

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SE ACQUISITIONS, LLC D/B/A LIGHTYEAR)	
NETWORK SOLUTIONS OF KENTUCKY)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2013-00022
)	
YMAX COMMUNICATIONS CORPORATION)	
)	
DEFENDANT)	

ORDER

On January 11, 2013, SE Acquisitions, LLC d/b/a Lightyear Network Solutions of Kentucky ("Lightyear") filed a formal complaint with the Commission against YMax Communications Corporation ("YMax"). On January 18, 2013, the Commission issued an Order directing YMax to satisfy or answer the matters of which Lightyear had complained. ("January 18th Order"). On February 4, 2013, the Commission received a letter addressed to the Commission's Executive Director from Shelby Ramsey from YMax. ("February 4th Letter"). The body of the letter contained only the following:

This letter serves to confirm receipt of your notice regarding Case No. 2013-00022. We are currently in the process of communicating with SE Acquisitions, LLC D/B/A Lightyear to resolve this matter.

Feel free to contact me anytime via e-mail at shelby.ramsey@ymaxcorp.com or by phone at 561.420.6452.

In the January 18th Order, the Commission directed YMax to satisfy or answer the allegations contained in YMax's complaint by January 28, 2013. YMax's filing does neither.

807 KAR 5:001, Section 19(5) provides, in pertinent part that:

If the defendant desires to satisfy the complaint, he or she shall submit to the commission, within the time allowed for satisfaction or answer, a statement of the relief which the defendant is willing to give.

YMax's February 4th Letter does not purport to show that YMax desires to satisfy the complaint. Even if the February 4th Letter could be read to show that desire, it does not comply with the above regulation because the letter does not contain a "statement of the relief which the defendant is willing to give." We find that the February 4th Letter cannot be considered an offer of satisfaction for the complaint.

807 KAR 5:001, Section 19(6) provides, in pertinent part, that;

If the complainant is not satisfied with the relief offered, the person complained of shall file an answer to the complaint... within the time specified in the order

807 KAR 5:001, Section 19(6)(a) provides that:

[T]he answer shall contain a specific denial of the material allegations of the complaint as controverted by the defendant and also a statement of new matter constituting a defense.

The February 4th Letter contains no refutation of Lightyear's allegation. Read even in the light most favorable to YMax, we find that the February 4th Letter does not constitute an answer to Lightyear's complaint, does not comply with 807 KAR 5:001 Section 19(6) and, thus, YMax is in violation of the January 18th Order.

YMax's February 4th Letter is also deficient because it is not signed by an attorney licensed to practice in the Commonwealth of Kentucky. Shelby Ramsey neither lists a title on the February 4th Letter nor describes in what capacity the letter was signed. According to the records of the Kentucky Secretary of State, YMax, with the Secretary of State organization number of 0634106, was granted authority to operate in Kentucky on March 10, 2006 and is currently in active status, in good standing, and is a foreign corporation with its principal place of business identified as 5700 Georgia Avenue, West Palm Beach, Florida 33405.¹ On information and belief, Shelby Ramsey is not an attorney licensed to practice law in Kentucky.

Kentucky's highest court has held that the representation of individuals and entities before a state administrative agency constitutes the practice of law.² No person may engage in the practice of law in Kentucky by representing a person, other than oneself, or an entity without first obtaining a license to practice. The practice of law is:

[A]ny service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.³

This Commission has adopted a similar position in its regulations and has required that those representing the interests of others before us be licensed attorneys.

807 KAR 5:001 Section 4(4) provides that:

A person shall not file a paper on behalf of another person or otherwise represent another person, unless the person is an

¹ YMax Communications Corp., Kentucky Secretary of State Business Services, [https://app.sos.ky.gov/ftshow/\(S\(l52tejj3h04jigv4504vvyzke\)\)/default.aspx?path=ftsearch&id=0634106&ct=09&cs=99999](https://app.sos.ky.gov/ftshow/(S(l52tejj3h04jigv4504vvyzke))/default.aspx?path=ftsearch&id=0634106&ct=09&cs=99999) (last visited February 20, 2013).

² *Kentucky State Bar Association v. Henry Vogt Machine Co.*, 416 S.W.2d 727 (Ky. 1967).

³ Kentucky Supreme Court Rule 3.020.

attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2). An attorney who is not licensed to practice law in Kentucky shall present evidence of his or her compliance with SCR 3.0303(2) if appearing before the commission.

As to its own proceedings, the Commission has required that an attorney licensed to practice in Kentucky is necessary to represent the interests of others:

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission must engage a member of the Kentucky Bar Association. It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.⁴

It is clear that YMax's February 4th Letter fails to comply with: (1) The January 18th Order; (2) 807 KAR 5:001, Section 19(5); (3) 807 KAR 5:001, Section 19(6); and (4) 807 KAR 5:001, Section 4(4). Accordingly, we find that the February 4th Letter should not be accepted for filing. However, we find that YMax should be permitted an additional ten days to satisfy or answer the matters complained of in Lightyear's complaint. We also find that YMax shall retain an attorney licensed to practice law in Kentucky. YMax's failure to timely satisfy or answer Lightyear's complaint may result in the Commission's awarding Lightyear the relief that it seeks in its complaint.

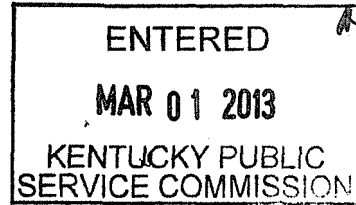
Based on the foregoing, IT IS THEREFORE ORDERED that:

1. YMax's February 4th Letter is rejected for filing.
2. Within ten days of the date of this Order, YMax shall satisfy or answer the matters complained of in Lightyear's complaint.

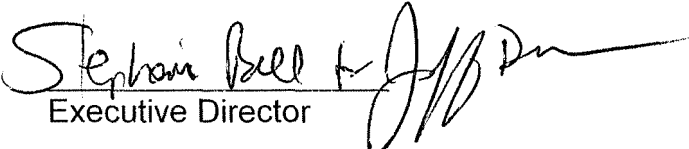
⁴ Administrative Case No. 249, *Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky* (Ky. PSC Jun. 15, 1981) at 2. See also Case No. 2004-00348, *Howard Keen v. Carroll County Water District # 1* (Ky. PSC Oct. 15, 2004).

3. YMax shall retain an attorney licensed to practice law in Kentucky to represent YMax before the Commission and sign all filings.

By the Commission



ATTEST:


Executive Director

Case No. 2013-00022

Douglas T Logsdon
McBrayer, McGinnis, Leslie and Kirkland, PLLC
201 East Main Street
Suite 1000
Lexington, KENTUCKY 40507

Peter Russo
Chief Financial Officer
YMax Communications Corp.
5700 Georgia Avenue
West Palm Beach, FL 33405