

HONORABLE DAVID G. ESTUDILLO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NATHEN BARTON,

Plaintiff,

v.

JOE DELFGAUW, XANADU
MARKETING INC., STARTER
HOME INVESTING INC.

Defendants.

CASE NO. **3:21-cv-05610-DGE**

JOINT STIPULATED FACTS

AND RELATED COUNTERCLAIMS,

All Parties In This Litigation Stipulate to the Following Facts

Either party may refer to one or more of the following statements to withdraw these facts from contention.

1. The Defendants sent the content of the following text messages to telephone number (360) 910-1029 from the SMS short codes indicated as follows:
 The text messages shown in NB307 on 4/1/2021
 The text messages shown in NB308 on 4/1/2021
 The text message dated 4/12/2021 shown in NB337
 The text message dated 7/13/2021 shown in NB343
 The text message dated 8/11/2023 shown in NB347
 The text message dated 9/21/2021 shown in NB355
 The text message dated 11/17/2021 shown in NB362
 The text message dated 11/23/2021 shown in NB365
 The text message dated 4/5/2021 shown in NB385

1 The text message dated 4/8/2021 shown in NB385
2 The text message dated 6/11/2021 shown in NB395
3 The text message dated 8/4/2021 shown in NB400
4 The text messages dated 11/17/2021 shown in NB410
5 The text messages shown in NB412 on 11/17/2024

6 NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395,
7 NB400, NB410, and NB412 are attached to this document.

- 8 2. The person who used and controlled the email address ivettealfredomartinez@gmail.com
9 is the person who caused the Defendants the injury the Defendants allege in their counter
10 claim.
- 11 3. Joeseeph Deflgauw is the founder and owner of Validiform.
- 12 4. During the times relevant to this lawsuit Joeseeph Deflgauw and the entities under Joeseeph
13 Deflgauw's control simply assumed all the information submitted during the "opt in" process
14 was correct, and they didn't take any actions to verify the accuracy of the "opt in"
15 information submitted. Likewise, they took no steps to verify if the owner of the email
16 address ivettealfredomartinez@gmail.com was the same person who had use of the phone
17 number (360) 910 1019.
- 18 5. Xanadu could have verified that the person in possession of the phone wanted Xanadu's text
19 messages by requiring them to respond to a question to complete the 'opt in', or asking them
20 to reply back with a specified response to confirm the "opt in".
- 21 6. The language the Defendants' claim Barton agreed to on educationschoolmatching.com by
22 checking a box and clicking submit said entering in a phone number or email address on the
23 website was only consenting to receive messages from a specific list of partners. None of the
24 text messages Starter Home or Xanadu sent to (360) 910 1019 was from this specific list of
25 partners.
7. Before Starter Home Investing Inc sent the seven text messages to (360) 910-1019 on April
1, 2021, advertising goods or services from Degree Locate, Get Hope To Own, *credit-score-
first.com*, *yourent2own.com*, Lawsuit Winning, Lions Gate Loans, Honest Loans, and Classes
& Careers, entities Degree Locate, Get Hope To Own, *credit-score-first.com*,
yourent2own.com, Lawsuit Winning, Lions Gate Loans, Honest Loans, and Classes &
Careers, Starter Home Investing Inc. and Xanadu Marketing Inc. did not have the invitation
or consent from Barton to do so.
8. None of the text messages the Defendants sent to (360) 910-1019 were a special sales
promotion.
9. During all times relevant to this Lawsuit, Xanadu Marketing Inc owned the websites
renttoownhomefinder.com, *XanaduMarketing.com*, *houses-into-homes.com*
apexpagebuilder.com, *rounduplawsuit.live*, *theultimaterenttoownhomeprogram.com*,
completetheseoffers.com, *cloudbasedcampaigns.com* *educationschoolmatching.com*,
assistingrenters.com, *thetaxaxe.org*, *increasemyscore.live*, *thecardinalprogram.com*,
gethopetoown.com, and *roundupfiler.live*.
10. During all times relevant to this lawsuit, only Xanadu Marketing Inc. or Starter Homes
Investing Inc. sent text messages using SMS short codes 365365, 46758, 33959, or 94657.
11. During all times relevant to this lawsuit Affiliate marketers could earn money from 'opt ins'
on *EducationSchoolMatching.com*.
12. During all times relevant to this lawsuit *Educationschoolmatching.com* collected the type of
computer and the operating system of the device that is used to "opt in" on the website.

- 1 13. Apex Page Builder was an unregistered trade name used by Xanadu Marketing Inc that was
officially registered on 11/30/2021.
- 2 14. The first time Joseph Deflgauw or entities under Joseph Delfgaww's control registered the
doing-business-as name Lending Cloud Alerts was on 11/2/2021.
- 3 15. Xanadu Marketing Inc. uses the URL *xanaduemarketing.outgrow.com*.
- 4 16. An entity under Joseph Deflgauw's control paid an Affiliate Marketer for at least one "opt
in" the Defendants claim Barton is responsible for.
- 5 17. IP address 8.8.8.8 is the IP address of a Google Public DNS server.
- 6 18. The opt-ins of phone number (360) 910-1019 on *educationschoolmatching.com* during the
times relevant to this lawsuit were from IP addresses 71.238.123.34 and 8.8.8.8 and the same
entity did them both.
- 7 19. No text message or phone call Joseph Delfgaww or an entity under Joseph Delfgaww's
control initiated to (360) 360 1019 between March 29, 2021, and December 1, 2021,
8 advertised products or services from *educationschoolmatching.com*, or was from
educationschoolmatching.com,
- 9 20. The Defendants have no information that it was not a form spammer who "opted in" and
caused their injury.
- 10 21. The Defendants did not have a Federal Trade Commission Subscription Account Number
during the year 2021.
- 11 22. During the times relevant to this lawsuit, an "opt in" on *educationschoolmatching.com*
12 that provided a telephone number and email address would result in the email address
receiving one or more emails and each email contained clickable links.
- 13 23. During all times relevant to this lawsuit there was no contract between Starter Home
Investing Inc. and Xanadu Marking Inc.
- 14 24. Joseph Delfgaww is aware that entities under his control send text message solicitations.
- 15 25. Apex Page Builder was an unregistered trade name used by Xanadu Marketing Inc that was
officially registered on 11/30/2021.
- 16 26. Tort Experts (LGNB LLC) did not allow Xanadu Marketing Inc. to SMS anymore because
17 Tort Experts (LGNB LLC) does not let any entity solicit Tort Experts (LGNB LLC) products
or services via SMS messages.
- 18 27. The names LENDING CLOUD HOMES and LENDING CLOUD AUTO are the only other
names Starter Home is allowed to do business under.
- 19 28. Joe Delfgaww is actively involved in managing Starter Homes Investing Inc.
- 20 29. Text messages Starter Home Investing Inc sends sometimes contain an internet link to
xanadutracking.com or *xanaduemarketing.outgrow.com*.
- 21 30. The Dialer data was deleted to deprive Barton of the evidence.
- 22 31. Domain *xanadumarketing.outgrow.us* is used by Xanadu Marketing Inc.
- 23 32. The *doing business as* name "DIAL FUSION" is registered to Xanadu Marketing Inc.
- 24 33. Joseph Delfgaww or entities under his control have some ownership of The Mountaintop
Affiliate Network.
- 25 34. The Mountaintop Affiliate Network has some ownership of entities under Delfgaww's
control.
35. Joseph Delfgaww knew entities under his control were using SMS messages to solicit Tort
Expert (LGNB LLC) products or services.
36. Joseph Delfgaww is the President of MOUNTAINTOP AFFILIATE NETWORK INC.
37. Most of the time Joseph Delfgaww spends working is spent with entities under Joseph
Delfgaww's control whose primary revenue stream is from sending text message
solicitation or phone call solicitation.

This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

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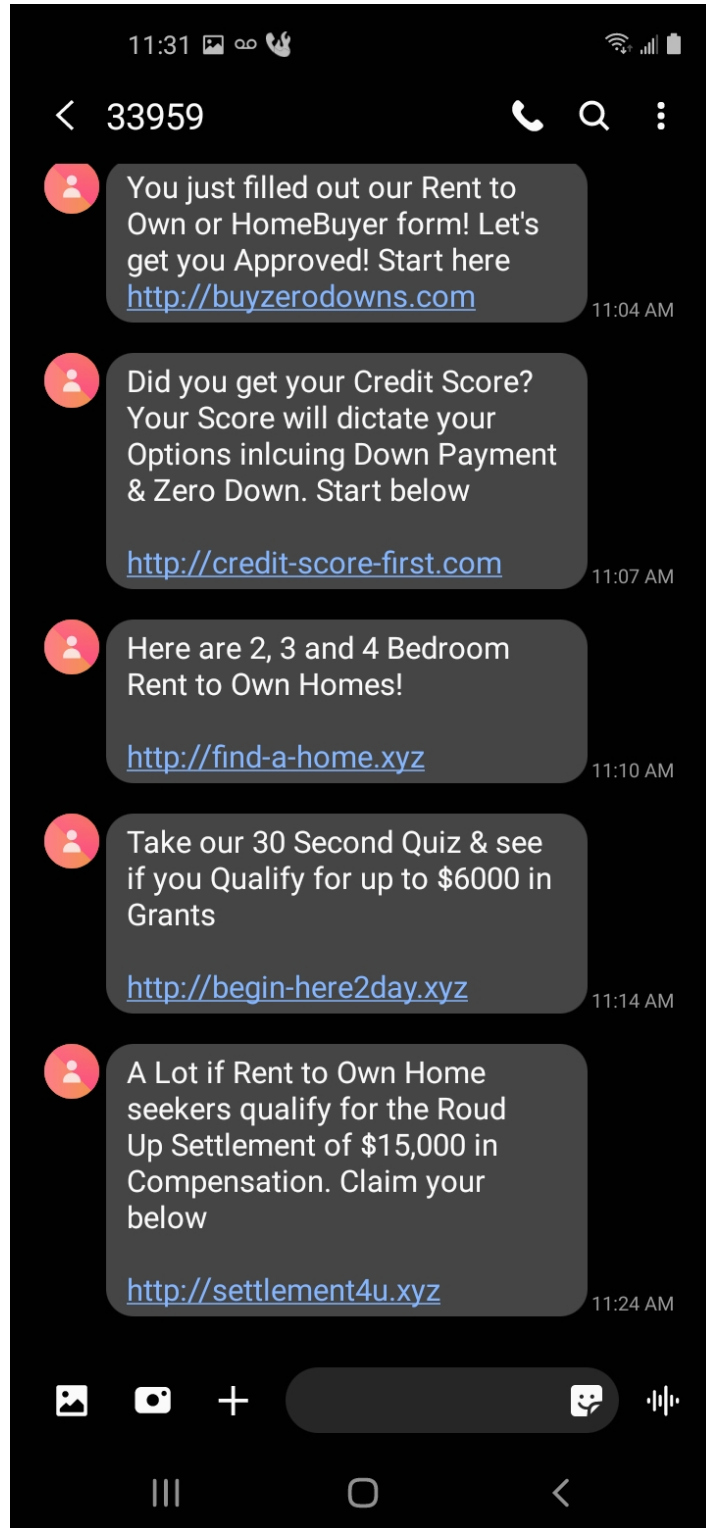
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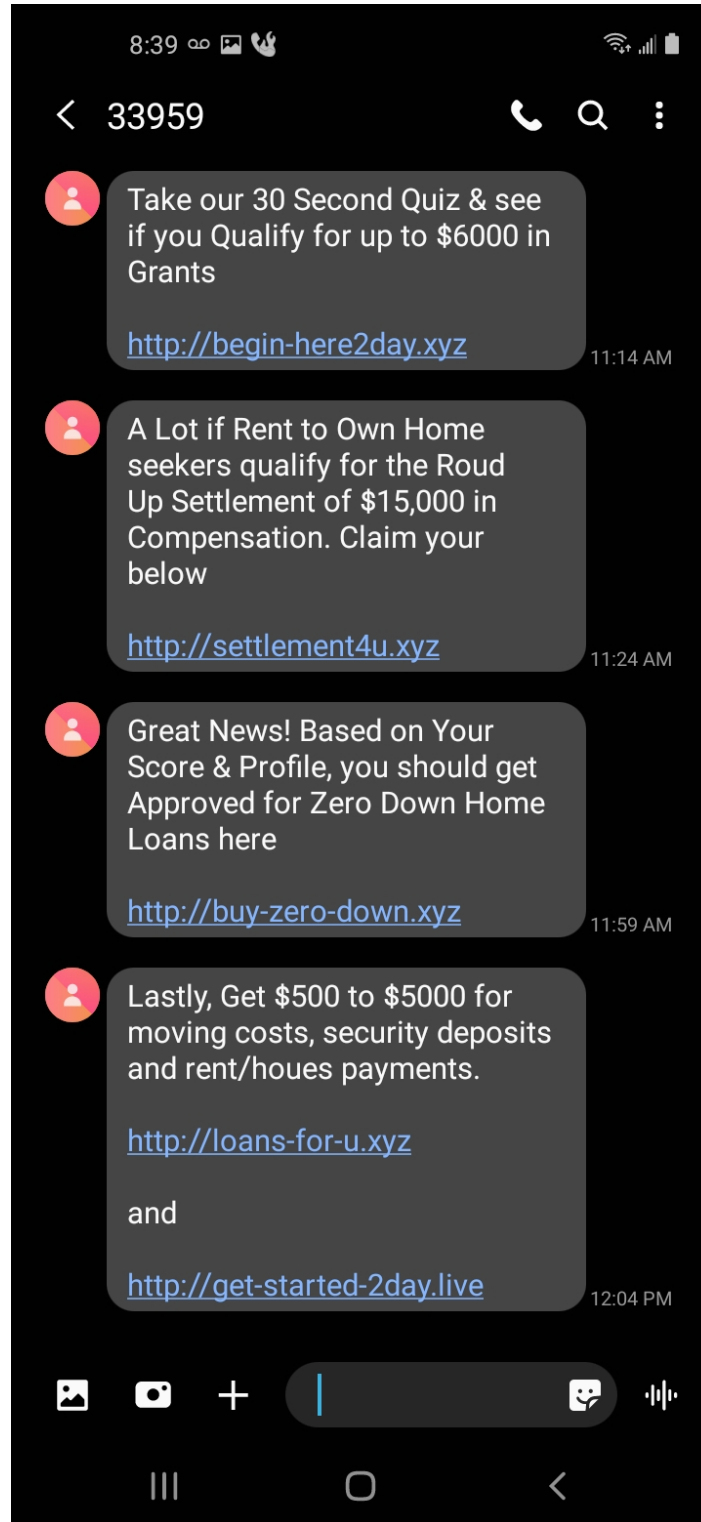
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB307



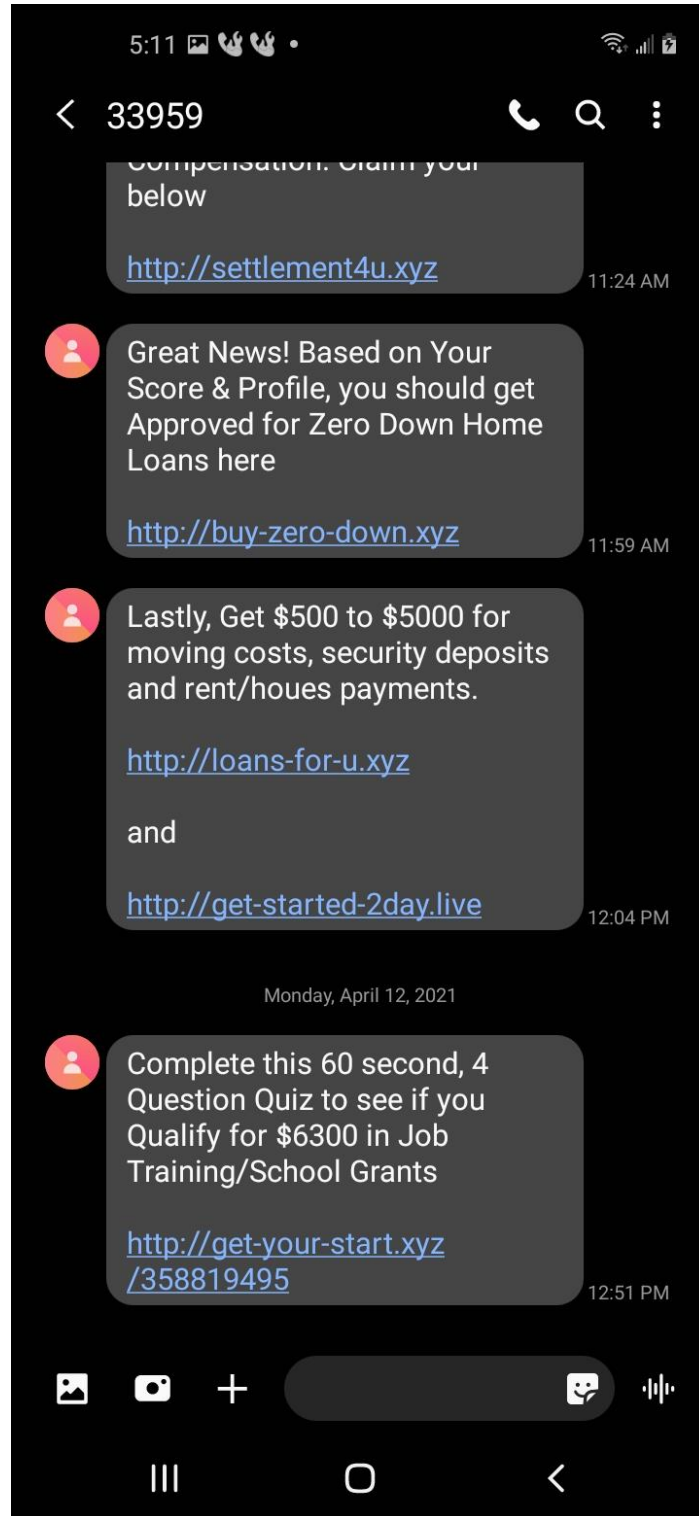
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB308



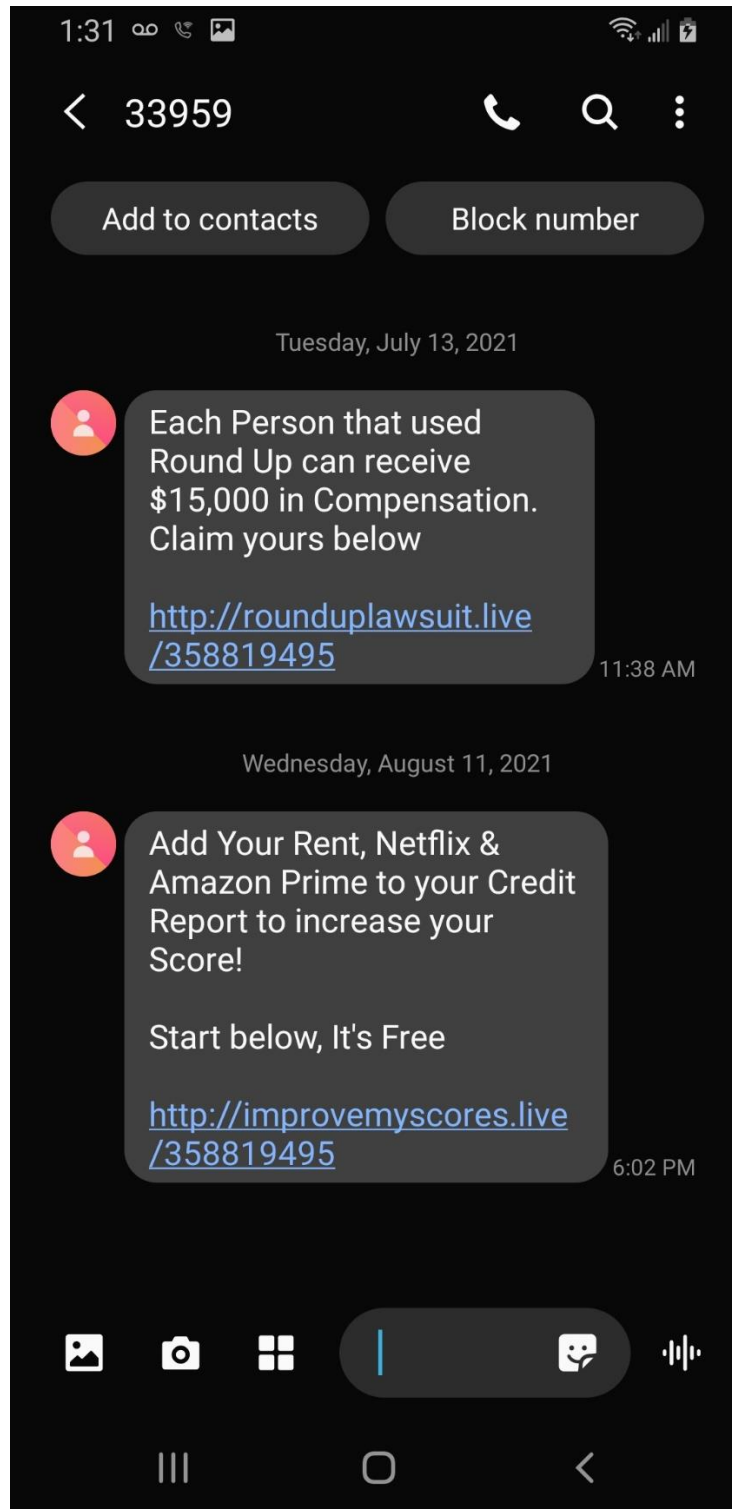
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB337



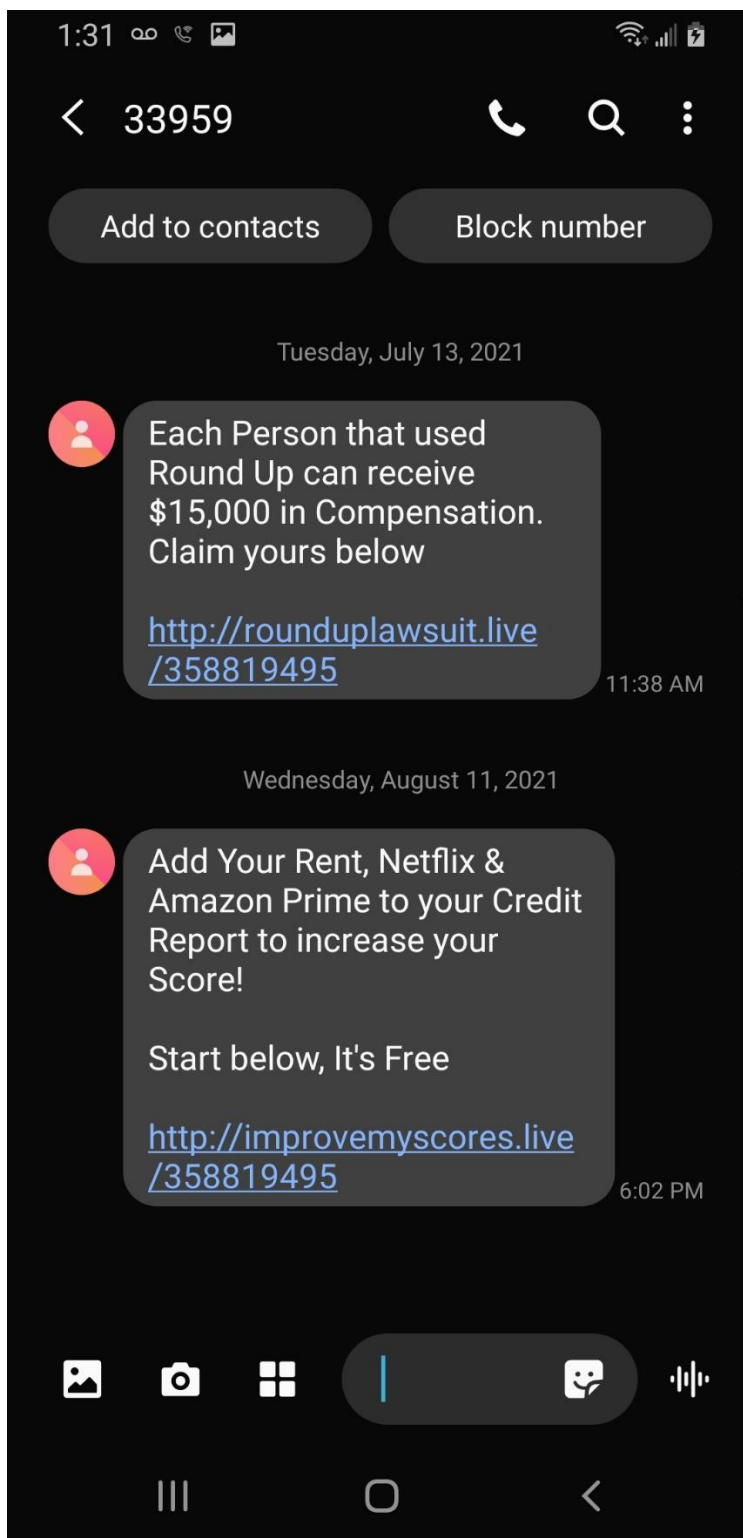
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB343



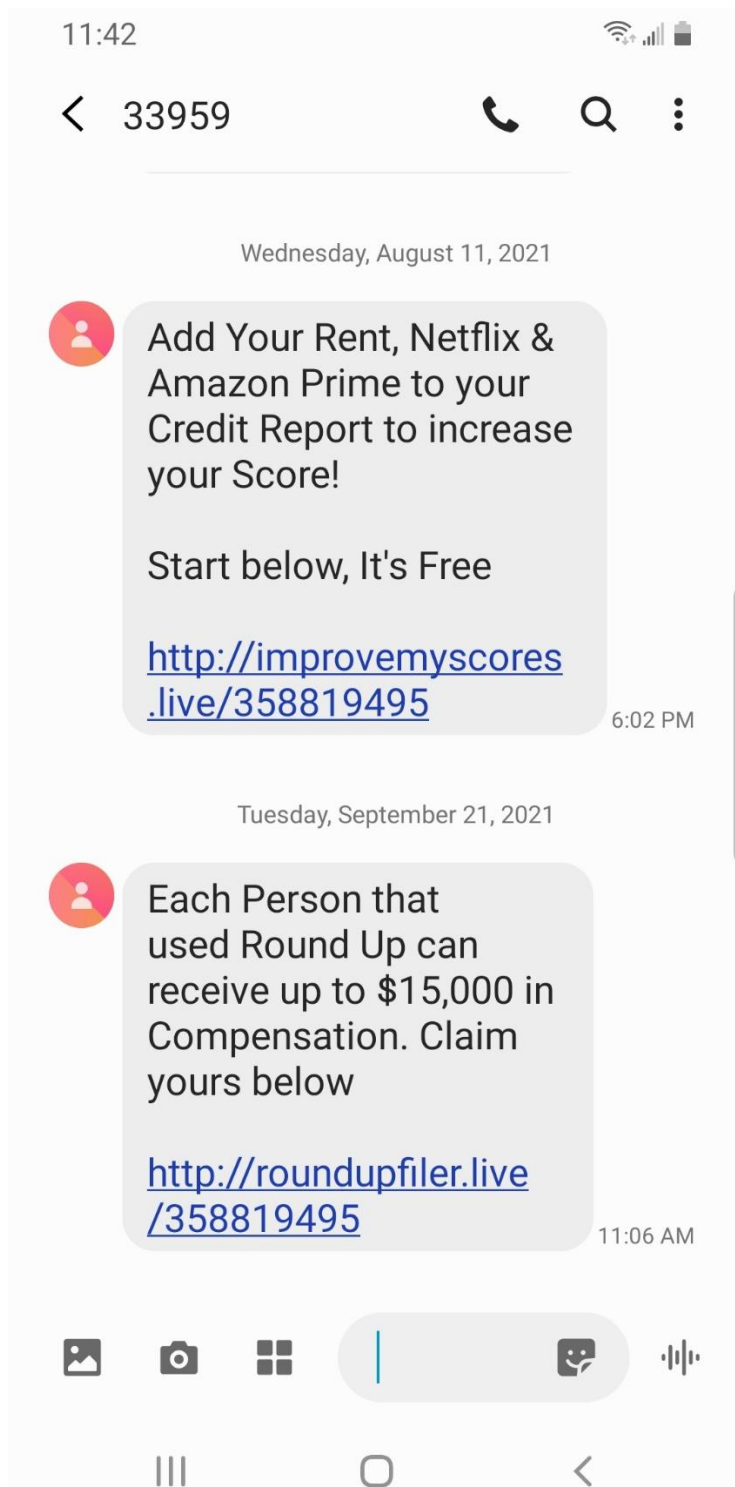
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB347



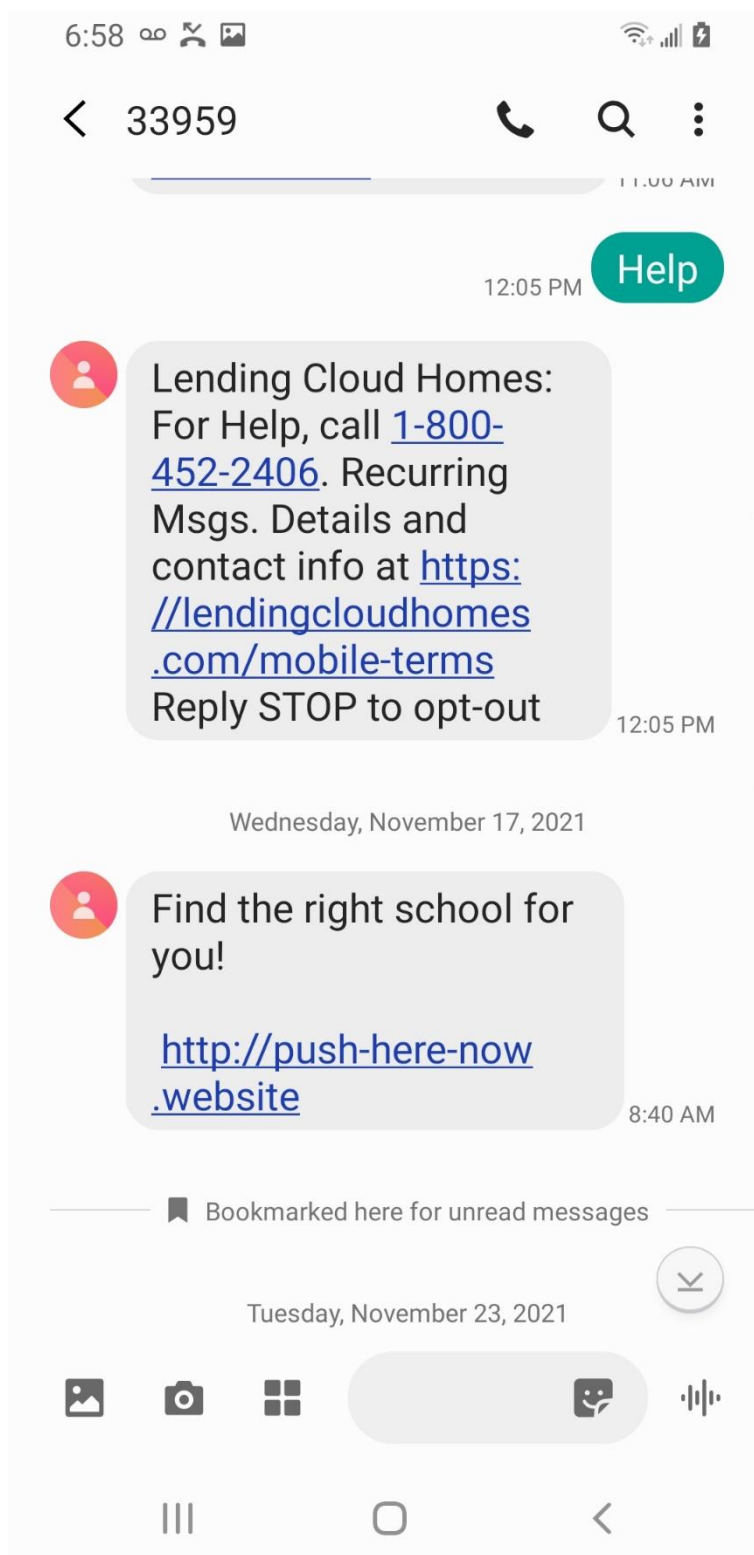
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB355



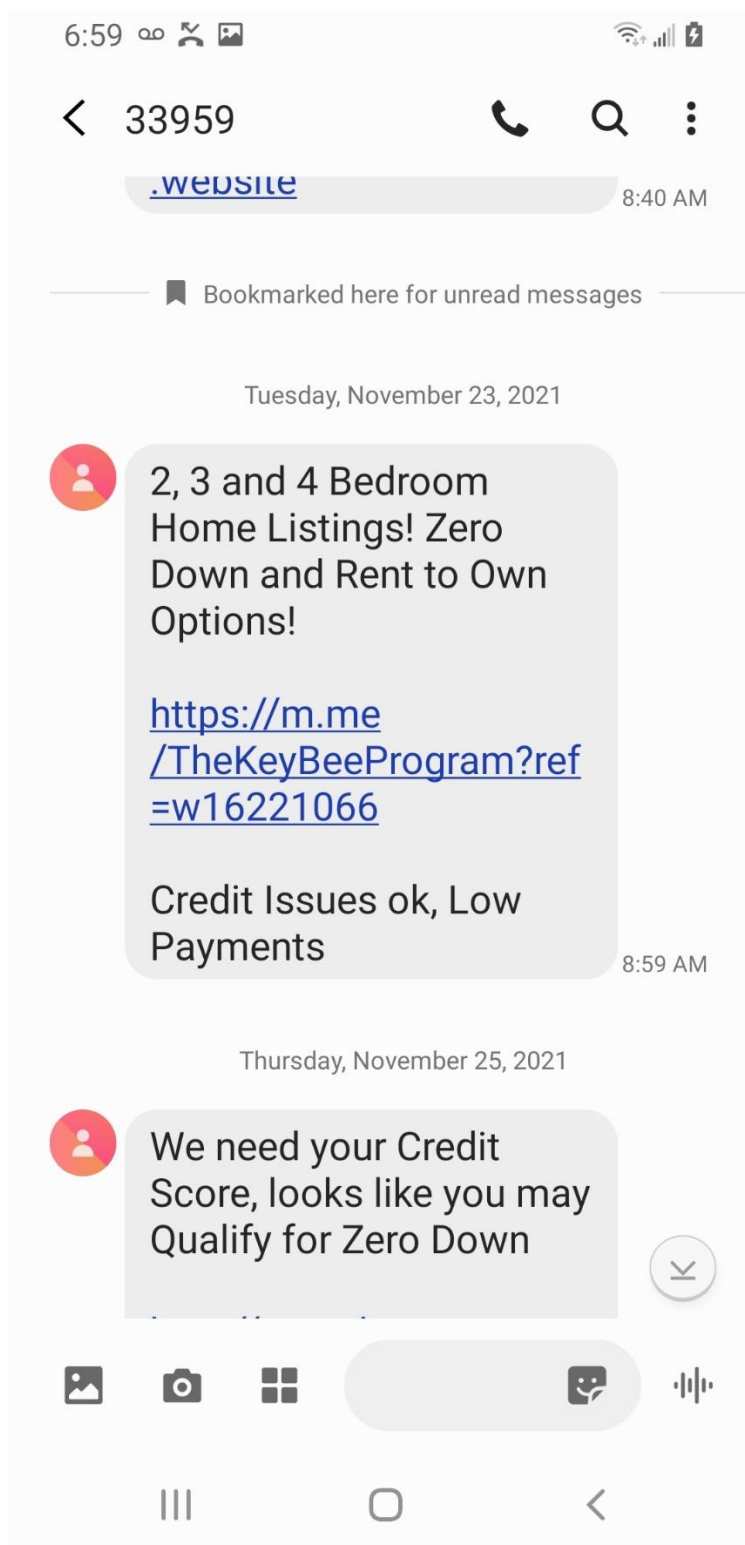
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB362



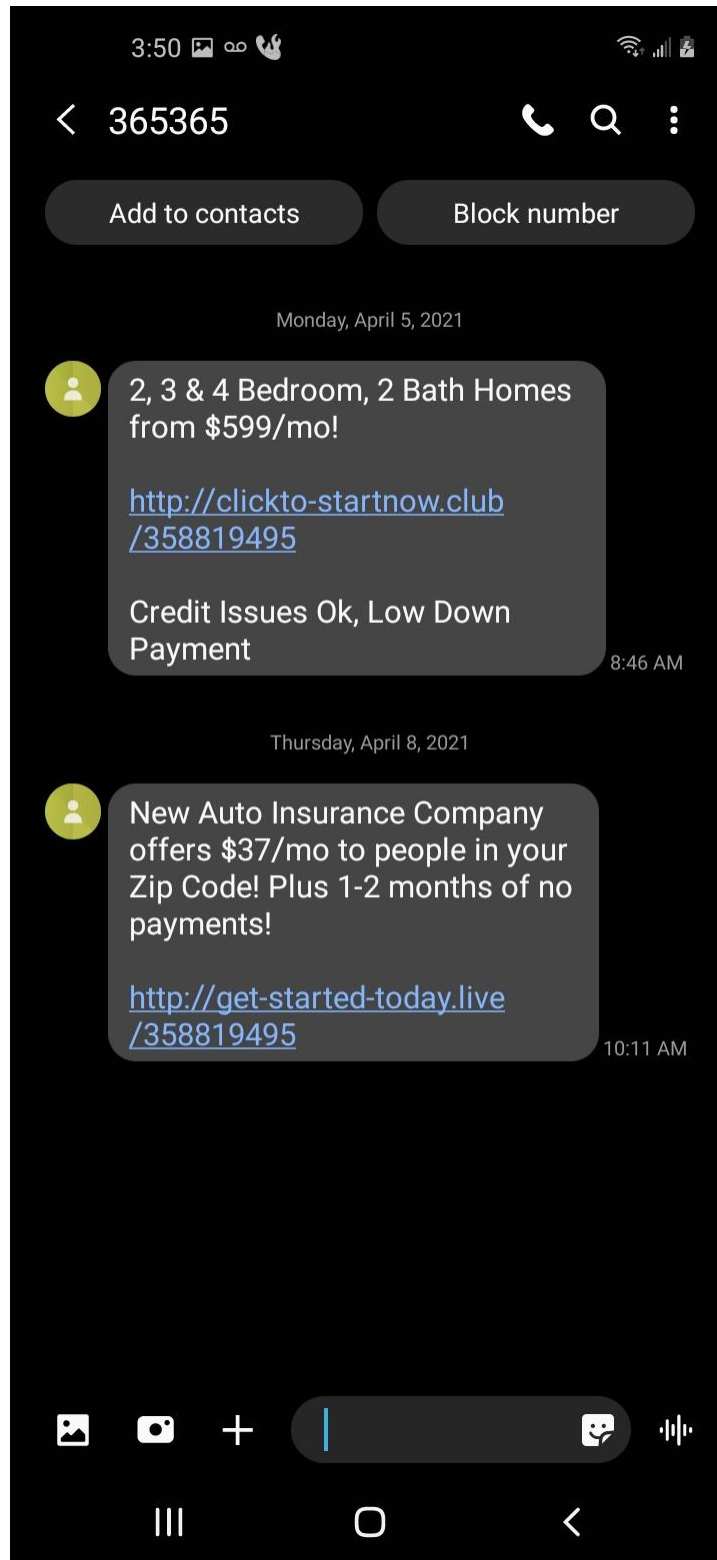
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB365



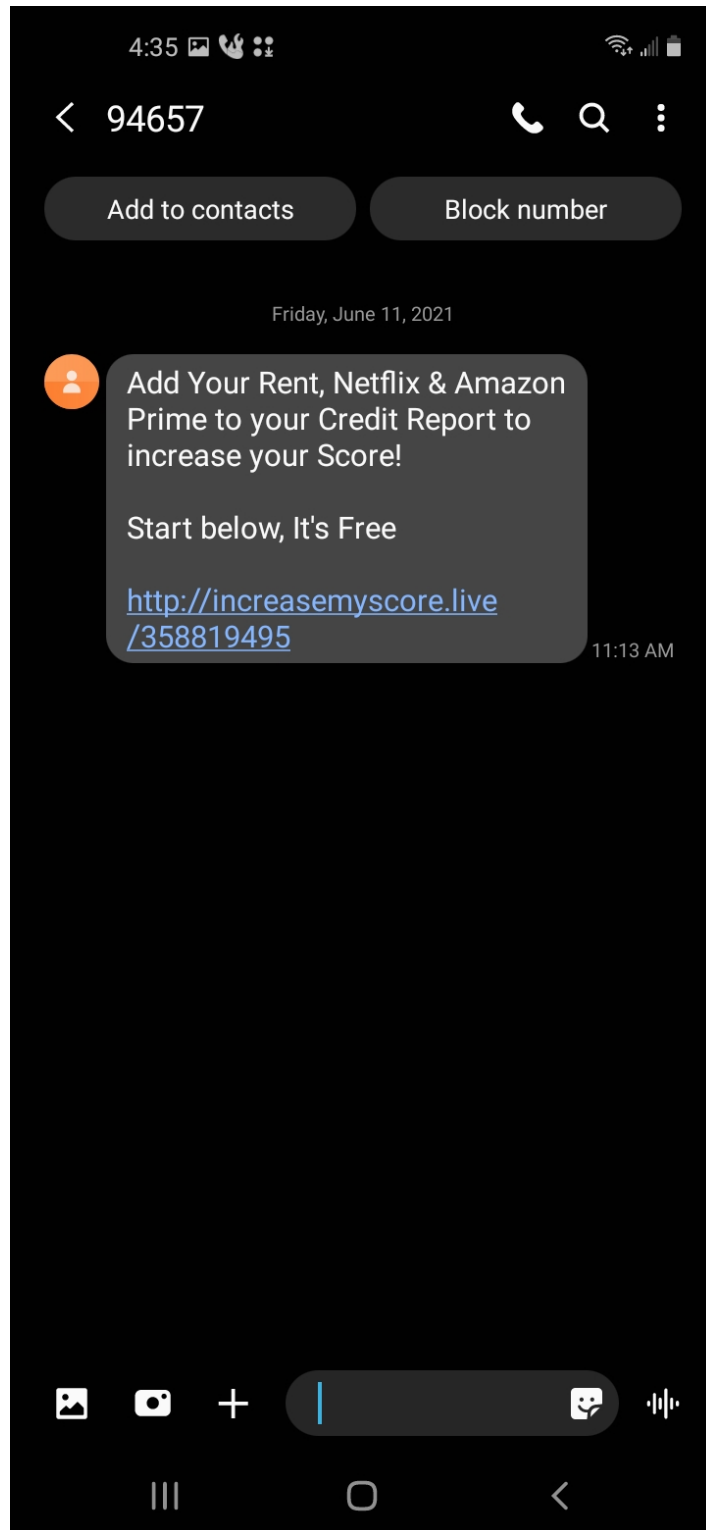
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB385



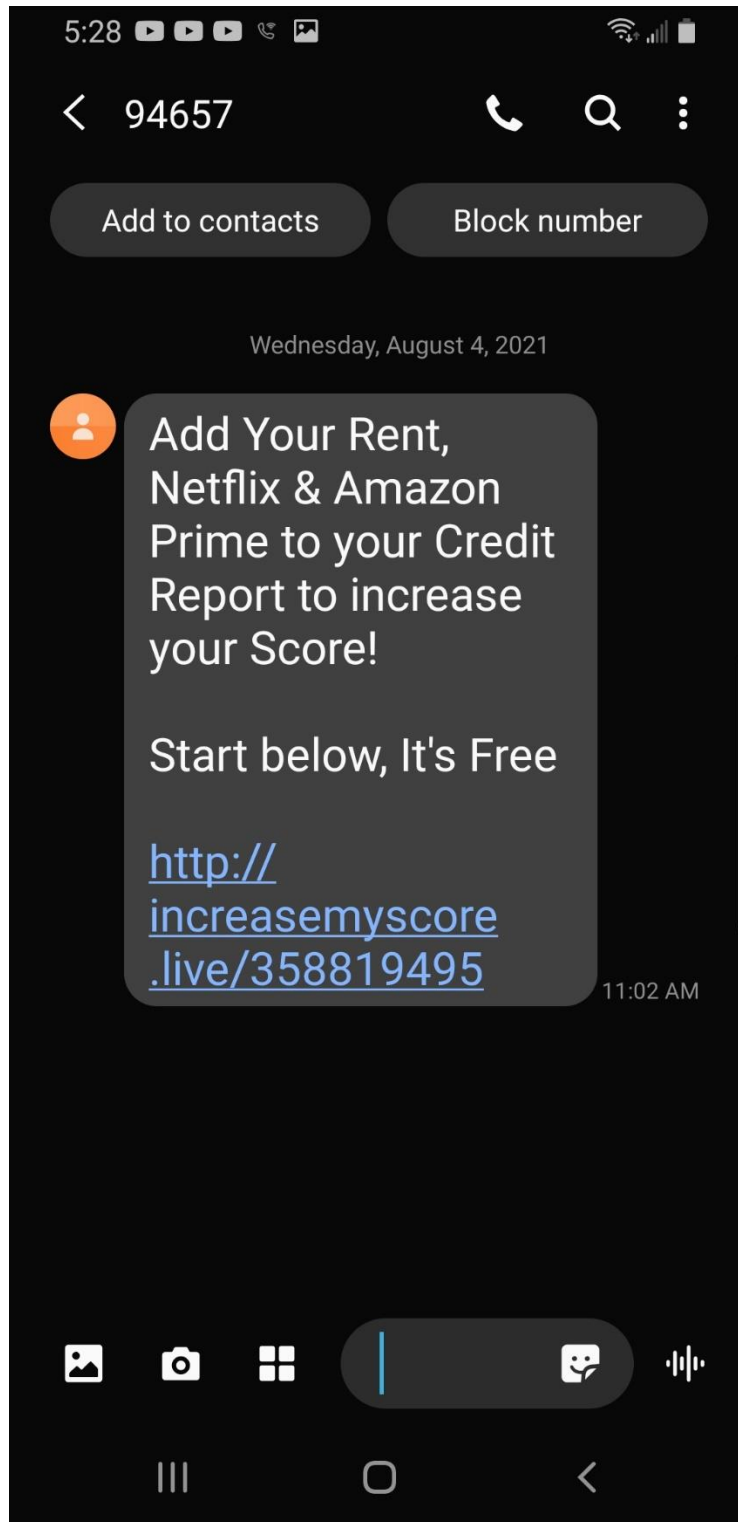
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB395



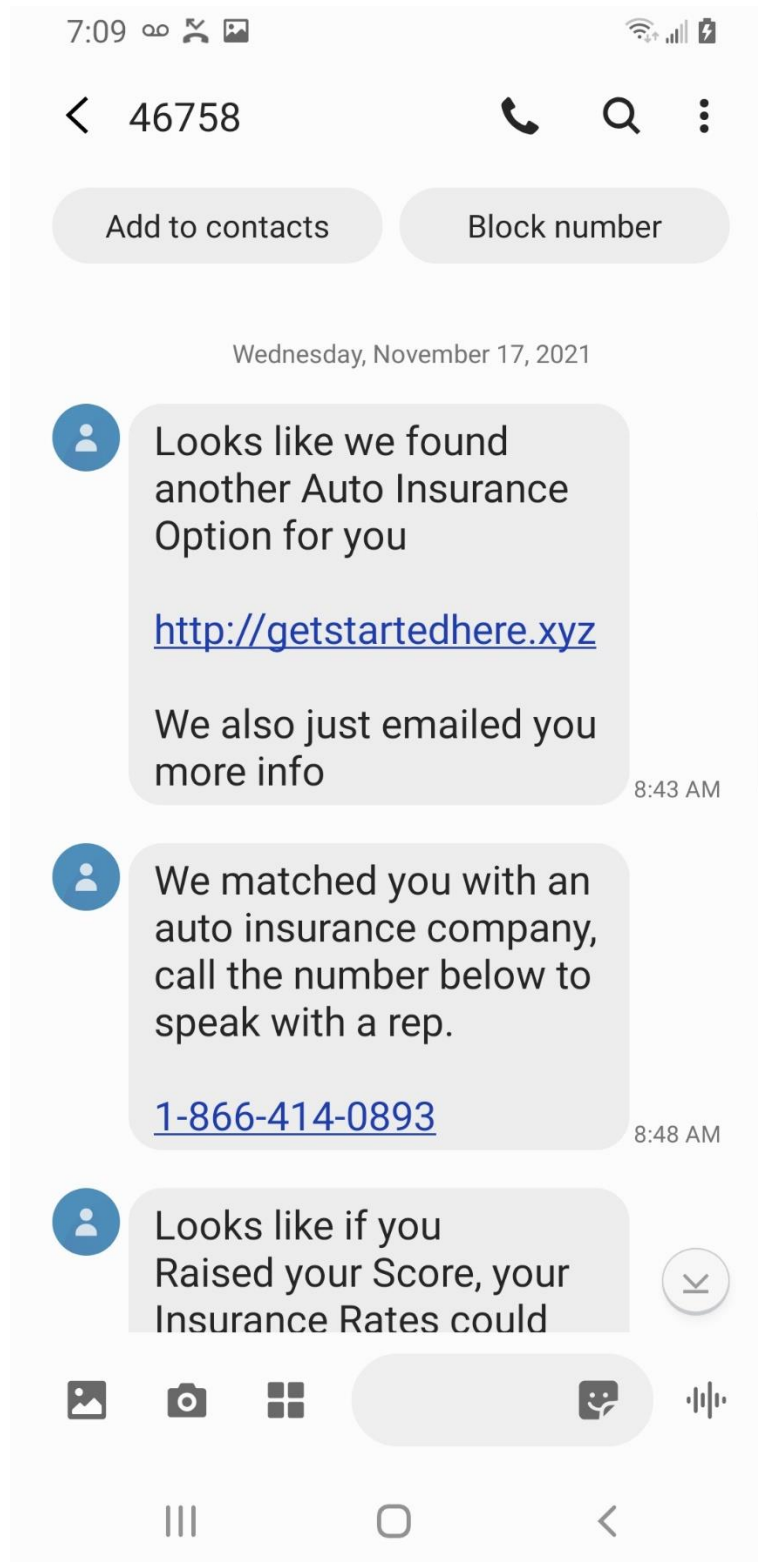
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB400



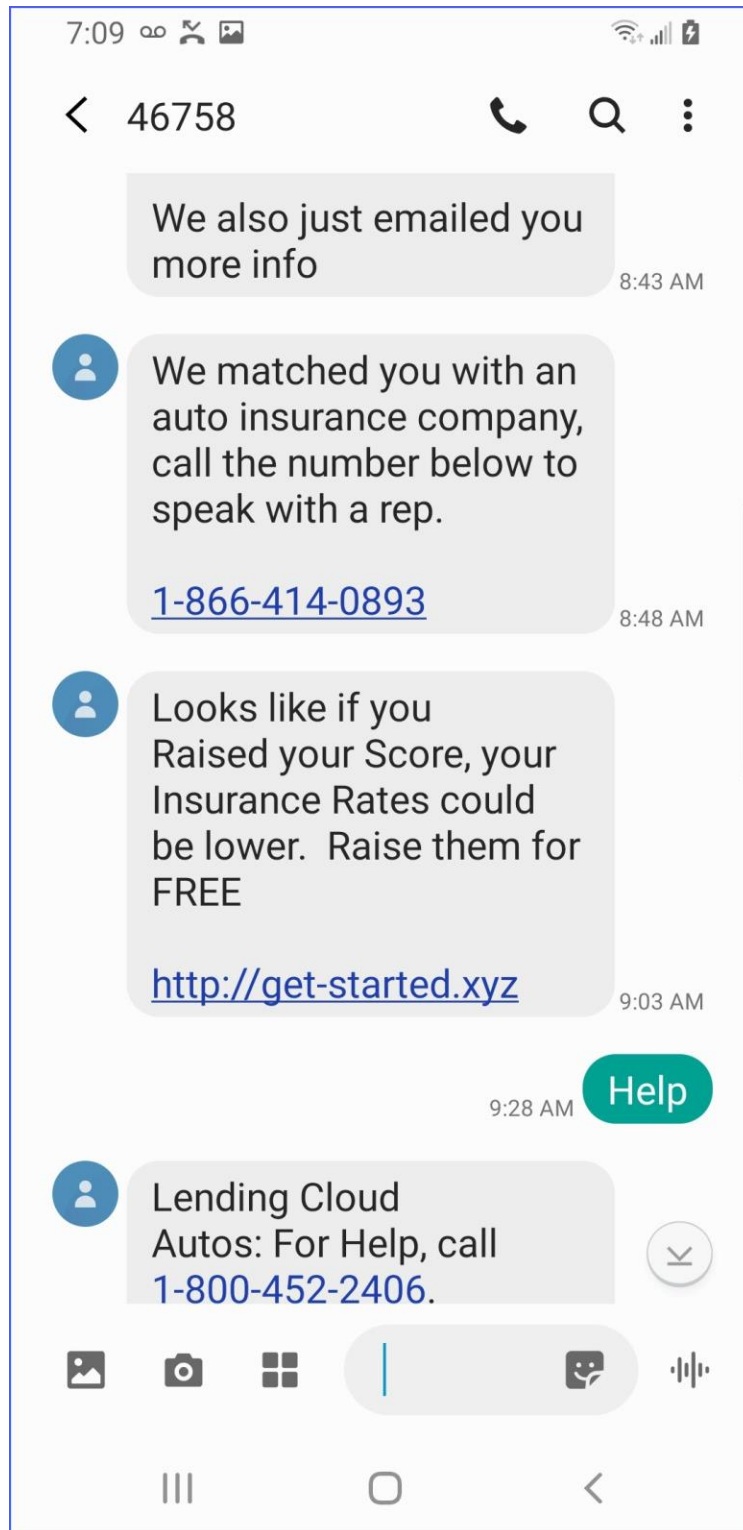
This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB410



This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024:

NB412



This document contains the NB307, NB308, NB337, NB343, NB347, NB355, NB362, NB365, NB385, NB395, NB400, NB410, and NB412 text messages that correspond to the stipulated facts document filed on 7/23/2024: