

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 930290-TP
proceedings against UNIVERSITY) ORDER NO. PSC-93-0662-FOF-TP
CENTRE HOTEL for violation of) ISSUED: 4/28/93
section 364.3376(5), Florida)
Statutes and Rule 25-4.043,)
F.A.C., Response to Commission)
Staff Inquiries.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

On July 30, 1992, the Department of Business Regulation (DBR) inspected the University Centre Hotel (University Centre), located at 1535 SW Archer Road, in Gainesville, Florida. Part of DBR's inspection included the telephone service. DBR cited University Centre for violation of Section 364.3376(5), Florida Statutes, which requires call aggregators to post certain information within the immediate vicinity of the telephones.

By letter dated September 9, 1992, this Commission advised University Centre of the violation and advised it that failure to correct the violation and respond within 15 days could result in a regulatory fine. University Centre failed to respond at all. On December 4, 1992, our Staff telephoned University Centre and again requested a copy of its current notice card. University Centre responded promptly via facsimile transmission. However, upon review, its notice did not meet the requirements of Section 364.3376(5), Florida Statutes. Accordingly, by letter dated December 7, 1992, we explained precisely what was required to bring the notice into compliance and requested that University Centre make the necessary modifications and provide a written response by December 22, 1992. University Centre failed to provide a written response.

By letter dated January 7, 1993, delivered to University Centre by Certified U.S. Mail, we asked University Centre to submit a copy of its notice on or before January 22, 1993, and advised it that failure to respond could constitute a violation of Rule 25-4.043, Florida Administrative Code, which requires a response to an inquiry within 15 days. Again, no response was received.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS-REPORTING

On January 22, 1993, DBR notified this Commission that it had reinspected University Centre December 15, 1992, and that, as of that date, the notice information required under Section 364.3376(5), Florida Statutes, was still not being displayed. University Centre was informed of this determination by letter dated January 29, 1993. This letter also requested a response within 15 days.

On January 25, 1993, Staff telephoned University Centre and again spoke with Mr. O'Strausky. Mr. O'Strausky explained that University Centre was in the process of installing a new telephone system, that it was preparing a new notice card, and that it would provide a copy as soon as it was available. As of March 25, 1993, we still had not received a copy of the notice card nor any explanation from University Centre. In fact, the only response we ever received was the above-mentioned facsimile copy in response to Staff's telephone call.

Under Section 364.285, Florida Statutes, this Commission has the authority to impose a regulatory penalty of not more than \$25,000 upon any entity subject to its jurisdiction which is found to have violated any statute, rule, or order of the Commission. It appears that University Centre has violated or is in violation of Section 364.3376(5), Florida Statutes, which requires that certain minimum information be posted in the immediate vicinity of its telephones. In addition, University Centre's failure to respond to any of our four letters appears to constitute a violation of Rule 25-4.043, Florida Administrative Code. We, therefore, find it appropriate to order University Centre to show cause, in writing, why it should not be fined \$1,000 pursuant to Section 364.285, Florida Statutes. Its response must be filed within twenty days of the date of this Order, be in the form prescribed under Rules 25-22.036(7)(a) and 25-22.037(1), Florida Administrative Code, and must contain specific allegations of fact and law. Failure to respond in a timely manner shall constitute an admission of the facts alleged herein and a waiver of any right to a hearing under Section 120.57, Florida Statutes.

It is, therefore,

ORDERED by the Florida Public Service Commission that University Centre Hotel, is hereby ordered to show cause, in writing, on or before the date set forth in the Notice of Further Proceedings section of this Order, why it should not be fined

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\$1,000 for violating Section 364.3376(5), Florida Statutes, and Rule 25-4.043, Florida Administrative Code. It is further

ORDERED that University Centre Hotel's response must be in the form prescribed under Rules 25-22.036(7)(a) and 25-22.037(1), Florida Administrative Code and must contain specific allegations of fact and law. It is further

ORDERED that the failure to file a timely response to this Order shall constitute an admission of the violations alleged herein and a waiver of any right to a hearing afforded under Section 120.57, Florida Statutes.

By ORDER of the Florida Public Service Commission, this 28th day of April, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
RJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be

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received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 18, 1993.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.