

ORIGINAL

State of Florida



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

RECEIVED-FPSC

06 JAN 23 AM 11:40

COMMISSION
CLERK

DATE: January 23, 2004
TO: Blanco Bayo, Director, Division of the Commission Clerk & Administrative Services
FROM: Kiwanis L. Curry, Regulatory Analyst, Division of Competitive Markets & Enforcement
RE: Docket 040016-TI, ESS.COM, L.L.C.

Please add the following four documents to Docket No. 040016-TI:

- 1) Certified letter addressed to Mr. Jack McHugh (2 pages)
- 2) United States Postal Service track and confirm sheet
- 3) Department of State, Division of Corporations public inquiry (2 pages)
- 4) Copy of envelope returned by the Post Office marked unclaimed

AUS _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC
OTH _____

DOCUMENT NUMBER-DATE

01044 JAN 23 3

FPSC-COMMISSION CLERK

ORIGINAL

State of Florida



Public Service Commission

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FPSC-COMMISSION CLERK

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF COMPETITIVE MARKETS &
ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

September 15, 2003

CERTIFIED

Mr. Jack McHugh
ESS. Com, LLC.
300 West Pratt Street, SU530
Baltimore, MD 21201-6500

RE: Failure to Respond to Complaints 528814T and 531891T.

Dear Mr. McHugh:

The purpose of this letter is to provide ESS.Com, LLC. (ESS) a final opportunity to respond to the enclosed complaints filed against the company. The first complaint (528814T) was filed by Mr. Harold Kramer on April 22, 2003. The second complaint (531891T) was filed by Mr. Russ Caram on May 8, 2003. Both complaints were faxed by staff to ESS several times requesting a response. However, despite staff's numerous attempts to obtain a response, our records indicate that ESS has yet to respond to either complaint.

According to Mr. Kramer and Mr. Caram, ESS has improperly billed them for long distance services. They believe that since ESS was never authorized as their long distance service provider, the charges should be removed. Staff requests that you investigate both complaints, contact the consumers, and provide a written response to each complaint by **October 6, 2003**. You may fax your responses to the complaints to me at (850) 413-6663, or you may respond by email to kcurry@psc.state.fl.us.

According to Rule 25-4.118(1), Florida Administrative Code, Local, Local Toll, or Toll Provider Selection: "The provider of a customer shall not be changed without the customer's authorization." Please provide either a letter of authorization or a taped third party verification wherein Mr. Kramer and Mr. Caram authorized ESS to serve as their long distance service provider.

In addition, Rule 25-4.118(8), Florida Administrative Code, Local, Local Toll, or Toll Provider Selection, states:

Charges for unauthorized provider changes and all 1+ charges billed on behalf of the unauthorized provider for the first 30 days or first billing cycle, whichever is longer, shall be credited to the customer by the company responsible for the error within 45

DOCUMENT NUMBER-DATE

01044 JAN 23 3

FPSC-COMMISSION CLERK

ESS.Com, LLC.
Page 2
September 15, 2003

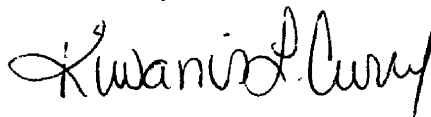
days of notification to the company by the customer, unless the claim is false. After the first 30 days up to 12 months, all 1+ charges over the rates of the preferred company will be credited to the customer by the company responsible for the error within 45 days of notification to the company by the customer, unless the claim is false. Upon notice from the customer of an unauthorized provider change, the LEC shall change the customer back, or to another company of the customer's choice. The change must be made within 24 hours excepting Saturday, Sunday, and holidays, in which case the change shall be made by the end of the next business day. The provisions of this subsection apply whether or not the change is deemed to be an unauthorized carrier change infraction under subsection (13).

Please understand that if ESS fails to respond to the Commission concerning this matter, it may be subject to a penalty as prescribed by Section 364.285, Florida Statutes, which states:

The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter which is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$25,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate issued by it. Each day that such refusal or violation continues constitutes a separate offense.

If you have any questions concerning this matter, please feel free to contact me at (850) 413-6662.

Sincerely,



Kiwanis L. Curry
Bureau of Service Quality

Enclosure

TMS #687

Track & Confirm

Current Status

You entered 7002 0860 0001 1755 0468

We attempted to deliver your item at 2:52 pm on September 22, 2003 in BALTIMORE, MD 21201 and a notice was left. It can be redelivered or picked up at the Post Office. If the item is unclaimed, it will be returned to the sender. No further information is available for this item.

[Shipment Details >](#)

Notification Options

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Track & Confirm

Enter label number

[Track & Confirm FAQs](#) [Go >](#)



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FEI# 52-2221295

Florida Department of State, Division of Corporations

Corporations Online

www.sunbiz.org

Public Inquiry

Florida Limited Liability

ESS.COM, L.L.C.

PRINCIPAL ADDRESS

300 WEST PRATT ST. STE 425
BALTIMORE MD 21201
Changed 11/05/2001

MAILING ADDRESS

300 WEST PRATT ST. STE 425
BALTIMORE MD 21201
Changed 11/05/2001

Document Number
L00000001467

FEI Number
522221295

Date Filed
02/03/2000

State
FL

Status
INACTIVE

Effective Date
02/01/2000

Last Event
ADMIN DISSOLUTION
FOR ANNUAL REPORT

Event Date Filed
09/26/2003

Event Effective Date
NONE

Total Contribution
0.00

Registered Agent

Name & Address

HEITZ, WILLIAM R P.A.
1801 S. FEDERAL HIGHWAY, STE. 237
DELRAY BEACH FL 33483

Address Changed: 11/05/2001

Manager/Member Detail

Name & Address

SCD+1.COM, INC.
1707 WESTMINSTER WAY

Title

MGR

Corporations Online

www.sunbiz.org

Public Inquiry

ESS.COM, L.L.C.

Document Number
L00000001467

Date Filed
02/03/2000

Effective Date
02/01/2000

Status
Inactive

EVENT TYPE	FILED DATE	EFFECTIVE DATE	DESCRIPTION
ADMIN DISSOLUTION FOR ANNUAL REPORT	09/26/2003		
REINSTATEMENT	11/05/2001		
ADMIN DISSOLUTION FOR ANNUAL REPORT	09/28/2001		

THIS IS NOT OFFICIAL RECORD; SEE DOCUMENTS IF QUESTION OR CONFLICT

[Corporations Inquiry](#)

[Corporations Help](#)

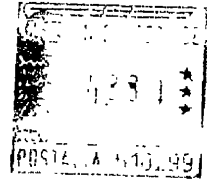
State of Florida
Public Service Commission

2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

2003 OCT 23 AM 10:06
COMPETITIVE SERVICES
COMPETITIVE SERVICES

COMPETITIVE SERVICES

UNCLAIMED



FRI / SAT
CLOSED
FRI & SUN

Mr. Jack McHugh
ESS, Com, LLC.
300 West Pratt Street, SU530
Baltimore, MD 21201-6500

NAME D-142
1ST NOTICE 9/23/03
2ND NOTICE 9-30-03
RETURN 10/15/03