

Todd M. Friedman (SBN 216752)  
Adrian R. Bacon (SBN 280332)  
LAW OFFICES OF TODD M. FRIEDMAN, P.C.  
21550 Oxnard St., Suite 780  
Woodland Hills, CA 91367  
Phone: 323-306-4234  
Fax: 866-633-0228  
[tfriedman@toddfllaw.com](mailto:tfriedman@toddfllaw.com)  
[abacon@toddfllaw.com](mailto:abacon@toddfllaw.com)

*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

TERRY FABRICANT, individually and on behalf of all others similarly situated,  Plaintiff,  vs.  INVESTMENT FRAUD PROTECTION BUREAU, and DOES 1 through 10, inclusive,  Defendant.	) Case No. ) ) <b><u>CLASS ACTION</u></b> ) ) <b>COMPLAINT FOR VIOLATIONS OF:</b> ) ) 1. Negligent Violations of the Telephone Consumer Protection Act [47 U.S.C. §227(b)] ) 2. Willful Violations of the Telephone Consumer Protection Act [47 U.S.C. §227(b)] ) ) <b><u>DEMAND FOR JURY TRIAL</u></b>
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Plaintiff TERRY FABRICANT (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

**NATURE OF THE CASE**

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of Defendants INVESTMENT FRAUD

1 PROTECTION BUREAU (hereinafter “Defendant”), in negligently, knowingly,  
2 and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of  
3 the Telephone Consumer Protection Act, *47 U.S.C. § 227 et seq.* (“TCPA”) and  
4 related regulations, thereby invading Plaintiff’s privacy.

5 **JURISDICTION & VENUE**

6 2. Jurisdiction is proper under *28 U.S.C. § 1332(d)(2)* because Plaintiff,  
7 an individual residing in California, seeks relief on behalf of a Class, which will  
8 result in at least one class member belonging to a different state than that of  
9 Defendant, a company incorporated in the State of Wyoming and based in the State  
10 of California. Plaintiff also seeks up to \$1,500.00 in damages for each call in  
11 violation of the TCPA, which, when aggregated among a proposed class in the  
12 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.  
13 Therefore, both diversity jurisdiction and the damages threshold under the Class  
14 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

15 3. Venue is proper in the United States District Court for the Central  
16 District of California pursuant to *28 U.S.C. § 1391(b)(2)* because Defendant does  
17 business within the State of California and Plaintiff resides within the County of  
18 Los Angeles.

19 **PARTIES**

20 4. Plaintiff TERRY FABRICANT is an individual living in Los Angeles  
21 County, California and is a “person” as defined by *47 U.S.C. § 153 (39)*.

22 5. Defendant INVESTMENT FRAUD PROTECTION BUREAU is a  
23 company offering alternative investment research for investors and is a “person” as  
24 defined by *47 U.S.C. § 153 (39)*.

25 6. The above named Defendant, and its subsidiaries and agents, are  
26 collectively referred to as “Defendants.” The true names and capacities of the  
27 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
28 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious

1 names. Each of the Defendants designated herein as a DOE is legally responsible  
2 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
3 Complaint to reflect the true names and capacities of the DOE Defendants when  
4 such identities become known.

5 7. Plaintiff is informed and believes that at all relevant times, each and  
6 every Defendant was acting as an agent and/or employee of each of the other  
7 Defendants and was acting within the course and scope of said agency and/or  
8 employment with the full knowledge and consent of each of the other Defendants.  
9 Plaintiff is informed and believes that each of the acts and/or omissions complained  
10 of herein was made known to, and ratified by, each of the other Defendants.

11 **FACTUAL ALLEGATIONS**

12 8. Beginning in or around April 4, 2019, Defendants contacted Plaintiff  
13 on Plaintiff's cellular telephone numbers ending in -8950 in an attempt to solicit  
14 Plaintiff to purchase Defendants' services.

15 9. Defendants used an "automatic telephone dialing system" as defined  
16 by *47 U.S.C. § 227(a)(1)* to place its calls to Plaintiff seeking to solicit its services.

17 10. Defendants contacted or attempted to contact Plaintiff from telephone  
18 numbers belonging to Defendants, including without limitation (424) 757 – 6528.

19 11. Defendants' calls constituted calls that were not for emergency  
20 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

21 12. Defendants' calls were placed to telephone number assigned to a  
22 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
23 pursuant to *47 U.S.C. § 227(b)(1)*.

24 13. During all relevant times, Defendants did not possess Plaintiff's "prior  
25 express consent" to receive calls using an automatic telephone dialing system or an  
26 artificial or prerecorded voice on its cellular telephones pursuant to *47 U.S.C. §*  
27 *227(b)(1)(A)*.

28 14. Defendant's calls soliciting its business to Plaintiff constitute

1 solicitation calls pursuant to 47 C.F.R. § 64.1200(c)(2) as they were attempts to  
2 promote or sell Defendant's services.

3 **CLASS ALLEGATIONS**

4 15. Plaintiff brings this action individually and on behalf of all others  
5 similarly situated, as a member the class concerning the ATDS claim for no prior  
6 express consent (hereafter "The Class") is defined as follows:

7 All persons within the United States who received any  
8 solicitation/telemarketing telephone calls from  
9 Defendants to said person's cellular telephone made  
10 through the use of any automatic telephone dialing  
11 system or an artificial or prerecorded voice and such  
12 person had not previously consented to receiving such  
13 calls within the four years prior to the filing of this  
14 Complaint

15 16. Plaintiff represents, and is a member of, The Class, consisting of all  
16 persons within the United States who received any solicitation telephone calls from  
17 Defendants to said person's cellular telephone made through the use of any  
18 automatic telephone dialing system or an artificial or prerecorded voice and such  
19 person had not previously not provided their cellular telephone number to  
20 Defendants within the four years prior to the filing of this Complaint.

21 17. Defendants, their employees and agents are excluded from The Class.  
22 Plaintiff does not know the number of members in The Class, but believes the Class  
23 members number in the thousands, if not more. Thus, this matter should be  
24 certified as a Class Action to assist in the expeditious litigation of the matter.

25 18. The Class is so numerous that the individual joinder of all of its  
26 members is impractical. While the exact number and identities of The Class  
27 members are unknown to Plaintiff at this time and can only be ascertained through  
28 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
The Class includes thousands of members. Plaintiff alleges that The Class

1 members may be ascertained by the records maintained by Defendants.

2 19. Plaintiff and members of The Class were harmed by the acts of  
3 Defendants in at least the following ways: Defendants illegally contacted Plaintiff  
4 and The Class members via their cellular telephones thereby causing Plaintiff and  
5 The Class members to incur certain charges or reduced telephone time for which  
6 Plaintiff and The Class members had previously paid by having to retrieve or  
7 administer messages left by Defendants during those illegal calls, and invading the  
8 privacy of said Plaintiff and The Class members.

9 20. Common questions of fact and law exist as to all members of The  
10 Class which predominate over any questions affecting only individual members of  
11 The Class. These common legal and factual questions, which do not vary between  
12 ATDS Class members, and which may be determined without reference to the  
13 individual circumstances of any ATDS Class members, include, but are not limited  
14 to, the following:

- 15 a. Whether, within the four years prior to the filing of this  
16 Complaint, Defendants made any telemarketing/solicitation  
17 call (other than a call made for emergency purposes or made  
18 with the prior express consent of the called party) to a ATDS  
19 Class member using any automatic telephone dialing system or  
20 any artificial or prerecorded voice to any telephone number  
21 assigned to a cellular telephone service;
- 22 b. Whether Plaintiff and The Class members were damaged  
23 thereby, and the extent of damages for such violation; and
- 24 c. Whether Defendants and their agents should be enjoined from  
25 engaging in such conduct in the future.

26 21. As a person that received numerous telemarketing/solicitation calls  
27 from Defendants using an automatic telephone dialing system or an artificial or  
28 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting

1 claims that are typical of The Class.

2 22. Plaintiff will fairly and adequately protect the interests of the members  
3 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
4 class actions.

5 23. A class action is superior to other available methods of fair and  
6 efficient adjudication of this controversy, since individual litigation of the claims  
7 of all Class members is impracticable. Even if every Class member could afford  
8 individual litigation, the court system could not. It would be unduly burdensome  
9 to the courts in which individual litigation of numerous issues would proceed.  
10 Individualized litigation would also present the potential for varying, inconsistent,  
11 or contradictory judgments and would magnify the delay and expense to all parties  
12 and to the court system resulting from multiple trials of the same complex factual  
13 issues. By contrast, the conduct of this action as a class action presents fewer  
14 management difficulties, conserves the resources of the parties and of the court  
15 system, and protects the rights of each Class member.

16 24. The prosecution of separate actions by individual Class members  
17 would create a risk of adjudications with respect to them that would, as a practical  
18 matter, be dispositive of the interests of the other Class members not parties to such  
19 adjudications or that would substantially impair or impede the ability of such non-  
20 party Class members to protect their interests.

21 25. Defendants have acted or refused to act in respects generally  
22 applicable to The Class, thereby making appropriate final and injunctive relief with  
23 regard to the members of the Class as a whole.

24 **FIRST CAUSE OF ACTION**

25 **Negligent Violations of the Telephone Consumer Protection Act**

26 **47 U.S.C. §227(b).**

27 **On Behalf of Plaintiff and The Class**

28 26. Plaintiff repeats and incorporates by reference into this cause of action

1 the allegations set forth above.

2 27. The foregoing acts and omissions of Defendants constitute numerous  
3 and multiple negligent violations of the TCPA, including but not limited to each  
4 and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular  
5 *47 U.S.C. § 227 (b)(1)(A)*.

6 28. As a result of Defendants’ negligent violations of *47 U.S.C. § 227(b)*,  
7 Plaintiff and the Class Members are entitled an award of \$500.00 in statutory  
8 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

9 29. Plaintiff and The Class members are also entitled to and seek  
10 injunctive relief prohibiting such conduct in the future.

11 **SECOND CAUSE OF ACTION**

12 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

13 **Act**

14 **47 U.S.C. §227(b)**

15 **On Behalf of Plaintiff and The Class**

16 30. Plaintiff repeats and incorporates by reference into this cause of action  
17 the allegations set forth above.

18 31. The foregoing acts and omissions of Defendants constitute numerous  
19 and multiple knowing and/or willful violations of the TCPA, including but not  
20 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*,  
21 and in particular *47 U.S.C. § 227 (b)(1)(A)*.

22 32. As a result of Defendants’ knowing and/or willful violations of *47*  
23 *U.S.C. § 227(b)*, Plaintiff and The Class members are entitled an award of  
24 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*  
25 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

26 33. Plaintiff and the Class members are also entitled to and seek injunctive  
27 relief prohibiting such conduct in the future.

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

**FIRST CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227(b)**

- As a result of Defendants’ negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and The Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*.
- Any and all other relief that the Court deems just and proper.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection**

**Act**

**47 U.S.C. §227(b)**

- As a result of Defendants’ willful and/or knowing violations of *47 U.S.C. §227(b)(1)*, Plaintiff and The Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and *47 U.S.C. §227(b)(3)(C)*.
- Any and all other relief that the Court deems just and proper.

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**JURY DEMAND**

34. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 7th day of October, 2020.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman  
Todd M. Friedman  
Law Offices of Todd M. Friedman  
Attorney for Plaintiff

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