

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. AD-341
Application of Community)
Venture Group, LLC, Omaha,)
seeking authority to connect) GRANTED
an automatic dialing-)
announcing device.) Entered: May 16, 2006

BY THE COMMISSION:

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

By application filed on April 6, 2006, Community Venture Group, LLC (Applicant), Omaha, seeks authority to connect an automatic dialing-announcing device.

Applicant is a Nebraska corporation whose mailing address is 5224 N. 52 Street, Omaha, Nebraska, 68104. Applicant states it will use a Faxtel device, Faxtel 2000 Model, at its Omaha location.

The petition states the Applicant will include on all calls made on the automatic dialing-announcing device a statement of the nature of the call and the name, address, and telephone number of the business or organization being represented.

Applicant's sole operator and registered agent, Mr. Mort Sullivan, has had previous permits under the names: International Marketing Group, Inc., Touch USA, LLC, Omaha Times, LLC, and most recently Heartland Times, LLC. The script filed with the Commission indicates that Mr. Sullivan has the present intention to use the automatic dialing announcing device purportedly to make calls regarding his dispute with OPPD, to generate support for his candidacy for the Nebraska governor's race, and to advertise his Amber Alert and other child protection efforts.

Mr. Sullivan's automatic dialing device use has been and remains a significant concern to the Commission. In 2000, Mr. Sullivan used his automatic dialing announcing device to send messages and black facsimile messages to Omaha area businesses. The device was registered to his company name Omaha Times, LLC. The messages contained Mr. Sullivan's opinions related to Baker's Supermarkets and its executive officers. Mr. Sullivan's business line service

was subsequently disconnected by his local service provider when his service provider found that Mr. Sullivan's use had violated its tariff.

According to Mr. Sullivan and Qwest, a number of business lines provided to Mr. Sullivan by Qwest were disconnected on or about September 28, 2004, when Qwest found that Mr. Sullivan was utilizing his service to make harassing calls to others. Qwest's tariff permits disconnection on such grounds without notice. Subsequently, Qwest reconnected Mr. Sullivan's telephone service.

In the last two years, the Commission has received over 100 complaints about the use of Mr. Sullivan's autodialer. In a six-week time period in early 2006, the Commission received over thirty-five complaints from various subscribers about Mr. Sullivan's autodialer messages. Many of the subscribers complained that Mr. Sullivan's messages were threatening and harassing. A number of subscribers informed the Commission that they felt scared as a result of receiving the message which stated that their personal information was going to be released to telemarketing companies. One of the messages directed callers to a website that included disparaging remarks about some OPPD Directors and, in one instance, included a drawing that depicted a person, presumably characterizing an OPPD Director, in a sexual pose with an animal.

As a result, Mr. Gene Hand, Director of the Communications Department, sent Mr. Sullivan a letter informing Mr. Sullivan of the substantial number of complaints and advising him to cease his threatening use of the automatic dialing device.

Undeniably, the Commission has a number of serious concerns regarding this application. First and foremost, the Commission does not agree with the tactics used by Mr. Sullivan to resolve the dispute he has with OPPD. His past messages have involved threatening and offensive language. He has threatened subscribers that he will release personal information about them to telemarketing companies. He has threatened to keep calling them with his opinions about OPPD. In addition, when some subscribers called Mr. Sullivan to request removal from his calling list, Mr. Sullivan threatened to place their names on his website.

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On March 24, 2006 the Commission sent Mr. Sullivan a letter warning him "to stop using language . . . that causes people to feel harassed and threatened." Thereafter, Mr. Sullivan modified his message. Since that time, complaints have decreased but have not completely stopped. Mr. Sullivan has been put on notice that the Commission may take further action if complaints continue.

Mr. Sullivan has applied for and received numerous applications for automatic dialers and has substantial knowledge of the requirements that must be followed for operation of said devices.

Having reviewed the matter and all federal and state statutes, the Commission, with great reluctance, finds that the application technically complies with applicable statutes and Rules and Regulations of the Commission for receiving an automatic dialing-announcing device permit. The Commission, however, will closely scrutinize complaints. Should the Commission receive further complaints regarding Mr. Sullivan's use of the automatic dialing device in a manner which is threatening or harassing to consumers or in violation of any other part of this order it will take immediate action. The Commission has given Mr. Sullivan warnings in the past relating to his messages. No further warnings need or will be given.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. AD-341 be, and it is hereby, granted and Community Venture Group, LLC, Omaha, be and is hereby authorized to connect an automatic dialing-announcing device in accordance with its application, the Nebraska statutes and the Rules and Regulations of this Commission.

IT IS FURTHER ORDERED that this order be, and it is hereby, made the Commission's official permit as set forth in this order and shall remain in force and effect for two years from this date unless used in a manner inconsistent with state or federal law.

IT IS FURTHER ORDERED that, upon receipt of this order and prior to connecting the device to any telephone line, the applicant shall notify the serving telephone company

in writing of its intent to connect or operate the aforementioned device and identify the access line or line(s) to which connection is proposed.

IT IS FURTHER ORDERED that Applicant may only notify the serving telephone company he is using to connect the device. If Applicant changes the serving telephone company Applicant must notify the Commission and the new serving telephone company of its intent to connect and operate the device.

IT IS FURTHER ORDERED that Applicant will include in all calls made with the automatic dialing-announcing device a statement of the nature of the call and the name, address, and telephone number of the business or organization being represented.

IT IS FURTHER ORDERED that Applicant notify the Commission within five (5) days of any changes in the information contained in its application.

IT IS FURTHER ORDERED that Mr. Sullivan may not use his autodialer message to harass, scare or threaten other telephone subscribers.

IT IS FURTHER ORDERED that should the Commission receive further complaints relating to threatening or harassing calls or messages or if the Commission receives complaints indicating Applicant is in violation of state or federal statute, the Rules and Regulations of the Commission or any of the aforementioned requirements in this Order, action will be taken against Application without further warning.

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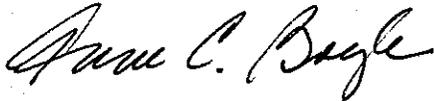
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MADE AND ENTERED at Lincoln, Nebraska, this 16th day
of May 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chairman

ATTEST:



// //s// Lowell C. Johnson
//s// Frank E. Landis

Executive Director