

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. AD-504r
Application of Communication)
Strategies, Inc., St. Louis,)
Missouri, seeking authority to) DENIED
register the connection of an)
automatic dialing-announcing)
device.) Entered: December 21, 2010

APPEARANCES:

For the Applicant:

For the Commission Staff:

No Appearance Entered

Nichole Mulcahy
300 The Atrium
1200 N Street
Lincoln, Nebraska 68508

BY THE COMMISSION:

B A C K G R O U N D

By application filed on May 12, 2010, Communication Strategies, Inc., ("Applicant" or "CSI"), St. Louis, Missouri, seeks authority to register the connection of an automatic dialing-announcing device located in Secaucus, New Jersey.

On August 31, 2010, the Commission entered a Notice of Hearing in the above-captioned Application. The Commission desired to hear from the Applicant regarding its application and its involvement in a Formal Complaint pending in front of the Commission.¹ A copy of the Notice of Hearing was served upon the Applicant via certified mail return receipt requested. On October 8, 2010, the Hearing Officer entered an order rescheduling the hearing to December 8, 2010, a copy of which was sent to the Applicant. Notice of the hearing was also published in The Daily Record, Omaha, Nebraska, on October 12, 2010.

A hearing on the matter was held on December 8, 2010, in the Commission Hearing Room, Lincoln, Nebraska. The Applicant failed to enter an appearance at the hearing.

¹ See Application No. FC-1343, *In the Matter of the Formal Complaint of Tom E. Nesbitt, Lincoln, alleging violation of the Automatic Dialing-Announcing Devices Act by Anthony W. Fulton, Lincoln, Tony Fulton Committee, Lincoln and Communication Strategies, Inc., St. Louis, Missouri*. Filed (June 24, 2010).

O P I N I O N A N D F I N D I N G S

Upon consideration of the application, the governing statutes and rules², the evidence adduced at the December 8, 2010 hearing, and being fully informed, the Commission is of the opinion and finds:

CSI, prior to April 30, 2010, was a duly registered company operating an automatic dialing-announcing device in Nebraska under and by virtue of a registration heretofore granted by this Commission on April 30, 2008.³ Pursuant to the Order issuing CSI's registration and Commission rules and regulations, CSI's registration was good for two (2) years from the date the registration was entered.⁴

On March 24, 2010, the Communications Department of the Commission sent a courtesy reminder letter to CSI, informing CSI that its current registration, AD-435r, would expire on April 30, 2010.⁵

CSI had been engaged by the Tony Fulton Committee, the campaign Committee of a Nebraska candidate for elected office, to operate its automatic dialing-announcing device in Nebraska on behalf of the campaign. On or about May 10, 2010, CSI, on behalf of the Tony Fulton Committee, placed certain calls in Nebraska with its automatic dialer. CSI was not duly registered with the Commission at the time the calls were placed. Further, the message disseminated by the automatic dialer did not state the calls were on behalf of the Fulton Committee at the beginning of the message.⁶

The calls sent by CSI on behalf of the Tony Fulton Committee on or about May 10, 2010, were the subject of Application No. FC-1343, the Formal Complaint filed with this Commission on June 24, 2010. The Commission held a hearing on Docket FC-1343 on December 8, 2010. On December 14, 2010, the Commission entered an order sustaining the complaint against the Applicant and finding CSI had violated the Automatic Dialing

² See Neb. Rev. Stat. § 86-236 et seq. (Reissue of 2008) and Neb. Admin. Code, Title 291, Ch. 11 (2000).

³ See Authority No. AD-435r, *In the Matter of the Application of Communication Strategies, Inc., Clayton, Missouri, seeking authority to register the connection of an automatic dialing-announcing device*. Granted, (April 30, 2008).

⁴ Id. and Neb. Admin. Code, Title 291, Ch. 11 § 002.06 (2000).

⁵ AD-504r, Hearing Transcript, Exhibit No. 6.

⁶ Id., Exhibit No. 7.

Announcing Devices Act and Commission Rules and Regulations and issuing a formal warning to the company.⁷

Based on the evidence adduced and having reviewed the matter, the Commission finds that the Applicant has been operating an automatic dialing-announcing device in Nebraska illegally without a registration and has not complied with the applicable statutes and Rules and Regulations of the Commission regarding automatic dialing-announcing devices. Therefore, the Commission finds the application should be denied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. AD-504r be, and it is hereby, denied.

MADE AND ENTERED at Lincoln, Nebraska, this 21st day of December, 2010.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

⁷ *Supra* Application No. FC-1343, Complaint Sustained In Part Dismissed In Part, (December 14, 2010).

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Red Johnson

Chairman

Gerald L. Vap

Anne Bayle

ATTEST:

Tim Schram

Phil S. HJO

//s// Gerry L. Vap

Executive Director

Commissioner Landis abstained from voting.

⁷ *Supra* Application No. FC-1343, Complaint Sustained In Part Dismissed In Part, (December 14, 2010).