

TENNESSEE REGULATORY AUTHORITY



Eddie Roberson, Chairman
Tre Hargett, Director
Sara Kyle, Director
Ron Jones, Director

460 James Robertson Parkway
Nashville, Tennessee 37243-0505

MEMORANDUM

To: Hearing Officer Gary Hotvedt

From: Carsie Mundy, Consumer Services Chief *CSM*
Rebecca S. Montgomery, Assistant General Counsel *RSW/RC*

Date: June 30, 2008

Subject: Docket No. 05-00233: In Re: Show Cause Proceeding Dura-Shield, LLC

At the regularly scheduled Authority Conference held on August 22, 2005, the voting panel assigned to this docket unanimously voted to open a docket to determine whether grounds exist for the issuance of a Show Cause Order against Dura-Shield for possible violations of Tenn. Code Ann. § 65-4-404 (2004), the Do-Not-Call Law and appointed the Authority's General Counsel or his designee as Hearing Officer. This action was predicated on several complaints received and being investigated by the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority.

During the course of the investigation, it was determined that Tim and Elizabeth Parker were the proprietors of both Dura-Shield and Action Remodeling, LLC ("Dura-Shield"). Through January 12, 2006, the CSD received fifteen Do-Not-Call complaints against Durashield. On February 1, 2006, the TRA issued a subpoena to BellSouth Telecommunications, Inc. ("BellSouth") requiring identification, billing and service information for the telephone number from which these sales solicitation calls originated as well as other associated numbers. BellSouth's response revealed the physical address, associated telephone numbers and a different business name: Action Remodeling used by the account owners, Mr. & Mrs. Tim Parker, proprietors of Dura-Shield and Action Remodeling.

Legal Staff representing the CSD made numerous attempts to contact the Parkers' legal representatives after their correspondence requesting that the TRA defer action against Dura-Shield in September, 2005. Correspondence from Legal Staff in early 2007 also went unanswered. Attempts to reach the Parkers at the last known telephone numbers have resulted in messages that the telephone numbers are no longer in service. Searching for updated listings for the Parkers in the white pages and through an online reverse directory search was equally unfruitful. Finally, CSD staff was able to make contact with the attorney of record for Dura-Shield. Margaret Held, the attorney with whom CSD staff spoke, stated she had not had any contact with Mr. Parker for several years, and the contact information she provided for Mr. Parker was the same information that the CSD has been using in its attempts to locate Mr. Parker.

CSD is of the opinion that its investigation yielded sufficient evidence to support a show cause action against Dura-Shield. Nevertheless, diligent efforts by CSD to locate the Parkers have been unsuccessful. Rather than utilize limited agency resources to prosecute a case which at best will result in a judgment with little to no likelihood of collection, the CSD is requesting that the Hearing Officer close this docket administratively without prejudice at this time, so that in the event that the Parkers are located by the CSD in the future, this matter could be re-activated for consideration of prosecution.

c: Docket No. 05-00233