

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

STATE OF WISCONSIN
17 West Main Street
Post Office Box 7857
Madison, Wisconsin 53707-7857,

Plaintiff,

Complex Forfeiture: 30109

v.

N.C.W.C., INC.
3430 Sunset Avenue, Suite 15
Ocean, New Jersey 07712,

Defendant.

SUMMONS

THE STATE OF WISCONSIN

To each person named above as a defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this summons, you must respond with a written answer, as that term is used in Wis. Stat. ch. 802, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is Dane County Circuit Court, 215 South Hamilton Street, Madison, Wisconsin, 53703, and to Assistant Attorney General Lewis W. Beilin, plaintiff's attorneys, whose address

is Department of Justice, Post Office Box 7857, Madison, Wisconsin, 53707-7857. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 4th day of April, 2022.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

s/ Lewis W. Beilin
LEWIS W. BEILIN
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STATE OF WISCONSIN,

Plaintiff,

Complex Forfeiture: 30109

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Defendant.

COMPLAINT

The State of Wisconsin, by its attorneys, Attorney General Joshua L. Kaul, and Assistant Attorney General Lewis Beilin, upon referral from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), brings this action against the Defendants named above and alleges as follows:

JURISDICTION AND VENUE

1. This action is brought pursuant to Wis. Stats. §§ 100.20(6) and 100.52 to enforce and restrain violations of Wis. Stat. § 100.52 and Wis. Admin. Code §§ ATCP 127.81 and 127.82.

2. Venue is proper in Dane County because it is a county where the Defendants have done substantial business, and it is a county where at least one of the claims arose. Wis. Stat. § 801.50(2)(a) and (c).

PARTIES

3. Plaintiff, State of Wisconsin, has its principal offices in Madison, Wisconsin. The Wisconsin Department of Justice is located at 17 West Main Street, Madison, Wisconsin 53703.

4. Defendant, N.C.W.C. Inc. (“N.C.W.C.”), is a New Jersey business corporation with its principal place of business at 3430 Sunset Avenue, Suite 15, Ocean, New Jersey 07712. N.C.W.C.’s registered agent in New Jersey is Corporation Service Company, located at 100 Charles Ewing Boulevard (Princeton South Corporate Center, Suite 160, Ewing, New Jersey 08628.

5. N.C.W.C. has registered, and upon information and belief has used the following trade names: Safecar, Got Warranty, Heritage Automotive Protection, Liberty Automotive Protection, Warranty World, Dealer Services, and Dealer Services Marketing Co.

6. The Owner, C.E.O. and Secretary of N.C.W.C. is Mr. Michael Shaftel, who resides at 200 East Palmetto Park Road, Apt. 904, Boca Raton, Florida 33432-5623.

7. Upon information and belief, until October 18, 2021, Mr. Shaftel was also the President of N.C.W.C. Mr. Haytham Elzayn has been the President of N.C.W.C. since October 18, 2021.

8. N.C.W.C. has never been registered to do business in Wisconsin with the Wisconsin Department of Financial Institutions.

FACTUAL ALLEGATIONS

9. N.C.W.C. is a nationwide provider of aftermarket extended vehicle service contracts.

10. The contracts that N.C.W.C. markets are administered by Palmer Administrative Services, Inc., d/b/a Palmer Administration (“Palmer”), a Delaware corporation that has its principal place of business at the same location as N.C.W.C.: 3430 Sunset Avenue, Ocean, New Jersey 07712.

11. Palmer and N.C.W.C. have been, and upon information and belief remain under the common ownership of Michael Shaftel.

12. N.C.W.C. has never been registered as a telephone solicitor in Wisconsin.

13. Between July 12, 2017, and January 11, 2018, and between March 30, 2018, and April 23, 2018, N.C.W.C. made 19,994 telephone solicitations to Wisconsin consumers for the purpose of marketing vehicle service plans.

14. When it made the calls described in paragraph 13, N.C.W.C. used the trade name “Safecar.”

15. Of those 19,994 telephone solicitations, 4,144 were made to Wisconsin consumers on the Do-Not-Call registry at the time the calls were made.

16. In addition to conducting telemarketing directly, N.C.W.C. has contracted with over 40 other companies to market Palmer-administered vehicle service plans using what N.C.W.C. calls its proprietary “Program.”

17. N.C.W.C. has entered into what it has characterized as a standardized “Sales Representative Agreement” with these other companies.

18. These contracted marketing companies include, but are not limited to American Vehicle Protection of Fort Lauderdale, FL; Consumer Auto Protection Plans of Boca Raton, FL; Accelerated Business Systems of Lewes, DE; Liberty Automotive Protection of Ocean, NJ; Rapid Marketing, LLC d/b/a DRIVUS of O’Fallon, MO; Complete Auto Care of Las Vegas, NV; Convoso, Inc. of Woodland Hills, CA; Ox Car Care, Inc. of Irvine, CA; CarGuard Administration of Phoenix, AZ; and USA Auto Protection, LLC of St. Louis, MO.

19. A list of vendor marketing companies who have entered into Sales Representative Agreements with N.C.W.C. is attached hereto as **Exhibit 1** and incorporated herein by reference.

20. Under the terms of its “Sales Representative Agreement,” N.C.W.C. “authorizes and appoints [name of company] as its non-exclusive representative to promote, market, and sell vehicle service contracts using [N.C.W.C.’s] Program, all in accordance with the terms and conditions of this Agreement.”

21. N.C.W.C.’s standard Sales Representative Agreement further provides that “[a]ll vehicle service contracts sold in the Program shall utilize only [N.C.W.C.’s] Program materials. [N.C.W.C.’s] Program materials include a model telemarketing script and promotional materials.”

22. The standard Sales Representative Agreement further requires that vendors use “only [N.C.W.C.’s] vehicle service contract plans, specimen service

contract forms, applications, marketing brochures, payment books, and other marketing documents.”

23. The standard Sales Representative Agreements forbids N.C.W.C.’s vendors from selling any product other than N.C.W.C.’s Palmer-administered product — not only during the term of the agreement itself but for two years after its termination, as well.

24. N.C.W.C. has filed federal lawsuits against at least two of its contracted vendors alleging breaches of their “Sales Representative Agreements.” N.C.W.C. has alleged, among other things, that the vendors violated the agreements by selling non-N.C.W.C./Palmer-administered products.

25. Between January 2, 2018, and October 27, 2021, vendors for N.C.W.C. sold at least 3,182 extended vehicle service plan policies to Wisconsin residents.

26. None of N.C.W.C.’s vendors has ever been registered in Wisconsin as a telephone solicitor.

27. One of N.C.W.C.’s vendors, USA Auto Protection, LLC of St. Louis, Missouri (“USA Auto”), entered into a Sales Representative Agreement with N.C.W.C. on or about December 6, 2017. Michael Shaftel signed the Sales Representative Agreement on behalf of N.C.W.C. A true copy of N.C.W.C.’s Sales Representative Agreement with USA Auto is attached to this Complaint as **Exhibit 2** and incorporated herein by reference.

28. Between March 2018 and March 2021, USA Auto made 21,675 telephone solicitations to Wisconsin telephone numbers to market N.C.W.C.’s vehicle

service plans administered by Palmer, pursuant to USA Auto's Sales Representative Agreement with N.C.W.C.

29. Of those 21,675 calls, 11,614 were placed to Wisconsin telephone numbers registered on the Do-Not-Call list at the time.

30. Another one of N.C.W.C.'s vendors, Ox Car Care, Inc. of Irvine, California ("Ox Car"), entered into a Sales Representative Agreement with N.C.W.C. on or about August 11, 2016. Michael Shaftel signed the agreement on behalf of N.C.W.C. A true copy of the Sales Representative Agreement with Ox Car is attached to this Complaint as **Exhibit 3** and incorporated herein by reference.

31. Between January 2, 2018, and November 4, 2020, Ox Car made 1,095,575 telephone solicitations to Wisconsin telephone numbers to market N.C.W.C.'s vehicle service plans administered by Palmer pursuant to the Sales Representative Agreement with N.C.W.C.

32. Of those 1,095,575 calls, 669,669 were placed to Wisconsin telephone numbers registered on the Do-Not-Call list at the time.

33. In making telephone calls to Wisconsin numbers for the purpose of selling the Palmer-administered vehicle service plan product pursuant to their Sales Representative Agreements with N.C.W.C., USA Auto, Ox Car, and all the other marketing companies listed in **Exhibit 1**, were acting as "agents" of N.C.W.C. within the scope of Wis. Admin. Code § ATCP 127.82(2).

CLAIM ONE

Failure to Comply with Registration Provisions Wis. Stat. § 100.52 and Wis. Admin. Code § ATCP 127.81

34. The State re-alleges all preceding paragraphs and incorporates them herein.

35. N.C.W.C. is a “telephone solicitor” as defined in Wis. Stat. § 100.52(1)(i).

36. N.C.W.C. is a “person” subject to Wis. Admin. Code § ATCP 127.81(1)(a).

37. Between July 12, 2017, and January 11, 2018, and between March 30, 2018, and April 23, 2018, N.C.W.C. was not in compliance with the telephone solicitor registration provisions of Wis. Stat. § 100.52(3) and Wis. Admin. Code § ATCP 127.81.

38. During that time, N.C.W.C. made or caused employees or contracted individuals to make 19,994 telephone solicitations to telephone numbers with Wisconsin area codes.

39. Each telephone solicitation made to a Wisconsin number by N.C.W.C. while it was not registered as a telephone solicitor is a separate violation of Wis. Admin. Code § ATCP 127.81.

CLAIM TWO

Do-Not-Call Violations Wis. Stat. § 100.52 and Wis. Admin. Code § ATCP 127.82

40. The State re-alleges all preceding paragraphs and incorporates them herein.

41. Wis. Admin. Code § 127.82(2) provides that “[n]o person may make a telephone solicitation, either directly or through an employee or agent, to a covered

telephone customer whose telephone number appears on the current state do-not-call registry.”

42. N.C.W.C. is a “person” subject to Wis. Admin. Code § ATCP 127.82(2).

43. USA Auto, Ox Car and the other companies identified in **Exhibit 1** were acting as the “agents” of N.C.W.C. within the meaning of Wis. Admin. Code § ATCP 127.82(2), through whom N.C.W.C. made telephone solicitations to Wisconsin numbers.

44. Between July 12, 2017, and January 11, 2018, and between March 30, 2018, and April 23, 2018, N.C.W.C. made 4,144 telephone solicitations to do-not-call numbers.

45. In addition, N.C.W.C. is liable for calls made by its agents to Wisconsin telephone numbers registered on the Do Not Call registry, including but not necessarily limited to the 681,283 calls that USA Auto and Ox Car made to Wisconsin numbers on the do-not-call registry, as alleged herein.

46. Each telephone solicitation to a do-not-call number constitutes a separate violation of Wis. Stat. § 100.52 and Wis. Admin. Code § ATCP 127.82.

RELIEF REQUESTED

WHEREFORE, Plaintiff, State of Wisconsin, requests this Court enter judgment against N.C.W.C., as follows:

1. Finding that N.C.W.C. violated Wis. Stat. § 100.52 and Wis. Admin. Code §§ ATCP 127.81 and 127.82;

2. Imposing civil forfeitures against N.C.W.C for each violation of Wis. Stat. § 100.52 and Wis. Admin. Code §§ ATCP 127.81 and 127.82;

3. Imposing all applicable penalty assessments and surcharges including consumer protection surcharges pursuant to Wis. Stat. § 100.261, plus all applicable assessments and costs;

4. Permanently enjoining N.C.W.C, pursuant to Wis. Stat. §§ 100.20(6) and 100.52(9), from violating Wis. Stat. § 100.52 and Wis. Admin. Code Ch. ATCP 127 in the future;

5. Awarding DATCP and the Department of Justice the necessary expenses incurred in their investigation and prosecution of this matter, including attorney fees, pursuant to Wis. Stats. §§ 93.20(2) and 100.263; and

6. Awarding all other relief as the court may deem just and equitable.

Dated this 4th day of April, 2022.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

s/ Lewis W. Beilin
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