

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="padding-left: 40px;">Complainant,</p> <p style="padding-left: 40px;">vs.</p> <p>NET PAGE NOW,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-06-52</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING
AND SETTING DEADLINE FOR RESPONSE**

(Issued September 22, 2006)

On August 9, 2006, pursuant to Iowa Code §§ 476.3 and 476.103, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty for an alleged cramming violation committed by Net Page Now (NPN). Consumer Advocate filed an amendment to its petition on August 30, 2006. Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On July 13, 2006, the Board received a complaint from James Hirons of Cedar Rapids, Iowa, alleging that the local telephone bill for his business, Foot Solutions, included unauthorized charges submitted on behalf of NPN. Mr. Hirons stated that in

early May 2006, he received a call at work from an individual who claimed to be from Qwest Corporation (Qwest) asking to verify telephone numbers for an upcoming directory. Mr. Hirons explained that he was busy when he received the call and gave the information. He stated that he later contacted Qwest and was told Qwest does not contact customers in this way. Mr. Hirons stated that the July 2006 telephone bill for Foot Solutions included a charge of \$29.95 from NPN.

Board staff identified the matter as C-06-152 and, on July 14, 2006, forwarded the complaint to NPN for response by July 25, 2006. NPN did not file a timely response.

On July 27, 2006, staff issued a proposed resolution finding NPN in violation of the Board's rules against cramming. Staff directed NPN to close the account and credit the charges in full.

On August 7, 2006, the Board received NPN's response to the complaint. Attached to NPN's response was a copy of what it alleged was a third-party verification recording. NPN states it provides Web page services for residential and business customers and that its telemarketer contacted Mr. Hirons on May 25, 2006. According to NPN, Mr. Hirons accepted NPN's offer to create a Web page advertising his business on the Internet. NPN states the recording shows that Mr. Hirons confirmed his decision to accept the creation of the Web page, gave personal identifying information as proof of his identity, and stated "yes" to confirm that he understood that he would be billed \$29.95 per month for NPN's services. NPN also

states its sends a welcome packet and provides a free 30-day trial period which allows the customer to cancel with no charge. NPN also states it canceled the account and issued a credit in the amount of \$59.90.

In its August 9, 2006, petition, Consumer Advocate argues the proposed resolution should be expanded to clarify that companies cannot escape civil penalties by ignoring allegations of violation. In the amendment filed on August 30, 2006, Consumer Advocate addresses NPN's late-filed response. Consumer Advocate explains that Mr. Hirons confirms that his voice is on the recording of the third-party verification but states that the telemarketer said she was from Qwest and that the purpose of her call was to confirm the yellow page listing for Foot Solutions and with that understanding, he provided the identifying information. Consumer Advocate also states that Mr. Hirons believes the latter portion of the voice recording is not an accurate reproduction of the conversation; Mr. Hirons has no recollection of the statement regarding a mailing from NPN, a trial offer, an Internet service and monthly fee of \$29.95; and if that statement had been made, he would have responded "no" because his business already had a Web page and did not need NPN's services. Consumer Advocate also indicates that Mr. Hirons does not recall receiving a welcome packet from NPN.

Consumer Advocate contends NPN's telemarketer misrepresented that she was with Qwest and was calling for the purpose of confirming the yellow page listing for Foot Solutions during the unrecorded solicitation part of the telemarketing call.

Consumer Advocate also asserts that it appears the recording was altered to show an authorization that did not occur. Consumer Advocate restates its request for a formal proceeding to consider a civil penalty in an amount to deter future violations by NPN.

Based on Mr. Hirons' assertion that he does not recall being told he was agreeing to pay for the creation of a Web page, and on suggestions that the third-party verification recording was altered, the Board finds reasonable grounds exist for further investigation of this matter. Further proceedings may determine whether NPN misrepresented the purpose of its telemarketing call, whether Mr. Hirons authorized the charge for NPN's service, whether the recording was altered, and whether penalties are appropriate. The Board will docket this matter for formal proceeding but will delay establishing a procedural schedule to allow NPN an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on August 9, 2006, and as amended on August 30, 2006, is granted. File C-06-152 is docketed for formal proceeding, identified as Docket No. FCU-06-52.

2. Net Page Now is directed to file a response to Consumer Advocate's petition on or before 30 days from the date of this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 22nd day of September, 2006.