

MD2/jyc 10/1/2010



**FILED**

10-01-10  
03:37 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation on the Commission's own motion into the operations, practices, and conduct of Contractors Strategies Group, Inc., Intella II, Inc., A&M Communications, TNT Financial Services, Limo Services, Inc., Calnev Communications, Inc., 1st Capital Source Funding & Financial Services, Inc., and their owners to determine whether Respondents violated the laws, rules and regulations of this State regarding the connection of Automatic Dialing-Announcing Devices to Customer-Owned Pay Telephones.

Investigation 10-02-004  
(Filed February 4, 2010)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REQUESTING BRIEFS ON REMEDIES**

Administrative Law Judge Melanie Darling conducted a mandatory telephonic status conference with all non-settling parties in the above-captioned proceeding on September 22, 2010 at 2:00 p.m. Alberter Freeman and Massimo Cavallaro participated representing the non-settling parties: Contractors Strategies Group, A&M Communications, Calnev Communications, and 1st Capital Source Funding & Financial Services, Inc. and their owners.<sup>1</sup> Also

---

<sup>1</sup> Massimo Cavallaro is a co-owner with Alberter Freeman of A&M Communications. Freeman is owner of the other Respondent companies.

participating were Kenneth Bruno, an analyst and witness from the Commission's Consumer Protection and Safety Division (CPSD), along with CPSD counsel, Travis Foss and Hien Vo.

The primary purpose of the status conference was to consider the late submission of rebuttal testimony and CPSD's reply testimony in light of CPSD's pending motion for summary adjudication of the issue of liability of the non-settling Respondents' for violation of Pub. Util. Code<sup>2</sup> §§ 2872-2875.5 (Motion). All participating Respondents stated on the record that they did not dispute that they had violated the identified code sections regarding the operation of Automatic Dialing-Announcing Devices.<sup>3</sup> Consequently, I stated my belief that CPSD's motion for summary adjudication of the liability issue should be granted. Respondents did not oppose this result and no further argument as to liability is authorized.

However, Respondents stated they wanted an opportunity to argue facts and circumstances which might persuade the Commission to refrain from imposing any penalty for the acknowledged violations. In addition, CPSD asked in its Motion for an opportunity to brief legal aspects of the penalty options. Therefore, all parties agreed that no evidentiary hearings will be held, that the statutory violations are conceded by the non-settling Respondents, and the remaining issues are limited to the consequences, if any, to Respondents and

---

<sup>2</sup> Unless otherwise indicated, all future references to section (§) refer to the Public Utilities Code.

<sup>3</sup> Transcript of September 22, 2010 Status Conference (Transcript) at 3, 10, 22.

disposition of the Dial-Around Compensation funds collected and held in escrow by the Respondents' call aggregator.<sup>4</sup>

The non-settling Respondent companies and their owners may file an Opening Brief, no later than October 15, 2010, which sets forth their arguments for mitigation or elimination of penalties authorized by § 2876.

CPSD shall file an Opening Brief no later than October 15, 2010 which addresses the following questions:

1. Should the Commission's criteria be established for imposition of fines for violations of telecommunications law, as described in Decision (D.) 01-04-035,<sup>5</sup> apply in this proceeding?
2. Pursuant to § 2876, what specific amount of fine should the Commission impose for each Respondent found liable for the violations?
3. Are the penalties set forth in § 2876 the only penalties authorized for such violations? If not, what other remedies may apply?
4. What authority exists for the Commission to order a non-party billing aggregator to turn over to the Commission illegally-generated dial-around compensation?
5. Based on the Commission's equitable or other authority, what are the disbursement alternatives for administratively infeasible refunds?<sup>6</sup>
6. Is the Telecommunications Consumer Protection Fund a suitable alternative distribution of the funds held by the billing aggregator?

---

<sup>4</sup> Transcript at 44, 45.

<sup>5</sup> D.01-04-035 (April 19, 2001) Results of investigation into the operations, practices, and conduct of Coral Communications, Inc., et al. (Investigation 98-08-004) at 54-56.

<sup>6</sup> D.09-10-008 at 11-15.

On or before October 22, 2010, Respondents may file a reply to CPSD's Opening Brief, and CPSD may file a reply to any or all of Respondents' Opening Brief(s). The matter will be deemed submitted as of October 23, 2010.

**IT IS SO RULED.**

Dated October 1, 2010, at San Francisco, California.

/s/ MELANIE M. DARLING

Melanie M. Darling  
Administrative Law Judge

