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

1. The Consent Order is being entered into by Company to avoid the burden and expense of further proceedings, and the uncertainty of further litigation. Company enters this Consent Order as a compromise and settlement of the Department's allegations herein.
2. That Company shall execute and forward the within Consent Order to the **NYS Department of State, Division of Consumer Protection, Attn: Paula J. O'Brien, Esq., One Commerce Plaza, 99 Washington Avenue, Suite 640, Albany, NY 12231**, so that the original of same is received on or before **January 12, 2017**;
3. That Company shall be ordered to pay a fine in the amount of twenty-three thousand dollars (**\$23,000.00**) made payable to: "**NYS Department of State**" by certified check, postal money order, or by check drawn on its attorney's trust account. Company is ordered to return the same so that it is received by Department on or before **January 12, 2017**.
4. That upon execution of this Consent Order by the Secretary of State or her designee, the Complaint/Notice of Apparent Liability and the accompanying enforcement action and proceeding in this matter shall be terminated, withdrawn and discontinued with prejudice with respect to the Company in accordance with the terms hereof;
5. Gerry Haggarty is released as a Respondent with no findings made against him in this action.
6. 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;
7. The effective date of this Consent Order shall be the date on which the Secretary of State or her designee signs the same and shall expire when Company has fully complied with the requirements of this Consent Order. The Department will provide Company or Company's counsel with a fully executed copy of this Consent Order as soon as practicable after the Secretary of State signs the same;
8. The failure of Company to comply fully and in 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

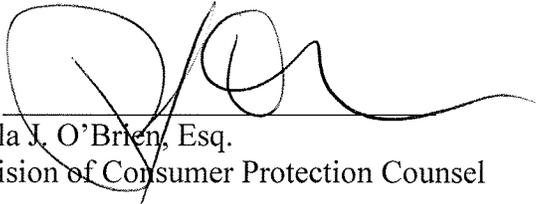
determining whether additional penalties should be imposed due to the Company's default and failure to perform an obligation under this Consent Order;

9. This Consent 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 her designee indicating an intent to modify this Consent Order;
10. Nothing contained in this Consent 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 and Haggarty; (2) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Consent Order; (3) any right of the Department to bring any future action, either administrative or judicial, for any other violations of the applicable laws, the implementing regulations or conditions contained in orders if any, issued by the Department to Company.
11. By entering into this Order, the Department expressly waives and releases Company from all claims or liability arising out of the allegations at issue in File #15-DNC-0149, 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.

Dated:

January 10, 2017  
Albany, New York

NEW YORK STATE  
DEPARTMENT OF STATE

By: 

Paula J. O'Brien, Esq.

Division of Consumer Protection Counsel

CONSENT OF FAMILY ENERGY INC.

Respondent FAMILY ENERGY INC. hereby consents to the issuing and entering of this Order, waives its right to a hearing and agrees to be bound by the terms and conditions herein.

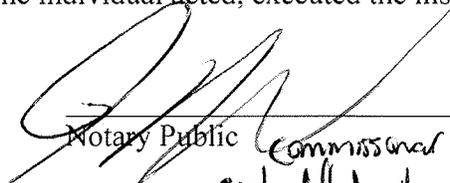
Consent of:

By: 

Gerry Haggarty, President  
Family Energy Inc.

~~STATE OF~~ Ontario )  
~~Province~~ )  
 ) ss.:  
~~COUNTY OF~~ Mississauga )  
~~City~~ )

On this 10 day of January in the year 2017 before me, the undersigned, personally appeared G. Haggarty, 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 Commissioned for Taking Oaths  
and Affidavits - LSUC #07465