

March 27, 2002

Office of the Secretary
Federal Trade Commission
Room 159
600 Pennsylvania Avenue, NW
Washington, DC 20580

(By overnight courier and to *tsr@ftc.gov*)

Re: FTC proposed national “do-not-call” registry

Dear Secretary:

I am the executive director for the American Association of State Troopers, Inc. (“AAST”), a Florida not-for-profit corporation, and its related charitable organization, the American Association of State Troopers Scholarship Foundation, Inc. (the “Foundation”). AAST is a national fraternal organization, with in excess of 5,100 trooper members, who collectively reside in 44 states. Our membership is limited to both active and retired state troopers or state police officers. The Foundation is a charitable entity (pursuant to Section 501 (c) (3) of the Internal Revenue Code). It serves mainly to raise funds and provide scholarships to eligible recipients.

AAST exists to provide camaraderie amongst its trooper members; disseminate job related, law enforcement and public safety information; and to supplement state-provided benefits to its members. In addition to the materials and benefits furnished to the enrolled membership, we actively participate in providing information to the general public on a variety of personal safety as well as issues of importance to the law enforcement community. Where appropriate, the Association becomes involved in lobbying efforts. AAST is not a “labor union” nor does it engage in any collective bargaining efforts for its members.

AAST was first incorporated in 1989. Since that time, in excess of \$1,667,600 has been provided in post secondary school scholarships to the children and dependents of troopers; more than \$3,822,000 has been spent to defray a variety of insurance premiums (over \$2,480,900 has been received by troopers’ beneficiaries in life insurance payments alone); more than \$1,676,500 has been distributed to troopers as a stipend upon retirement from active duty; and more than \$75,000 has been distributed in direct grants or payments to law enforcement agencies and/or personnel (i. e., in support of such programs as furnishing bullet proof vests to West Virginia troopers, supplying pepper gas

canisters to Tennessee troopers, providing uniform-related and safety equipment to Florida troopers, furnishing pursuit bicycles and exercise equipment to Oregon troopers, and a variety of individual grants to troopers or their survivors who suffered from individual catastrophes or even death in the line of duty).

Letter to FTC
March 27, 2002
Page 2 of 4

I mention these details because I feel a great sense of justifiable pride in our organization. Perhaps more relevant to the matter at hand, I also wish to confirm for you the legitimacy of our efforts and the fiduciary manner in which we administer the funds contributed for these causes by members of the public. AAST relies on public donations of funds obtained via our professional fund raising telemarketers to defray the vast majority of the costs incurred for each of these programs or benefits.

We are greatly concerned about your Commission's proposed amendment of the Telemarketing Sales Rule in order to mandate a national "do-not-call" registry. One of the key espoused purposes of the amendment is to curb unwanted telemarketing calls. However, it is our understanding that the proposed version is replete with exemptions—exemptions for special interests or groups that represent the vast bulk of calls made to residences (i.e., such as "cold calls" from financial planners, insurance sales people, and stock brokers; solicitations from vendors ranging from aluminum siding, carpet cleaning, lawn care, and pressure washing, to potable water treatment; and offers to enroll for credit cards, special banking services, and long distance or cellular telephone service). It is further our understanding that the contemplated amendment does not exempt charitable and tax-exempt or non-profit organizations.

To the extent that the espoused intent of the registry is to minimize unwanted telephone calls to residences, certainly no one could maintain, with a straight face, that any substantial reduction will result if it is implemented. It is the types of calls exempted and excluded from the prohibition that constitute at least the simple majority of all telemarketing contacts. Frankly, we are puzzled as to what legitimate distinction, if any, can be drawn from a regulatory stand point between those telemarketing efforts that continue unchecked and those prohibited by enrollment on the registry.

Many states in which AAST functions have their own do-not-call listing arrangement. A redundant federal listing arrangement merely adds one more level of needless bureaucracy to the system—at direct costs and decreased efficiency to the tax paying public as well as the administrative agencies involved. We genuinely believe it will divert your Commission's attention from its worthwhile goals and dilute your ability to perform your more important functions, such as "policing" the industry to crack down on unscrupulous entities that violate the legitimate controls you have or may place in effect. Like all entities who attempt to abide by applicable laws as well as to work within the intent, AAST supports your efforts to eliminate groups or individuals who misrepresent or deceive the public. (AAST maintains an "open door" policy—we make every conceivable effort to inform without overwhelming the public about our nature and purpose; we thoroughly answer questions with direct responses; and our use or application of the financial resources we obtained is accurately reported.)

The key to reduction or elimination of telemarketing fraud is for the appropriate state and federal administrative agencies to engage in active prosecution of the abusive elements that operate outside of or take advantage of the system. We urge you to direct your resources to activities that

reasonably can be expected to derive the goals you hold, not toward investing time, money, and effort in a venture doomed to frustration and failure by its very nature.

Like so many other non-profit organizations, we rely heavily on voluntary contributions to support our causes. No one is asked to provide assistance until after the potential donor has received both an oral description and written materials about the organization. We make every effort to contract with only well established companies that enjoy a good reputation for integrity and performance. We follow up with our own quality control procedures—procedures that are continually being updated and improved.

The proposed federal registry, in its current configuration, fails to allow for the rolls of existing supporters to be exempted from the all encompassing prohibition of direct contact. Therefore, once an individual elects to register, he or she effectively would sever their established relationship(s) with all sponsoring charities or organizations. As written, the registry takes a heavy handed approach: it excludes even those supporters who have considered and decided to become involved with a particular entity in the past. Active supporters are an invaluable resource for organizations such as our own. Without their continued participation, we would be unable to survive and provide the high level of quality services to the public and benefits to our members.

In addition to the Association's own pecuniary interest, I want to point out to you the potential adverse impacts posed by your contemplated action on a booming segment of our economy. The telemarketing companies we employ provide job opportunities to literally thousands of people—many of who may have physical or other limitations that eliminate most other employment options. Also, I believe that dissemination of honest information by ethical individuals and companies is not a problem. In fact, it actually can be deemed beneficial and convenient to many consumers. Your emphasis on enhancing or improving the system should be directed toward the integrity of the process, not the course for which it presently is charted. All too often seemingly well-intended regulators over step their delegated authority by implementing paternalistic regulations that do not accord the American public the respect for self sufficiency and determination that they deserve. Good government is that which least interferes with fair and honest free trade. Please reconsider your proposed actions and direct your attentions toward prosecution of fraudulent and deceitful practices, not toward over zealous closure of the avenues of free speech.

Although I am not a “constitutional lawyer,” I am deeply concerned about the encroachment on the First Amendment guaranteed right to freedom of speech posed by the subject amendment. Like many of our AAST members, I am a veteran of America's armed forces. I volunteered to serve my country because I believe in those Constitutional guarantees: guarantees that have held up well to the tests of time in making our democracy the greatest form of government ever to exist; guarantees that should not be trampled on or eroded lightly, such as the proposed amendment certainly would do.

In conclusion, for me personally and on behalf of our more than 5,100 members, I strongly encourage you to reconsider your Commission's apparent support for imposing a federal do-not-call

registry. I do not believe it will be functionally efficient, it is not needed nor does it accomplish any of the legitimate purposes of your agency, and I believe it is vastly unfair in its

Letter to FTC
March 27, 2002
Page 4 of 4

application and effects. If the Commission does persist in what we frankly believe to be an example of government folly, we request, at a minimum, that you exempt non-profit organizations from the effect of the amendment's registry, reevaluate your decision not to exempt lists of existing supporters, and/or eliminate the gaping loopholes left open for the special interests described more fully above.

Your kind attention to my association's concerns and your consideration of our input is appreciated. If we can be of any further service in helping to explain our concerns or clarifying our suggested course of action, please feel free to contact me at your convenience.

Respectfully submitted,

Harrall C. Griffin
Tennessee Highway Patrol (Ret.)
Executive Director

cc: Wayne York
J. Alan Cox
Errol Copilevitz