



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

April 27, 2007

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph DePante
Action Research Group
2263 W. New Haven Avenue, #399
Melbourne, FL 32904

Re: EB-06-TC-709

Dear Mr. DePante:

This is an official **CITATION**, issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Communications Act or Act), 47 U.S.C. § 503(b)(5), for failing to comply with an order issued by the Federal Communications Commission requiring the production of documents and information. As explained below, continuing refusal to comply with the Commission's order requiring the production of documents and information may subject your company to monetary forfeitures.

On September 28, 2006, you received a subpoena issued by the Enforcement Bureau of the Federal Communications Commission.¹ The subpoena, issued pursuant to the authority set forth in Sections 151 and 409 of the Communications Act, concerned call detail and other customer proprietary network information ("CPNI") Action Research Group may be obtaining from telecommunications providers, in apparent violation of section 222 of the Communications Act of 1934, as amended ("the Act"), 47 U.S.C. § 222 and sections 64.2001-2009 of the Commission's rules, 47 C.F.R. § 64.2001-2009. The subpoena required you to produce information and documents responsive to eight specific requests within 10 calendar days of service of the subpoena.

To date, we have not received any response to the questions in the subpoena. Accordingly, you have failed to comply with an order of the Commission. Therefore, we issue this Citation.

Section 503(b)(1) of the Communications Act provides in pertinent part that "[a]ny person who is determined by the Commission . . . to have . . . willfully or repeatedly failed to comply with any of the provisions of this Act or of any . . . order issued by the Commission under this Act . . . shall be liable to the United States for a forfeiture penalty."² Section 503(b)(5) of the Act further provides that:

No forfeiture liability shall be determined under this subsection against any person, if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, and if such person is not an applicant for a license, permit, certification, or other authorization issued by the Commission, unless, prior to the notice required by paragraph (3) of this

¹ Copies of the subpoena and cover letter are attached.

² 47 U.S.C. § 503(b)(1).

subsection or the notice of apparent liability required by paragraph (4) of this subsection, such person (A) is sent a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission which is nearest to such person's place of residence; and (C) subsequently engages in conduct of the type described in such citation.³

This Citation satisfies the requirements set forth above in Section 503(b)(5) of the Act.

If, after receipt of this Citation, you continue to refuse to comply with the Commission's orders in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation, up to a maximum of \$97,500 for a continuing violation.⁴ In addition, as indicated in the subpoena, failure to comply with the subpoena may lead to a contempt citation by a United States District Court judge and may subject you to a misdemeanor charge, which, on conviction, may also subject you to a fine or imprisonment or both.

You are hereby directed again to provide full and complete responses to the inquiries contained in the subpoena served on you on September 28, 2006. You must provide complete responses no later than 7 calendar days from receipt of this Citation. Responses should be directed to the individual identified below:

Marcy Greene, Deputy Division Chief
Room 4-A263
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Reference EB-06-TC-709 when corresponding with the Commission.

In addition, you may request a personal interview at the Commission's Field Office nearest to your place of business. Any request for an interview, however, in no way alleviates your obligation to provide full and complete responses to each of the inquiries contained in the subpoena. The nearest Commission field office appears to be the Tampa, Florida office - 2203 N. Lois Avenue, Room 1215, Tampa, Florida 33607. Please call Byron McCoy at 202-418-1634 if you wish to schedule a personal interview. You should schedule any interview to take place within 7 days of the date of this letter.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least 5 days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format): 202-418-0531 (voice), 202-418-7365 (tty).

³ 47 U.S.C. § 503(b)(5).

⁴ See 47 C.F.R. § 1.80(b)(3).

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Colleen K. Heitkamp
Chief, Telecommunications Consumers Division
Enforcement Bureau

Enclosures