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**MEMORANDUM**

August 9, 2004

To Our Clients and Friends

Re: FCC Rule Prohibiting the Sending of  
Commercial Messages to Wireless Phones and Pagers

The Federal Communications Commission (“FCC”) has adopted a rule which prohibits the sending of commercial messages to any e-mail address that references an Internet domain associated with wireless subscriber messaging services. The restriction implements the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the “CAN-SPAM Act”)<sup>1</sup> and was adopted to protect consumers from receiving unsolicited commercial messages on their wireless phones and pagers. Commercial messages may be sent, however, if the recipient has given the sender prior express authorization orally, on paper or electronically.

The FCC will create a publicly available wireless domain name list to enable senders to determine what domain names are directed at mobile services. The rule prohibits the sending of commercial messages to addresses that contain a domain name that has been on the FCC’s domain name list for 30 days or that the sender knows to be a wireless address.

A copy of the FCC’s announcement can be found on our web site at [http://www.schwartzandballen.com/whats\\_new.html](http://www.schwartzandballen.com/whats_new.html).

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

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<sup>1</sup> A copy of our memorandum concerning the CAN-SPAM Act may be found at [http://www.schwartzandballen.com/2003\\_memoranda.html](http://www.schwartzandballen.com/2003_memoranda.html).