

# GETTING PERSONAL: Credit Pros' President and Chief Compliance Officer Kaplan Stuck in TCPA Case Over Credit Improvement Text Messages

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Queenie back.

The President of Credit Pros is stuck in a TCPA class action in New Jersey related to credit improvement texts.

The texts at issue stated “Adam begin 2021 with a credit improvement journey 3044037938 chat with our team now.” The Plaintiff sued Credit Pros arguing that the texts were sent using an ATDS. And he sued Kaplan personally asserting that he “is the face of Credit Pros marketing department and their Chief Compliance Officer and under these roles “he reviews and approves all marketing by Defendant Credit Pros.”

The Defendants moved to dismiss the case arguing that Kaplan cannot be personally sued—the texts were sent by Credit Pros, and not by him personally— and that the texts were not sent using an ATDS. While the Court granted the motion on ATDS grounds—more on that below—it held that Kaplan was stuck in the case.

As the Czar often says, the TCPA's application to individuals—particularly compliance officers and those who are actually trying to assure TCPA compliance—is the “most unfair rule” in all of American jurisprudence. It is absurd to think that a compliance officer trying to help a company comply with the statute can be held personally liable for a mistake, but those are the stakes in TCPAWorld.

In *Champion v. Credit Pros*, 2022 WL 3152657 (D. N.J. August 5, 2022) the Court held directly that Mr. Kaplan could be sued directly and personally for the texts sent by Credit Pros:

*Under the TCPA, an individual may be personally liable pursuant to 47 U.S.C. § 217. This section provides the “act, omission, or failure ... of any officer ... acting for or employed by any common carrier or user, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure ... of such carrier or user as well as of that person.” 47 U.S.C. § 217... In other words, if the corporate officer has been found to be more than tangentially involved in the conduct which has found to be in violation of the TCPA and was involved in the sending of calls or texts, he may be held personally liable.*

*This post was authored by Puja J. Amin.*

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National Law Review, Volume XII, Number 221

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