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PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
RICHARD M. ELLIS
KENNETH A. HOFFMAN
LORENA A. HOLLEY
MICHAEL G. MAIDA
MARTIN P. McDONNELL
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

R. DAVID PRESCOTT
HAROLD F. X. PURNELL
MARSHA E. RULE
GARY R. RUTLEDGE
MAGGIE M. SCHULTZ
GOVERNMENTAL CONSULTANTS
MARGARET A. MENDUNI
M. LANE STEPHENS

November 1, 2004

Via Hand Delivery

Ms. Samantha Cibula, Esq.
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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COMMISSION
CLERK

RE: Docket No. 041211-TP - Petition for a Declaratory Statement by Smart City Telecommunications LLC d/b/a Smart City Telecom to Determine Application of Term "Subscriber" or "Customer" as contemplated by Rule 25-4.003(50), Florida Administrative Code

Dear Ms. Cibula:

On October 18, 2004, Smart City Telecommunications LLC d/b/a Smart City Telecom ("Smart City"), filed its Petition for a Declaratory Statement ("Petition"). Through its Petition, Smart City is seeking a determination from the Public Service Commission regarding 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. The particular set of circumstances described in the Petition involve a dispute between former business associates. The former business associates are Main Street Realtors, represented by Jason Black, Esq. and Keith Kropp who is represented by Paul Linder, Esq. On October 19, 2004, Smart City provided a copy of its Petition to both Mr. Linder and Mr. Black.

On October 25, 2004, Mr. Black responded to Smart City's Petition for the purpose of clarifying what he characterizes as "a number of critical inaccuracies in the Petition." A copy of Mr. Black's October 25 letter is enclosed with this letter for your information. Smart City offers the following comments in response to the items included in Mr. Black's letter:

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November 1, 2004

Page 2

Item 1 of Mr. Black's letter states:

Contrary to the assumptions in Paragraph 10, Keith Kropp has never been a partner with Main Street Realtors. Instead, he was simply a real estate agent with Main Street Realtors, and he was a partner with Judy Black.

Smart City's Response:

The information contained in Paragraph 10 of Smart City's Petition was obtained from a Smart City service representative that Mr. Black spoke to in connection with the account in dispute. Upon further clarification with the Smart City representative, it appears that Mr. Black stated that Keith Kropp had formerly been a "partner" or a "principal" of Main Street Realtors.

Item 2 of Mr. Black's letter states:

Contrary to the assumption in Paragraph 19(b), the ownership of Kropp and Zayas, Inc., now inactive, is in dispute and is the subject of current litigation in the Circuit Court of the Ninth Judicial Circuit in and for Osceola County, Florida, Case No. CI04-CI-1478.

Smart City's Response:

Paragraph 19(b) states that each monthly bill of the account at issue was paid by check bearing the name of Keith Kropp's company, Kropp and Zayas, Inc. Irrespective of the current status of this company, Smart City included this information in its Petition for the purpose of identifying the party who had undertaken responsibility for paying the account during the time that Mr. Kropp had a business relationship with Main Street Realtors.

Item 3 of Mr. Black's letter states:

Contrary to the assumptions in Paragraph 19(c), the Celebration Branch office of Main Street Realtors was not opened for the "benefit of Keith Kropp and Kit Zayas to work and operate independently." The Main Street Realtors Celebration branch office was opened for the benefit of the partners of the Partnership Agreement and of Main Street Realtors as a third party beneficiary.

Even though the partnership between Keith Kropp and Judy Black has terminated and Keith Kropp has resigned from his position as real estate agent with Main Street Realtors, the Celebration branch office of Main Street Realtors continues to operate and do business as it always has under Florida DBPR branch office license number BO2009866.

November 1, 2004

Page 3

Smart City's Response:

The copy of the Partnership Agreement was included with the Petition for the purpose of providing the Commission with information as to the relationship between Keith Kropp and Main Street Realtors. Whether or not Mr. Black agrees with Smart City's understanding of the Agreement, Smart City believes that the Partnership Agreement is clear on its face and speaks for itself.

Item 4 of Mr. Black's letter states:

Contrary to the assumptions in Paragraph 19(d), the Partnership Agreement between Keith Kropp and Judy Black, and thus the Indemnity Clause included in their Partnership Agreement, was terminated by Keith Kropp by letter dated May 24, 2004. *See* attached copy of termination letter. As of this date, Keith Kropp was no longer "ultimately responsible" for any payment on the account of Main Street Realtors. You should note that this termination occurred more than 2 months prior to Main Street Realtors attempting to change its service account with Smart City Telecom on July 30, 2004.

Smart City's Response:

Once again, irrespective of the current relationship that exists between Keith Kropp and Judy Black, Smart City's reference to the Indemnity Clause of the Partnership Agreement is to indicate that Keith Kropp would have had the ultimate responsibility for payment of the Smart City account during the time that Mr. Kropp had a business relationship with Main Street Realtors.

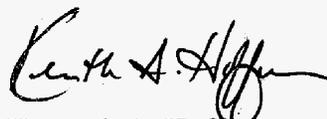
As stated in its Petition, Smart City is in doubt as to how to apply the terms "customer" or "subscriber" as provided in Rule 25-4.003(50), Florida Administrative Code to its particular set of circumstances. Pursuant to Rule 25-105.001, Florida Administrative Code, "a declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority." Smart City's Petition does not advocate one position or another as to whether Keith Kropp or Main Street Realtors should be considered the "customer" or "subscriber" of the Smart City account. Our Petition provides the Commission with as much pertinent information as possible for issuing its declaratory statement to resolve Smart City's doubt as to the applicability of those terms. To that end, I hope that this additional information is helpful to the Commission Staff.

November 1, 2004

Page 4

Should you have any questions or need any further information regarding these matters, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth A. Hoffman". The signature is fluid and cursive, with a large initial "K" and a long horizontal stroke at the end.

Kenneth A. Hoffman

Enclosure

cc: Blanca Bayo
Jason Black, Esq.
Paul Linder, Esq.
Lynn Hall

October 25, 2004

Ken Hoffman, Esq.
Rutledge, Ecenia, Purnell, & Hoffman, P.A.
215 S. Monroe St., Suite 420
Tallahassee, FL 32301

VIA FACSIMILE & U.S. MAIL

RE: Docket No. 041211 - TP - Petition for Declaratory Statement by Smart City
Telecommunications LLC d/b/a Smart City Telecom

Dear Ken:

I am in receipt of your letter dated October 19, 2004 and the Petition for Declaratory Statement you filed on behalf of Smart City Telecom with the Florida Public Service Commission. I am writing to clarify a number of critical inaccuracies in the Petition as follows:

1. Contrary to the assumptions in Paragraph 10, Keith Kropp has never been a partner with Main Street Realtors. Instead, he was simply a real estate agent with Main Street Realtors, and he was a partner with Judy Black.
2. Contrary to the assumptions in Paragraph 19(b), the ownership of Kropp and Zayas, Inc., now inactive, is in dispute and is the subject of current litigation in the Circuit Court of the Ninth Judicial Circuit in and for Osceola County, Florida, Case No. CI04-CI-1478.
3. Contrary to the assumptions in Paragraph 19(c), the Celebration branch office of Main Street Realtors was not opened for "the benefit of Keith Kropp and Kit Zayas to work and operate independently." The Main Street Realtors Celebration branch office was opened for the benefit of the partners of the Partnership Agreement and of Main Street Realtors as a third party beneficiary.

Even though the partnership between Keith Kropp and Judy Black has terminated and Keith Kropp has resigned from his position as real estate agent with Main Street Realtors, the Celebration branch office of Main Street Realtors continues to operate and do business as it always has under Florida DBPR branch office license number BO2009866. See attached DBPR documentation.

4. Contrary to the assumptions in Paragraph 19(d), the Partnership Agreement between Keith Kropp and Judy Black, and thus the Indemnity Clause included in their Partnership Agreement, was terminated by Keith Kropp by letter dated May 24, 2004. See attached copy of termination letter. As of this date, Keith Kropp was no longer "ultimately responsible" for any

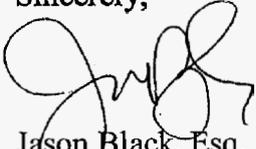
payment on the account of Main Street Realtors. You should note that this termination occurred more than 2 months prior to Main Street Realtors attempting to change its service account with Smart City Telecom on July 30, 2004.

I am sure you will agree that each of these points are crucial to your argument that the actions of Keith Kropp "could have been independent and not on behalf of Main Street Realtors." As it may become appropriate, please clarify these points in the Petition and in any future dealings with the Florida Public Service Commission.

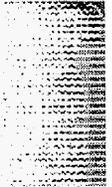
While I would have been happy to provide this information earlier, I still do not believe it is appropriate for Smart City Telecom or the Florida Public Service Commission to consider the partnership between Keith Kropp and Judy Black as an element in any decision regarding the service account of Main Street Realtors. However, I hope this letter shows you that Main Street Realtors should be considered the "subscriber" nevertheless.

Main Street Realtors sincerely apologizes for its part in putting you and Smart City Telecom in this position. Please call me if you have any questions.

Sincerely,



Jason Black, Esq.
Corporate Counsel



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Licensee Details

Licensee Information

Name: **MAIN STREET ASSOCIATES INC (Primary Name)**
T\A MAIN STREET (Alternate Name)

Main Address: **401 MAIN ST STE B
WINDERMERE, Florida 34786**

Lic. Location: **660 CELEBRATION AVE STE 160
CELEBRATION, FL 34747**

License Information

License Type: **Real Estate Branch Office**

Rank: **RE Branch Office**

License Number: **BO2009866**

Status: **Current, Active**

Licensure Date: **10/23/2001**

Expires: **03/31/2006**

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May 24, 2004

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

Dear Judy:

This letter is to serve as formal notice from the undersigned. It is our intent to withdraw from the Partnership Agreement dated November 14, 2001 on behalf of ourselves individually and our corporation in Celebration Realty Services, Inc. This notice is given pursuant to Florida Statute 620.8801(1).

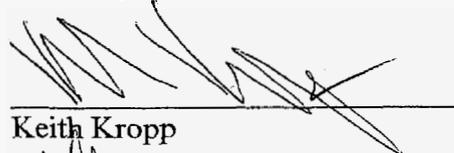
We are desirous of reaching an amicable agreement regarding the winding up of the affairs of the partnership. Of course, in the event an amicable agreement is not negotiated, we can seek a windup of partnership business under court supervision.

At the time that we entered into this agreement, it was clearly understood that the only compensation you would receive from the Celebration office was a \$125 transaction fee payable to your wholly owned company, Main Street Realtors, and ten percent (10%) of the net profits to be distributed at the end of each fiscal year. We are agreeable to paying you ten percent (10%) of the net profits, although that term is not clearly defined in the agreement.

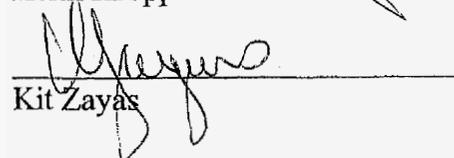
As you know, as our mutual lawyer prepared the documents to incorporate Celebration Real Estate Services, Inc. You were aware that you were not a shareholder in the corporation. Furthermore, you have been aware that you were not receiving K-1s and were not reflected on the tax returns as owning an interest. As you were only receiving ten percent (10%) of the profits from this corporation, you did not put up any of the capital for this office. You also had a clause included in the agreement that we would agree to indemnify you for any "financial or managerial obligations that may arise from the operation of the branch office". The suggestion in recent correspondence that it was your intent to own fifty percent (50%) of the operation and receive fifty percent (50%) of the profits is ludicrous. Why would anyone agree to hold you harmless from "any financial or managerial obligations" if you were going to receive fifty percent (50%) of the profits, and in addition, your company would receive ten percent (10%) of the net profits?

We look forward to hearing from you. Our attorney, Paul Linder, (407) 425-2518, will contact Thomas Garwood to explore whether an amicable agreement can be reached.

Sincerely,



Keith Kropp



Kit Zayas