

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-04-IH-0503
)	
)	
QuickLink Telecom, Inc.)	NAL/Acct. No. 200532080136
)	
)	FRN No. 0009-2680-61

ORDER OF FORFEITURE

Adopted: September 13, 2005

Released: September 14, 2005

By the Acting Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Order of Forfeiture, we assess a monetary forfeiture of \$20,000 against QuickLink Telecom, Inc. ("QuickLink"). The noted violation involves QuickLink's failure to respond to a directive of the Enforcement Bureau ("Bureau") to provide certain information and documents pursuant to a Commission Letter of Inquiry ("LOI").¹

II. BACKGROUND

2. The facts and circumstances surrounding this case are set forth in the *Notice of Apparent Liability for Forfeiture* issued by the Bureau in July 2005, and need not be reiterated at length here.² QuickLink characterizes itself as a "toll reseller."³ It routes voice and data from around the world through its gateway facilities in the U.S. and Europe.⁴ In October 2004, the Universal Service Administrative Company ("USAC") referred QuickLink to the Bureau for action concerning its failure to contribute to the Universal Service Fund ("USF") and its failure to file Telecommunications Reporting Worksheets as required by Commission rules.⁵ According to USAC's records, QuickLink has filed only one Worksheet, and made only one contribution to USF since 2003.

3. Following USAC's referral, the Bureau sent QuickLink the LOI to obtain information concerning whether the company violated section 54.706 of the Commission's rules,⁶ involving the

¹ Letter from Eric J. Bash, Assistant Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, to Amar Siddigui, QuickLink Telecom, Inc. (Oct. 15, 2004). Letter from Hillary S. DeNigro, Deputy Chief, Investigations & Hearings Division, FCC to Amar Siddigui, QuickLink Telecom, Inc. (Dec. 14, 2004) ("LOI Follow-up").

² See *QuickLink Telecom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, DA 05-1907 (Enf. Bur., released July 5, 2005) ("*QuickLink NAL*").

³ 2003 FCC Form 499-A at 5.

⁴ <http://www.qltel.net/contact.htm>

⁵ 47 C.F.R. § 54.706(a).

⁶ 47 C.F.R. § 54.706.

requirement to contribute to USF.⁷ The Bureau sent the LOI to QuickLink's registered office in Jamaica, New York, by certified mail/return receipt requested, facsimile and email.⁸ The Bureau also sent the LOI to QuickLink's registered agent by certified mail/return receipt requested. The LOI directed QuickLink to provide certain specified documents and information within twenty calendar days of the date of the letter, *i.e.*, by November 5, 2004.

4. As of November 6, 2004, the Bureau had not received communication of any kind from QuickLink. Bureau staff made several additional attempts to reach the company, and ultimately spoke to a man answering the telephone at QuickLink's office and representing himself as Muhammad Ali on December 14, 2004. Mr. Ali confirmed QuickLink's business address, that the named addressee on the letter, Amar Siddigui, was involved with the company, and that the company had received invoices from USAC. He made no representations concerning the company's response to the LOI. Later that day, Bureau staff sent a letter to QuickLink, reciting the above history, and reminding QuickLink that its "failure to respond fully to the October 15, 2004, LOI subjects it to potential enforcement action, including forfeitures. Unless we receive a full response to the Bureau's LOI within seven days of this letter, by December 1, 2004, we will commence such an enforcement action."⁹ The Bureau sent the letter by certified mail/return receipt requested, and by facsimile. Additionally, Bureau staff repeatedly telephoned QuickLink between December 14, 2004, and December 20, 2004, but were told that QuickLink's president was out of the country at present. To date, the Bureau has not received any response to the LOI from QuickLink.

5. On July 5, 2005, the Bureau issued the *QuickLink NAL* proposing a forfeiture in the amount of \$20,000. The *QuickLink NAL* ordered QuickLink to pay the forfeiture or respond to the notice, as well as to respond to the LOI, within 30 days.¹⁰ This notice was sent to QuickLink's last known address via certified mail and email. As of the date of the release of this order, QuickLink has still not filed a response to LOI, and has not paid the forfeiture amount or submitted a response to the *QuickLink NAL*.

III. DISCUSSION

6. This forfeiture is issued pursuant to section 503(b)(1) of the Communications Act of 1934, as amended (the "Act"). Under that provision, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.¹¹ Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.¹² The legislative history to section 312(f)(1) of the Act

⁷ LOI.

⁸ The certified mail's return receipt indicates the LOI was received by QuickLink's corporate office, located in Jamaica, Queens, NY, on November 1, 2004. The Bureau's facsimile machine generated a confirmation sheet indicating that the document was successfully transmitted to QuickLink. The email, sent to the email address listed by QuickLink in its 2003 FCC Form 499-A, bounced back to the FCC as 'undeliverable.' The Bureau also sent a copy of the LOI to Roger Eddleman in Falls Church, VA, who is listed on QuickLink's 2003 FCC 499-A as an agent for service of process. According to the certified mail receipt, Mr. Eddleman received the document on October 21, 2004. Thereafter, he contacted the Bureau and said he was not QuickLink's agent for service.

⁹ LOI Follow-up.

¹⁰ *QuickLink NAL* at 5.

¹¹ 47 U.S.C. § 503(b)(1)(b).

¹² 47 U.S.C. § 312(f)(1).

clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act,¹³ and the Commission has so interpreted the term in the section 503(b) context.¹⁴ The term “repeated” means that the act was committed or omitted more than once, or lasts more than one day.¹⁵

7. As discussed in the *NAL*, section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture against telecommunications carriers of up to \$130,000 for each violation or each day of a continuing violation, up to a statutory maximum of \$1,325,000 for a single act or failure to act.¹⁶ In determining the appropriate forfeiture amount, we consider the factors enumerated in section 503(b)(2)(D) of the Act, including “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹⁷ In exercising such authority, we have the discretion to adjust the forfeiture amount based on the particular facts and circumstances of the violations.¹⁸

8. In the *NAL*, we proposed a forfeiture of \$20,000 for QuickLink’s apparent violation of a Commission order by willfully and repeatedly failing to respond to a Bureau directive to provide certain information and documents.¹⁹ We noted the base forfeiture of \$3,000 for failure to file required forms of information, and the base forfeiture of \$4,000 for failure to respond to a Commission communication, but concluded that the circumstances here warranted a substantial increase from these amounts.²⁰ We explained that QuickLink’s misconduct “exhibits a disregard for the Commission’s authority that cannot be tolerated, and, more importantly, threatens to compromise the Commission’s ability to adequately investigate violations of its rules.”²¹

9. By failing to respond to the *QuickLink NAL*, QuickLink has failed to identify facts or circumstances to persuade us that there is a basis for modifying the proposed forfeiture, and we are not aware of any further mitigating circumstances sufficient to warrant a reduction of the forfeiture penalty. For these reasons, we hereby impose a forfeiture of \$20,000 for QuickLink’s failure to respond to a Commission communication as set forth in the *QuickLink NAL*.

IV. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED THAT, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and section 1.80 of the Commission’s rules, 47 C.F.R. § 1.80, that QuickLink Telecom, Inc., SHALL FORFEIT to the United States government the sum of \$20,000 for willfully and repeatedly violating the Commission’s rules.

¹³ See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

¹⁴ See e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

¹⁵ *Id.* at 1362, ¶ 9.

¹⁶ 47 U.S.C. § 503(b)(2)(B). See also 47 C.F.R. § 1.80(b)(2); *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 19 FCC Rcd 10945 (2004).

¹⁷ 47 U.S.C. § 503(b)(2)(D).

¹⁸ *Bigzoo* at 3955 ¶¶ 5-6.

¹⁹ *QuickLink NAL*, *supra* note 2, at 4.

²⁰ *Id.* at 4; see also *Bigzoo* at 3955 ¶¶ 5-6.

²¹ *QuickLink NAL*.

11. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission's rules within 30 days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.²² Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C., 20554.²³

12. IT IS FURTHER ORDERED that a copy of this Order shall be sent by first class mail and certified mail return receipt to QuickLink Telecom, Inc., 169-26 Hillside Avenue, Jamaica, NY 11432.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Acting Chief, Enforcement Bureau

²² 47 U.S.C § 504(a).

²³ See 47 U.S.C § 1.1914.