

STATE OF NEW YORK
DEPARTMENT OF STATE
In the Matter of a Proceeding Pursuant to Articles 26
of the General Business Law and
Regulations promulgated thereunder,

CONSENT ORDER

File #13 DNC 0343

- by-

Commerce Energy, Inc.
d/b/a Amigo Energy,

Respondent.

1. The New York State Department of State ("Department") is an executive agency of the State of New York charged with the regulation of the "Do Not Call" law and the enforcement of Article 26 of the General Business Law.
2. An enforcement action and proceeding against Commerce Energy, Inc. d/b/a Amigo Energy ("Amigo Energy") was initiated based upon complaints received by the Department alleging violations of the Do Not Call Registry, in violation of General Business Law § 399-z and 21 New York Codes, Rules and Regulations (NYCRR) Parts 4602 and 4603.
3. The Department alleges that Amigo Energy has apparently violated New York General Business Law § 399-z and 21 NYCRR Parts 4602 and 4603 by making no less than six (6) unsolicited telemarketing sales calls to six (6) consumers whose telephone numbers were validly registered on the Do Not Call Registry.
4. The Department's staff conducted an investigation, which investigation resulted in commencement of the above-captioned administrative proceeding.
5. Amigo Energy has been advised of their right to be represented by an attorney and they are represented by Usher Fogel, Attorney at Law, with an office address located at 557 Central Avenue, Suite 4A, Cedarhurst, New York 11516.
6. By executing this Consent Order, Amigo Energy affirmatively waives its right to a hearing in the manner provided by law, consents to the issuance and entry of this Order and agrees to be bound by the terms, provisions and conditions contained herein.
7. Amigo Energy enters into this agreement in order to resolve a disputed matter. Amigo Energy affirms that all violations alleged in the Department's Notice of Apparent Liability, regarding a pattern of business practices which allegedly violated the relevant sections of the General Business Law have been, or will be rectified, in accordance with the terms set forth herein:

To resolve the Department's allegations that Amigo Energy made no less than six (6) unsolicited telemarketing sales calls to six (6) consumers whose telephone numbers were validly registered on the National Do Not Call Registry, in violation of New York General Business Law Section 399-z and 21 NYCRR Parts 4602 and 4603, Amigo Energy agrees to a settlement payment in the amount of \$500.00 per alleged call, for a total payment due of **\$3,000.00**.

NOW, in consideration of the above premises, it is **ORDERED**:

1. That Amigo Energy shall return the fully executed and notarized Consent Order such that same is received by the Department on or before April 1, 2014. The mailing address to send the Consent Order is: NYS Department of State, Division of Licensing Services, Attn: John E. Kenny, Senior Attorney, One Commerce Plaza, 99 Washington Avenue, 5th Floor, Albany, NY 12231.
2. That Amigo Energy shall pay a fine in the amount of **\$3,000.00 (Three Thousand Dollars)**, with the payment being due on or before April 1, 2014, said payment must be in the **form of a cashier's check or money order**, payable to NYS Department of State.
3. That upon execution of this Order by the Secretary of State or his designee, the Complaint in this matter shall be terminated, withdrawn and discontinued with prejudice with respect to Respondent in accordance with the terms hereof.
4. That the Consent Order herein expressly depends upon representations made by Respondent both oral or written, formal or informal which relate to the subject matter of the Consent Order and that such representations have fully, accurately and truthfully disclosed all relevant facts to the Department of State. If any such representation is determined to be limited, inaccurate or untruthful, the Department of State shall not be bound by the terms herein and shall initiate any action it deems appropriate in the administrative, civil or criminal prosecution of Respondent.
5. The effective date of this Order shall be the date on which the Secretary of State or his designee signs the same. The Department will provide Respondent or its counsel with a fully executed copy of this Order as soon as practicable after the Secretary of State signs the same.
6. The failure of Respondent to comply fully and in timely fashion with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order. Such default shall result in an administrative hearing for the purpose of determining whether additional penalties should be imposed due to Respondent's default and failure to perform an obligation under this Order.
7. This Order constitutes the entire agreement of the parties and no provision of the agreement shall be deemed waived or otherwise modified except as is specifically set forth in a writing executed by the Secretary of State or his designee indicating an intent to modify this Order.

8. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demand whatsoever that the Department may have against anyone other than Respondent, its parents, subsidiaries or affiliates (2) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Order; (3) any right of the Department to bring any future action, either administrative or judicial, for any other violations of the applicable laws, the implementing regulations or conditions contained in orders if any, issued by the Department to Respondent.

Dated:

March 24, 2017
Albany, New York

NEW YORK STATE
DEPARTMENT OF STATE

By: 
Whitney Clark
Associate Counsel

CONSENT OF JOHN LANDRY

John Landry, Senior Vice President, on behalf of Commerce Energy, Inc. d/b/a Amigo Energy, hereby consents to the issuing and entering of this Order, waives his right to a hearing and agrees to be bound by the terms and conditions herein.



John Landry
Senior Vice President

STATE OF NEW YORK)
)
COUNTY OF) ss.:

On this 17th day of 2014 in the year 2014 before me, the undersigned, personally appeared John Landry, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public