

# AMERICAN TELESERVICES ASSOCIATION



American Teleservices Association

The ONLY association dedicated exclusively to the Teleservices channel.



## MIDWEST CHAPTER'S E-LINK



ISSUE NO. 3, AUGUST-SEPTEMBER, 2009

**Linking ATA members in:**

Nebraska

Minnesota

Iowa

Missouri

Kansas

North Dakota

South Dakota

Midwest Chapter -  
BOARD OF DIRECTORS

**PRESIDENT**

Christine Haerich  
VP of Compliance and Strategic Account Development  
Protocol Marketing Group  
405 Donegal Dr.  
Smithville, MO 64089  
Phone: 816-873-3558  
E-mail:  
[chaerich@protocolmarketing.com](mailto:chaerich@protocolmarketing.com)

**VICE PRESIDENT**

Chad Richter  
Partner  
Jackson Lewis LLC  
10050 Regency Circle  
Suite 400  
Omaha, Nebraska 68114  
Phone: 402.391.1991  
[richter@jacksonlewis.com](mailto:richter@jacksonlewis.com)

**SECRETARY/TREASURER**

Sara Komen-Bonifant  
Corporate Counsel and Compliance Officer

In This Issue:

- [Chapter News: ATA Midwest members network in Omaha](#)
- [FEATURE ARTICLE: FTC's Rules for Prerecorded Telemarketing Messages](#)
- [Red Flag Rules? Identity Theft Rules? What's the Difference?](#)
- [Effectively Handling Consumer Complaints to the BBB](#)

Chapter News: Networking Event

*Part of our chapter mission* is to provide networking opportunities for members and friends in the Midwest Chapter, so that we can outreach new business opportunities, meet new friends, and explore the possibilities of collaborating and working with new partners. The Chapter's June 17th networking event, co-hosted with Big-O Networking, was a huge success. Held at the Wet Lounge in Omaha, over 50 representatives of leading Midwest area companies met at the Wet for "Cocktails and Contacts." Enjoying the casual atmosphere, attendees exchanged information about their companies, their capabilities, and their contact base.

ATA Midwest Chapter's Chad Richter said of the event that:

*those who participate in networking meet people across the spectrum of their related industry including customers, competitors, suppliers, and service providers. All of these people have one thing in common--the desire to widen their contact base and build mutually beneficial business relationships.*

Recognizing that the Midwest chapter spans a seven state area, the Chapter hopes to hold networking (and other) events throughout the Midwest area. For information on the Midwest Chapter's next networking event, or, for information on holding an ATA Midwest Chapter networking event in your area, please feel free to contact any Board member. Attendees at the June 17th event represented this partial

Timberline Total Solutions  
5807 N. 102nd Street  
Omaha, NE 68134  
Phone: 402-884-4729  
E-mail:  
[skomen@timberlinesolutions.com](mailto:skomen@timberlinesolutions.com)

**Marketing Chair**

Angela Morris  
President and founder  
Quality Contact Solutions Inc.  
808 4th St.  
Aurora, NE 68818  
Phone: 402-210-2692  
E-mail:  
[angela.morris@qualitycontactsolutions.com](mailto:angela.morris@qualitycontactsolutions.com)

Reid Houser  
VP/Compliance Officer  
SITEL Corporation  
7277 World Communications Drive  
Omaha, NE 68122  
Phone: 402-963-3010  
E-mail: [reid.houser@sitel.com](mailto:reid.houser@sitel.com)

Janette Nelson  
Senior Counsel  
West Corporation  
11808 Miracle Hills Drive  
Omaha, NE 68154  
Phone: 402-965-7197  
E-mail: [jknelson@west.com](mailto:jknelson@west.com)

Kourtney Keough  
President  
Marketlink, Inc.  
4305 Fleur Drive  
Des Moines, IA 50321  
515-285-3420  
E-mail:  
[kkeough@marketlinkinc.net](mailto:kkeough@marketlinkinc.net)

Michael Thompson  
Chief Operating Officer  
TPG TeleManagement, Inc.  
11161 Mill Valley Road,  
Omaha, NE 6815  
(402) 933-0219  
[michael.thompson@tpginc.com](mailto:michael.thompson@tpginc.com)

Bill Welty, CSP  
Regional Director  
Grafton Inc.  
10540 Marty St. Suite 100  
Overland Park, KS 66212  
(913)498-0701  
[bill.welty@graftoninc.com](mailto:bill.welty@graftoninc.com)

**list of companies:**

First National Bank of Omaha -- Jackson Lewis LLP -- Auction Solutions, Inc. -- Timberline Total Solutions -- TPG Telemanagement Inc. -- Campus Crusade for Christ, Intl. -- QCI Consulting -- Vistage Omaha -- Magnum Development Corp./Magnum Realty, Inc. -- Reel People Models & Talent -- Financial Services Professional, New York Life -- Prime Home Care Performance Group, Inc. -- Aztec Thunder Laser Tag -- Moving Beyond the Bricks -- Parallax Technologies Corporation -- HDR Inc. -- First Data Corporation -- Oriental Trading Company Sunbelt -- Mutual 1st Federal Credit Union -- Aureus Group/C & A Industries -- I-Spy Mystery Shoppers -- Chiropractic & Acupuncture -- CBSHOME Real Estate -- Harrah's Casino -- Primerica Financial Services -- TD Ameritrade -- American Title, Inc. -- Snitily Carr -- Egis Technologies, Inc. -- Bellevue University -- Landmark Group -- Farmers Insurance -- On Demand Technologies -- MassMutual Continuum Financial -- ASPEN -- Security Services -- Prochaska & Associates -- American Family Insurance -- Mario Camacho Foods, LLC

---

*FTC's Rules for Prerecorded Telemarketing Messages*

*Janette Nelson*

On August 19, 2008, the Federal Trade Commission (“FTC”) issued amendments to its Telemarketing Sales Rule (“Rule”) to set forth requirements for prerecorded messages. While parts of the amendments have already become effective, the last part becomes effective September 1, 2009. This part requires a seller to obtain prior written and signed consent from a consumer to deliver prerecorded telemarketing messages to that consumer. The amendment exempts from this part calls that deliver a prerecorded healthcare message made by, or on behalf of, a covered entity, or its business associates as those terms are defined in the HIPAA Privacy Rule.

While parts of the amendments have already become effective, the last part becomes effective September 1, 2009. This part requires a seller to obtain prior written and signed consent from a consumer to deliver prerecorded telemarketing messages to that consumer. The amendment exempts from this part calls that deliver a prerecorded healthcare message made by, or on behalf of, a covered entity, or its business associates as those terms are defined in the HIPAA Privacy Rule.

The Rule requires an express agreement for any prerecorded message call to induce the purchase of any good or service. The agreement must be obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the seller to place such calls to the person. The seller cannot require a person to execute the agreement as a condition of purchasing any good or service. The agreement must evidence the recipient’s willingness to receive prerecorded message calls delivered on behalf of a particular seller. The agreement must also include the person’s telephone number and signature. The FTC has stated the term “signature” includes an electronic or digital form of signature to the extent it is recognized as a valid signature under

Jon Carlson  
Laurus International  
10336 Shawnee Mission  
Parkway  
Shawnee Kansas 66203  
888-550-4442  
Email:  
[jcarlson@laurusinternational.com](mailto:jcarlson@laurusinternational.com)

---

applicable federal law or state contract law.

The FTC indicated, in the Statement of Basis & Purpose that accompanied the Rule amendment, any agreement obtained pursuant to an electronic signature must be sufficient to show the consumer received clear disclosure the consumer will receive future calls that deliver prerecorded messages. The consumer must also unambiguously agree to receive these calls at the number the consumer designates. The burden of proof to demonstrate clear and conspicuous disclosure, and unambiguous consent, will be on the seller.

The Rule for prerecorded telemarketing messages also includes a requirement to allow the phone to ring at least fifteen seconds or four rings before disconnecting an unanswered call. The message must contain an automated interactive voice and/or keypress-activated opt-out mechanism for the call recipient to assert a Do Not Call request at any time during the message. If the call could be answered by an answering machine or voice mail, the message must contain a toll-free number the recipient can use to assert a Do Not Call request at any time throughout the duration of the campaign. The number provided must connect directly to an automated interactive voice and/or keypress-activated opt-out mechanism. The opt-out mechanism must automatically add the number to the seller's entity-specific Do Not Call list and immediately disconnect the call.

According to the amended TSR, prerecorded message telemarketing calls must also comply with any other applicable federal and state laws. Many states have rules applicable to prerecorded message calls. Some states prohibit these types of calls. Given the numerous rules surrounding prerecorded messages, it is best to proceed with these calls carefully with a complete understanding of all of the rules.

*Reference: 16 CFR § 310.4(b)(1)(v); Statement of Basis & Purpose, RIN 3084-AA98, issued August 19, 2008. Article not intended as legal advice: please consult an attorney specializing in regulatory matters for further information.*

---

## [Red Flag Rules? Identity Theft Rules? What's the Difference?](#)

***Sara Komen-Bonifant***

If you are reading this, you likely have some hand in the development of, or in ensuring corporate awareness of, company procedures and laws affecting all aspects of corporate operations. If you didn't full grasp, or even, you threw up your hands and admitted you just didn't see the difference between why you had to develop Red Flag Rules, once you'd already given birth to copious Identity Theft procedures and reports, you are in good company and among good friends. The fact that the FTC has twice extended the enforcement deadline--now November 1, 2009, is proof that we're having some trouble grasping our roles and duties under the Fair Credit Reporting Act, or FCRA. (15 U.S.C. section 1681, as amended).

So what is the difference? It's this: the purpose of the Red Flag procedures is to get retailers/credit grantors to develop the practice of looking for activities and signs--

"red flags" that may indicate that an account they service is affected by fraud or identity theft. We are to be alert for these signs and our procedures should identify as many of them that are relevant to our businesses. With the Red Flag rules, we report suspicious activity that we notice internally when activity occurs with our in-house account information. By contrast, the Identity Theft procedures largely tell us how we are to react when we receive external reports of identity theft or fraud. The Identity Theft procedures specify what action we must take when we receive an Identity Theft Report received from a consumer, or the consumer's duly authorized representative, verbally, or without a completed FCRA Identity Theft Report; an Identity Theft Report received from a consumer or the consumer's authorized representative with a completed FCRA Identity Theft Report Procedure; or, an Identity Theft report received from a Credit Reporting Agency or, administrative or law enforcement source. Roles and steps to be taken in reaction to receipt of these external reports are carefully scripted. Not so with the Red Flag rules.

What exactly are red flags to be on the alert for? FCRA section 1681m provides a long, but helpful list. If you look at this section, it provides an extensive list of over 26 possible red flags. Some are:

- The consumer's personal identifying information provided is inconsistent when compared against external information sources used by the financial institution or creditor. For example:
- Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.
- Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:
- The address on an application is the same as the address provided on a fraudulent application; or
- The phone number on an application is the same as the number provided on a fraudulent application.
- The address on an application is fictitious, a mail drop, or a prison; or
- The phone number is invalid, or is associated with a pager or answering service.
- The SSN provided is the same as that submitted by other persons opening an account or other customers.
- The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.
- The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

If any "red flag" is observed, the rule next calls for the business to conduct a reasonable in-house investigation, which may include getting additional verification from the consumer of their identity. Many businesses have developed an in-house "incident report" that employees who work with accounts may use to fill out and report suspicious red flag activity to management. The report may include a check-list of red

flags that the employee noticed. If the investigation concludes that the likelihood of fraud or identity theft exists, the ultimate end of the investigation may include closing or suspending activity on the account, and issuing appropriate notices and alerts as provided in the Fair Credit Reporting Act. And as always, the procedure should provide for documentation of how the red flag was addressed and handled, and a procedure for regular training.

If you've not yet written your Red Flag procedure, there is reward for waiting. The FTC has just released a step-by-step guidance for how to write your procedure by consulting the FTC's web site <http://www.ftc.gov/redflagrule>. Fill in the blanks of their prototype procedure, and you have a great start.

---

*Effectively Handling BBB Complaints: Three Steps to Successful Resolution*

*Sara Komen-Bonifant*

Eventually, it will happen. After months, or even years of faultless performance, you receive a complaint from the Better Business Bureau. Even with the best in-house procedures, the best quality assurance program, the best programs, call center technology, staff, and databases, contact with consumers may produce complaints. Calling nationally and globally, the sheer number inbound and outbound traffic handled by call centers will eventually produce a call that catches a consumer at the wrong time, or in the wrong mood. Online complaints can be accessed and sent by consumers instantaneously, before the consumer may take the time to think about the call, or to acquaint themselves with the law by accessing the FTC, FCC, or other appropriate websites.

Often the situation is caused by a mere misunderstanding, but whatever the cause, effective strategies and approaches to resolution are key to a quick and satisfactory resolution. While your call center may have its own approach and procedure in place, consider the following three steps.

One: do your research thoroughly. Read the complaint at least twice to capture the consumer's true issues and intent. If you read it at least twice, you will often be surprised at the additional information you detect from the underlying tone and language. Allow a little time to pass between readings. Is the consumer simply asking for basic information? Are they angry, or, did they write the complaint based upon a misunderstanding or overreaction? Did they file the complaint minutes after the call ended---perhaps before they had time to gain perspective or research, for instance, the fact that 3rd party call centers may contact EBRs on the DNC Registry until they have given a company-specific DNC request? Are they simply asking for an apology where an apology is due? Understand what they are after. After you thoroughly understand the complaint, pull the call history and all program or campaign information relative to the consumer. Listen to the recording, and compare it to the script. Make sure you know the events and the appropriate state and federal law for the situation that the consumer is raising.

Two: move quickly. Much ground can be gained by giving the consumer the

courtesy of a swift reply, versus letting the matter languish until the tail end of the response period, or worse, getting it in late. Most BBB's send a complaint within two business days of the BBB's receipt of the complaint, and your company's ordinary reply window is two weeks. A swift reply shows that you moved the consumer's matter to the front burner. A swift reply also shows the consumer that you take the matter--and their time--seriously, a point that may also not be lost on the BBB, who sometimes chafe when they have to send reminder notices out in order to gain a response.

Three: before you write your response, map out or outline it to make sure your response will fully address each concern raised by the consumer. Focus on your goal, which is not to show the consumer just how right your company's actions were, and how little the consumer knows the law, but instead, are: 1) to unfailingly represent your business image in the most positive, evenhanded light; 2) to de-escalate and promptly win closure of the claim satisfactorily, and 3) attempt, where possible, to keep both the customer, and, good customer relations. Even if you are 100% right, you can escalate the matter by adopting a righteous attitude which shows you didn't listen to the consumer. Keep your response diplomatic, upbeat, sincere, and, no matter what you may feel about the tone or content of the consumer's letter, never escalate a situation by summarily dismissing the consumer's concerns out of hand, by not fairly and adequately addressing each concern, or, by adopting the consumer's tone or rhetoric. Right though you may be, nothing is won if the consumer receives a disrespectful reply and proceeds to freely broadcast negative remarks about your company across the Internet.

Finally, even if you were right, in those situations where it is appropriate to do so, include an apology that the transaction or call was not a positive one for the consumer, that the consumer was not pleased with the transaction or call, or, that the consumer experienced what the consumer felt was less than appropriate service. Although assuming corporate liability for anything is something best handled with the advice of your counsel, if the consumer's feelings were hurt, an even-handed apology that the consumer experienced any difficulty can be the right thing to do, and can go a long way towards mending the situation.

Remember: your goal, and the BBB's, is to smoothly and successfully resolve complaints, and the BBB actively encourages consumers to contact the company directly before asking the BBB to contact the company. How effectively, and how adequately, you responded to the consumer, is information that is used by the BBB in developing BBB Reliability Reports on companies. The great majority of BBB complaints--70%--are resolved: make your's a part of that 70%. See the complaint you receive as an opportunity to remain in good standing with the BBB, and your customer.

---

### *IN THE NEXT E-LINK*

[Watch for these articles in our October/November E-Link edition:](#)

- [Michael Thompson, COO, TPG Telemanagement--emerging call center technology issues](#)

- [PLUS news on upcoming Midwest Chapter events; Compliance Officers Forum summaries; regulatory news; roundup of state and federal legislation affecting your call center; Call Centers Care events; labor and human resources developments, and more...](#)

---

**E-Link is sponsored by : MARKETLINK**



*Marketlink is a leading provider of outsourced teleservices and contact solutions. For more than 16 years, Marketlink has delivered high-quality, outbound teleservices for clients who understand that the telephone is one of the most efficient, quick and cost-effective ways to reach their targets and grow their business. Marketlink specializes in both B2C and B2B programs through sales, lead generation, database enhancement, market research and customer care. For more information about our services check out our website at [www.marketlinkinc.com](http://www.marketlinkinc.com) or call 800-434-3221 ext. 1205.*

---

*Interested in joining Marketlink in becoming an ATA Midwest Chapter E-Link sponsor? Contact Chapter Secretary Sara Komen-Bonifant at [skomen@timberlinesolutions.com](mailto:skomen@timberlinesolutions.com). E-Link is sent to ATA member companies throughout Nebraska, Minnesota, Iowa, Missouri, Kansas, North Dakota, and South Dakota. 100% of your support is used by the Midwest Chapter to provide its educational and networking events.*

---

Not a member of the ATA, or, would you like to refer someone for membership?



[ATA Website](#)

*Did you know that each ATA Chapter has a LinkedIn site?  
[Arizona Chapter](#), [Chicago Metro Chapter](#), [Florida Chapter](#), [MidAtlantic Chapter](#),  
[Midwest Chapter](#), [Mountain Chapter](#), [New York Metro Chapter](#), [Ohio Valley Chapter](#),  
[South Central Chapter](#), [Southeastern Chapter](#), [West Coast Chapter](#)*

---

*Questions? Suggestions? Have an Opt-out/Opt-in request? Please contact Chapter Secretary, and E-Link Editor, Sara Komen-Bonifant, at---Timberline Total Solutions, 5807 N. 102nd Street, Omaha, NE 68134 Phone: 402-884-4729 E-mail: [skomen@timberlinesolutions.com](mailto:skomen@timberlinesolutions.com) Thank you.*