

DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK

-----X
NYC DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,
-against-

THE MOBILE SOLUTION CORP.
90-15 Queens Boulevard
Elmhurst, NY 11373,

Respondent
-----X

ASSURANCE OF
DISCONTINUANCE

Violation No LL 5155927

License No 1183740

1 Respondent The Mobile Solution Corp ("Respondent") is a corporation headquartered at 1660 Hotel Circle, North, San Diego, California 92108, with a retail location at 90-15 Queens Boulevard, Elmhurst, New York 11373 ("Elmhurst location"). Respondent consents to this Assurance of Discontinuance ("Assurance") with the New York City Department of Consumer Affairs ("DCA" or "Department") to settle the above captioned violation.

2 Respondent's Elmhurst location is licensed by the Department as an Electronics Store, License Number 1183740.

3 Carolina Avellaneda, Esq, as counsel for Respondent, is duly authorized to settle the above captioned matter.

4 Respondent was served with a Notice of Hearing on February 27, 2008, citing Respondent for violating Section 20-700 of the New York City Administrative Code ("Code") by advertising a "free" Samsung t219 cellular phone ("free offer") without disclosing clearly and conspicuously all material limitations to the "free" offer

5 Respondent advertised a "free" Samsung t219 cellular phone at its Elmhurst location on or about February 27, 2008

6 Respondent placed, in miniscule print, the following limitation immediately below the free offer: "2-year contract required "

7 Respondent placed, in even smaller print, at the bottom of the advertisement, the following limitations to the free offer: "Plus taxes and fees. Limited time offer; subject to change "

8. Respondent violated Section 20-700 of the Code by advertising a “free” cellular phone without clearly and conspicuously stating all material limitations

9 Respondent shall comply with all relevant provisions of the Code, the rules promulgated thereunder, and all other applicable laws in its advertising to New York City consumers

Injunctive Relief

10 For the purposes of this Assurance, the following definitions apply:

- a. “Clear and conspicuous” and “clearly and conspicuously” mean that the statement, representation, or term is so presented as to be easily readable, readily apparent, and understood by the audience to whom it is addressed. Factors to be considered for this purpose include, but are not limited to, clarity of language, relative type size, font, color contrast, location within an advertisement or other documents, and proximity to the statement or representation to which it applies
- b. “Advertisement” or “advertisements” mean all promotional materials, statements, visual descriptions, or other representations of any kind disseminated in print, orally, or electronically by or on behalf of Respondent to New York City consumers including, but not limited to, mailings, flyers, hand-outs, brochures, print advertisements, television advertisements, internet advertisements, and radio advertisements

11. Respondent shall comply with all relevant laws in its advertising to New York City consumers, including, but not limited to, Section 20-700 et seq (“Consumer Protection Law”) of the Code, Section 20-101 et seq of the Code (the “License Enforcement Law”), and Title 6 of the Rules of the City of New York (“Rules”)

12. Respondent shall comply with Section 5-06 of the Rules and disclose conditions to a “free” offer in a clear and conspicuous manner. The description of every condition must be placed near the word “free” and must be printed in type size at least half as large as the type size used for the word “free.”

13. Respondent shall comply with Section 5-09 of the Rules and disclose clearly and conspicuously in its advertisements, all material facts, terms, limitations, conditions, restrictions, and/or exclusions

Resolution of Consumer Complaints

14 Respondent shall respond in writing to the Department to resolve all consumer complaints filed with the Department within twenty (20) days of the date the complaint is sent to

Respondent Respondent shall respond to subsequent communications from the Department concerning the complaints within ten (10) days after receiving a communication. Nothing in this provision waives or diminishes Respondent's obligation to comply with Section 1-13 of the Rules.

15 Respondent shall provide the Department by July 3, 2008, the name, address, telephone number, email address, if any, and title of the individual responsible for addressing complaints received upon execution of this Assurance.

Fines and Other Terms and Conditions

16 Respondent agrees to pay the Department, upon execution of this Assurance, a bank check, certified check, or money order for \$500.00 made payable to "the NYC Department of Consumer Affairs" to resolve this matter.

17 Respondent agrees that, no later than 30 days after execution of this Assurance, it shall distribute a copy of this Assurance to the individuals at its corporate headquarters responsible for advertising in New York City and require that they comply with this Assurance and all applicable New York City laws in advertising for or by its New York City retail locations.

18 Respondent acknowledges and agrees that each breach of any provision of this Assurance shall be treated as a separate knowing violation of the Consumer Protection Law pursuant to Section 20-704(b) of the Code.

19 Respondent agrees to waive any further right to a hearing and appeal on the above citation under Section 20-104 of the Code.

20 This Assurance shall have a term of one year from the date of execution. Respondent acknowledges that the expiration of this Assurance shall not in any way diminish Respondent's obligation to comply with all applicable New York City laws and regulations.

21 This Assurance shall constitute the final disposition of the above captioned violation only if this Assurance is fully executed and the settlement amount specified at paragraph 16 is received by the Department by July 3, 2008.

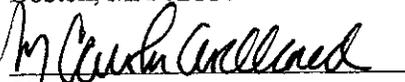
Agreed to for Respondent, The Mobile Solution Corp by:

CAROLINA AVELLANEDA, ESQ
McCarter & English LLP

Accepted for Jonathan Mintz,
Commissioner of Consumer Affairs
for the City of New York by:


Department of Consumer Affairs
Research & Investigations Division

265 Franklin Street
Boston, MA 02110


Signature

6/20/08
Date

42 Broadway, 8th Floor
New York, NY 10004



6/23/08
Date

Please remit payment, signed copy of this Assurance of Discontinuance, and a copy of the original Notice of Hearing to:

NYC Department of Consumer Affairs, Research and Investigations Division
Attn: Niyati Shah, Esq
42 Broadway, 8th Floor
New York, New York 10004

Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.