

**Oklahoma Real Estate Commission
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NEWS RELEASE

Effective October 1, 2003

Real Estate Licensees Will Not Be Allowed to Make Cold Telemarketing Calls to Persons Listed on the Federal Do-Not-Call Registry

On and after October 1, 2003, a real estate licensee desiring to cold call a consumer must first check to see if the consumer has registered their telephone number on the federal do-not-call registry. If the consumer has registered their telephone number on the federal registry they cannot be called, regardless of whether the call is an intrastate or interstate call. The federal government will charge the licensee a fee to access telephone numbers on the federal registry.

For Your Information:

- In 1991, Congress enacted the Telephone Consumer Protection Act (TCPA) in an effort to address a growing number of telephone marketing calls and certain telemarketing practices thought to be an invasion of consumer privacy and even a risk to public safety. In conjunction therewith, the Federal Communications Commission (FCC) adopted a broad set of rules to respond to the directives in the TCPA.
- Despite the enactment of the TCPA and the related FCC rules, telemarketing calls remained a growing problem for consumers, and a number of states, including Oklahoma, enacted do-not-call legislation. Oklahoma passed legislation in 1994 that set up a state do-not-call list, but exempted real estate licensees and others who were making calls for the purpose of setting a face-to-face appointment with a consumer.
- On March 11, 2003, Congress enacted the Do-Not-Call Implementation Act.
- On June 26, 2003, determining a need for one centralized do-not-call registry, the Federal Communications Commission (FCC), in consultation and coordination with the Federal Trade Commission (FTC), adopted a federal do-not-call registry which prohibits telemarketing calls to persons listed on the federal do-not-call registry. (Under Oklahoma law, anyone on the Oklahoma do-not-call list prior to June 1, 2003 is automatically placed on the federal do-not-call list.) The FCC exempts from the law calls made to persons with whom a telemarketer has a personal relationship. The FCC also exempts calls to consumers with whom the telemarketer has an established business relationship, so long as the consumer has not been asked to be placed on the company's do-not-call list. However, the FCC declined to adopt an exemption for calls made to set face-to-face appointments with consumers. In its June 26, 2003 Order, the FCC said:

Thus, telemarketers must comply with the federal do-not-call rules even if the state in which they are telemarketing has adopted an otherwise applicable exemption. Because the TCPA applies to both intrastate and interstate communications, the minimum requirements for compliance are therefore uniform throughout the nation. We believe this resolves any potential confusion for industry and consumers regarding the application of less restrictive state do-not-call rules.

Consequently, a real estate licensee should not make a cold call within Oklahoma (intrastate) without first checking to determine if the consumer has registered with the federal do-not-call registry. If the consumer has not registered with the federal registry, then the licensee can make a cold call to a consumer for the sole purpose of setting up a face-to-face meeting with the consumer. Similarly, a real estate licensee should not make a cold call outside Oklahoma (interstate) without first checking to determine if the consumer has registered with the federal do-not-call registry. If the consumer has not registered with the federal registry, the licensee should first inquire about the laws of the state into which the licensee is calling relating to (1) telemarketing; (2) real estate licensing; and (3) jurisdiction (in other words, does calling into the foreign state subject the licensee to the jurisdiction of the foreign state's courts).

Written by:

Jan Preslar

Assistant Attorney General