

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Dade County Circuit Court referral of certain issues in Case No. 94-14234-CA-22 (S.H. Dohan & Company, P.A. vs. Transcall America, Inc. d/b/a ATC Long Distance) that are within the commission's jurisdiction.

DOCKET NO. 951270-TI
ORDER NO. PSC-97-0726-AS-TI
ISSUED: June 20, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

FINAL ORDER ACKNOWLEDGING SETTLEMENT AGREEMENT

BY THE COMMISSION:

On June 12, 1992, S.H. Dohan & Company, P.A. on behalf of itself and as class representative (Dohan), filed a Complaint against Transcall America, Inc. d/b/a ATC Long Distance (Transcall) in Dade County Court alleging that Transcall improperly billed its customers. Thereafter, the case was removed to Federal District Court whereupon the Federal District Court remanded it back to the County Court. The County Court transferred the case to the Dade County Circuit Court after the Supreme Court's decision in Johnson v. Plantation General Hospital, 641 So.2d 58 (Fla. 1994). On August 3, 1995, Dade County Circuit Court Judge Robert P. Kay issued I. Order Determining Claim to be Maintained as Class Action II. Final Order Approving Class Action Settlement III. Order Staying Action and Transferring Same to the Florida Public Service Commission. The Court found that Dohan's claims raise issues regarding Transcall's billing system and the application of tariff provisions that are within the specialized expertise and jurisdiction of this Commission. Accordingly, we established this docket and scheduled a hearing for June 19 - 20, 1997, to address the issues referred to us by the Dade County Circuit Court.

DOCUMENT NO.
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6-20-97

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On June 18, 1997, Dohan and Transcall filed a Joint Motion to Approve Settlement Agreement and Stipulation and Request to Cancel Evidentiary Hearings. A copy of the Settlement Agreement is attached to this Order as Appendix A and is incorporated by reference herein.

Upon consideration, we believe the Settlement Agreement between the parties resolves all issues referred to us by the Dade County Circuit Court that are within our jurisdiction. Accordingly, we hereby acknowledge the Settlement Agreement and cancel the hearing scheduled for June 19 - 20, 1997. We will forward a copy of this Order to the Court for its review. Further, since there are no remaining issues for us to decide, this docket will be closed when Transcall files a written report with us reflecting the final dispensation of refunds to the Plaintiff Class.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby acknowledge the Settlement Agreement filed by S.H. Dohan & Company, P.A. on behalf of itself and as class representative and the Defendant Transcall America, Inc. d/b/a ATC Long Distance and cancel the hearing scheduled for June 19 - 20, 1997. The Settlement Agreement is attached to this Order as Appendix A and is incorporated by reference herein. We will forward a copy of this Order to the Dade County Circuit Court. It is further

ORDERED that this docket shall be closed when Transcall files a written report with this Commission on the final dispensation of refunds made to the Plaintiff Class.

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By ORDER of the Florida Public Service Commission, this 20th
day of June, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Since the Settlement Agreement resolves all matters referred to the Commission by the Dade County Circuit Court, requests for further proceedings shall be made to that tribunal.

APPENDIX A

June 17, 1997

Via Facsimile

Elliott Messer, Esq. and Floyd Self, Esq.
Messer, Caparello and Self, P.A.
215 S. Monroe Street, Suite 701
Tallahassee, Florida 32302-1876

Re: **S.H. Dohan & Company, P.A. vs. Transcall America, Inc.**
PSC Docket No.: 951270-TI and Case No.: 94-14234, Dade Co. Circuit Court

Dear Gentlemen:

This letter shall serve to confirm the oral settlement agreement we have reached with respect to the above-entitled matters, pursuant to the terms and conditions which follow:

1. Transcall America, Inc. (hereinafter referred to as "Transcall") shall upon approval by the Public Service Commission of this settlement agreement, as soon as reasonably possible, pay and distribute a refund in the total amount of \$5.5 million to the Plaintiff class.

It is contemplated that Transcall will first use a national "change of address" firm to locate and obtain the best addresses currently available for each of the class members. Each member of the class shall receive an equal share of the settlement refund. It is intended that the refund checks shall be mailed within 90 to 120 days.

2. Within fifteen (15) days of PSC approval of this settlement, Transcall shall pay \$220,000.00 in legal fees to Robert C. Maland, P.A. and Lauri Waldman Ross, P.A., to be shared equally by them plus an additional \$35,000.00 in costs.

Additionally, within the same time period, Transcall shall pay \$35,000.00 to cover the additional costs of Messrs. Twomey and Malaney, as well as the balance owed to Mr. Ron Mott, C.P.A., with such amounts paid to Messrs. Twomey, Malaney and Mott to be reimbursed to Transcall under paragraph 2(h)(3) of the prior Stipulation Regarding Conditional Class Certification and Settlement dated March 10, 1995.

3. Transcall shall exchange general releases with Eric Bott.

4. We will forthwith seek approval from the PSC of our settlement and file a joint motion requesting that the Commission enter a final order approving this settlement at the hearing to be held this Thursday, June 19, 1997 in lieu of the scheduled evidentiary hearing.

5. Except as expressly stated herein, the terms of the March 10, 1995 Stipulation Regarding Conditional Class Certification and Settlement shall remain in full force and effect.

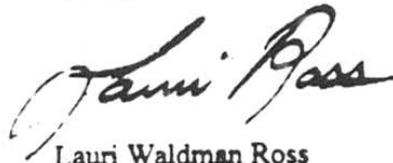
6. This is a full and final settlement compromising and resolving all claims and defenses in the above-entitled matters. Upon the issuance of a final order of approval of the settlement by the PSC, the PSC shall refer all matters herein back to the Circuit Court of Dade County. The Circuit Court shall retain jurisdiction to enforce the settlement agreement. Upon fulfillment of all obligations of settlement, the Circuit Court case shall be dismissed with prejudice.

Please sign below to confirm the terms and conditions of settlement and return the executed copy to us immediately, via facsimile.

Sincerely,



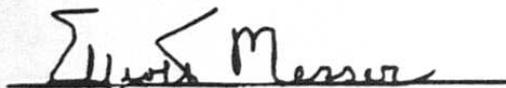
Robert C. Maland



Lauri Waldman Ross

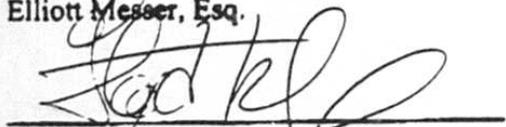
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The foregoing terms and conditions of settlement are accepted and approved.



Elliott Messer, Esq.

6-17-97
Dated



Floyd Self, Esq.

6-17-1997
Dated