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**MEMORANDUM**

June 13, 2012

To Our Clients and Friends

Re: FCC Rules for Written Consent for Autodialed and Prerecorded Telemarketing Calls

The Federal Communications Commission (“FCC”) has issued final rules to require prior express written consent for autodialed or prerecorded telemarketing calls to wireless telephones and for prerecorded telephone calls to residential telephones. In addition, the rules eliminate the “established business relationship” exception for such calls to residential telephones, require prerecorded telemarketing calls to allow consumers to opt out of future prerecorded telemarketing calls using an interactive, automated opt-out mechanism, and limit permissible abandoned calls on a per-calling campaign basis. The rules implement changes the FCC adopted in February.

The rules are intended to conform the FCC’s rules under the Telephone Consumer Protection Act of 1991 with the Federal Trade Commission’s Telemarketing Sales Rule. In this regard, the FCC’s rules, like those of the FTC, permit sellers and telemarketers to obtain prior written consent using any method permitted under the Electronic Signatures in Global and National Commerce Act (the “E-SIGN Act”). This includes consent obtained via e-mail, website form, text message, telephone key-press, or voice recording.

The rules do not affect the requirements for prerecorded messages that are purely informational. Although informational calls do not require prior consent if made to residential telephones, they will continue to require prior oral or written consent if made to wireless telephones.

While the FCC indicates that the rules are effective July 11, 2012, several sections, including the requirement for an automated opt-out mechanism and the limit on abandoned calls, are not effective until the information collection requirements have been approved by the Office of Management and Budget.

A copy of the FCC’s rules can be found at our website at <http://www.schwartzandballen.com/news.html>

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox, Heidi Wicker or Lauren Bianchini at (202) 776-0700.