

Federal Communications Commission

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

June 11, 2007

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

James Southworth  
Intelligent Alternatives  
10655 Roselle St., Suite H  
San Diego, CA 92121-1552

Re: File No. EB-07-TC-3404

Dear Mr. Southworth:

This is an official **CITATION**, issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 503(b)(5), for violations of the Act and the Federal Communications Commission's rules that govern prerecorded messages and automatic telephone dialing systems.<sup>1</sup> As explained below, you may appeal this citation. In addition, future violations of the Act or Commission's rules in this regard may subject you and your company to monetary forfeitures.

Attached are consumer complaints regarding prerecorded messages delivered by your company, acting under your direction. These complaints indicate that you and your company have violated section 227(d)(3)(B) of the Act and section 68.318(c) of the Commission's rules by delivering prerecorded messages that failed to disconnect promptly when the called party hung up. *See* 47 U.S.C. § 227(d)(3)(B); 47 C.F.R. § 68.318(c).

Under Section 227(d)(3)(B) of the Act and section 68.318(c) of the Commission's rules, automatic telephone dialing systems that deliver recorded messages must release the called party's telephone line within five seconds of the time that notification is transmitted to the system that the called party has hung up.

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<sup>1</sup> 47 U.S.C. § 227; 47 C.F.R. § 64.1200; 47 C.F.R. § 68.318(c). A copy of these provisions is enclosed for your convenience. Section 227 was added to the Communications Act by the Telephone Consumer Protection Act of 1991 and is most commonly known as the TCPA. The TCPA and the Commission's parallel rules restrict a variety of practices that are associated with telephone solicitation and use of the telephone network to deliver unsolicited advertisements, including prerecorded messages to residential telephone lines. We refer in this citation to the Commission's rules as they existed at the time of the violations in this matter. Revised rules in this area took effect on August 1, 2006.

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**If, after receipt of this citation, you or your company violate the Communications Act or the Commission's rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.<sup>2</sup>**

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. You may use this response to appeal this citation. For example, you may claim that you can document that you delivered your message without use of an automatic telephone dialing system. In addition, your response should specify the actions that you are taking to ensure that you do not violate the Commission's rules governing prerecorded messages, as described above.

**You may schedule a personal interview at the nearest Commission field office. These offices are located in: Atlanta, GA; Boston, MA; Chicago, IL; Columbia, MD; Dallas, TX; Denver, CO; Detroit, MI; Kansas City, MO; Los Angeles, CA; New Orleans, LA; New York, NY; Philadelphia, PA; San Diego, CA; San Francisco, CA; Seattle, WA; and Tampa, FL. Please call Al McCloud at 202-418-2499 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:**

Kurt A. Schroeder  
Deputy Chief  
Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission  
445-12<sup>th</sup> Street, S.W.  
Rm. 4-C222  
Washington, D.C. 20554

### **Reference EB-07-TC-3404 when corresponding with the Commission.**

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least 5 days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:  
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format): 202-418-0531 (voice), 202-418-7365 (tty).

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<sup>2</sup> See 47 C.F.R. § 1.80(b)(3).

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Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kurt A. Schroeder  
Deputy Chief, Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission

Enclosures