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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)

JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT

I. INTRODUCTION

Pursuant to Article 12 of the Commission's Rules of Practice and Procedures, the Consumer Protection and Safety Division (CPSD) and Respondent TNT Financial Services (TNT) and Respondent Intella II, Inc. (Intella II) (collectively, the "Parties") respectfully request that the Commission approve and adopt the proposed Settlement Agreements, which resolve the issues with respect to these two Respondents to the case. The Parties believe the proposed settlements are in the public interest, reasonable in light of the record, and consistent with the law. The Parties urge the Commission to approve the Settlement Agreements without modification. A copy of the proposed Settlement Agreement between CPSD and Respondent TNT is attached as Appendix A; a copy of the proposed Settlement Agreement between CPSD and Respondent Intella II is attached as Appendix B.

II. FACTUAL BACKGROUND

Respondents in this case are alleged to have connected automatic dialing and announcing devices (ADADs) to their payphone lines in order to continuously dial toll-free numbers for the purpose of collecting a Federal Communications Commission (FCC) mandated fee (\$.494 per call) for payphone service providers, known as “Dial-Around Compensation” (DAC). Based on its investigation and report, CPSD Staff alleges that Respondents unlawfully used ADADs to place thousands of fraudulent calls for the sole purpose of collecting DAC, without any effort to comply with Public Utilities Code Sections 2872 *et. seq.* which regulate the use of ADADs.

From 2002 to 2007, Respondents are alleged to have generated hundreds of thousands of dollars in DAC. In 2007, Respondents’ billing aggregator G-Five, LLC, (G-Five) became suspicious of the high volume of toll-free calls placed from Respondents’ payphone lines, and began holding the DAC in an escrow account. In early 2008 G-Five notified the Commission, which prompted CPSD’s investigation. Of the approximately \$156,000 generated by Respondents, \$103,193.64 (plus any accrued interest) is currently being held in escrow by G-Five, awaiting the results of this investigation.

A. TNT Financial

CPSD and TNT Financial Services (TNT) have agreed to the following facts as a basis upon which to form an evidentiary record in this proceeding. TNT is a business owned and operated by John and Norma Tomlinson, with its principal place of business located at 2723 Thoreau, Inglewood, California, 90303.

TNT operated one payphone line located at its business address in Inglewood, California from July 27, 2007 to January 14, 2008. TNT connected an automatic dialing-announcing device (ADAD) to its payphone line. In 2007 and 2008, TNT programmed the ADAD to automatically dial toll-free numbers sequentially in order to collect a Federal Communications Commission mandated fee of \$.494 per successfully completed toll-free call dialed from a payphone (DAC).

B. Intella II, Inc.

CPSD and Intella II, Inc. (Intella II) have agreed to the following facts as a basis upon which to form an evidentiary record in this proceeding. Intella II is an S-corporation organized and existing under the laws of the State of Texas. Its principal place of business is 2188 San Diego Avenue, Suite P, San Diego, California 92110. Intella II provides conference calling and voicemail services. Mr. Paul Cohen is the President, Vice-President, and Treasurer; Mr. Robert Taylor is the Secretary.

Intella II co-registered with Contractor Strategies Group, Inc. (CSGI) eight payphone lines located in San Diego, CA. Intella II connected automatic dialing-announcing devices (ADADs) to each payphone line. In 2007 and 2008, Intella II programmed the ADADs to automatically dial toll-free numbers sequentially in order to collect a Federal Communications Commission mandated fee of \$.494 per successfully completed toll-free call dialed from a payphone (DAC).

III. THE PROPOSED SETTLEMENT AGREEMENT

A. Joint Statement of the Case

After settlement discussions, the Parties have each agreed to a joint statement of the case and remedies in order to resolve this case. Importantly, the respondents acknowledge the concerns raised by the CPUC in its OII. The joint statement of the case is set forth in each of the proposed Settlement Agreement.

B. Acknowledgement

TNT and Intella II each acknowledge that Public Utilities Code section 2871 et seq. requires that anyone operating an ADAD must comply with the provisions of Public Utilities Code Sections 2872-2785.5, and that they failed to follow these requirements. TNT and Intella II each agree to disconnect its still-existing payphone lines (if any), and agree not to operate any payphone lines in the future.

C. Payment

In order to resolve the issues in the Commission's OII, TNT agrees to pay a penalty of \$500 to the State of California General Fund, due within 30 days of the date of the Commission's approval of this Agreement. Intella II agrees to pay a penalty of \$1,000 to the State of California General Fund, due within 30 days of the date of the Commission's approval of this Agreement.

D. Release of Escrow Funds

Of the \$4,661.39 in DAC revenue collected by TNT, \$4,545.79 is currently held in an escrow account by billing agent G-Five. TNT agrees to release and/or relinquish any of its claims and/or rights to those funds.

Of the money collected as a result of Intella II and CSGI's co-registered payphone lines, \$67,815.83 is currently held in an escrow account by billing agent G-Five. Intella II agrees to release and/or relinquish any of its claims and/or rights to those funds.

IV. THE PROPOSED SETTLEMENT IS REASONABLE IN LIGHT OF THE RECORD, CONSISTENT WITH THE LAW AND PRECEDENT, AND IN THE PUBLIC INTEREST

Pursuant to Rule 12.1(d) of the Commission's Rules of Practice and Procedure, settlements must be reasonable in light of the record, consistent with the law, and in the public interest. The Parties believe that the proposed settlements in this matter satisfy each of those criteria, and therefore recommend that the Commission approve and adopt the proposed settlements.

A. The Proposed Settlements Are Reasonable In Light Of the Record

CPSD has fully investigated this case for over one year, and reported its findings in the CPSD Staff Report. TNT and Intella II do not, essentially, challenge the accuracy of CPSD's facts. Based on the Staff Report, the Parties have agreed to an undisputed set of facts upon which the Commission can form the official record. In the Settlement Agreements, TNT and Intella II acknowledge the factual basis for this investigation, and

thus the Settlement Agreements address the issues in the proceeding in a reasonable manner in light of the undisputed record.

B. The Proposed Settlement Is Consistent With The Law And Precedent

Nothing in the Settlement Agreements contravene any statute or Commission decision or rule. The Parties do not contest the Commission's jurisdiction over their operations, and accept that Public Utilities Code Section 2871 *et seq.* requires that anyone operating an ADAD must comply with the provisions of Sections 2872-2785.5, and that they failed to follow these requirements. The proposed fines in the settlement agreements are consistent with Section 2107 and 2108, the sections that authorize Commission-imposed fines.

C. The Proposed Settlement Is In the Public Interest

The Settlement Agreement is consistent with the Commission's well-established policy of supporting the resolution of disputed matters through settlement, and will avoid the time, expense and uncertainty of evidentiary hearings and further litigation. Accordingly, the Settlement Agreement is in the public interest and should be adopted by the Commission without material change.

D. Settlement Conference

Pursuant to the Commission's Rules of Practice and Procedure Rule 12.1, prior to signing any settlement parties are required to convene at least one conference with notice to all parties to the proceeding and an opportunity to participate in a discussion of the proposed settlement. The Settling Parties convened a settlement conference on June 21, 2010. No other parties attended.

V. CONCLUSION

For the reasons stated above, the Parties believe the proposed Settlement Agreements resolve all of the issues set forth in the Commission's OII, and that the proposed Settlement Agreements are reasonable in the light of the record, consistent with the law and precedent, and in the public interest. Therefore, the Parties jointly request

that the Commission adopt the proposed Settlement Agreements attached as Appendices A and B.

Respectfully submitted,

/s/ TRAVIS T. FOSS

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Safety Division

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TNT FINANCIAL SERVICES

/s/ JOHN TOMLINSON

John Tomlinson
Owner
TNT Financial Services
2723 Thoreau Street
Inglewood, CA 90303

INTELLA II, INC.

/s/ PAUL COHEN

Paul Cohen
President
Intella II, Inc.
2188 San Diego Avenue
San Diego, CA 92110

July 14, 2010

APPENDIX A

SETTLEMENT AGREEMENT

In order to avoid the costs and risks of litigation and to expeditiously resolve this matter, the Consumer Protection and Safety Division of the California Public Utilities Commission (CPSD), and TNT Financial Services, and its predecessors, successors, affiliates, and assigns (TNT) hereby agree to the following terms for the settlement of the Commission's Investigation 10-02-004 (OII).

I. JOINT FACTUAL STATEMENT

1. TNT Financial Services is a business owned and operated by John and Norma Tomlinson, with its principal place of business located at 2723 Thoreau, Inglewood, California, 90303.

2. TNT operated one payphone line located at its business address in Inglewood, California from July 27, 2007 to January 14, 2008. TNT connected an automatic dialing-announcing device (ADAD) to its payphone line. In 2007 and 2008, TNT programmed the ADAD to automatically dial toll-free numbers sequentially in order to collect a Federal Communications Commission mandated fee of \$.494 per successfully completed toll-free call dialed from a payphone, known as dial-around compensation (DAC)¹. DAC is a flat charge for every call connected, without regard to the duration of the call, to the business or entity that leases the toll-free number.

¹ *In the Matter of Request to Update Compensation Rate for Dial-Around Calls from Payphones*, Report and Order, FCC 04-182, released August 12, 2004, citing 47 U.S.C. § 276 (b)(1)(A).

3. TNT's payphone generated \$4,661.39 in DAC revenue, of which \$4,545.79 is currently held in an escrow account by billing agent G-Five.

II. AGREEMENT

4. Acknowledgement. TNT Financial Services acknowledges that Public Utilities Code section 2871 et seq. requires that anyone operating an ADAD must comply with the provisions of Public Utilities Code Sections 2872-2785.5, and that TNT failed to follow these requirements. TNT agrees to disconnect any and all of its still-existing payphone lines (if any), and agrees not to operate any payphone lines in the future.

5. Penalty Payment. In order to resolve the legal issues in the Commission's OII, TNT agrees to pay a penalty of \$500 to the State of California General Fund, due within 30 days of the date of the Commission's approval of this Agreement.

6. Release of Escrow Funds. Of the \$4,661.39 in DAC revenue collected by TNT, \$4,545.79 is currently held in an escrow account by billing agent G-Five. TNT agrees to release and/or relinquish any of its claims and/or rights to those funds.

7. Scope and Effect of Agreement. This Agreement represents a full and final resolution of the OII, and the matters giving rise thereto. The parties understand that this Settlement Agreement is subject to approval by the Commission. The Parties agree that, if the Commission fails to adopt the Settlement Agreement in its entirety without material change, the Parties shall convene a settlement conference within 15 days thereof to discuss whether they can resolve any issues raised by the Commission's actions. If the Parties cannot mutually agree to

(footnote continued from previous page)

resolve the issues raised by the Commission's actions, the Settlement Agreement shall be rescinded and the Parties shall be released from their obligation to support this Settlement Agreement.

8. Knowing and Voluntary Execution. The Parties acknowledge each has read this Agreement, that each fully understands the rights, duties and privileges created hereunder, and that each enters this Agreement freely and voluntarily.

9. Authority to Execute Agreement. The undersigned acknowledge and covenant that they have been duly authorized to execute this Agreement on behalf of their respective principals and that such execution is made within the course and scope of their respective agency or employment.

10. Entire Agreement. The Parties expressly acknowledge that the consideration recited in this Agreement is the sole and only consideration of this Agreement, and that no representations, promises, or inducements have been made by the Parties or any director, officer, employee, or agent thereof other than as set forth expressly in this Agreement.

11. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California and the rules, regulations and General Orders of the California Public Utilities Commission.

TNT FINANCIAL SERVICES

Dated: _____

5-24-10



John Tomlinson

Owner

TNT Financial Services

2723 Thoreau Street

Inglewood, CA 90303

CONSUMER PROTECTION AND
SAFETY SERVICES DIVISION

Dated: 7/2/10



Richard W. Clark
Director of Consumers Protection and
Safety Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dated: 7/8/10



Travis T. Foss
Staff Counsel
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

APPENDIX B

SETTLEMENT AGREEMENT

In order to avoid the costs and risks of litigation and to expeditiously resolve this matter, the Consumer Protection and Safety Division of the California Public Utilities Commission (CPSD), and Intella II, Inc., and its predecessors, successors, affiliates, and assigns (Intella II) hereby agree to the following terms for the settlement of the Commission's Investigation 10-02-004 (OII).

I. JOINT FACTUAL STATEMENT

1. Intella II, Inc. (Intella II) is an S-corporation organized and existing under the laws of the State of Texas. Its principal place of business is 2188 San Diego Avenue, Suite P, San Diego, California 92110. Intella II provides conference calling and voicemail services. Mr. Paul Cohen is the President, Vice-President, and Treasurer; Mr. Robert Taylor is the Secretary.

2. Intella II co-registered with Contractor Strategies Group, Inc. (CSGI) eight payphone lines located in San Diego, CA. Intella II connected automatic dialing-announcing devices (ADADs) to each payphone line. In 2007 and 2008, Intella II programmed the ADADs to automatically dial toll-free numbers sequentially in order to collect a Federal Communications Commission mandated fee of \$.494 per successfully completed toll-free call dialed from a payphone, known as dial-around compensation (DAC)¹. DAC is a flat charge for every call

¹ *In the Matter of Request to Update Compensation Rate for Dial-Around Calls from Payphones*, Report and Order, FCC 04-182, released August 12, 2004, citing 47 U.S.C. § 276 (b)(1)(A).

connected, without regard to the duration of the call, to the business or entity that leases the toll-free number.

3. CSGI and Intella II's payphone lines generated \$73,138.12 in DAC revenue, of which \$67,815.83 is currently held in an escrow account by billing agent G-Five.

II. AGREEMENT

4. Acknowledgement. Intella II acknowledges that Public Utilities Code section 2871 et seq. requires that anyone operating an ADAD must comply with the provisions of Public Utilities Code Sections 2872-2785.5, and that Intella II failed to follow these requirements. Intella II agrees to disconnect any and all of its remaining payphone lines (if any).

5. Penalty Payment. In order to resolve the legal issues in the Commission's OII, Intella II agrees to pay a penalty of \$1,000 to the State of California General Fund, due within 30 days of the date of the Commission's approval of this Agreement.

6. Release of Escrow Funds. Of the money collected as a result of Intella II and CSGI's co-registered payphone lines, \$67,815.83 is currently held in an escrow account by billing agent G-Five. Intella II agrees to release and/or relinquish any its claims and/or rights to those funds.

7. Scope and Effect of Agreement. This Agreement represents a full and final resolution of the OII, and the matters giving rise thereto. The parties understand that this Settlement Agreement is subject to approval by the Commission. The Parties agree that, if the Commission fails to adopt the Settlement Agreement in its entirety without material change, the Parties shall convene a settlement conference within 15 days thereof to discuss whether they can resolve any issues raised by the Commission's actions. If the Parties cannot mutually agree to resolve the issues raised by the Commission's actions, the Settlement Agreement shall be

rescinded and the Parties shall be released from their obligation to support this Settlement Agreement.

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9. Authority to Execute Agreement. The undersigned acknowledge and covenant that they have been duly authorized to execute this Agreement on behalf of their respective principals and that such execution is made within the course and scope of their respective agency or employment.

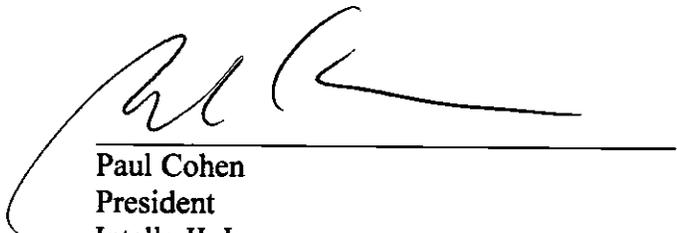
10. Entire Agreement. The Parties expressly acknowledge that the consideration recited in this Agreement is the sole and only consideration of this Agreement, and that no representations, promises, or inducements have been made by the Parties or any director, officer, employee, or agent thereof other than as set forth expressly in this Agreement.

11. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California and the rules, regulations and General Orders of the California Public Utilities Commission.

Dated: _____

6-10-10

INTELLA II, INC.

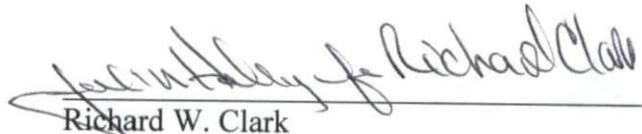


Paul Cohen
President
Intella II, Inc.
2188 San Diego Avenue
San Diego, CA 92110

CONSUMER PROTECTION AND

SAFETY SERVICES DIVISION

Dated: 2/12/10



Richard W. Clark
Director of Consumers Protection and
Safety Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dated: 7/8/10



Travis T. Foss
Staff Counsel
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT**” in **I.10-02-004** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on July 14, 2010 at San Francisco, California.

/s/ ALBERT HILL
Albert Hill

SERVICE LIST
I.10-02-004

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