

TENNESSEE REGULATORY AUTHORITY



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460 James Robertson Parkway
Nashville, Tennessee 37243-0505

T.R.A. DOCKET ROOM

MEMORANDUM

To: Chairman Sara Kyle
Director Eddie Roberson
Director Kenneth Hill

From: Charles Pemberton, Manager-Do Not Call/Do Not Fax Programs
Gary Hotvedt, Counsel

Date: October 8, 2009

Re: October 26, 2009 TRA Conference

Show Cause Proceeding Against Drexler & Associates
Docket No. 09-00162

Recommendation:

Appoint General Counsel, or his designee, as Hearing Officer in this matter for the purpose of: (1) issuing a Show Cause Order; and (2) preparing this matter for hearing.

Background

During the period of January 25, 2008 through October 6, 2009, the Consumer Services Division ("CSD") received 46 complaints from 28 Tennessee consumers against Drexler & Associates ("Drexler") alleging violations of Tenn. Code Ann. §§ 65-4-501 – 506, also known as the Do-Not-Fax law (see attached appendix). The CSD Staff opened an investigation during which subpoena responses identified Drexler & Associates of Charlotte, North Carolina as the owner of the telephone number listed as the reply number on the facsimile advertisements. On February 10, 2009, Drexler & Associates were sent 13 Notices of Alleged Violations via facsimile and certified mail. According to a CSD investigator, during a telephone conversation on February 11, 2009, Mr. Richard L. Drexler admitted to sending facsimile advertisements into Tennessee. In a written response to the Notices of Alleged Violations, Mr. Drexler denies sending such facsimiles and states that his company would not be purchasing any more leads for Tennessee. However, since receiving his written response on February 19, 2009, the CSD Staff has received 30 more consumer complaints.

Recommendation

Because it appears from this investigation that probable cause exists that Drexler & Associates has "sent or caused to be sent" unsolicited facsimile advertisements in violation of the Do-Not-Fax law, the Investigative Staff in this docket, consisting of Charles Pemberton, Bert Chalfant, Tina Baker and Gary Hotvedt, recommends that the Authority appoint General Counsel or his designee, as Hearing Officer in

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this matter for the purpose of: (1) issuing a Show Cause Order to determine whether the Tennessee Regulatory Authority should sanction Drexler & Associates for alleged violations of Tenn. Code Ann. §§65-4-501 - 506; and (2) preparing this matter for hearing before the panel.

Attachments: 1

cc: Richard L. Drexler, President of Drexler & Associates
Docket File

APPENDIX

VIOLATION DATES

Complainants who were sent unsolicited facsimile advertisements:

1. American Red Cross Appalachian Chapter	1/23/09, 4/2/09
2. Appalachian Electric Cooperative	9/11/08, 3/16/09, 4/27/09
3. Burhman & Associates, P.C.	6/5/09, 8/18/09
4. Coffee County Rural Solid Waste	1/1/09, 5/24/09
5. Exel Transportation Services Inc.	6/4/09
6. Flexible Financials LLC	9/24/09
7. Greene Insurance Agency	10/28/08
8. Hermitage Psychiatric Group PC	6/16/09
9. James E. Keeton, Jr.	9/19/09
10. Jo Webb	8/31/09
11. John Gundlach	8/24/09
12. Karen Woodyard	8/26/09
13. Kids, Incorporated	12/13/08
14. Kustom Glass Service	6/2/08
15. Living Covenant Christian Center Church	2/16/09
16. McMurray Law Office, PLLC	8/20/09
17. Meredith G. Pritchatt	8/27/09
18. Moore Pumps, Inc.	1/22/08, 5/22/08, 3/16/09, 6/1/09
19. Northeast Correctional Complex	1/24/08, 5/23/08, 3/5/09
20. Plateau Properties, Inc.	1/24/08, 9/14/08, 12/21/08, 3/22/09, 6/17/09, 10/1/09
21. Riverbend Maximum Security Institution	9/15/08, 3/30/09, 9/28/09
22. Robert Wayne Morris	9/6/09
23. Sharp and Associates	8/17/09
24. Texas RioGrande Legal Aid, Inc.	8/21/09
25. The State of Tennessee, Office of the Attorney General	1/25/08
26. The Village Toymaker	1/28/08
27. Transmission Technologies Corp.	3/23/09, 6/15/09
28. Weiss Liquors Inc.	8/21/09