

completing calls to certain persons dialed by prison inmates.

According to the *Petition*, correctional facilities contract with Global Tel to provide out-bound communication services for incarcerated persons. When an inmate without a pre-paid calling card or debit calling account sanctioned by the correctional facility attempts to call an individual for the first time, and that individual is not served by a local exchange carrier with which Global Tel has a billing arrangement or the inmate has dialed a called party's cell phone, the call cannot be completed unless and until a billing arrangement with the called party is established. Once the inmate dials the desired number, Global Tel captures the number and initiates an automated interactive voice response notification to inform the called party that an incarcerated person is attempting to contact him or her and the called party must establish an account in order to receive the call. Global Tel makes three attempts to notify the called party to establish an account to receive inmate calls. Without the relief requested in the *Petition*, according to Global Tel, it is exposed to risk of unnecessary litigation from persons bringing private actions under the TCPA.

In relevant part, the TCPA regulates the use of automated telephone equipment. Section 227(b)(1)(B) of the TCPA makes it unlawful to place a non-emergency telephone call to a residential line "using an artificial or prerecorded voice" without the recipient's consent unless the call is "exempted by rule or order of the Commission under paragraph (2)(B)." Paragraph (2)(B), in turn, authorizes the Commission to enact limited exemptions from this ban, including an exemption for calls "that are not made for a commercial purpose" or "do not include the transmission of any unsolicited advertisement." Further, section 227(b)(1)(A) of the TCPA prohibits the use of any automatic telephone dialing system or an artificial or prerecorded voice to call any telephone number assigned to a cellular telephone service absent an emergency purpose or the "prior express consent of the called party." Section 227(b)(2)(C) gives the Commission authority to exempt from this prohibition only those "calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights the provision is intended to protect."

Global Tel presents several arguments to support its request for a declaratory

ruling. First, Global Tel argues that the automated notification calls that it places to inform a called party that an incarcerated person has dialed the party's telephone number and that a payment account is required to receive the call are not solicitation or telemarketing calls, but instead simply inform a called party how to establish an account for the purpose of receiving calls from an inmate. Global Tel asserts its notification calls should be exempt pursuant to section 227(b)(2)(B) of the TCPA because the calls are not made for a commercial purpose and do not transmit an unsolicited advertisement. Global Tel further asserts that the Commission's ruling that autodialed and prerecorded message calls to wireless numbers that are provided by the called party to a creditor in connection with an existing debt are permissible as calls made with the "prior express consent" of the called party makes its prerecorded message calls to parties called by inmates permissible. Global Tel contends that the inmate possesses the prior express consent of the called party to be contacted at the number provided. Global Tel states that its interactive voice recognition platform is neither a predictive dialer nor a form of autodialing as contemplated by the TCPA. Lastly, Global Tel argues that although the TCPA should not apply to its notification calls and practices, these calls and practices meet the technical and procedural standards for artificial or prerecorded voice systems set forth in section 227(d)(3) of the TCPA.

Federal Communications Commission.

**Colleen Heitkamp,**

*Division Chief, Consumer and Governmental Affairs Bureau.*

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## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at

the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 16, 2010.

**A. Federal Reserve Bank of Minneapolis** (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *Paul Bennett Lewis, Mendota Heights, Minnesota*, to become co-trustee of the 2004 Children's Trust, 2004 Grandchildren's Trust, and 2005 Grandchildren's Trust to gain control of Fidelity Holding Company, Minnetonka, Minnesota, and thereby gain control of Fidelity Bank, Edina, Minnesota.

Board of Governors of the Federal Reserve System, June 25, 2010.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

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**BILLING CODE 6210-01-S**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).