



- Home
- Overview
- The Solution
- Clients
- News
- Locations
- Contact Us
- Change CNAM
- Slide Show
- Get Paid

Please call us toll free: (800) 461-6675



If you are a Telemarketing Company or operate a Pre-Paid Telephone Card Platform or Fax Server and you are making more than 5,000,000 calls per month, TMC will show you how to be paid handsomely for many of those calls.

For more information please contact us at (800) 461-6675

<b>Restricted</b>	
Username:	<input type="text"/>
Password:	<input type="password"/>
<input type="button" value="Login"/>	

©2005, Telephone Management Corporation®, 2331 SW 5th Avenue, Portland, OR 97201 (800) 461-6675

[Contact Us](#)

# UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

VINCENT LUCAS

*Plaintiff*

v.

TELEMARKETER CALLING FROM (407) 476-5680  
AND OTHER TELEPHONE NUMBERS

*Defendant*

Civil Action No. 1:12CV630 -SAS-SKB

(If the action is pending in another district, state where: )

## SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Pacific Telecom Communication Group

**Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

see next page

Place: e-mail: vincentlucaslegal@gmail.com  
OR  
[REDACTED]

Date and Time:

October 10, 2012, 5 p.m.

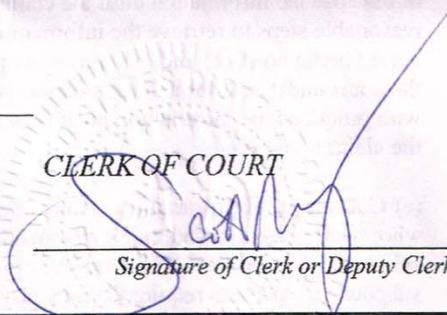
**Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 9/12/12

CLERK OF COURT  
  
Signature of Clerk or Deputy Clerk

OR

\_\_\_\_\_  
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) \_\_\_\_\_ party \_\_\_\_\_, who issues or requests this subpoena, are:

Vincent Lucas, [REDACTED], vincentlucaslegal@gmail.com, [REDACTED]

For each of the telephone numbers listed in the table below, you are commanded to produce the following information or documents containing the following information:

- (1) The name of the individual, business, or organization to which the telephone number was assigned on the date shown in the table.
- (2) For the entity specified in (1), the following information, to the extent that your records contain this information:
  - (a) Any other names that the entity does business under
  - (b) The billing address and all other known addresses of the entity
  - (c) All known telephone numbers for the entity
  - (d) An email address for the entity
  - (e) The IRS Taxpayer Identification Number (TIN) of the entity. (See <http://www.irs.gov/businesses/small/international/article/0,,id=96696,00.html> for a description of what can be used as a Taxpayer Identification Number).
  - (f) The name and address of any agent authorized to receive service of legal process on behalf of the entity
  - (g) The names of all of the entity's owners, officers, employees or representatives that you know of
- (3) For the individuals specified in (2)(g), the following information, to the extent that your records contain this information: The individual's
  - (a) Postal address,
  - (b) Telephone number,
  - (c) Email address,
  - (d) Taxpayer Identification Number, and
  - (e) Driver's license number and state where the driver's license was issued.

Telephone number	Date (mm/dd/yyyy)
253-382-9908	8/23/2012
253-382-9903	6/16/2012
503-457-1300	5/24/2012
503-902-8480	5/18/2012
503-902-8479	4/17/2012
206-496-0802	9/29/2011
406-219-2301	9/10/2011

Format of electronically stored information:

Electronically stored information shall be produced in ASCII text format, any format that can be accurately read using Microsoft Word 2010, Adobe Portable Document Format, or any other format agreed to in advance by you and the party requesting this subpoena. The information may be provided in compressed and/or encrypted files only if the files can be uncompressed and unencrypted using the 7-Zip application (available from <http://www.7-zip.org>). If encrypted, the passkey to unencrypt the data must be provided no later than the date specified for production of the information. However, the passkey can be provided in a separate communication.

Place for production:

Documents and information may be sent by email to [vincentlucaslegal@gmail.com](mailto:vincentlucaslegal@gmail.com) or mailed to Vincent Lucas, [REDACTED] Amelia, OH 45102. Accurate copies of documents can be produced in place of originals.

Time and date for production:

The documents and information shall be produced no later than 5 p.m. on October 10, 2012.



---

## subpoena

8 messages

---

**Vincent Lucas** <vincentlucaslegal@gmail.com> Mon, Sep 24, 2012 at 5:41 PM  
To: legal@pacifictelecommunications.com, abuse@pacifictelecommunications.com

To Pacific Telecom Communications Group:

Please forward this message to your legal affairs department.

I have a subpoena in a federal lawsuit for information about one of your customers. Would you be willing to accept service of this subpoena by sending a copy to you by e-mail?

---

**Pacific Telecom Communications Group** <legal@pacifictelecommunications.com> Tue, Sep 25, 2012 at 12:43 PM  
To: Vincent Lucas <vincentlucaslegal@gmail.com>

You can submit it as an attachment to this email address.

Legal Department  
Pacific Telecom Communications Group  
[Quoted text hidden]

---

**Vincent Lucas** <vincentlucaslegal@gmail.com> Tue, Sep 25, 2012 at 5:03 PM  
To: Pacific Telecom Communications Group <legal@pacifictelecommunications.com>

Thank you. Attached you will find the subpoena. Please send back an e-mail acknowledging service of this subpoena.  
[Quoted text hidden]

---

 **SubpoenaToPacificTelecom.pdf**  
584K

---

**Vincent Lucas** <vincentlucaslegal@gmail.com> Thu, Sep 27, 2012 at 12:11 PM  
To: Pacific Telecom Communications Group <legal@pacifictelecommunications.com>

Please send back an e-mail confirming that you received the subpoena sent to you by email two days ago.  
[Quoted text hidden]

---

**Pacific Telecom Communications Group** <legal@pacifictelecommunications.com> Tue, Oct 2, 2012 at 12:57 PM  
To: Vincent Lucas <vincentlucaslegal@gmail.com>

Please see attached response.

Legal Department  
Pacific Telecom Communications Group  
[Quoted text hidden]  
[Quoted text hidden]

---

### 2 attachments

 **PTCG 10-02-12.xlsx**  
9K

 **SubpoenaToPacificTelecom.pdf**  
584K

---

**Vincent Lucas** <vincentlucaslegal@gmail.com> Tue, Oct 2, 2012 at 11:44 PM  
To: Pacific Telecom Communications Group <legal@pacifictelecommunications.com>

Thank you for your reply. However, your response is incomplete. Part (2)(g) of the subpoena requires you to identify of all of the owners, officers, employees and representatives of International Telephone Corporation that you have record of. You have identified none. Given

your close business relationship with ITC, surely you must know the names of some of its owners, officers, employees or representatives.

[Quoted text hidden]

---

**Pacific Telecom Communications Group** <legal@pacifictelecommunications.com>  
To: Vincent Lucas <vincentlucaslegal@gmail.com>

Wed, Oct 3, 2012 at 12:52 PM

There are no responsive documents for your request with regard to Part(2)(g). I would suggest you contact the subscriber directly for that information.

Legal Department  
Pacific Telecom Communications Group

[Quoted text hidden]

[Quoted text hidden]

---

**Vincent Lucas** <vincentlucaslegal@gmail.com>  
To: Pacific Telecom Communications Group <legal@pacifictelecommunications.com>

Wed, Oct 3, 2012 at 2:52 PM

So, are you saying that your company has entered an agreement with International Telephone Corporation allowing them to use several of your telephone numbers, but your company doesn't know the name of a single person at International Telephone Corporation? Who from ITC signs the legal agreements between your company and ITC? What name appears on the legal agreements as the person authorized to enter into the agreement on behalf of ITC?

[Quoted text hidden]

2533829908	DID	Date from request	Subscriber on date
		8/23/2012	International Telephone Corporation 8 Marine Parade Belize City, Belize Phone 7015008500 contact@inttelephone.com
2533829903		6/16/2012	International Telephone Corporation 8 Marine Parade Belize City, Belize Phone 7015008500 contact@inttelephone.com
5034571300		5/24/2012	International Telephone Corporation 8 Marine Parade Belize City, Belize Phone 7015008500 contact@inttelephone.com
5039028480		5/18/2012	International Telephone Corporation 8 Marine Parade Belize City, Belize Phone 7015008500 contact@inttelephone.com

5039028479

4/17/2012 International Telephone  
Corporation  
8 Marine Parade  
Belize City, Belize  
Phone 7015008500  
contact@inttelephone.com

2064960802

9/29/2011 International Telephone  
Corporation  
8 Marine Parade  
Belize City, Belize  
Phone 7015008500  
contact@inttelephone.com

4062192301

9/10/2011 Capital Solutions Group,  
S.A.  
Avenue Samuel Lewis Y  
Calle 58  
Panama 3, Republic of  
Panama  
Phone 8003631176  
Fax 8772113029  
Evelina Miranda  
csg.evelina@yahoo.com  
Phone 0115078365327

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Case Master Report 2012-22851**

Date Initiated 07/20/2012

**Primary Information**

Agency:	<b>HERNANDO COUNTY SO</b>
Bureau:	<b>Operations</b>
Division:	<b>Major Cases</b>
Section:	<b>Major Cases Section</b>
Squad:	<b>ECONOMIC CRIMES</b>
Lead LEO:	<b>Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Type Of Case:	<b>CAD INITIATED</b>
Case Description:	<b>MAKING POLITICAL PHONE CALL</b>

**Case Status**

Case Status:	<b>INACTIVE</b>
Case Status Date:	<b>11/28/2012</b>
Disposition Code:	<b>Inactive - No Further Leads</b>
Disposition Date:	<b>11/28/2012</b>
Dissemination:	<b>Chain of Command</b>

## HERNANDO COUNTY SHERIFF'S OFFICE

**ACISS Offense Report 2012-22851**

Report Date: 07/20/2012

**Primary Information**

Report Number: **2012-22851**  
 Report Date: **07/20/2012**  
 Type Of Report: **Offense**  
 Occurrence From: **07/19/2012 19:18**  
 Occurrence To: **07/19/2012 19:18**  
 Source Of Call: **DISPATCHED**  
 Business Area Name: **8045 JASBOW (1-1)**  
 Dissemination Code: **ANYONE/PUB RECORD**  
 Shift: **Afternoon Shift**  
 Reporting LEO: **Kistler, Michael (867 / D1 PATROL SQUAD 2 / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Approval Status: **Approved**  
 Approved Date: **07/25/2012**  
 Approved By: **Ciucci, Pete (445 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)**

**Response Information**

Time Call Received: **07/20/2012 22:16**  
 Time Dispatched: **07/20/2012 22:16**

**Related Addresses**

<u>Address</u>	<u>Relationship</u>
<b>8045 JASBOW JCT, WEEKI WACHEE, FLORIDA 34613 , United States</b>	<b>Dispatched And Occurred</b>

**Offenses**

<u>Offense Type</u>	<u>Offense</u>	<u>Attempted/Committed</u>	<u>Statute</u>	<u>UCR Class</u>
<b>MISDEMEANOR</b>	<b>FLORIDA STATUTE VIOLATION</b>	<b>COMMITTED</b>	<b>106.14</b>	<b>0000</b>

**Related Subjects**

<u>Name</u>	<u>Type</u>	<u>Sex</u>	<u>Race</u>	<u>DOB</u>	<u>Relationship</u>
<b>STATE OF FLORIDA</b>	<b>AGENCY</b>	<b>---</b>	<b>---</b>	<b>---</b>	<b>VICTIM</b>
<b>KANNER, ROBERT GERALD</b>	<b>PERSON</b>	<b>MALE</b>	<b>WHITE</b>	<b>09/22/1950</b>	<b>COMPLAINANT</b>
<b>SCHRAUT, GARY E</b>	<b>PERSON</b>	<b>MALE</b>	<b>WHITE</b>	<b>12/27/1959</b>	<b>COMPLAINANT</b>
<b>HAMILTON, STEVE</b>	<b>PERSON</b>	<b>MALE</b>	<b>WHITE</b>	<b>---</b>	<b>OTHER</b>

**Analysis Information**

Sick Or Injured: **No**  
 Cargo Theft: **No**  
 Alarm: **No**  
 Location Type: **RESIDENCE**  
 Forced Entry: **NOT APPLICABLE**  
 Alcohol Related: **No**

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Offense Report 2012-22851**

Report Date: 07/20/2012

**Analysis Information - Continued**

Drug Related:	<b>No</b>
Hate Crime:	<b>No</b>
Sex Crime:	<b>No</b>
Juvenile Crime:	<b>No</b>
Domestic Violence:	<b>No</b>
Senior Abuse:	<b>No</b>
Child Abuse:	<b>No</b>
Gang Related:	<b>No</b>
School Zone:	<b>No</b>
Public Housing:	<b>No</b>
Signature Act:	<b>No</b>

**Property**

<u>Status</u>	<u>Quantity</u>	<u>Description</u>
<b>EVIDENCE/SEIZED</b>	<b>1</b>	<b>MK1- DIGITAL RECORDING OF ANSWERING MACHINE MESSAGE</b>

**Narrative****Scene:****8045 Jasbow Court.****Synopsis:****Robert Kanner received a political phone call with no party affiliation disclosed.****Investigation:****On 07202012, I responded to 8045 Jasbow Junction, in reference to a possible Florida State Statute violation.**

**Upon arrival contact was made with the complainant Robert Kanner who stated the following. Robert states on 07192012 at approximately 1918 hours, he received a phone call from the number (503)457-1097. Robert states the call consisted of a prerecorded message from unknown male telling voters not to vote for John Druzbeck for various reasons. Robert states it was not the content of the message that he found the issue with, it was the lack of party or person responsible identifying themselves that he had a problem with. Robert states F.S.S 106.147(3) requires all political phone calls to identify themselves.**

**This statute reads;**

**106.147?Telephone solicitation; disclosure requirements; prohibitions; exemptions; penalties.? (1)(a)?Any telephone call supporting or opposing a candidate, elected public official, or ballot proposal must identify the persons or organizations sponsoring the call by stating either: "paid for by \_\_\_\_" (insert name of persons or organizations sponsoring the call) or "paid for on behalf of \_\_\_\_" (insert name of persons or organizations authorizing call). This paragraph does not apply to any telephone call in which both the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.**

**The message was played back for this Deputy who did not hear the individual identify themselves other than calling himself a Hernando County citizen. The message was recorded digitally and placed into Evidence.**

**Nothing further.**

**HERNANDO COUNTY SHERIFF'S OFFICE**

**ACISS Offense Report 2012-22851**

Report Date: 07/20/2012

<b>Record Status Information</b>	
Record Origination Operator:	<b>CAD (CAD / HERNANDO COUNTY SO / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Record Origination Date:	<b>07/20/2012 22:48</b>
Last Update Operator:	<b>Ciucci, Pete (445 / District 2 / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Last Update Date:	<b>07/25/2012 16:27</b>

<b>Reporting LEO</b>	<b>Date</b>	<b>Supervisor</b>	<b>Date</b>
<b>Kistler, Michael (867 / D1 PATROL SQUAD 2 / HERNANDO COUNTY SHERIFF'S OFFICE)</b>		<b>Ciucci, Pete (445 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)</b>	<b>10/22/2013</b>

## HERNANDO COUNTY SHERIFF'S OFFICE

**ACISS Patrol Supplement Report 2012-22851/1**

Report Date: 07/22/2012

**Primary Information**

Report Number: 2012-22851/1  
 Report Date: 07/22/2012  
 Type Of Report: Patrol Supplement  
 Description: TELEPHONE SOLICITATION  
 Dissemination Code: ANYONE/PUB RECORD  
 Reporting LEO: Adkins, James (783 / D1 PATROL SQUAD 2 / HERNANDO COUNTY SHERIFF'S OFFICE)  
 Approval Status: Approved  
 Approved Date: 07/22/2012  
 Approved By: Rodeo, Duane (113 / D1 PATROL SQUAD 2 / HERNANDO COUNTY SHERIFF'S OFFICE)

**Narrative**

On 07222012, I made contact with Gary Schraut by phone. Gary advised he is currently in Colorado. Gary advised on 07182012, he received a robo political phone call. Gary advised the phone call came into his home phone and went to his voice mail. Gary further advised the subject did not identify himself. He advised that the subject was telling people not to vote for John Druzbeck because he has "voted to raise your taxes three times." Gary advised there was no political disclaimer and that the telephone number was 503-457-1097. Gary could not provide any other information at this time.

At this time, I have no other information.

**Record Status Information**

Record Origination Operator: Longo, Joseph (ARMS / HERNANDO COUNTY SHERIFF'S OFFICE)  
 Record Origination Date: 07/22/2012 12:18  
 Last Update Operator: Rodeo, Duane (113 / D1 PATROL SQUAD 2 / HERNANDO COUNTY SHERIFF'S OFFICE)  
 Last Update Date: 07/22/2012 14:15

Reporting LEO	Date	Supervisor	Date
Adkins, James (783 / D1 PATROL SQUAD 2 / HERNANDO COUNTY SHERIFF'S OFFICE)		Rodeo, Duane (113 / D1 PATROL SQUAD 2 / HERNANDO COUNTY SHERIFF'S OFFICE)	10/22/2013

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Investigative Supplement Report 2012-22851/2**

Report Date: 07/24/2012

**Primary Information**

Report Number:	<b>2012-22851/2</b>
Report Date:	<b>07/24/2012</b>
Type Of Report:	<b>Investigative Supplement</b>
Description:	<b>Follow up</b>
Dissemination Code:	<b>INVESTIGATIONS</b>
Reporting LEO:	<b>Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Approval Status:	<b>Approved</b>
Approved Date:	<b>07/25/2012</b>
Approved By:	<b>Ciucci, Pete (445 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)</b>

**Narrative**

**Investigative supplement  
Making political phone calls without disclaimer or identification  
2012-22851/2  
Det. Velez  
07/24/2012**

This case is in reference to automated/Robo phone calls being made to the Hernando County community/residences; where the caller or organization did not provide the disclaimer or source identification required when calls are made for political advertisement.

I made contact with Robert Kanner, a complainant in this case. He advised that he received a call on 07/19/2012 at approximately 18:30 - 19:00 hours. Robert advised that it was not the content of the call that concerned him, however the call did not leave a disclaimer or source identification as required by F.S.S 106.147.

Robert was not present when the call was received at his home phone however a message was left on his voice mail. Robert provided a copy of the message and at no time did the caller or message provide a disclaimer or source identification which would be in direct violation of F.S.S. 106.147.

I called the originating number for said call/message (503-457-1097), however the call would go directly to a voice message advising the following "Hello, you have received a marketing call from a commercial entity or its representatives. If you prefer to not receive calls from this organization in the future press 1 to be added to this organizations do not call list".

There was no direction or instruction on how to leave a message or event talk to a representative and once the message was over the connection would be automatically terminated.

I will attempt to subpoena the originating phone number and update this case accordingly.

Currently it is believed that the calls are originating from a hired source out of Florida.

**Case status: Open pending further investigation.**

**Record Status Information**

Record Origination Operator:	<b>Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Record Origination Date:	<b>07/24/2012 11:21</b>
Last Update Operator:	<b>Ciucci, Pete (445 / District 2 / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Last Update Date:	<b>07/25/2012 10:43</b>

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Investigative Supplement Report 2012-22851/2**

Report Date: 07/24/2012

Reporting LEO	Date	Supervisor	Date
Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)		Ciucci, Pete (445 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)	10/22/2013

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Investigative Supplement Report 2012-22851/4**

Report Date: 07/25/2012

**Primary Information**

Report Number:	<b>2012-22851/4</b>
Report Date:	<b>07/25/2012</b>
Type Of Report:	<b>Investigative Supplement</b>
Description:	<b>Follow up</b>
Dissemination Code:	<b>INVESTIGATIONS</b>
Reporting LEO:	<b>Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Approval Status:	<b>Approved</b>
Approved Date:	<b>07/25/2012</b>
Approved By:	<b>Ciucci, Pete (445 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)</b>

**Narrative**

**Investigative supplement  
Telephone solicitation, without disclaimer or source identification or origination  
2012-22851/4  
Det. Velez  
07/25/2012**

On listed date I received information that the phone number being used (503-457-1097) to solicit a political outcome in Hernando County is possibly owned or leased by a company called Pacific Telecom Communications.

A possible subscriber name and number show registered to Steve Hamilton with an address of 12228 Venice Blvd Suite 559 located in Los Angeles California. Listed with said information were the numbers 360-328-8000 (call center) and 310-895-0574 (Estela Hamilton).

I called both listed numbers and although they verify, by recording, a connection to Pacific Telecom Communications, I have not been able to make a connection to any specific live person to conduct an interview in this case. I did leave a message on a voice mail to a Steve Hamilton requesting a call back; so far, with negative results ( no return call).

Peggy Brooks with the Crime Analysis Unit advised that her follow up with this case discovered that the originating phone number (503-457-1097) appears to be from an Oregon State jurisdiction bought or leased by a California based company (Pacific Telecom Communications).

It appears that said company may be that of a telemarketing type business where automated/ robo calls are set up for telephonic solicitation such as in this case where the calls are for a political campaign.

In this case the violation is that of F.S.S. 106.147, a misdemeanor violation where the calls are being made without or the lack of a disclaimer identifying its source or representative of the advertisement.

Currently, I am unable to identify the person on the recorded message of the calls in question.

Due to the calls possibly originating out of this state a jurisdictional boundary has not been determined or established. I will however continue to attempt contact with Steve Hamilton and advise him of the complaint in this case, in reference to the disclaimer or party identification being avoided/ignored when the calls are being made.

**Record Status Information**

Record Origination Operator:	<b>Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Record Origination Date:	<b>07/25/2012 14:08</b>
Last Update Operator:	<b>Ciucci, Pete (445 / District 2 / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Last Update Date:	<b>07/25/2012 16:08</b>

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Investigative Supplement Report 2012-22851/4**

Report Date: 07/25/2012

Reporting LEO	Date	Supervisor	Date
Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)		Ciucci, Pete (445 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)	10/22/2013

## HERNANDO COUNTY SHERIFF'S OFFICE

**ACISS Investigative Supplement Report 2012-22851/5**

Report Date: 08/09/2012

**Primary Information**

Report Number: **2012-22851/5**  
 Report Date: **08/09/2012**  
 Type Of Report: **Investigative Supplement**  
 Description: **follow up**  
 Dissemination Code: **INVESTIGATIONS**  
 Reporting LEO: **Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Approval Status: **Approved**  
 Approved Date: **08/10/2012**  
 Approved By: **Ciucci, Pete (445 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)**

**Narrative**

**Investigative supplement**  
**Telephonic communication without disclaimer reference political support calls**  
**2012-22851/5**  
**Det. Velez**  
**08/09/2012**

**As of assignment of this case I have not been able to contact or located any person that could be interviewed about the calls in this case, nor have I received any other complaints about calls without the disclaimer.**

**This case will remain inactive pending positive identification of the responsible party for making said calls.**

**It should also be noted that an arrest or conviction of a responsible party is not likely due to the calls origination out of this state.**

**Record Status Information**

Record Origination Operator: **Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Record Origination Date: **08/09/2012 15:35**  
 Last Update Operator: **Ciucci, Pete (445 / District 2 / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Last Update Date: **08/10/2012 09:05**

Reporting LEO	Date	Supervisor	Date
Velez, Ignacio (396 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)		Ciucci, Pete (445 / D1 INVESTIGATIONS / HERNANDO COUNTY SHERIFF'S OFFICE)	10/22/2013

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Investigative Supplement Report 2012-22851/6**

Report Date: 09/10/2012

**Primary Information**

Report Number:	2012-22851/6
Report Date:	09/10/2012
Type Of Report:	Investigative Supplement
Description:	Follow up investigation
Dissemination Code:	INVESTIGATIONS
Reporting LEO:	Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)
Approval Status:	Approved
Approved Date:	09/10/2012
Approved By:	Lakin, Philip (776 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)

**Narrative**

This case was transferred to me for follow up on 8/21/12.

The initial review indicates that the phone call in this case was completed by using "predictive dialing" services. These services consist of a "customer" creating a digital voice message and then using online services to have the message delivered to a "select" area (geographic region) via telemarketing. Phone calls are then placed to each phone number in the "predictive dialing" company database that fits within the parameters of the area (geographic region) that the "customer" selects. The customer pays for this service by whatever terms were provided by the "predictive dialing" company. In this particular case it was a political message in favor of Jason Sager over John Druzbeck in the Hernando County District 3 Commission Republican primary. There was nothing that would appear to be slanderous and/or libel. The message, in my opinion, sounds like a subject with a southern drawl and identifies himself as a resident of Hernando County.

Based on the prior investigation, by Det. Velez, and current investigation it appears that the subject that was responsible for this message is most likely a Hernando County resident. There is no indication at this time that Jason Sager was responsible or even remotely involved with committing this crime. It should be further noted that if the person that was responsible for having this call sent was unaware of the election law that requires a disclaimer there would be no criminal intent. The primary focus of this investigation is to identify who is responsible for the calls in question, after which intent will need to be established.

I met with Robert Kanner regarding the call he received and he advised that after receiving the recorded call he received another phone call within approximately a week. The second call was also a political phone call regarding the same political primary and was also in support of Jason Sager over John Druzvik. The second call was reported to Det. Velez and he was unaware of the outcome of that investigation. I contacted Det. Velez who advised that he had investigated the second call which was traced to Cynthia Horstmanshof. He had spoken with Cynthia who made the phone call from her cell phone. He stated that she apologized and denied being involved with the "predictive dialing" calls. It appeared unlikely that the two calls within a week were a coincidence. This was based on the fact that Kanner advised that he had received no other phone solicitations calls for any other candidate in ANY other political campaigns. It appeared that it was unlikely to be a coincidence to receive two phone calls for one candidate within a week and no calls for any other candidate during the entire time frame before and after.

I identified Richard Horstmanshof as her husband and briefly looked into each of them. There were no direct links observed between them and Jason Sager other than the fact that both Horstmanshofs' had contributed to Sagers' campaign. Cynthia and/or Richard Horstmanhof could be involved with "predictive dialing" calls based on the fact that the same person was called by both within a short period of time. It is clear they also both support Sager. With no direct link to Sager it is possible, and if they are responsible, that could have completed calls without Sagers' approval and/or knowledge.

Pacific Telecom and Communications Group, 12228 Venice Blvd, Ste 559, Los Angeles, CA 90066 (213)825-1100 was the company that is registered to the phone number that appeared in the caller ID when the calls were received. The President, Steve Hamilton, has provided a "customer management system" printout regarding a subpoena requesting information for the customer in question. The company is registered in Belize and has been a customer as of 9/15/2011. The customer is identified as "International Telephone Corporation" from Belize with an e-mail indicating a website domain of inttelephone.com.

The domain is registered to: Telephone Management Corporation, 2331 SW 5th Ave, Portland, OR 97201 (503)223-7747 with an e-mail address of: faccuardi@tmcallerid.com.

## HERNANDO COUNTY SHERIFF'S OFFICE

**ACISS Investigative Supplement Report 2012-22851/6**

Report Date: 09/10/2012

**Narrative - Continued**

In researching that company it appears to be owned and/or operated by Fred Accuardi of Portland Oregon. There are other companies linked to Fred and/or his son. It also appears that they have been the subject of FTC investigations relating to "questionable" telemarketing services. Information was also located for "F. Anthony Antone Accuardi" presumed to be the son of Fred Accuardi. Anthony is listed as a lawyer from Oregon, using a Belize address.

The registered agent is Gary Roberts 520 S. W. Yamhill, Ste 208, Portland, OR 97204. I was able to contact Gary, via telephone, and confirmed that he would accept service of the subpoena for records for the business. The subpoena was obtained and e-mailed to him at gary@rlgportland.com on 8/31/12. He replied confirming receipt of the subpoena. It should be noted that Roberts at first appeared to not want to cooperate and during our conversation I explained the nature of my investigation. Once he realized that the company was not under investigation he seemed relieved and advised that he expects Mr. Accuardi to assist. It appeared, based on the information located during Internet research, that Roberts may have suspected that the investigation was into their activities and not that of a customer. Once that was cleared up it appeared more likely that the request would be honored.

It should be noted that during this investigation all subjects appeared very evasive and refused to have direct contact with me. Steve Hamilton would never respond to any direct questions in e-mail and/or voice mail. The phone numbers he provided were either no longer valid or resulted in being transferred into an automated messaging process that never allows you to speak with a live representative and they never returned any messages. This appears to be a common theme based on the fact that Accuardi seems to use Belize as an "offshore" location while operating within the US and apparently residing in OR. Although these problems are not directly a result of this investigation it appears the nature and operation and the services provided by these companies is very questionable and under investigation by many agencies throughout the US. This may be a hindrance to this investigation. Based on the fact that this is a misdemeanor violation a large amount of investigative resources and expense are not expected to be used to acquire cooperation.

**CASE STATUS: ACTIVE****Record Status Information**

Record Origination Operator:	<b>Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Record Origination Date:	<b>09/10/2012 10:33</b>
Last Update Operator:	<b>Lakin, Philip (776 / Crimes Against Persons / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Last Update Date:	<b>09/10/2012 11:57</b>

Reporting LEO	Date	Supervisor	Date
<b>Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)</b>		<b>Lakin, Philip (776 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)</b>	<b>10/22/2013</b>

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Investigative Supplement Report 2012-22851/7**

Report Date: 09/27/2012

**Primary Information**

Report Number: **2012-22851/7**  
 Report Date: **09/27/2012**  
 Type Of Report: **Investigative Supplement**  
 Description: **Waiting for subpoena response**  
 Dissemination Code: **INVESTIGATIONS**  
 Reporting LEO: **Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Approval Status: **Approved**  
 Approved Date: **09/28/2012**  
 Approved By: **Lakin, Philip (776 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)**

**Narrative**

**Contact was made with the registered agent, Gary Roberts, via e-mail to check on the status of the records request made on 8/31/12. I still have not received a response so there are no further suspect leads at this time.**

**CASE STATUS: ACTIVE**

**Record Status Information**

Record Origination Operator: **Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Record Origination Date: **09/27/2012 15:56**  
 Last Update Operator: **Lakin, Philip (776 / Crimes Against Persons / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Last Update Date: **09/28/2012 11:16**

<b>Reporting LEO</b>	<b>Date</b>	<b>Supervisor</b>	<b>Date</b>
<b>Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)</b>		<b>Lakin, Philip (776 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)</b>	<b>10/22/2013</b>

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Investigative Supplement Report 2012-22851/8**

Report Date: 10/17/2012

**Primary Information**

Report Number:	2012-22851/8
Report Date:	10/17/2012
Type Of Report:	Investigative Supplement
Description:	Further investigation
Dissemination Code:	INVESTIGATIONS
Reporting LEO:	Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)
Approval Status:	Approved
Approved Date:	10/17/2012
Approved By:	Lakin, Philip (776 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)

**Narrative**

Contact was attempted with Gary Roberts on 9/10 and 9/26 in an attempt to get the information regarding the subpoena he accepted on 8/31/12. On 9/26 I received an e-mail response stating that he will forward my request to his client, and that how they choose to respond is out of his control.

I received a phone message and e-mail from David Nelson later on 9/26 who identified himself as working for Telephone Management Corporation. He stated that he had just become aware of my request and provided me his contact number (503-223-7747). I called him and advised the nature of the investigation, the information requested, and the reason the information was needed for the investigation. He requested a copy of the subpoena and advised that he would contact me back. The subpoena was emailed to him at david@telephonemanagementcorporation.net. On 9/27 I received a response advising that Telephone Management Corporation has no connection to the phone number involved in this crime. It ended with the disclaimer that he was "waiting to hear back from Mr. Accuardi on the off chance it's tied to some other business interest."

It appeared to me that, once again, I was getting sent in another direction. Based on my conversation with the FCC I believed that this could be an intentional delay or diversion. I responded to the e-mail explaining that the explanation provided was not sufficient and that I would continue to investigate and would involve other investigative agencies to follow this matter up.

I received a message from Antone Accuardi on 10/2/12. I spoke with him twice on this date regarding my request. Antone is the son of Fred Accuardi (owner of Telephone Management Corporation, TMC). Antone stated that he has no idea why the subject in CA referred me to his fathers' company. He stated that they do not have the information requested. We had a brief discussion explaining the nature of my investigation and exactly what I needed and why I needed it. I explained that there is no reason for Steve Hamilton AKA Florin Florida to have referred me to TMC unless it was correct. Of all the companies in the World he could have provided any information but he provided TMC. I explained to Antone that the information appears credible and I would continue to attempt obtain the information through other means, regardless of his denial that they have the information. Antone advised that he would call me back. He did so within 30 minutes and advised that he has information regarding my investigation. He stated that the number I am investigating belongs to Vicidial which is a company in the Phillipines. He stated that the contact person is: Edwin Adquilen Valbuena Jr and that he can be reached at edvalbuena@gmail.com. He also explained CNAM fees and specifically stated that the phone number in question receives .0001875 cents per "dip fee" (DIP FEE: Every call to a U.S. telephone number that has Caller ID (CID) enabled requires that the terminating phone company perform a lookup in one of several national databases (also known as line information database or LIDB) that contain all the U.S. subscriber names and numbers. This database lookup is called a CNAM dip. When this database is being 'dipped' the originating local phone company gets compensated by the terminating phone company – this is commonly referred to as a CNAM dip fee (or simply a dip fee). This compensation happens for every call where the calling party name is displayed to the called party – even if the call is not answered.) He advised that from January 2012 until today, 10/2/12, the number I am investigating has generated only 1147 "dip fees" (.0001875 x 1147=0.21 cents). He advised that this was very unlikely to the line I was investigating and suggested the number was spoofed. I advised that based on the demographics of Hernando County and the fact that the race is for only one commission district that 1147 calls seems like a highly likely possibility as being the one that called.

I sent an e-mail request to Edwin Valbuena at the above e-mail. I conducted some checks and located information concerning Edwin Valbuena that appears to indicate that he is a real person that is involved with VOIP and computer/internet services. I also located information indicating that he has possible ties to California. I did not receive a response from the e-mail. A subpoena was sent to Google to investigate the e-mail account information provided. The information will hopefully assist in identifying and/or locating the subject utilizing the e-mail account in question.

At this time there has still been no new information that can be used to identify the suspect responsible for the illegal calls made in this case. The investigation will continue until there are no further leads.

**HERNANDO COUNTY SHERIFF'S OFFICE**

**ACISS Investigative Supplement Report 2012-22851/8**

Report Date: 10/17/2012

<b>Narrative - Continued</b>
<b>CASE STATUS: ACTIVE</b>

<b>Record Status Information</b>	
Record Origination Operator:	<b>Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Record Origination Date:	<b>10/17/2012 13:31</b>
Last Update Operator:	<b>Lakin, Philip (776 / Crimes Against Persons / HERNANDO COUNTY SHERIFF'S OFFICE)</b>
Last Update Date:	<b>10/17/2012 15:01</b>

<b>Reporting LEO</b>	<b>Date</b>	<b>Supervisor</b>	<b>Date</b>
<b>Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)</b>		<b>Lakin, Philip (776 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)</b>	<b>10/22/2013</b>

**HERNANDO COUNTY SHERIFF'S OFFICE****ACISS Investigative Supplement Report 2012-22851/9**

Report Date: 11/06/2012

**Primary Information**

Report Number: **2012-22851/9**  
 Report Date: **11/06/2012**  
 Type Of Report: **Investigative Supplement**  
 Description: **Follow up**  
 Dissemination Code: **INVESTIGATIONS**  
 Reporting LEO: **Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Approval Status: **Approved**  
 Approved Date: **11/07/2012**  
 Approved By: **Lakin, Philip (776 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)**

**Narrative**

An appointment was made with Mr. Druzvik to advise him of the progress and status of this investigation. The appointment was set for 3pm 10/23/12 at 1500hrs at the HCSO. Mr. Druzvik did not call nor show up for this meeting. The investigation will continue regardless until all leads have been exhausted.

I sent a second e-mail to Edwin Valbuena requesting assistance. He responded on 10/26/12 advising that he did not receive my 1st e-mail. He stated that he did not have access to the website at this time because his account was cut off. In his next e-mail he stated that the number under investigation does not exist in his account. On 10/30/12 he advised that he will try to find out who used the number under investigation. He requested my assistance to tell Accuardi that he is not under investigation because they are refusing to pay him for phone related fees that he is entitled to.

Once information is obtained it will hopefully lead to IP address and/or payment information of the subject that was responsible for the robo calls in this case.

**CASE STATUS: ACTIVE****Record Status Information**

Record Origination Operator: **Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Record Origination Date: **11/06/2012 10:24**  
 Last Update Operator: **Lakin, Philip (776 / Crimes Against Persons / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Last Update Date: **11/07/2012 08:50**

Reporting LEO	Date	Supervisor	Date
<b>Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)</b>		<b>Lakin, Philip (776 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)</b>	<b>10/22/2013</b>

## HERNANDO COUNTY SHERIFF'S OFFICE

**ACISS Investigative Supplement Report 2012-22851/10**

Report Date: 11/26/2012

**Primary Information**

Report Number: **2012-22851/10**  
 Report Date: **11/26/2012**  
 Type Of Report: **Investigative Supplement**  
 Description: **No further leads**  
 Dissemination Code: **INVESTIGATIONS**  
 Reporting LEO: **Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Approval Status: **Approved**  
 Approved Date: **11/28/2012**  
 Approved By: **Turney, Curtis (532 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)**

**Narrative**

**No further leads have been developed at this time. All known leads have been investigated as far as possible. If no further leads are developed within the near future this case will be inactivated.**

**CASE STATUS: INACTIVE**

**Record Status Information**

Record Origination Operator: **Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Record Origination Date: **11/26/2012 14:31**  
 Last Update Operator: **Turney, Curtis (532 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)**  
 Last Update Date: **11/28/2012 08:40**

Reporting LEO	Date	Supervisor	Date
Kraft, Jeffrey (365 / ECONOMIC CRIMES / HERNANDO COUNTY SHERIFF'S OFFICE)		Turney, Curtis (532 / Major Cases Section / HERNANDO COUNTY SHERIFF'S OFFICE)	10/22/2013

## Wendi J. Wells

---

**From:** Pacific Telecom Communications Group  
<customerservice@pacifictelecommunications.com>  
**Sent:** Wednesday, June 27, 2012 1:26 PM  
**To:** Joseph Hudach  
**Subject:** Complaint No 750008

RE: Complaint No. 750008

Hi

Thank you for contacting Pacific Telecom. We are a Competitive Local Exchange Carrier (CLEC) specializing in inbound origination services for large scale commercial businesses. As such, we do not make calls.

However, it is possible one of our subscribers has been placing the calls to the complainant. If you can supply the number that has been calling we can then determine if it is Pacific Telecom subscriber. If it is, then we can issue a "do not call" demand on the subscriber for the complainant's particular number.

Please note, such requests can take up to 48 hours to receive compliance confirmation from the subscriber. In the mean time, if you believe the call(s) are in violation of the national or your state's Do Not Call list please have them contact the appropriate regulatory entity to file a complaint.

If you have any further questions please feel free to contact me via [customerservice@pacifictelecommunications.com](mailto:customerservice@pacifictelecommunications.com) for promptest response.

The following is our contact information:

Pacific Telecom Communications Group  
12228 Venice Blvd. Suite 559  
Los Angeles, CA 90066  
Phone: (360) 328-8000

All CIDs and subpoenas should be sent to [legal@pacifictelecommunications.com](mailto:legal@pacifictelecommunications.com)

Regards,

--  
Allen  
Customer Service Representative  
Pacific Telecom Communications Group

AFSA expressed concern over the “specter of vicarious liability” for telemarketers who receive inbound calls in response to direct mail solicitations sent by another party in which the required disclosures are not made “truthfully.” The Commission believes that under § 310.3(b), the assisting and facilitating provision, liability would only attach if a telemarketer knew or consciously avoided knowing that there was a disparity between the material representations in a direct mail piece and the telemarketing script being used in inbound calls in response to that solicitation.

EFSC requested, in connection with the proposal to broaden the direct mail provision to include solicitations by email and fax, that the Commission explicitly state that “a telemarketer’s electronic disclosure of the material information satisfies” the telemarketer’s obligation under the Rule.<sup>996</sup> EFSC argued that the E-SIGN Act makes such electronic disclosures permissible, and that the Commission should explicitly state that such is the case.<sup>997</sup> As noted above, in the response to DMA’s suggestion that it should be permissible to make the required disclosures in the email or fax or in the subsequent telemarketing call, the Commission believes that to avail itself of the direct mail exemption, the seller must include the required disclosures in the direct mail piece itself, for to make these disclosures outside that context would defeat the consumer protection purpose of that requirement.<sup>998</sup> Thus, for the same reason, the Commission believes that in the case of any direct mail solicitation conveyed by email or fax, the required disclosures would have to be included in the email or fax itself in order for any subsequent telemarketing

disclosure to that effect in the direct mail solicitation should provide the consumer with sufficient notice that the price may fluctuate or may not be available after a particular date.

<sup>996</sup> EFSC-NPRM at 12.

<sup>997</sup> *Id.*

<sup>998</sup> The Commission believes that for purposes of § 310.6(b)(6), it is critical that telemarketing calls in response to direct mail solicitations be exempt only on the condition that the direct mail piece contains the requisite disclosures. The requirement that these disclosures be displayed in the direct mail piece itself ensures that these disclosures are proximate in time and location to the direct mail solicitation, which makes it more likely that consumers will be made aware of certain material information that is useful or necessary to evaluate the sales transaction proposed in the solicitation before responding to it. The Commission notes that this outcome is consistent with § 101(f) of the E-SIGN Act, which states that, “Nothing in this title affects the proximity required by any statute, regulation, or other rule of law with respect to any warning, notice, disclosure, or other record required to be posted, displayed, or publicly affixed.” (emphasis added).

call to benefit from the § 310.6(b)(6) exemption.

Finally, NFC requested that the Commission clarify whether the direct mail exemption applies to franchisors.<sup>999</sup> The Commission believes that § 310.6(b)(2) makes clear that sales of franchises subject to the Commission’s Franchise Rule are exempt from the TSR. The sale of business opportunities not covered by the Franchise Rule, however, is subject to regulation by the Rule. Section 310.6(b)(6) of the amended Rule expressly states that a seller of “business opportunities other than business arrangements covered by the Franchise Rule” would not be able to avail itself of the direct mail exemption, and thus would be required to comply with the Rule’s provisions. Therefore a business opportunity seller, if not eligible for exemption pursuant to § 310.6(b)(2), would be ineligible for the direct mail exemption because of the specific exception for the sale of such services under § 310.6(b)(6).

*§ 310.6(b)(7) — Business-to-business telemarketing*

Section 310.6(g) of the original Rule exempts from the Rule’s requirements telemarketing calls to businesses, except calls to induce the sale of nondurable office or cleaning supplies. Based on the Commission’s law enforcement experience, the Commission proposed in the NPRM to add two more categories to the list of exceptions to the exemption for calls to businesses: the sale of Internet or Web services, and charitable solicitations.<sup>1000</sup> The Commission has determined, however, based upon comments received in response to the NPRM, not to include in the amended Rule the exception of the sale of Internet or Web services and charitable solicitations from the business-to-business exemption. The amended Rule retains unchanged the wording in the original Rule, except to add language clarifying that the Commission’s national “do-not-call” registry provisions do not apply to the telemarketing of nondurable office or cleaning supplies to businesses. The provision is also renumbered, and can be found at § 310.6(b)(7) of the amended Rule.

Consumer groups and state law enforcement officials argued that the Rule should not contain any exemption for business-to-business telemarketing, but if the Commission were to retain the exemption, they supported narrowing

<sup>999</sup> NFC-NPRM at 4-5.

<sup>1000</sup> See NPRM discussion regarding proposed § 310.6(g), 67 FR at 4531-32.

the exemption as much as possible so that sellers and telemarketers of those products or services that have particularly been subject to abuse would not benefit from the exemption.<sup>1001</sup> Thus, these commenters generally supported the Commission’s proposal to “carve out” the telemarketing of Internet and Web services from the business exemption, citing extensive law enforcement efforts to combat the proliferation of fraudulent telemarketing of website design, hosting, and maintenance services to small businesses.<sup>1002</sup>

On the other hand, industry commenters uniformly opposed the “carve out” of Internet and Web services from the business-to-business exemption.<sup>1003</sup> These commenters argued that the proposed definitions of these services were overly broad and that there was insufficient record evidence to support regulation of all Internet and Web services.<sup>1004</sup> They noted that federal and state law enforcement efforts had focused on website design, development, hosting, and maintenance services, but that the record does not reveal a pattern of fraud in the sale of Internet access services, including wireless Internet access services.<sup>1005</sup> Industry commenters argued that if the Commission persisted in requiring that the telemarketing of Internet and Web services comply with the TSR, the effect would be to chill innovation and development in a nascent industry that is rapidly changing.<sup>1006</sup> They also argued that such an action would be anticompetitive because it would subject those sellers and telemarketers who are within the FTC’s jurisdiction to the TSR’s requirements, while exempting competitors who happen to be common carriers.<sup>1007</sup> Furthermore, these commenters stated that although the Commission’s goal is to protect small business from fraud in the sale of Internet and Web services, the Commission’s proposal would actually

<sup>1001</sup> See, e.g., NAAG-NPRM at 60; NCL-NPRM at 11.

<sup>1002</sup> NAAG-NPRM at 60; NCL-NPRM at 11.

<sup>1003</sup> See, e.g., Comcast-NPRM at 5; Cox-NPRM at 30-32; ICC-NPRM at 1-2; Nextel-NPRM at 23, 24; Reed-Elsevier-NPRM at 5; SBC-NPRM at 2, 13; SIIA-NPRM at 1-2; YPIMA-NPRM at 5. See also June 2002 Tr. III at 210-20, 222-23, 226.

<sup>1004</sup> See, e.g., Nextel-NPRM at 23; SBC-NPRM at 3; SIIA-NPRM at 1-2. June 2002 Tr. III at 210-20, 222-23, 226.

<sup>1005</sup> See, e.g., Nextel-NPRM at 23; SIIA-NPRM at 1-2. See also June 2002 Tr. III at 213-14, 217-18, 224.

<sup>1006</sup> Nextel-NPRM at 24; Reed-Elsevier-NPRM at 7; SBC-NPRM at 14; SIIA-NPRM at 1-2. See also June 2002 Tr. III at 210-24.

<sup>1007</sup> See, e.g., DMA-NPRM at 9. See also June 2002 Tr. III at 213-14, 217-18, 224.