

COPY

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COURT OF CLAIMS
OF OHIO

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IN THE COURT OF CLAIMS OF OHIO

TRIAD COMMUNICATIONS, Inc., : Case Nos. 2015-00575 and 2015-00684

Plaintiff, : Magistrate Anderson M. Renick

v. :

OHIO DEPARTMENT OF
TRANSPORTATION, :

Defendant. :

SFC GRAPHICS, INC., :

Plaintiff, :

v. :

OHIO DEPARTMENT OF
TRANSPORTATION, :

Defendant. :

JOINT SETTLEMENT AGREEMENT

1. This agreement is made between TRIAD Communications, Inc. ("TRIAD"), and SFC Graphics, Inc. ("SFC"), hereinafter collectively the Plaintiffs, and the Ohio Department of Transportation, hereinafter the Defendant.
2. The Plaintiffs have asserted claims against the Defendant in two separate actions now pending in the Court of Claims; *TRIAD Communications, Inc. v. Ohio Department of Transportation* and identified as Ohio Court of Claims Case No. 2015-00575, and *SFC Graphics, Inc. v. Ohio Department of Transportation* and identified as Ohio Court of Claims Case No. 2015-00684.
3. This agreement is made as a compromise between the parties for the complete and

final settlement of their claims, differences, and causes of action with respect to the disputes described above.

4. It is understood by the Plaintiffs and the Defendant that the facts upon which this agreement is made may hereafter prove to be other than or different from the facts now known by either of them or believed by either of them to be true. Each of the parties hereto expressly accepts and assumes the risk of the facts proving to be so different, and each of the parties hereto agree that all the terms of this agreement shall be in all respects effective and not subject to termination or rescission by reason of any such difference in facts.
5. The parties agree that the terms of this compromise and settlement agreement bind the parties hereto, and their assigns and successors in interest.
6. The Plaintiffs understand that this settlement is a compromise of disputed claims and payment thereof is not to be construed as an admission of liability on the part of the Defendant.
7. This Settlement Agreement and Release of All Claims contains the entire agreement between the parties with regard to the matters set forth herein. There are no other understandings or agreements, verbal or otherwise, in relation thereto, between the parties except as expressly set forth herein.
8. In consideration of the mutual covenants set forth herein, the parties agree as follows:
 - A. The Defendant agrees to pay to TRIAD, and TRIAD agrees to accept, the total sum of One Hundred Twenty-Five Thousand Dollars (\$125,000.00), to be paid as one lump sum within ninety (90) days following approval of this Agreement by the Court of Claims, pursuant to Ohio Revised Code § 2743.19. The payment shall be in United States currency by check made payable to "TRIAD Communications, Inc." and shall be delivered to TRIAD Communications, Inc. at 2006 4th Street, Cuyahoga Falls, Ohio 44221. The payment shall be deemed received by TRIAD on the date that it is received at the aforementioned address. No interest on this amount shall be paid. No representation is made by the Defendant as to the tax consequences of payment of the amount specified in this paragraph;
 - B. The Defendant agrees to pay to SFC, and SFC agrees to accept, the total sum of Forty-Five Thousand Three Hundred Ninety-Five and 32/100 Dollars (\$45,395.32), to be paid as one lump sum within ninety (90) days

following approval of this Agreement by the Court of Claims, pursuant to Ohio Revised Code § 2743.19. The payment shall be in United States currency by check made payable to "SFC Graphics, Inc." and shall be delivered to SFC Graphics, Inc. at 110 East Woodruff Avenue, Toledo, Ohio 43604-5226. The payment shall be deemed received by SFC on the date that it is received at the aforementioned address. No interest on this amount shall be paid. No representation is made by the Defendant as to the tax consequences of payment of the amount specified in this paragraph;

- C. The parties agree that, except as otherwise set forth in this Agreement, their respective rights and obligations pursuant to the Agreement for Exclusive Advertising and Sponsorship Rights at Ohio Department of Transportation's Interstate Rest Areas and Welcome Centers ("SMART 1 Agreement"), executed on or about August 29, 2012 between Defendant and Travelers Marketing, LLC ("Travelers Marketing") and later assigned by Travelers Marketing to Plaintiffs, is terminated as of the effective date of this Agreement;
- D. TRIAD hereby assigns to ODOT all right, title and interest in and to the display infrastructure installed by TRIAD in certain interstate rest area locations, together with all benefits and obligations associated therewith, as of the effective date of this Agreement, subject only to the continuing rights of TRIAD as described in Paragraph 8(E) of this Agreement. The display infrastructure that is the subject of this Agreement is situated in the following interstate rest area locations:

Location	District	Coordinates
Wood NB	2	N41 20.437 W83 37.447
Wood SB	2	N41 20.146 W83 37.609
Ashtabula WB	4	N41 55.477 W80 32.768
Belmont WB	11	N40 03.866 W81 00.691
Washington NB	10	N39 27.001 W81 26.321
Scioto NB	9	N38 57.001 W83 01.467
Warren SB	8	N39 24.861 W84 07.457
Butler SB	8	N39 25.211 W84 20.927
Butler NB	8	N39 25.016 W84 20.940
Preble EB	8	N39 49.676 W84 45.667;

- E. The Defendant further agrees that:
- (i) All display infrastructure installed by TRIAD shall remain at least until October 1, 2015 and that TRIAD shall have exclusive right to continued use of the display infrastructure until October 1, 2015 for the purpose of digital display advertisements or other electronic advertisements, including, but not limited to, Wi-Fi, website or mobile phone advertising;
 - (ii) Defendant: shall continue to supply electricity to that display infrastructure without charge; will take no action that would adversely impact upon that display infrastructure; shall direct that no other agency or entity shall take any action that would adversely impact upon that display infrastructure; and shall indemnify, defend and hold harmless TRIAD from any and all claims, demands, actions, or causes of action of any nature or kind by any advertiser as a result of any action by Defendant or agencies or entities within Defendant's control that adversely impacts the display infrastructure;
 - (iii) Plaintiffs shall have access to the aforementioned interstate rest area locations as is reasonably necessary to perform services related to the continued use and operation of the display infrastructure, including, but not limited to inspection and repair, until October 1, 2015;
 - (iv) Plaintiffs shall retain all revenue generated by any work performed by them at any time under the SMART 1 Agreement without any payment or reimbursement obligation to Defendant, including, but not limited to, all revenue generated by Plaintiffs' work from the effective date of this Agreement until October 1, 2015 regardless of when that revenue is realized;
- F. Excluding the obligations of Defendant pursuant to this Agreement, the Plaintiffs agree that all claims, demands, rights, causes of action, costs, loss of services, expenses, and any and all other damages on account of, or in any way arising out of the actions or inactions of Defendant, its officers, employees, servants, or agents, during or arising out of the transaction described in the SMART 1 Agreement and/or complaints in Court of Claims Case Nos. 2015-00575 and 2015-00684 be released, settled, satisfied, discharged and compensated;
- G. Excluding the obligations of Plaintiffs pursuant to this Agreement, the

Defendant agrees that all claims, demands, rights, causes of action, costs, loss of services, expenses, and any and all other damages on account of, or in any way arising out of the actions or inactions of Plaintiffs, their officers, employees, servants, or agents, during or arising out of the transaction described in the SMART 1 Agreement and/or complaints in Court of Claims Case Nos. 2015-00575 and 2015-00684 be released, settled, satisfied, discharged and compensated;

- H. Travelers Marketing has executed a Release Agreement and Covenant Not to Sue as to all claims, demands, rights, causes of action, costs, loss of services, expenses, and any and all other damages on account of, or in any way arising out of the actions or inactions of Plaintiffs and Defendant, their officers, employees, servants, or agents, during or arising out of the transaction described in the SMART 1 Agreement, a true and accurate copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.
9. The Plaintiffs agree to be bound by journal entries dismissing with prejudice the above described claims in the matters known as Ohio Court of Claims Case No. 2015-00575 and 2015-00684. Costs of the aforementioned Ohio Court of Claims actions shall be taxed to and paid by Defendant.
10. The parties hereto acknowledge and agree that this agreement shall not be binding on any of the parties until it has been duly presented to the Ohio Attorney General, as required by Section 2743.15(A), Ohio Revised Code, and Rule 7(A) of the Rules of the Court of Claims, for the Attorney General's approval, and the Ohio Attorney General has approved the agreement. The parties further acknowledge that the signature of the Assistant Attorney General on this settlement is on behalf of Defendant and is not to be construed as the approval of the Attorney General. If the Attorney General shall fail or refuse to approve the settlement, this agreement shall be null and void and without any force or effect, and none of the parties shall be bound thereby.
11. The parties hereto acknowledge and agree that this agreement shall not be binding on any of the parties until it has been duly presented to the Ohio Court of Claims as required by Section 2743.15(A), Ohio Revised Code, and Rules 7(A) and (B) of the Rules of the Court of Claims, for the Court's approval, and the Court has approved the agreement. If the Court shall fail or refuse to approve the agreement, this agreement shall be null and void and without any force or effect, and none of the parties shall be bound thereby.

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12. Each party shall bear its own attorneys' fees and costs incurred in the preparation and consummation of this Agreement.
13. The waiver by Plaintiffs of any breach of this Agreement by Defendant shall not be deemed a waiver of any other breach of this Agreement.
14. Each of the parties have had the opportunity to seek advice of counsel in the negotiation, drafting, and execution of this Agreement, and the language in all parts of this Agreement is a product of the efforts of all parties and/or their counsel. For the purposes of construction, this Agreement shall be deemed to have been drafted by all parties, and no ambiguity shall be resolved against any party by virtue of the party's participation in the drafting of this Agreement.
15. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one agreement.
16. The undersigned have read this Settlement Agreement, understand all its terms, if signing on behalf of a principal, have authority to sign settlement documents on its behalf, and have executed this Settlement Agreement voluntarily.

10/6/15
DATE

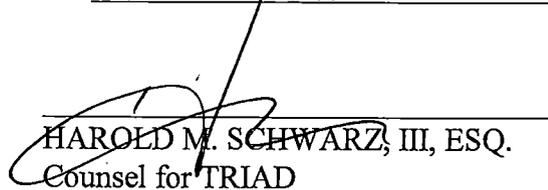


TRIAD COMMUNICATIONS

By: RICHARD J KROCHKA

Its: PRESIDENT

10/6/15
DATE



HAROLD M. SCHWARZ, III, ESQ.
Counsel for TRIAD

DATE

SFC GRAPHICS, INC.

By: _____

2015 NOV 10 PM 3:12

12. Each party shall bear its own attorneys' fees and costs incurred in the preparation and consummation of this Agreement.
13. The waiver by Plaintiffs of any breach of this Agreement by Defendant shall not be deemed a waiver of any other breach of this Agreement.
14. Each of the parties have had the opportunity to seek advice of counsel in the negotiation, drafting, and execution of this Agreement, and the language in all parts of this Agreement is a product of the efforts of all parties and/or their counsel. For the purposes of construction, this Agreement shall be deemed to have been drafted by all parties, and no ambiguity shall be resolved against any party by virtue of the party's participation in the drafting of this Agreement.
15. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one agreement.
16. The undersigned have read this Settlement Agreement, understand all its terms, if signing on behalf of a principal, have authority to sign settlement documents on its behalf, and have executed this Settlement Agreement voluntarily.

DATE

10/6/15
DATE

10/7/15
DATE

TRIAD COMMUNICATIONS

By: _____

Its: _____



HAROLD M. SCHWARZ, III, ESQ.
Counsel for TRIAD



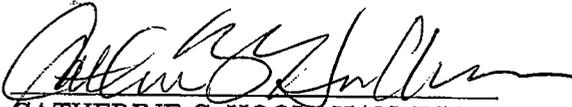
SFC GRAPHICS, INC.

By: Michael S. Regan
Manager Partner
Executive Vice President

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Its: _____

10/7/15
DATE



CATHERINE G. HOOLAHAN, ESQ.
Counsel for SFC

DATE

OHIO DEPT. OF TRANSPORTATION

By: _____

Its: _____

DATE

PETER E. DEMARCO, ESQ.
Assistant Attorney General
Counsel for Defendant

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DATE

10.15.15
DATE

CATHERINE G. HOOLAHAN, ESQ.
Counsel for SFC

OHIO DEPT. OF TRANSPORTATION

By: Jerry Way / mp
Its: Director

11/6/15
DATE

Peter E. Demarco
PETER E. DEMARCO, ESQ.
Assistant Attorney General
Counsel for Defendant

RELEASE AGREEMENT AND COVENANT NOT TO SUE

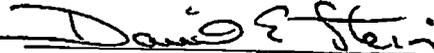
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Travelers Marketing, L.L.C. ("Travelers Marketing"), a Massachusetts limited liability company located at 47 Church St., Wellesley, MA 02482, in consideration of the acceptance by TRIAD Communications, Inc., an Ohio corporation located at 2006 Fourth Street, Cuyahoga Falls, OH, 44221 ("TRIAD"), and SFC Graphics, Inc., an Ohio corporation located at 110 E. Woodruff Ave., Toledo, OH 42604 ("SFC Graphics"), of a certain Assignment made April 10, 2015 (the "Assignment") of the Agreement for Exclusive Advertising and Sponsorship Rights at Ohio Department of Transportation's Interstate Rest Areas and Welcome Centers ("SMART 1 Agreement") executed on August 29, 2012 between Ohio Department of Transportation ("ODOT") and Travelers Marketing, does hereby for itself and its parents, subsidiaries, affiliates, officers, directors, employees, servants, agents, shareholders, members, representatives, predecessors, successors, administrators, assigns, and attorneys, release, forever discharge, and covenant not to sue ODOT, TRIAD, and SFC Graphics and their respective parents, subsidiaries, affiliates, officers, directors, employees, servants, agents, shareholders, members, representatives, predecessors, successors, administrators, assigns, and attorneys, of, from, and with respect to all demands, liabilities, charges, claims, actions, causes of action, suits, damages, judgments, and executions of whatever kind or nature, in law or in equity, whether accrued, absolute, contingent, unliquidated, or otherwise, known or unknown, that Travelers Marketing ever had, now has, or hereafter can, shall or may have against ODOT, TRIAD, and/or SFC Graphics for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the date of this Release Agreement and Covenant Not to Sue arising from, concerning, or in any way relating to the SMART 1 Agreement and/or Assignment.

IN WITNESS WHEREOF, Travelers Marketing has caused this Release Agreement and Covenant Not to Sue to be executed on the date set forth below.



WITNESS



TRAVELERS MARKETING, L.L.C.

By: David E. Stein

Its: Managing Partner

Date: 9/15/15

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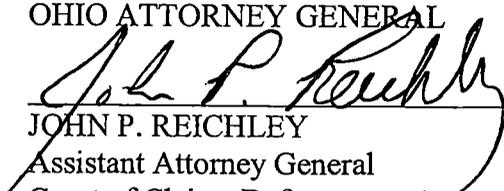
SFC GRAPHICS, INC., :
Plaintiff, :
v. :
OHIO DEPARTMENT OF :
TRANSPORTATION, :
Defendant. :

ATTORNEY GENERAL'S APPROVAL OF SETTLEMENT

The Attorney General of Ohio pursuant to Section 2743.15(A), Revised Code, has reviewed the Settlement Agreement in the above-captioned action and hereby approves it this

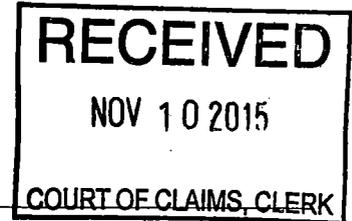
10th day of November, 2015.

MICHAEL DeWINE
OHIO ATTORNEY GENERAL


JOHN P. REICHLEY
Assistant Attorney General
Court of Claims Defense
150 E. Gay Street, 18th Floor
Columbus, Ohio 43215
(614) 466-7447

IN THE COURT OF CLAIMS OF OHIO

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Plaintiff, :
v. :
OHIO DEPARTMENT OF :
TRANSPORTATION, :
Defendant. :

JOURNAL ENTRY
APPROVING SETTLEMENT AGREEMENT AND RELEASE

The Court, being fully advised as to the premises, approves and confirms the settlement agreement and release entered into by and between the parties and ORDERS the cause be DISMISSED with prejudice to all parties. Court costs are assessed against defendant. No interest shall be paid on the amount of the settlement.

It is further ORDERED that a settlement warrant in the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) be drawn on the account of the Ohio Department of Transportation, be made payable to Triad Communications, Inc. and be sent to Triad Communications, Inc., 2006 4th Street, Cuyahoga Falls, Ohio 44221.

It is further ORDERED that a second settlement warrant in the amount of Forty-Five Thousand Three Hundred Ninety-Five Dollars and Thirty-Two Cents (\$45,395.32) be drawn on the account of the Ohio Department of Transportation, be made payable to SFC Graphics, Inc. and be sent to SFC Graphics, Inc., 110 East Woodruff Avenue, Toledo, Ohio 43604-5226.

DATE: _____

~~JUDGE, COURT OF CLAIMS OF OHIO~~

Entry cc:

HAROLD M. SCHWARZ, III
3475 Ridgewood Road
Akron, Ohio 44333
Counsel for Plaintiff

CATHERINE G. HOOLAHAN
1119 Adams Street, 2nd Floor
Toledo, Ohio 43604-1508
Counsel for Plaintiff

PETER E. DEMARCO
Assistant Attorney General
Court of Claims Defense
150 East Gay Street, 18th floor
Columbus, OH 43215
Counsel for Defendant

