

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel. THOMAS J.
MILLER, ATTORNEY GENERAL OF
IOWA, 99AG25112

Plaintiff,

vs.

ASSOCIATED COMMUNITY
SERVICES, INC., a Michigan corporation,

Defendant.

Case No. EQCE 069677

**RULING ON APPLICATION TO
ENFORCE ATTORNEY GENERAL'S
CONSUMER FRAUD SUBPOENA**

This case was before the court on April 23, 2013 for hearing on the plaintiff's Application to Enforce Attorney General's Consumer Fraud Subpoena (the "Application"). Assistant Attorney General Steve St. Clair represented the plaintiff (the "State") and attorney Gordon R. Fischer represented the defendant, Associated Community Services, Inc. ("ACSI"). ACSI resists the Application. Having considered the evidence and the arguments of counsel the court makes the following ruling.

Background Facts and Proceedings and Issue Presented

A complete and detailed statement of the procedural and substantive history of this proceeding is set forth in a ruling entered by this court on March 2, 2012, granting a prior application by the State to enforce a subpoena issued under the authority of Iowa Code Chapter 714. The court restates that background by this reference.

In the subpoena which was the subject matter of the previous proceeding, the State sought, among other things, recordings of solicitations made by ACSI to Iowa residents. The court's March 2 order required ACSI to comply with this request. Following entry of the March 2 order, ACSI indicated to the State through counsel that the requested recordings no longer existed. Later, ACSI

reported that recordings did exist after all and produced some of them. However, the State was suspicious of ACSI's production since it did not include any solicitations made to Iowa residents in which a complete solicitation was recorded. Additionally, there were large gaps in the recordings produced when compared to a list of recordings that ACSI had previously produced. For this reason, the State issued a subpoena (Subpoena No. 2308 issued November 13, 2012) requiring the appropriate ACSI representative to answer under oath the State's questions about the circumstances of the existence, disposition and production of the recordings. ACSI has refused to provide a representative to answer the State's questions, prompting the instant application.

Discussion and Analysis

The court has considered the application and resistance as well as the arguments made by counsel at the time of hearing. No extended discussion is warranted. For the same reasons stated in the court's March 2, 2012 ruling, the subpoena issued by the State to question an ACSI representative under oath regarding the circumstances surrounding its production or non-production (and existence and disposition in general) of recordings that were within the scope of the first subpoena, is completely within the State's authority under Chapter 714.

Ruling and Order

For all of the reasons set forth above the State's application to enforce the subpoena issued to ACSI on November 13, 2012 (Subpoena No. 2308) is granted. ACSI shall comply with Subpoena No. 2308.

It is the further order of the court that until it fully complies with Subpoena No. 2308, ACSI is restrained and enjoined from making solicitations for donations in any manner to any person in the State of Iowa and, further, from receiving or collecting any donation from the State of Iowa.

It is the further order of the court that any court costs generated by the State's application to

enforce Subpoena No. 2308 are assessed against ACSI.

IT IS SO ORDERED May 6, 2013.

DOUGLAS F. STASKAL

Judge of the Fifth Judicial District of Iowa

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