



HENRY McMASTER
ATTORNEY GENERAL

September 22, 2010

The Honorable Thad T. Viers
Member, House of Representatives
P.O. Box 31231
Myrtle Beach, South Carolina 29588

Dear Representative Viers:

In a letter to this office you stated that it is your understanding that South Carolina law allows and the Attorney General's office has concluded that political telephone calls are acceptable to telephone answering machines but not to live answerers. You are correct in your assumption in that we believe such calls are allowed inasmuch as the recorded telephone message is delivered to an answering machine and not to a live person.

You also stated that certain organizations, such as Survey USA, routinely conduct automated survey telephone calls in this State that require the recipient's responses via a phone key. You have questioned whether these automated survey calls for political purposes that asks a question that requires that the recipient use the phone key pad to answer are legal.

S.C. Code Ann. § 16-7-446 states that

(A) "Adad" means an automatically dialed announcing device which delivers a recorded message without assistance by a live operator for the purpose of making an unsolicited consumer telephone call as defined in Section 16-17- 445(A)(3). Adad calls include automatically announced calls of a political nature including, but not limited to, calls relating to political campaigns.

(B) Adad calls are prohibited except:

- (1) in response to an express request of the person called;
- (2) when primarily connected with an existing debt or contract, payment or performance of which has not been completed at the time of the call;

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(3) in response to a person with whom the telephone solicitor has an existing business relationship or has had a previous business relationship.

(C) Adad calls which are not prohibited under subsection (B):

- (1) are subject to Section 16-17-445(B)(1), (2), and (3);
- (2) shall disconnect immediately when the called party hangs up;
- (3) are prohibited after seven p.m. or before eight a.m.;
- (4) may not ring at hospitals, police stations, fire departments, nursing homes, hotels, or vacation rental units.

In the opinion of this office, organizations, such as Survey USA, may routinely conduct automated survey telephone calls for political purposes in this State that require the recipient's responses via a phone key. The purpose of the ADAD law is to prohibit the unwarranted invasion by automated dialing devices in order to promote advocacy of a "product" including a particular candidate. Thus, as long as these polling calls, even if they are of a political nature, do not advocate a particular political candidate but simply obtain a "snapshot" opinion of a voter, they may be made.

With kind regards, I am,

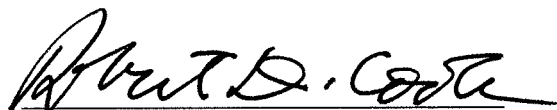
Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
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