

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause ) DOCKET NO. 930290-TP  
proceedings against UNIVERSITY ) ORDER NO. PSC-93-1227-FOF-TP  
CENTRE HOTEL for violation of ) ISSUED: August 24, 1993  
Section 364.3376(5), F.S., and )  
Rule 25-4.043, F.A.C., Response )  
to Commission Staff Inquiries. )  
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON

ORDER IMPOSING PENALTY

BY THE COMMISSION:

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. As a result of its inspection, DBR cited University Centre for allegedly violating Section 364.3376(5), Florida Statutes, which requires call aggregators to post certain information within the immediate vicinity of their telephones.

By letter dated September 9, 1992, the Staff of this Commission (Staff) advised University Centre of the alleged violation and requested that it correct the problem and respond to Staff's letter within 15 days. Staff also informed University Centre that failure to take corrective action or respond in a timely manner could result in a regulatory fine. University Centre failed to respond to Staff's letter.

On December 4, 1992, Staff telephoned University Centre and 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, Staff explained the modifications necessary to comply with the statutory requirements and requested that University Centre submit a revised notice card by no later than December 22, 1992. University Centre again failed to respond.

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By letter dated January 7, 1993, Staff again requested that University Centre submit a revised notice card, on or before January 22, 1993. Again, University Centre failed to respond.

On January 22, 1993, DBR notified this Commission that it had reinspected University Centre on 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. Staff informed University Centre of DBR's determination by letter dated January 29, 1993. Staff again requested a response within 15 days.

On January 25, 1993, Staff telephoned University Centre and spoke with David Ostrowski. Mr. Ostrowski 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 this Commission's April 6, 1993 Agenda Conference, University Centre had neither submitted a revised notice card nor made any attempt to contact Staff. Accordingly, at the April 6, 1993 Agenda Conference, we ordered University Centre to show cause, in writing, why it should not be fined \$1,000 for violating Section 364.3376(5), Florida Statutes, and Rule 25-4.043, Florida Administrative Code.

On April 7, 1993, Staff received a letter from Gregory G. Liuzzo, General Manager of University Centre, which included a revised notice card. According to Mr. Liuzzo, "[d]uring the first week of April after David Ostrowski spoke with . . . [Staff] on the telephone, he then assembled a complete package that I believe meets all of the requirements of the Public Service Commission." Mr. Liuzzo further stated that this information was supposed to be sent to the Commission, but was not due to a clerical oversight. Finally, Mr. Liuzzo stated that he believed that the notice was in compliance since sometime in January.

On April 28, 1993, we issued our Order to Show Cause, Order No. PSC-93-0662-FOF-TP. University Centre responded to our Order to Show Cause by letter dated May 9, 1993. In this letter, Mr. Liuzzo stated that "Mr. Ostrowski faxed what he thought was the requested information. Evidently the transmission didn't go through, and he was not aware of this." Mr. Liuzzo also stated that the new notice card has been in place since mid-February. Mr. Liuzzo further stated that University Centre "has complied with Section 364.3376(5), Florida Statutes and Rule 25-4.043, F.A.C.

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and, therefore, should not be fined One Thousand Dollars (\$1,000.00) pursuant to Section 364.285, Florida Statutes." Finally, Mr. Liuzzo apologized for "any misguided efforts on . . . [University Centre's] part in complying with the above mentioned Florida Statute and Rule."

By its own admission, University Centre did not place its new notice until at least "mid-February" of 1993. It was, therefore, out of compliance with Section 364.3376(5), Florida Statutes, for at least 6 1/2 months. In addition, since University Centre repeatedly failed to respond to Staff inquiries, its explanation for not responding in a timely manner appears weak. Nevertheless, the purpose of a show cause proceeding is to bring the violator back into compliance with this Commission's statutes, rules, or orders. We have reviewed the current notice card and are satisfied that it is in compliance with Section 364.3376(5), Florida Statutes.

In each instance in which we have imposed a penalty upon a call aggregator for a violation of Section 364.3376(5), Florida Statutes, the fine has been \$250. Accordingly, we believe that it is appropriate to impose a penalty of \$250 against University Hotel for its violation of Section 364.3376(5), Florida Statutes.

It is, therefore,

ORDERED by the Florida Public Service Commission that, pursuant to Section 364.285, Florida Statutes, University Centre Hotel is hereby assessed a penalty of \$250 for its violation of Section 364.3376(5), Florida Statutes. It is further

ORDERED that University Centre Hotel shall remit payment of the penalty imposed herein within twenty (20) days of the date of this Order. It is further

ORDERED that, upon Staff's verification that University Centre Hotel has timely complied with the requirements of this Order, this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 24th  
day of August, 1993.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

RJP

by: Kay Dizon  
Chief, Bureau of Records

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.