

STATE OF COLORADO
DEPARTMENT OF LAW

ASSURANCE OF DISCONTINUANCE

IN THE MATTER OF IFFICIENT, INC.

This Assurance of Discontinuance (“Assurance”) is entered into between the State of Colorado, *ex rel.* Philip J. Weiser, Attorney General for the State of Colorado (“the State”), and Ifficient Inc. (“Ifficient” or Respondent) pursuant to the Attorney General’s powers under Colo. Rev. Stat. Section 6-1-110(2) and constitutes a complete settlement between the State and Ifficient (the “Parties”) regarding the State’s allegations that Ifficient’s advocacy campaigns violated the Colorado Consumer Protection Act (“CCPA”).

I. PARTIES

1. Philip J. Weiser is the duly elected Attorney General for the State of Colorado and has express jurisdiction to investigate and prosecute violations of the Colorado Consumer Protection Act, C.R.S. Sections 6-1-101 through 6-1-1121.

2. Respondent Ifficient is a Colorado corporation with its principal place of business at 1756 Platte Street, Suite 200, Denver, Colorado.

II. DEFINITIONS

3. The term “Effective Date” means the first date upon which both Parties have executed and delivered this Assurance.

4. Unless otherwise specified, all definitions found in C.R.S. Section 6-1-105(1) are incorporated herein, and any term defined in those Sections shall have

the same meaning when used in this Assurance.

III. STATE'S ALLEGATIONS

1. In 2017, firms working on behalf of the broadband industry hired Ifficient to provide hundreds of thousands of public comments for submission to the Federal Communications Commission in a rulemaking proceeding. The comments were to be generated by showing consumers a form-letter comment authored by an advocacy group and asking the consumers to agree to have their names and addresses used to endorse the comment and have the comment submitted to the government on their behalf.

2. Ifficient engaged several vendors for the campaign. However, two of the vendors Ifficient engaged did not in fact solicit or collect consumers' information or consent to join the campaign. Instead, the vendors provided Ifficient names and addresses they had either purchased or had collected from unrelated campaigns without consumer knowledge or consent.

3. Ifficient nevertheless passed the information to its client, misrepresenting that the consumers had expressly consented to the submission of a public comment in their name and on their behalf. In all, Ifficient provided its client with faked consent for approximately 840,000 consumers from these two vendors.

Background

4. Ifficient provides digital lead-generation services. A lead generator collects personal information from consumers and then sells that information to third parties as leads to generate business.

Ifficient's Lead Generation Business Through Co-Registration

5. To obtain leads, Ifficient used a form of lead generation known as “co-registration.” With co-registration, a consumer is presented with advertisements or solicitations from one or more third-party marketers. Typically, users are shown large numbers of these advertisements in succession. To encourage consumers to provide their information and enroll in the third-party marketers’ programs, consumers are typically offered incentives, such as gift cards or sweepstake entries.

6. In addition to generating leads for use in business-to-consumer marketing campaigns, Ifficient also ran public advocacy campaigns.¹ The goal of these campaigns was to collect leads to generate public comments and letters to influence laws and regulations spanning a range of issues.

2017 FCC Net Neutrality Rulemaking Advocacy

7. In 2017, lead generation firms working on behalf of the broadband industry engaged Ifficient to run an advocacy campaign related to the Federal Communications Commission’s (“FCC”) recently proposed repeal of its existing net neutrality regulations.

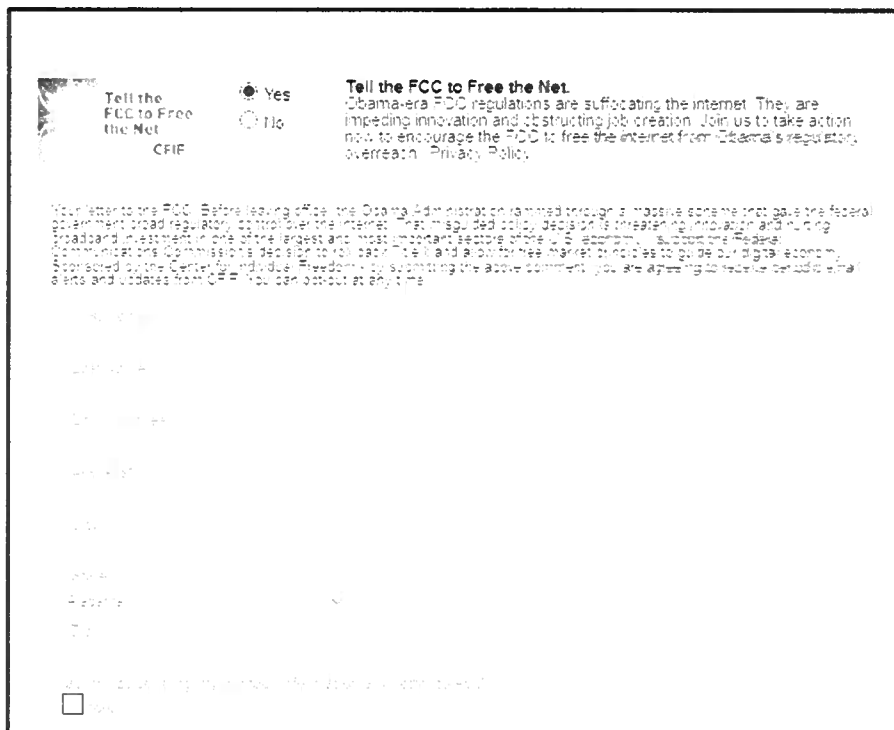
8. Ifficient charged its client based on the number of advocacy leads it collected, with the total number of advocacy leads (and corresponding total dollar charge) capped at a particular amount by the client. For example, in one part of the advocacy campaign, Ifficient was to receive \$0.07 for each advocacy lead up to a

¹ These campaigns were typically undertaken on behalf of “advocacy groups,” which are entities organized to advance the public policy preferences of the group’s members. In some cases the advocacy groups hired for-profit “digital strategy firms” to create and operate the campaigns (collectively with advocacy groups, “advocacy clients”).

maximum of 50,000 advocacy leads daily, for \$3,500 per day.

9. In setting up and operating the advocacy campaign, Ifficient made repeated implicit and explicit representations to its client indicating that leads would be generated by displaying an “offer” or “ad” to consumers that asked them to consent to the submission of a public comment to the government on their behalf.²

10. Prior to the start of the campaign, Ifficient obtained specifications from the client indicating how the offer should be displayed to consumers. Ifficient then created mock-ups of the offer conforming to those specifications and sent them to the advocacy client for approval, as shown in the screenshot below.



² The State found that some advocacy organizations and digital strategy firms using co-registration to generate letters and public comments have described the resulting advocacy leads as “low-affinity,” because consumers responding to co-registration offers usually have little connection, if any, to the advocacy issue, and are instead simply clicking through a long list of questions and offers in an attempt to obtain a free gift card or other commercial incentive.

11. Ifficient represented to its client that it would wait for its final approval on the offer before making the campaign live and visible to consumers on the websites of Ifficient and its affiliates.

12. From the time the campaign was live through the end of the campaign, Ifficient provided its client with names and addresses that Ifficient said reflected consumers who had been shown the creative and affirmatively agreed to have their name added to a public comment to be sent to the government. Each advocacy lead included the consumer's contact information (name, mailing address, and email address) and IP address.

Ifficient's Practices

13. Contrary to its representations to its advocacy client, few if any consumers consented to participate in the advocacy campaign Ifficient had been paid to run. Instead, Ifficient purchased large volumes of fake leads from vendors. The majority of fake leads were supplied by Lead ID LLC ("Lead ID") and A Level Marketing LLC d/b/a Mad Media ("A Level").

14. The vendors -- Lead ID and A Level -- created these fake leads by copying old lead data from earlier unrelated campaigns.

15. In all, Ifficient provided approximately 840,000 fake advocacy leads from Lead ID and A Level to Ifficient's advocacy client that were used in public comments submitted to the FCC.

16. Ifficient's advocacy client accepted and paid for most of these leads: Ifficient delivered 840,000 leads from Lead ID and A Level (plus some from a third

vendor) and was paid for approximately 750,000 of those advocacy leads. However, Respondent falsely represented to its vendors that only 270,000 leads had been accepted. Respondent then paid the campaign vendors for only 270,000 of the 750,000 leads that Ifficient had been paid for. In total, Ifficient invoiced its client approximately \$39,000 while paying its vendors approximately \$10,000.

17. On April 17, 2019, the State issued a subpoena to Ifficient. Ifficient cooperated with the State's investigation.

Legal Allegations

18. The CCPA, C.R.S. § 6-1-105(1)(e), prohibits a person in the course of the person's business, vocation, or occupation from making false representations as to the characteristics of a service.

19. The CCPA, C.R.S. § 6-1-105(1)(u), prohibits a person in the course of the person's business, vocation, or occupation from failing to disclose material information regarding a service.

20. The State alleges that Ifficient's conduct here violated at least these subsections of the CCPA.

21. Ifficient neither admits nor denies the State's allegations, paragraphs 1-20 above.

IV. LEGAL AUTHORITY

22. C.R.S. Section 6-1-110(2) authorizes the Attorney General to accept an assurance of discontinuance for any deceptive trade practice listed in Part 7 of the CCPA. Section 6-1-110(2) also allows the Attorney General to accept a voluntary

payment from Ifficient of any amount necessary to restore to any person money acquired by such alleged violator by means of a deceptive trade practice.

V. RELIEF

23. For the purposes of this Assurance, the following definitions shall apply:

a. “Advocacy Campaign” shall mean services that Respondent has been engaged to provide concerning the solicitation and collection of Advocacy Campaign Consent from a consumer.

b. “Advocacy Campaign Consent” shall mean a person’s affirmative act, such as a click of a button or a checking of a checkbox, giving unambiguous assent to having an Advocacy Message attributed to him or her.

c. “Advocacy Campaign Client” shall mean any Individual or Entity that engages Respondent in connection with an Advocacy Campaign.

d. “Advocacy Campaign Sponsor” shall mean any Individual or Entity that engages, or on whose behalf Respondent is engaged, in connection with an Advocacy Campaign.

e. “Advocacy Lead Information” for a consumer shall mean any information from or about a consumer that Respondent obtains for, or is engaged to provide to, a third party in an Advocacy Campaign.

f. “Advocacy Message” shall mean any letter, email, text message, note, petition, image, chart, summary, or other memorialization of information, whether memorialized in writing, audio or video recording, or any

other medium, that is intended to be transferred or disclosed to a Government Entity or Official and explicitly or implicitly expresses any opinion.

g. “Clear(ly) and Conspicuous(ly)” shall mean that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

i. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure (“Triggering Representation”) is made through only one means.

ii. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

iii. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

iv. In any communication using an interactive electronic medium, such as the internet or software, the disclosure must be

unavoidable.

v. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the Triggering Representation appears.

vi. The disclosure must not be contradicted or mitigated by, or inconsistent with, any other representation(s).

vii. The disclosure must not be combined with other marketing or promotional text or information that is unrelated or immaterial to the subject matter of the disclosure or not legally required.

h. "Close Proximity" shall mean that the disclosure is next to the Triggering Representation. A disclosure made through a hyperlink, pop-up, interstitial, or other similar technique is not in Close Proximity to the Triggering Representation, unless expressly provided otherwise herein.

i. "Government Entity or Official" shall mean any: (i) agency, instrumentality, subdivision or other body of any national, regional, local or other government; (ii) commercial or similar entities owned or controlled by such government, including any state-owned and state-operated companies; (iii) public international organization; and (iv) any official, member, or employee of the foregoing acting in his or her official capacity, or any candidate or nominee to serve thereat.

j. "Personal Information" shall mean information from or about an individual consumer, including, but not limited to: (1) first and last name; (2)

a home or other physical address, including street name and name of city or town; (3) an e-mail address or other online contact information, such as an instant messaging user identifier or a screen name; (4) a telephone number; (5) a Social Security number; (6) a driver's license or other government-issued identification number; (7) a financial institution account number; (8) credit or debit card information; (9) precise geolocation data of an individual or mobile device, including but not limited to GPS-based, Wi-Fi-based, or cell-based location information; (10) an authentication credential, such as a username and password; (11) a persistent identifier, such as a customer number held in a cookie, a MAC address, a mobile device ID, or an internet browser ID; or (12) an Internet Protocol ("IP") address.

k. "Respondents" shall mean Ifficient and Matt Mockus.

l. "Third-Party Vendor" means any person or entity that a Respondent uses to collect or assist in collecting Advocacy Campaign Consent from a consumer.

m. "Fourth-Party Vendor" means any person or entity that a Third-Party Vendor has used to collect or assist in collecting Advocacy Campaign Consent from a consumer.

24. Respondents shall comply with C.R.S. § 6-1-105 in connection with the solicitation and collection of Advocacy Campaign Consent.

25. Advocacy Campaign Consent shall only be obtained through solicitation that:

a. is found on a webpage, or single screen displayed in a computer application or other electronic interface, that does not contain any solicitations or offers other than the solicitation for Advocacy Campaign Consent;

b. Clearly and Conspicuously discloses the sponsor of the Advocacy Campaign, the intended recipient of the Advocacy Message, and the means by which the Advocacy Message would be submitted, as follows: “[Advocacy Campaign Sponsor] would like your consent to send [submission type, such as “a public comment” or “an email”] on your behalf to [full name of Government Entity or Official],” or substantially similar language;

c. discloses the full text of the Advocacy Message for which Advocacy Campaign Consent is being solicited, including the Personal Information that will be included with the Advocacy Message (e.g., first and last name, mailing address, email address), in the manner that it is intended to appear when transferred or disclosed to a Government Entity or Official. Either the full text of the Advocacy Message, or a readily noticeable hyperlink to the full text of the Advocacy Message and the following statement or substantially similar language, shall be Clearly and Conspicuously disclosed: “Click here to see the full text of your [submission type, such as ‘public comment’ or ‘email’] to [name of Government Entity or Official]”; and

d. Clearly and Conspicuously discloses, in Close Proximity to the mechanism for obtaining Advocacy Campaign Consent, the following statement: “I consent to having this message sent to [name of Government

Authority or Official] identifying me as the author or signer, using my full name and other contact information,” or substantially similar language.

26. Respondents shall not provide services to an Advocacy Campaign Client related to an Advocacy Campaign without first entering into a written agreement with the Advocacy Campaign Client requiring that:

a. the Advocacy Campaign Client disclose conspicuously and contemporaneously with the submission of any Advocacy Message to a Government Entity or Official Respondents’ identity and that Respondents obtained consent for submission of the Advocacy Message (the “Collection Disclosure”); and

b. if the Government Entity or Official will, or has stated that it may, make the Advocacy Message publicly available, the Collection Disclosure shall be made either (i) in text inserted within, or appended at the end of, each Advocacy Message that states, “fficient obtained consent for submission on behalf of [Individual’s name or ‘the signer(s),’ or substantially similar language meaning signer(s)].”; or (ii) in another format that ensures it is publicly available in association with the Advocacy Message.

27. Respondents, or Third-Party Vendor or Fourth-Party Vendor if such Vendor solicited Advocacy Campaign Consent, shall send a confirmation email message to each consumer that has provided Advocacy Campaign Consent within twenty-four (24) hours of the consumer having provided such Advocacy Campaign Consent. The email subject line shall state only “Confirmation of Your Message to

[full name of Government Entity or Official]” or substantially similar language. The body of the email shall **Clearly and Conspicuously**: (a) state in **Close Proximity** to the top of the body section, **“This email confirms that you have given your consent to have the following message sent to [Government Entity or Official] identifying you as the author or signer, using your full name and other contact information, as shown below,”** or substantially similar language; (b) display below the prior statement the full text of the **Advocacy Message**; and (c) state below the prior text, **“If you did not agree to have this message sent on your behalf, click here to report abuse,”** or substantially similar language, with a link to a webpage or email address that will collect and provide notice to **Respondents, or Third-Party Vendor or Fourth-Party Vendor** if such Vendor solicited **Advocacy Campaign Consent**, of the user’s report. Respondents may, in lieu of sending the confirmation email message described in this paragraph, rely on its **Advocacy Campaign Client or Advocacy Campaign Sponsor** to send such confirmation email message provided that Respondents have first entered into a written agreement with the **Advocacy Campaign Client or Advocacy Campaign Sponsor** that requires the **Advocacy Campaign Client or Advocacy Campaign Sponsor** to send such confirmation email message in compliance with this paragraph.

28. Respondents shall use reasonable measures designed to ensure that any **Third-Party Vendor or Fourth-Party Vendor** that solicits or obtains **Advocacy Campaign Consent** on behalf of Respondents does so consistent with the requirements of paragraphs 25 and 27. These measures shall include, at a minimum, that Respondents enter into a written contract with each **Third-Party Vendor** that

mandates that the Third-Party Vendor:

a. solicit and obtain Advocacy Campaign Consent in accordance with the requirements of paragraph 25;

b. require any Fourth-Party Vendor that solicits and obtains Advocacy Campaign Consent to do so in accordance with the requirements of paragraphs 25 and 27;

c. provide to Respondents, before any Advocacy Campaign Consent is solicited by the Third-Party Vendor or Fourth-Party Vendor, a mock-up or mock-ups depicting each version of the solicitation that will be used, including all disclosures, text, and images;

d. obtain Respondents' written approval for use of the mock-up or mock-ups prior to their use;

e. provide to Respondents an unaltered image (such as a screenshot) or images depicting all of the solicitations for Advocacy Campaign Consent used by the Third-Party Vendor or Fourth-Party Vendor, including all disclosures, text, and images, within a reasonable amount of time after use for a given campaign; and

f. obtain and provide to Respondents, for each Advocacy Campaign Consent:

i. the date and time that the consumer provided the Advocacy Campaign Consent;

ii. the IP address and/or device identifier in use by the

consumer when providing such Advocacy Campaign Consent;

iii. the date and time each item of Advocacy Lead Information was obtained from the consumer (including Personal Information obtained prior to the Advocacy Campaign);

iv. the IP address and/or device identifier of each item of Advocacy Lead Information was obtained from the consumer (including Personal Information obtained prior to the Advocacy Campaign);

v. the web address or other location information of the solicitation through which the Advocacy Campaign Consent was obtained; and

vi. the name and contact information of the Fourth-Party Vendor, if any, that solicited and obtained the Advocacy Campaign Consent and each item of Advocacy Lead Information.

29. Respondents shall verify that each Third-Party Vendor and Fourth-Party Vendor that solicits or obtains Advocacy Campaign Consent in an Advocacy Campaign does so consistent with the requirements of paragraphs 25 and 27, including at a minimum:

a. review of all mock-ups provided by the Third-Party Vendor or Fourth-Party Vendor in advance of the Advocacy Campaign;

b. review of all live versions of the solicitation for Advocacy Campaign Consent to confirm it is consistent with all mock-ups;

c. regular review of materials provided by the Third-Party Vendor

or Fourth-Party Vendor as required in subparagraph 28.f; and

d. investigate all consumer complaints it receives concerning an Advocacy Campaign.

30. Ifficient shall designate an officer to receive and investigate all reports concerning a failure to obtain Advocacy Campaign Consent and any other consumer complaints concerning an Advocacy Campaign.

31. Respondents shall not represent, expressly or by implication, that a consumer has provided Advocacy Campaign Consent unless it was obtained in a manner consistent with the requirements of paragraph 25.

32. Respondents shall not misrepresent, expressly or by implication, any aspect of an Advocacy Campaign, including the actions taken or consent given by a consumer, the date and time when a consumer took such actions or gave such consent, the information solicited or obtained from a consumer, and the circumstances and manner in which consent or information was solicited or obtained from a consumer.

33. Respondent shall not transfer or disclose to a third-party Advocacy Lead Information without transferring or disclosing the date and time each item of Advocacy Lead Information was obtained from the consumer.

34. Respondents shall not transfer or disclose to a third-party Advocacy Lead Information solicited and obtained by a Third-Party Vendor or Fourth-Party Vendor unless the Third-Party Vendor complied with the contractual requirements in paragraph 28.

35. Respondents shall create and retain for a period of no less than six (6)

years from the conclusion of a campaign begun after the effective date of this Assurance the following records:

a. the following data for each Advocacy Campaign Consent obtained by Respondents or by a Third-Party Vendor or Fourth-Party Vendor:

i. the date and time that the consumer provided the Advocacy Campaign Consent;

ii. the IP address and/or device identifier in use by the consumer when providing such Advocacy Campaign Consent and, where different, each item of Advocacy Lead Information (such as where Personal Information was obtained before the Advocacy Campaign);

iii. the date and time each item of Advocacy Lead Information was obtained from the consumer (such as Personal Information that was obtained before the Advocacy Campaign);

iv. the web address or other location information of the solicitation through which the Advocacy Campaign Consent was obtained; and

v. the name and contact information of the Fourth-Party Vendor, if any, that solicited and obtained the Advocacy Campaign Consent and, where different, each item of Advocacy Lead Information;

b. copies of each version of a solicitation used, by Respondents or by a Third-Party Vendor or Fourth-Party Vendor, to obtain Advocacy Campaign Consent, including for each such solicitation copies of all disclosures required

in paragraphs 25 and 27 as they were displayed to consumers (such as screenshots or archived webpages);

c. records of Respondents' review and/or approval of all solicitations used to obtain Advocacy Campaign Consent for compliance with the requirements in paragraphs 25 and 27;

d. records of each confirmation email message sent by Respondents as required in paragraphs 25 and 27, including the email recipient, the date and time the email was sent, and whether the email message was delivered to the recipient, and records of all complaints/reports of abuse by consumers in response thereto; and

e. all records necessary to demonstrate full compliance with each provision of this Assurance, including all submissions to the State.

VI. PAYMENT TO THE STATE

36. Respondents shall pay to the State of Colorado twenty-one thousand two hundred and fifty dollars (\$21,250) within fourteen (14) days of the effective date of this Assurance. Payment shall be in the form of a certified check, cashier's check, or money order made payable to the "Colorado Department of Law," shall reference "In the Matter of Ifficient, Inc." and shall be delivered to:

**Miriam Burnett, Administrative Assistant
Consumer Protection Section
Colorado Department of Law
1300 Broadway, 7th Floor
Denver, Colorado 80203**

All payments under this paragraph are to be held, along with any interest thereon,

in trust by the Attorney General to be used in the Attorney General's sole discretion for reimbursement of the State's actual costs and attorneys' fees, the payment of restitution, if any, and for future consumer fraud or antitrust enforcement, consumer education, or public welfare purposes.

37. Respondents shall fully and promptly cooperate with the State in the course of the State's investigation of individuals or entities involved in the solicitation, collection, use, sale, offering for sale, transfer, and/or submission of Advocacy Campaign Consent or Advocacy Lead Information that Respondents have obtained for or were engaged to provide to a third party. Such cooperation shall include but not be limited to: providing truthful written or verbal testimony including through in-person appearance at depositions or trial in Colorado; providing additional documents and other physical evidence within ten (10) days of the State's request; and complying with any future directives or requests of the State.

38. The Respondents shall provide the State with a certification affirming their compliance with the requirements set forth in this Assurance, paragraphs 24-35, to be submitted to the State within sixty (60) days of the effective date of this Assurance. This certification shall be in writing and be signed on Respondent Ifficient's behalf by the Chief Executive Officer of Ifficient, or such other officer (regardless of title) that is designated in Respondent Ifficient's bylaws or by resolution of the Board of Directors as having the duties of the principal executive officer of Respondent Ifficient. Thereafter, a certification of compliance shall be submitted to the State on an annual basis for the following five (5) years. In any case

where the circumstances warrant, the State may require Respondents to file an interim certification of compliance upon thirty (30) days' notice.

39. For the following five (5) years, Respondents shall deliver a copy of this Assurance to (a) all current and future principals, officers, directors, and managers; (b) all current and future employees, agents, and representatives having supervisory responsibilities relating to the subject matter of this Assurance; and (c) any business entity resulting from any change in structure. Respondents shall deliver this order to the personnel identified above within thirty (30) days.

VII. ENFORCEMENT

40. The obligations set forth in this Assurance are continuing.

41. Respondents expressly agree and acknowledge that the State may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to paragraph 48, and agrees and acknowledges that in such event:

a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;

b. the State may use statements, documents or other materials produced or provided by Respondents prior to or after the effective date of this Assurance;

42. A violation of any of the terms of this Assurance shall constitute a prima facie violation of the CCPA under C.R.S. Section 6-1-110(2). If the State believes that Ifficient has violated any term of this Assurance, the State shall be entitled to file a

civil action under the CCPA and to seek an injunction or other appropriate order from such court to enforce the provisions of this Assurance. In any such action, Ifficient agrees to waive any counterclaims that it may have had with respect to the subject matter of this Assurance and agrees to limit any defenses to (1) whether a violation has occurred; (2) the remedies for the violation.

43. The Parties consent to venue and jurisdiction for any proceeding necessary to enforce the terms of this Assurance within the District Court, Denver County, Colorado.

44. If a court of competent jurisdiction determines that Respondent have violated the Assurance, Respondents shall pay to the State the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

VIII. NOTICE

45. All notices regarding this Assurance shall be sent by certified mail, return receipt requested or reputable overnight delivery service (e.g., FedEx, UPS) at the addresses set forth below or by email unless any Party notifies the other Parties in writing of another address to which notices should be provided:

If to Respondents, to:

c/o Neil E. Asnen, Esq.
Klein Moynihan Turco LLP
450 Seventh Avenue – 40th Floor
New York, NY 10123
nasnen@kleinmoynihan.com

If to the State, to:

Abigail M. Hinchcliff
First Assistant Attorney General

Consumer Fraud Unit
Consumer Protection Section
1300 Broadway, Denver, CO 80203

IX. MISCELLANEOUS PROVISIONS

46. The State has agreed to the terms of this Assurance based on, among other things, the representations made to the State by Respondents and their counsel and the State's own factual investigation as set forth in allegations, paragraphs 1-20 above. Respondents represent and warrant that neither they nor their counsel have made any material representations to the State that are inaccurate or misleading. If any material representations by Respondents or their counsel are later found to be inaccurate or misleading, this Assurance is voidable by the State in its sole discretion.

47. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Respondents. Respondents shall include any such successor, assignment or transfer agreement a provision that binds the successor, assignee or transferee to the terms of the Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of State.

48. This Assurance shall neither create nor waive or otherwise affect any private rights or remedies in any third parties nor waive any rights, remedies, or defenses of the Parties in respect to any third parties. Under no circumstances shall

this Assurance or the name of the Attorney General or any of the State's employees or representatives be used by Ifficient or any person under their direction or control to suggest the State's endorsement of Ifficient's past, present, or future conduct.

49. Any failure by the State to insist upon the strict performance by Respondents of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the State, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by Respondent.

50. This Assurance is the final, complete, and exclusive statement of the Parties' agreement on the matters contained herein, and it supersedes, terminates, and replaces any and all previous negotiations, agreements, and instruments as may exist between the Parties. Other than any representation expressly stated in this Assurance, the Parties have not made any representations or warranties to each other, and no Party's decision to enter into this Assurance is based upon any statements by any other Party outside of those in this Assurance. No change or modification of this Assurance shall be valid unless in writing and signed by all Parties. If any provision(s) of this Assurance is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

51. Unless a term limit for compliance is otherwise specified within this Assurance, the Respondents' obligations under this Assurance are enduring. Nothing

in this Agreement shall relieve Respondents of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

52. Ifficient acknowledges that it is the State's customary position that an agreement restraining certain conduct by a party does not prevent the State from addressing later conduct that could have been prohibited, but was not, in the earlier agreement, unless the earlier agreement expressly limited the State's enforcement options in that manner. Therefore, nothing herein shall be interpreted to prevent the State from taking enforcement action to address conduct occurring after the Effective Date that the State believes to be in violation of the law. The fact that such conduct was not expressly prohibited by the terms of this Assurance shall not be a defense to any such enforcement action.

53. The terms and provisions of this Assurance may be enforced by the current Colorado Attorney General, and by any of his duly authorized agents or representatives, as well as by any of his successors in interest, and by any of his successors in interest's agents or representatives.

54. Pursuant to C.R.S. Section 6-1-110(2), this Assurance shall be a matter of public record.

55. The State and Ifficient acknowledge that they had a full opportunity to review this Assurance and consult with legal counsel regarding it. The undersigned representatives of the State and Ifficient agree and represent that they have read and understood this Assurance, accept the legal consequences involved in signing it, and

that there are no other representations, agreements, or understandings between the State and Ifficient that are not stated in writing herein.

56. This Assurance may be signed in one or more counterparts, each of which shall be deemed an original, but which together shall constitute the Assurance. Electronic copies of this Assurance and the signatures hereto may be used with the same force and effect as an original.

57. Respondents agree not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis. Nothing in this paragraph affects Respondents' right to take legal or factual positions in defense of litigation or other legal proceedings to which the State is not a party.

58. Nothing contained herein shall be construed to limit the remedies available to State in the event that Respondents violate the Assurance after its effective date.

59. This Assurance shall be governed by the laws of the Colorado without regard to any conflict of laws principles.

60. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

61. Respondents represent and warrant, through the signature below, that the terms and conditions of this Assurance are duly approved. Respondents further

represent and warrant that Matthew Mockus, as the signatory to this Assurance, is a duly authorized officer acting at the direction of the Board of Directors of Ifficient, Inc.


62. The effective date of this Assurance shall be ^{May 8}~~March 24~~, 2023.

STATE OF COLORADO:

IFFICIENT INC.

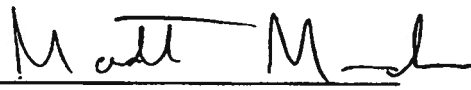
**PHILIP J. WEISER,
ATTORNEY GENERAL**

By:



Abigail Hinchcliff
First Assistant Attorney General
Attorney Reg. No. 47942

5/8/23
Date



By: Matthew Mockus

4/26/23
Date