



Telecom Decision CRTC 2010-493

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Ottawa, 21 July 2010

Waterproofing by Peerless Mason Inc. – Violations of the Unsolicited Telecommunications Rules

File number: PDR 9174-800

In this decision, the Commission imposes administrative monetary penalties totalling \$20,000 on Waterproofing by Peerless Mason Inc. for initiating five fax telemarketing telecommunications to consumers whose telecommunications numbers were registered on the National Do Not Call List (DNCL), and for initiating the telecommunications without being a registered subscriber or having paid all applicable subscription fees to the National DNCL operator, in violation of the Unsolicited Telecommunications Rules.

1. Between 21 July 2009 and 19 January 2010, the Commission received numerous complaints in relation to fax telemarketing telecommunications made by Waterproofing by Peerless Mason Inc. (Waterproofing by Peerless Mason).
2. On 15 February 2010, a notice of violation was issued to Waterproofing by Peerless Mason pursuant to section 72.07 of the *Telecommunications Act* (the Act). The notice informed Waterproofing by Peerless Mason that it had
 - initiated five fax telemarketing telecommunications to consumers whose numbers were registered on the National Do Not Call List (DNCL), in violation of Part II, section 4¹ of the Commission's Unsolicited Telecommunications Rules (the Rules); and
 - initiated these telecommunications without being a registered subscriber or having paid all applicable fees to the National Do Not Call List operator, in violation of Part II, section 6² of the Rules.
3. Waterproofing by Peerless Mason was given until 17 March 2010 to either pay the administrative monetary penalties (AMPs) of \$20,000 set out in the notice of violation, or to make representations to the Commission regarding the violations.

¹ Part II, section 4 of the Unsolicited Telecommunications Rules provides that a telemarketer shall not initiate a telemarketing telecommunication to a consumer's telecommunications number that is on the National DNCL, unless express consent has been provided by such consumer to be contacted via a telemarketing telecommunication by that telemarketer.

² Part II, section 6 of the Rules provides that a telemarketer shall not initiate telemarketing telecommunications on its own behalf unless it is a registered subscriber to the National DNCL and has paid all applicable fees to the National DNCL operator.

4. The Commission notes that Waterproofing by Peerless Mason neither paid the AMPs specified in the notice of violation nor made representations in accordance with the notice. Accordingly, pursuant to subsection 72.08(3) of the Act, Waterproofing by Peerless Mason is deemed to have committed the violations outlined in the notice of violation dated 15 February 2010.
5. The Commission notes that this is the second decision that it has issued in relation to violations of the Rules committed by Waterproofing by Peerless Mason and that the company continues to disregard the Rules.³ Accordingly, the Commission considers that a total penalty of \$20,000 is appropriate. The Commission therefore imposes AMPs totalling \$20,000 on Waterproofing by Peerless Mason. This amount is in addition to any previously imposed AMPs that remain outstanding.
6. The Commission hereby notifies Waterproofing by Peerless Mason of its right to apply to the Commission to review and rescind or vary this decision under section 62 of the Act and to appeal this decision to the Federal Court of Appeal under section 64 of the Act. Any review and vary application under section 62 of the Act must be made within 30 days of the date of this decision and the Commission will place all related documentation on its website. An appeal from this decision may be brought in the Federal Court of Appeal with the leave of that Court. Leave to appeal must be applied for within 30 days of the date of this decision or within such further time as a judge of the Court grants in exceptional circumstances.
7. The amount of \$20,000 is due by **20 August 2010** and is to be paid in accordance with the instructions contained in the notice of violation. For any amount owing that is not paid by **20 August 2010**, interest calculated and compounded monthly at the average bank rate plus three percent will be payable on that amount and will accrue during the period beginning on the due date and ending on the day before the date on which payment is received.
8. If payment of the debt has not been received within 30 days of the date of this decision, the Commission intends to take measures to collect the amount owing, which may include certifying the unpaid amount and registering the certificate with the Federal Court in order to collect the amount owing.

Secretary General

³ The Commission previously issued *Waterproofing by Peerless Mason Inc. – Violations of the Unsolicited Telecommunications Rules*, Telecom Decision CRTC 2009-524, 26 August 2009.