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0A1211-TP

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October 18, 2004

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COMMISSION
CLERK

OCT 18 PM 4:26

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Ms. Blanca Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

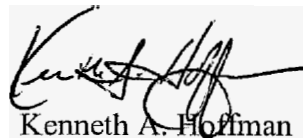
RE: Smart City Telecommunications LLC d/b/a Smart City Telecom's Petition for Declaratory Statement

Dear Ms. Bayo:

Enclosed for filing on behalf of Smart City Telecommunications LLC d/b/a Smart City Telecom ("Smart City") are the original and fifteen copies of Smart City's Petition for Declaratory Statement. Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,


Kenneth A. Hoffman

Enclosures

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

11220 OCT 18 04

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Smart City Telecommunications)
LLC d/b/a Smart City Telecom for Declaratory)
Statement)
_____)

Docket No. 041211-TP
Filed: October 18, 2004

**SMART CITY TELECOMMUNICATIONS LLC d/b/a
SMART CITY TELECOM'S PETITION FOR DECLARATORY STATEMENT**

Smart City Telecommunications LLC d/b/a Smart City Telecom (hereinafter referred to as "Smart City" or "Petitioner"), by and through its undersigned counsel, and pursuant to Section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code, hereby files this Petition for Declaratory Statement which seeks a determination from the Public Service Commission ("Commission") of the application of the term "subscriber" or "customer" as contemplated by Rule 25-4.003 (50), Florida Administrative Code and as applied to Smart City's tariff provisions governing the transfer of service between subscribers. In support of this Petition, Smart City states as follows:

1. The name, address, and telephone number of the Petitioner is as follows:

Smart City Telecommunications LLC d/b/a Smart City Telecom
P.O. Box 22555
Lake Buena Vista, Florida 32830-2555
(407) 827-2000 (Telephone)
(407) 828-6734 (Facsimile)

2. The name, address, and telephone number of Smart City's authorized representative in this docket is as follows:

Kenneth A. Hoffman, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.

DOCUMENT NUMBER-DATE
11220 OCT 18 04
FPSC-COMMISSION CLERK

P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Facsimile)

BACKGROUND

3. Smart City is a small local exchange company, as defined by Section 364.052(1), Florida Statutes, authorized by the Commission to provide local exchange services pursuant to Certificate No. 1971. Smart City seeks a declaratory statement regarding the term "subscriber" or "customer" as contemplated by Rule 25-4.003 (50), Florida Administrative Code and as applied to Smart City's tariff provisions governing the transfer of service between subscribers, to the particular set of circumstances as outlined below involving a dispute between former business associates.

4. Main Street Realtors has been a business customer of Smart City since approximately July of 2001. The Main Street Realtors office was located at 660 Celebration Avenue, Suite 160, Celebration, Florida 34747-0000, and the account includes both a telephone number and a facsimile number. Keith Kropp initially contacted Smart City to set up the account, and according to Smart City's records, has always been the designated person of record for the account. It appears that Mr. Kropp has also paid the monthly bill for the account each month with a check bearing the company name "Kropp and Zayas, Inc." The address listed on the company check is the same address that Smart City has on record for the Main Street Realtors business account. Main Street Realtors is also the addressee listed on the monthly bills from Smart City. (See copy of check and bill, attached hereto as Exhibit "1").

5. On or about July 30, 2004, Smart City's Repair Department received an after-hours call from a woman who identified herself as Sarah Carlson. Ms. Carlson stated that she was calling

on behalf of Main Street Realtors. Ms. Carlson requested that the telephone and facsimile numbers assigned to the Main Street Realtors account be "remote call forwarded" to other numbers, respectively, located outside of Smart City's service territory. This request was completed by Smart City on August 2, 2004.

6. On the morning of Monday, August 2, 2004, Smart City received a call from a woman named Peggy Leman concerning the same account. Ms. Leman requested that the remote call forward request be removed and that the name on the account be changed from Main Street Realtors to FrontGate Realty. Ms. Leman stated that the name of the office had changed, but that the location and the telephone numbers assigned to the account remained the same. The Smart City service representative who took the call confirmed that Ms. Leman worked with Keith Kropp, who was the only person of record listed on the account. Upon confirmation that Ms. Leman was an associate of Keith Kropp, the remote call forward request was removed and the name on the account was changed from Main Street Realtors to FrontGate Realty.

7. Later that same day, August, 2, Smart City received another call from Ms. Carlson who reported that she was not receiving calls at the remote call forward number as she had requested on July 30. Ms. Carlson was informed by the Smart City customer service representative that because Keith Kropp was the person of record listed on the account, Smart City would only process service requests that came directly from Keith Kropp or from his representative.

8. Also on August 2, Smart City received another call from Ms. Leman requesting that the voicemail password associated with the account, now under the name of FrontGate Realty, be reset.

9. Finally, at close to 5:00 p.m. on August 2, Smart City received a call from Jason Black, who identified himself as the Vice President and Corporate Counsel for Main Street Realtors. Mr. Black stated that Main Street Realtors owned the telephone numbers associated with the Smart City account in question, and alleged that Main Street Realtors was losing business because Smart City had removed the remote call forward of its telephone and fax numbers. Mr. Black made the same remote call forward request made by Ms. Carlson on Friday, July 30. The Smart City customer service representative who spoke to Mr. Black was unaware of the previous calls that day concerning this account, and agreed to complete the remote call forward request. Upon further review of the events on August 2 related to this account, Smart City informed Mr. Black that Smart City's records indicated that Keith Kropp was the customer of record and, therefore, Mr. Black's requested changes could not be made.

10. According to Mr. Black, Keith Kropp had previously been a "partner" of Main Street Realtors, but had recently resigned his position and therefore had no authority over the account with Smart City. Mr. Black stated that only he and Judy Black, the President of Main Street Realtors, had authority to make any changes to the account with Smart City. Mr. Black informed Smart City that there was pending litigation between Main Street Realtors and Keith Kropp concerning the business arrangement/relationship between Main Street Realtors and Kropp and Zayas, Inc. regarding the Main Street Realtors Celebration, Florida location. Smart City declined to make any further changes to the account.

11. Through statements made by the parties and documents obtained either from the parties or from the Florida Secretary of State Division of Corporations, Smart City believes the

following facts related to the nature of the relationship between Mr. Kropp/Kropp and Zayas, Inc. and Main Street Realtors to be accurate:

- a. Main Street Realtors is registered as a fictitious name for Main Street Associates, Inc. ("MSA"), which was formed in 1985. The principal address for MSA is 401 Main Street, Suite B, Windemere, Florida. The President of MSA is Judy Black. According to Main Street Realtors' website, one of its store locations is at the same Celebration, Florida address that is now listed for FrontGate Realty, where Smart City provides telephone and facsimile services. (See Secretary of State Information and website information attached hereto as Exhibit "2.")
- b. Kropp and Zayas, Inc., now inactive, existed as a Florida corporation since July 2001 and was located at the same Celebration, Florida address noted above. The President and Vice-President of Kropp and Zayas, Inc. are Keith Kropp and Kit Zayas, respectively. (See Secretary of State Information attached hereto as Exhibit "3").
- c. Celebration Real Estate Services, Inc. has existed as a Florida corporation since July 2003, with its principal address also listed as the Celebration, Florida address noted above. Keith Kropp and Kathleen Zayas are listed as Directors for this corporation. (See Secretary of State Information attached hereto as Exhibit "4").
- d. FrontGate Realty was recently formed as a Florida corporation on August 2, 2004. The principal address listed for FrontGate Realty is the same

Celebration, Florida address noted above. Keith Kropp and Kathleen Zayas are also listed as Directors for this corporation. (See Secretary of State Information attached hereto as Exhibit "5").

- e. Keith Kropp, Kit Zayas, and Judy Black entered into a "Partnership Agreement" on November 4, 2001, the purpose of which was to conduct a real estate office. (See copy of Partnership Agreement attached hereto as Exhibit "6"). Article I of the Partnership Agreement provides that the Partnership shall operate under the name of Main Street Realtors or Celebration Real Estate Services, Inc., and shall be a branch office of Main Street Realtors, with Judy Black as the Principal Broker at 660 Celebration Avenue, Suite 160, Celebration, Florida 34747.
- f. Article 7 of the Partnership Agreement provides for the distribution of profits and states that all income from the branch office of Main Street Realtors will be paid to Celebration Real Estate Services, Inc. and that Main Street Realtors will receive a \$125.00 transaction fee for each closing from the branch office. (See Article 7 of the Partnership Agreement, attached hereto as Exhibit "6").
- g. Article 9 of the Partnership Agreement entitled "Indemnification" states that Keith Kropp and Kit Zayas agree to fully indemnify Judy Black for any liability personal or corporate that may arise of the branch office, including agents working out of the branch office or any financial or managerial

obligations that arise from the operation of the branch office. (See Article 9 of the Partnership Agreement, attached hereto as Exhibit "6").

- h. Keith Kropp and Kit Zayas tendered their resignation from Main Street Realtors, as reflected in a letter provided by Mr. Black dated July 28, 2004. (See copy of Resignation Letter, attached hereto as Exhibit "7").
- i. By a letter dated August 4, 2004 to Smart City, Mr. Black states that Mr. Kropp originally set up the Smart City account when he was working as an "agent" of Main Street Realtors, but that Mr. Kropp has since resigned and no longer has any authority to act on behalf of Main Street Realtors. (See copy of letter from Jason Black, attached hereto as Exhibit "8").

ARGUMENT

12. Smart City seeks a declaratory statement interpreting the term "customer" or "subscriber" as defined by Rule 25-4.003 (50), Florida Administrative Code, and as applied to Smart City's tariff provisions governing a transfer of service between subscribers, with respect to Smart City's particular set of circumstances as set forth above. Both Keith Kropp, on behalf of FrontGate Realty, and Jason Black, on behalf of Main Street Realtors, assert that they are the true "customer" of the Smart City account, and are therefore entitled to continue receiving service from Smart City through the account, and are also entitled to continued use of the telephone and facsimile numbers assigned to the account.

13. Rule 25-4.003(5), Florida Administrative Code, states that the term "subscriber" or "customer" may be used interchangeably, and defines the terms to mean "any person, firm,

partnership, corporation, municipality, cooperative organization, or governmental agency supplied with communication service by a telecommunications company'.

14. Pursuant to the requirements of Rule 25-4.034 (1), Florida Administrative Code, Smart City maintains tariffs on file with the Commission setting forth rates and charges for service, as well as all general rules and regulations governing the relationship between customers and Smart City. Smart City's tariffs have been approved by the Commission and were filed in compliance with the requirements of Chapter 25-9, Florida Administrative Code. Smart City's tariffs do not contain provisions that govern the specific set of circumstances outlined in this Petition. However, Smart City's tariff does address the procedure to follow when a transfer of service from one subscriber to another subscriber is requested.

15. Section A2, Part C(4), Sheet No. 9 of Smart City's tariff states:

Transfer of Service Between Subscribers

- a. Service previously furnished one subscriber may be assumed by a new subscriber upon due notice of cancellation, or in case of abandonment, provided there is no lapse in the rendition of service. Such transfers are subject to service connection charge regulations and may be arranged for in either of two ways:
 - (1) If the new subscriber, fully understanding the regulations governing the service and the status of the account, willingly assumes all obligations thereunder, future bills are then rendered without an adjustment to or from any particular date, with the Company arranging for the requested change in billing and directory listing. No final bill will be issued.
 - (2) If the new subscriber does not wish to assume payment of the old account, a new service application is taken and an adjustment in billing is made to and from the date the transfer is effective. A final bill is rendered for the old account and appropriate service connection charges apply for the new account.

- b. Under either of method of transfer the reassignment of the old telephone number to the service of the new party is arranged only after the former subscriber has given his consent to its use, and then only when, in the judgment of the Company, there exists no relationship, business or otherwise, between the old and new subscribers, and when in the judgment of the Company a change in the telephone number is not required.
- c. When in the judgment of the Company a relationship does exist, business or otherwise, between the old and new subscribers, the reassignment of the old telephone number will not be permitted unless all charges due under the current account have been paid, and then only when in the judgment of the Company a change in telephone number is not required.

16 Smart City believes that the tariff provision set forth above may be applicable to the dispute between Keith Kropp and Main Street Realtors. In order to apply this provision, however, it is first necessary to identify who the original subscriber was for the purpose of this account. Accordingly, the Commission's resolution of the question raised in this Petition, specifically, whether Keith Kropp or Main Street Realtors/Jason Black was the original "subscriber" of the Smart City account, will also resolve the appropriate manner to apply the tariff provision set forth above, to the extent it is applicable.

17. The dispute between Keith Kropp and Main Street Realtors/Jason Black centers around the claim that they are each entitled to the continued use of the telephone and facsimile numbers assigned to the Smart City account. For that reason, Smart City believes it is also important to note Section A2, Tariff Sheet No. 12 of Smart City's tariffs, which addresses the issue of ownership of telephone numbers:

Provision and Ownership of Telephone Numbers

Except as otherwise required by law or regulation, telephone numbers are the property of the Company and are assigned to the service furnished the subscriber. The subscriber has no property right to the telephone number or any other call number designation associated with services furnished by the Company, and no right

to the continuance of service through any particular central office. Except as otherwise provided by law or regulation, the Company reserves the right to change such numbers, or the central office designation associated with such numbers, or both, assigned to the subscriber, whenever the Company deems it reasonably necessary to do so in the conduct of its business.

18. Smart City is in doubt as to how to apply the definition of "subscriber" of "subscriber" as provided in Rule 25-4.003(50), Florida Administrative Code with the tariff provisions noted above in order to make the proper determination as to whether Keith Kropp or Main Street Realtors was the original subscriber of the account and therefore has the right to continued use of the telephone and facsimile numbers currently serving Mr. Kropp and FrontGate Realty.

19. Although Keith Kropp was in a business relationship with Main Street Realtors, the following facts and arguments may support a conclusion that because his actions were independent and not on the behalf of Main Street Realtors, Keith Kropp was the original subscriber of the account:

- a. Keith Kropp is the person who initially contacted Smart City, set up the account, and since that time has remained the only designated person of record on the account.
- b. Each monthly bill for this account has been paid by check bearing the name of Keith Kropp's company.
- c. According to the Partnership Agreement entered into between Keith Kropp and Judy Black, it appears that the Main Street Realtor Celebration branch office was opened for the benefit of Keith Kropp and Kit Zayas to work and operate independently, with all of the income from the branch office going to Celebration Real Estate Services, Inc. with a set transaction fee for each

sale going to Main Street Realtors and 10% of the net profits for the year going to Main Street Realtors.

- d. The Indemnity Clause included in the Partnership Agreement provides that Keith Kropp and Kit Zayas agree to fully indemnify Judy Black for any liability arising from the operation of the branch office, including any financial or managerial obligations. This provision appears to be significant as it suggests that if a dispute arose due to non-payment of the Smart City account, Keith Kropp would ultimately be responsible for payment on the account.

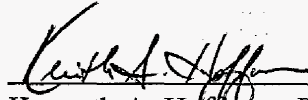
20. At the same time, Smart City is mindful that the relationship between Keith Kropp and Main Street Realtors could be construed to be one of a "principal/agent" relationship whereby Keith Kropp's establishment of the account with Smart City could be construed as that of an agent acting on behalf of its principal, Main Street Realtors. This characterization of the relationship would indicate that Main Street Realtors was the original subscriber of the account. The elements that are essential to show the existence of an agency relationship are: 1) acknowledgment by the principal that the agent will act for him; 2) the agent's acceptance of the undertaking; and 3) control by the principal over the actions of the agent. Goldschmidt, M.D. v. Holman, 571 So.2d 422 (Fla. 1990). Based on the information available to Smart City, however, it is not readily apparent how much control Main Street Realtors exercised over Keith Kropp.

CONCLUSION

WHEREFORE, Smart City respectfully requests that the Commission issue a Declaratory Statement determining whether the "subscriber" or "customer," of the Smart City account in question

as contemplated by Rule 25-4.003 (50), Florida Administrative Code, and as applied to the provisions of Smart City's tariffs as set forth herein, is Keith Kropp or Main Street Realtors.

Respectfully submitted this 18th day of October, 2004.



Kenneth A. Hoffman, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Facsimile)

2093

KROPP AND ZAYAS, INC.
 660 CELEBRATION AVENUE, SUITE 160
 CELEBRATION, FL 34747-4926
 PHONE (407) 566-2555

DATE 6-7-04 63-215/631

PAY TO THE ORDER OF Smart City \$ 190.28

One hundred ninety & 28/100 DOLLARS

SUNTRUST
SunTrust Bank

FOR 407-566-2555



P.O. Box 917720
 Orlando, Florida 32891-7720
 (407) 827-2000

MAIN STREET, REALTORS
 660 CELEBRATION AV SUITE 160
 CELEBRATION FL 34747-0000

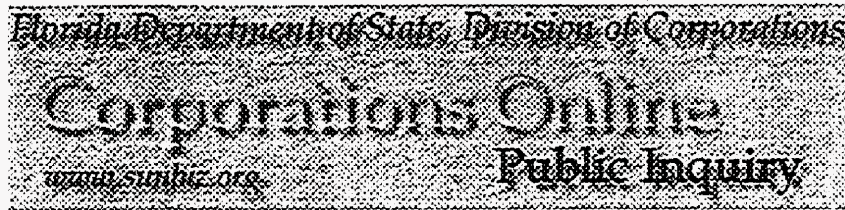
ACCOUNT NUMBER: 407-566-2555/0
BILLING DATE: 6/01/2004
AMOUNT DUE: \$190.28

AMOUNT PAID
 \$ 190.28

PLEASE PAY BY 6/15/2004

www.smartcity.com

EXHIBIT
 1



MAIN STREET REALTORS

401 MAIN STREET
SUITE B
WINDERMERE, FL 34786 US

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|--|------------------------------------|---------------------------------|
| Document Number G92324000155 | Status ACTIVE | Date Filed 11/19/1992 |
| Expiration Date 12/31/2007 | Current Owners 000000001 | County ORANGE |
| Total Pages 000000004 | Events Filed 000000003 | FEI Number 59-2592786 |

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| Name & Address | FEI Number | Charter Number |
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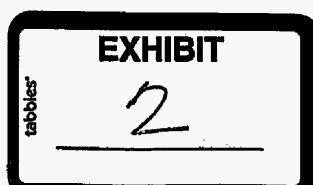
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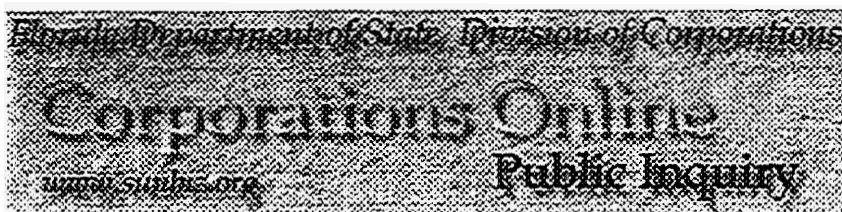
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MAIN STREET ASSOCIATES, INC.

PRINCIPAL ADDRESS

401 MAIN STREET
 STE B
 WINDERMERE FL 34786-7528 US
 Changed 01/19/2001

MAILING ADDRESS

401 MAIN STREET
 STE B
 WINDERMERE FL 34786-7528 US
 Changed 01/19/2001

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| Document Number H82159 | FEI Number 592592786 | Date Filed 10/23/1985 |
| State FL | Status ACTIVE | Effective Date NONE |
| Last Event REINSTATEMENT | Event Date Filed 10/27/1997 | Event Effective Date NONE |

Registered Agent

| |
|---|
| Name & Address |
| BLACK, JUDY 401 MAIN STREET STE B WINDERMERE FL 34786 Address Changed: 01/19/2001 |

Officer/Director Detail

| | |
|---------------------------|--------------|
| Name & Address | Title |
|---------------------------|--------------|

| | |
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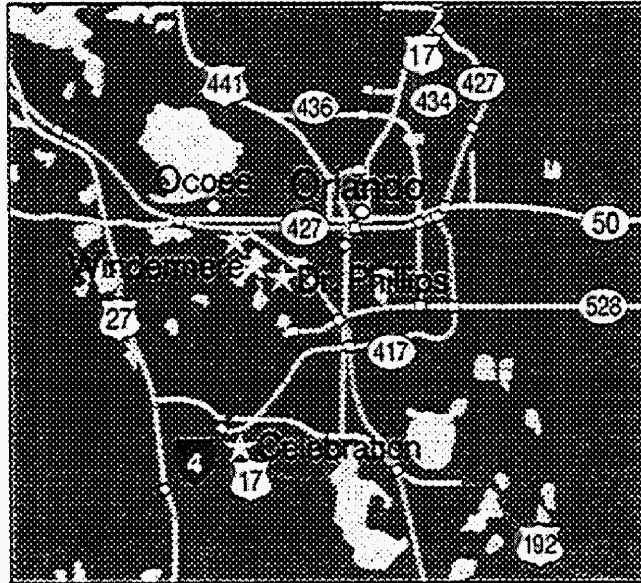
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Neighborhood Real Estate Stores of Central Florida



Neighborhood Real Estate
Stores of Central Florida

Store Locations



*Click on star for directions to location

Windermere, FL

(click here for map)
401 Main Street, Suite B
Windermere, FL 34786
407-876-2090

Celebration, FL

(click here for map)
660 Celebration Avenue,
Suite 160
Celebration, FL 34747
407-253-5360

Dr. Phillips, FL

(click here for map)
5008 Dr. Phillips Blvd.
Orlando, FL 32819
407-253-4400

Ocoee, FL

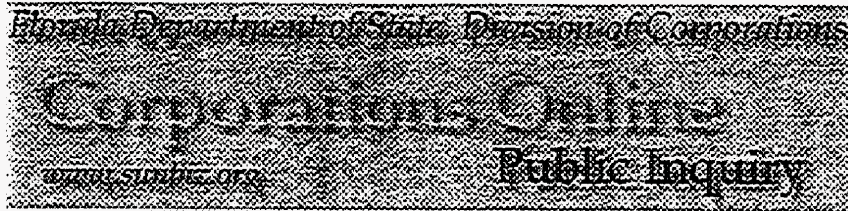
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2650 S. McGuire Rd., Suite B
Ocoee, FL 34761
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KROPP AND ZAYAS, INC.

PRINCIPAL ADDRESS

660 CELEBRATION AVE, STE 160
CELEBRATION FL 34747

MAILING ADDRESS

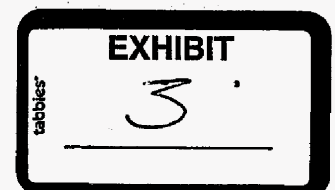
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CELEBRATION FL 34747

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| Last Event ADMIN DISSOLUTION FOR ANNUAL REPORT | Event Date Filed 10/01/2004 | Event Effective Date NONE |

Registered Agent

| Name & Address |
|--|
| KROPP, KEITH 660 CELEBRATION AVE, STE 160 CELEBRATION FL 34747 |

| Name & Address | Title |
|---|--------------|
| KROPP, KEITH 660 CELEBRATION AVENUE,#160 CELEBRATION FL 34747 | P |
| ZAYAS, KIT CELEBRATION FL 34747 | VP |



| Report Year | Filed Date |
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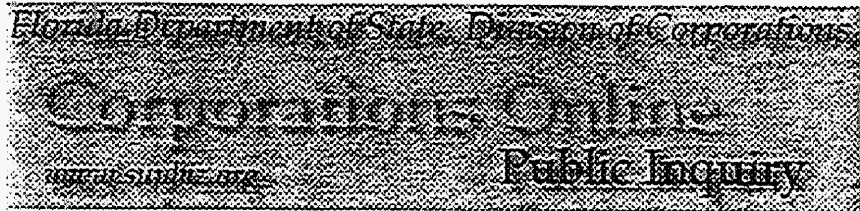
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CELEBRATION REAL ESTATE SERVICES, INC.

PRINCIPAL ADDRESS

660 CELEBRATION AVE
SUITE 160
CELEBRATION FL 34747

MAILING ADDRESS

660 CELEBRATION AVE
SUITE 160
CELEBRATION FL 34747

Document Number
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FEI Number
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Date Filed
07/28/2003

State
FL

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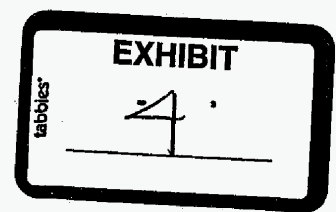
Effective Date
NONE

Registered Agent

| Name & Address |
|--|
| KROPP, KEITH R 660 CELEBRATION AVE SUITE 160 CELEBRATION FL 34747 |

Officer/Director Detail

| Name & Address | Title |
|--|-------|
| KROPP, KEITH 660 CELEBRATION AVE SUITE 160 CELEBRATION FL 34747 | D |
| ZAYAS, KATHLEEN 660 CELEBRATION AVE SUITE 160 CELEBRATION FL 34747 | D |



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| Report Year | Filed Date |
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| 2004 | 06/17/2004 |

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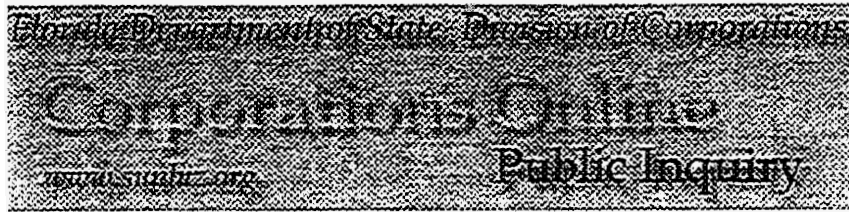
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FRONTGATE REALTY, INC.

PRINCIPAL ADDRESS

660 CELEBRATION AVE SUITE 160
CELEBRATION FL 34747

MAILING ADDRESS

660 CELEBRATION AVE SUITE 160
CELEBRATION FL 34747

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ACTIVE

Effective Date
NONE

Registered Agent

| Name & Address |
|---|
| KROPP, KEITH R 660 CELEBRATION AVE SUITE 160 CELEBRATION FL 34747 |

Officer/Director Detail

| Name & Address | Title |
|--|-------|
| KROPP, KEITH 660 CELEBRATION AVE SUITE 160 CELEBRATION FL 34747 | D |
| ZAYAS, KATHLEEN 660 CELEBRATION AVE SUITE 160 CELEBRATION FL 34747 | D |



Annual Reports

| Report Year | Filed Date |
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No Events

No Name History Information

Document Images

Listed below are the images available for this filing.

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| 08/02/2004 -- Domestic Profit |
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Partnership Agreement

This Partnership Agreement entered into this 14 Day of November, 2001, by and between Keith Kropp and Kit Zayas, party of the first part, and Judy Black, party of the second part, herein collectively referred to as the "Partners", and individually referred to as a "Partner".

WITNESSETH:

WHEREAS, the Partners desire to conduct a real estate office.

WHEREAS, the Partners desire to set forth the terms, conditions, and agreements with respect to the conduct of the aforesaid business.

NOW, THEREFORE, in consideration of the premises, which shall be deemed as an integral part of this Agreement, and not mere recitals hereto, and of the mutual agreements and covenants herein contained, the parties hereto, intending to be legally bound thereby, agrees as follows:

Article 1: Name and Place of Business

- A. The Partnership shall operate under the name of Main Street, REALTORS, or Celebration Real Estate Services, Inc., or such other name as the Partners shall determine.
- B. The office of the Partnership shall be a branch office of Main Street, REALTORS, with Judy Black as the Principal Broker, at 660 Celebration Avenue, Suite 160, Celebration, Florida 34747, or such other place or places as shall be mutually agreed upon by the partners.

Article 2: General Nature of Partnership

This Partnership is formed for the purpose of carrying on a real estate office, and all other real estate related enterprises.

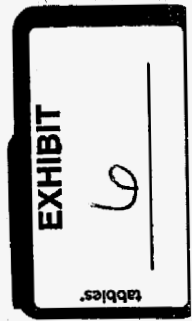
Article 3: Term of Partnership

The Partnership shall continue until dissolved and terminated as provided in Article 4.

Article 4: Dissolution and Termination of Partnership

The Partnership shall be dissolved and terminated: (a) by a written agreement to that effect entered into by the Partners; or (b) by operation of law. In the event of dissolution of the Partnership, the property of the Partnership shall be applied and distributed as follows:

- 1) To repay all debts and pay all liabilities of the Partnership other than those owing to the Partners;



- 4) To repay any loans or advances made by the Partners to the Partnership;
- 5) To pay to the Partners the balance in their respective capital accounts; and
- 6) To pay to the Partners their proportionate share of the net profits of the Partnership to date of dissolution.

Article 5: Notice

Any notice required hereunder shall be given in writing.

Article 6: Amendment

No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Partners. Partners agree to reevaluate this Agreement at the end of twelve months.

Article 7: Distribution of Profits

- A. All income from the branch office of Main Street, REALTORS, will be paid to Celebration Real Estate Services, Inc.
- B. Main Street, REALTORS will receive a \$125.00 transaction fee for each closing from the branch office. The transaction fee is for the following services:
 - 1) Handling of all escrow monies through Main Street, REALTORS Escrow Account;
 - 2) Handling salesperson payroll, including, but not limited to, IRS 1099's;
 - 3) Placement of listings on the Main Street, REALTORS website;
 - 4) General administrative support; and
 - 5) Processing of advertising in Homes and Land or Distinctive Homes.

KK
WJ

C. It is acknowledged the branch office will eventually assume responsibility for inputting listings and preparing brochures.

D. At the end of each fiscal year Main Street, Realtors will receive 10% of net profits from Branch Office
Article 8: Miscellaneous

- A. Should Keith Kropp or Kit Zayas ever have the need to move their real estate licenses, they must give Judy Black at least 60 days notice and the Celebration Office will move with them. Judy Black will still participate in per centage profits.
- B. Should Judy Black either choose to sell Main Street, REALTORS and/or change the broker of record, she must give Keith Kropp and Kit Zayas at least 60 days notice.
- C. Main Street, REALTORS shall be able to promote the branch office on all letterhead and corporate advertising.
- D. Salespersons operating out of the Windermere Main Street, REALTORS office may not promote the Celebration office, whether express or implied, in personal website, promotional materials, and/or personal advertising.

Article 9: Indemnification

Keith Kropp and Kit Zayas agree to fully indemnify Judy Black for any liability personal or corporate that may arise out of the branch office, including, but not limited to, agents working out of the branch office or any financial or managerial obligations that may arise from the operation of the branch office.

Approved by: 2.1

RR

Witness

Witness

Keith Kropp

K.H. Zayas

July 28, 2004

Judy Black
Main Street, REALTORS
401 Main Street, Suite B
Windermere, FL 34786


Dear Judy,

Please accept this as our resignation from Main Street, REALTORS effective today. While we feel we have accomplished some wonderful things during our tenure here, we feel our current differences make it necessary to take this step.

We currently have several transactions with Main Street that we will continue to follow-up with through closing. We hope you will consider paying us our portion of the commission under the present commission structure as they close.

We look forward to a mutually agreeable resolution and wish you much luck in the future.

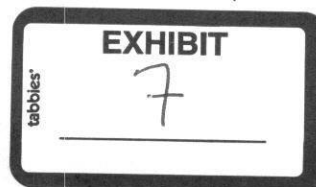
Best wishes,



Keith Kropp



Kit Zayas



MAIN STREET
REALTORS®

August 4, 2004

Smart City
P.O. Box 22555
Lake Buena Vista, FL 32830

RE: Phone No. 566-2555, Main Street Realtors

Dear Smart City:

I am writing on behalf of Main Street Realtors to express my serious concerns over the handling of our above referenced account.

It has come to my attention that a former agent of Main Street Realtors, Keith Kropp, is attempting to change the account of Main Street Realtors without proper authorization. At this time, I am not actually sure whether any of these attempts have been successful, although it seems that Main Street Realtors has been effectively "handcuffed" in the control over its own account. As a result, Main Street Realtors has suffered significant damages.

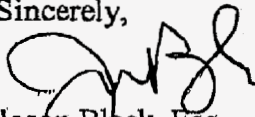
While Mr. Kropp may have originally set up the account as an agent of Main Street Realtors nearly three years ago, he has since resigned and no longer has any authority to act on its behalf. Additionally, and despite any representations to the contrary, Main Street Realtors continues to operate with the same name and in the same manner as it has since 1985. Attached please find the following documentation to this effect:

1. Copies of current licensing and fictitious name documentation for Main Street Associates, Inc. d/b/a Main Street Realtors;
2. Copy of a Letter of Resignation from Keith Kropp to Main Street Realtors dated July 28, 2004.
3. Copies of current and past advertisements of Main Street Realtors displaying the 566-2555 phone number.

As a result, I am requesting that you please assist Main Street Realtors in making any changes to its account that are necessary to avoid any further damages and continue the operation of its business.

Thank you for your attention to this matter.

Sincerely,


Jason Black, Esq.
Corporate Counsel

