

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	File No.: EB-TCD-12-00000342 ¹
)	
American Network, Inc.)	Acct. No.: 201332170010
)	
)	FRN: 0004294856

ORDER

Adopted: March 19, 2013

Released: March 19, 2013

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission and American Network, Inc. (ANI). The Consent Decree terminates the Bureau's investigation into ANI's compliance with Section 225 of the Communications Act of 1934, as amended,² and Sections 64.604 and 64.611 of the Commission's rules³ concerning the provision of Telecommunications Relay Services and compensation from the TRS Fund.

2. The Bureau and ANI have negotiated the terms of the Consent Decree that resolves the matters in the above-captioned investigation. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the above referenced investigation.

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Communications Act of 1934, as amended,⁴ and Sections 0.111 and 0.311 of the Commission's rules,⁵ the Consent Decree attached to this Order **IS ADOPTED**.

¹ This investigation was originally identified as file number EB-11-TC-021.

² 47 U.S.C § 225.

³ 47 C.F.R. §§ 64.604, 64.611.

⁴ 47 U.S.C. §§ 154(i), 503(b).

⁵ 47 C.F.R. §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Russell H. Fox, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., 701 Pennsylvania Ave., NW, Suite 900, Washington, DC 20004.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief
Enforcement Bureau

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American Network, Inc.)	NAL/Acct No.: 201332170010
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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and American Network, Inc. by their respective authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into ANI's provision of Telecommunications Relay Services and compensation from the TRS Fund, including the Company's compliance with Section 225 of the Communications Act of 1934, as amended,² and Sections 64.604 and 64.611 of the Commission's rules.³

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "ANI" or "Company" means American Network, Inc. and its predecessors-in-interest and successors-in-interest.
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which ANI was subject to by virtue of its business activities conducted pursuant to its certification as a provider of Internet-based TRS eligible to receive reimbursements from the TRS Fund.
 - (g) "Compliance Reports" mean the reports ANI is required to file with the

¹ The Investigation was originally identified as file number EB-11-TC-021.

² 47 U.S.C. § 225.

³ 47 C.F.R. §§ 64.604, 64.611.

Commission pursuant to paragraph 15.

- (h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (i) “Internet-based TRS” means IP CTS, IP Relay, and VRS collectively.
- (j) “IP CTS” means Internet Protocol Captioned Telephone Service, 47 C.F.R. § 64.601(12).
- (k) “IP Relay” means Internet Protocol Relay Service, 47 C.F.R. § 64.601(a)(13).
- (l) “Investigation” means investigative measures and reviews undertaken by the Bureau regarding the Company’s compliance with Section 225 of the Act, 47 U.S.C. § 225 and the TRS Rules in File No.: EB-TCD-12-00000342 (formerly EB-11-TC-021).
- (m) “Parties” means ANI and the Bureau, each of which is a “Party.”
- (n) “Reimbursement Dates” means the dates on which ANI received reimbursement from the TRS Fund for minutes handled.
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (p) “TRS” means Telecommunications Relay Services, 47 C.F.R. § 64.601(a)(22).
- (q) “TRS Fund” or “Fund” means the Telecommunications Relay Services Fund, 47 C.F.R. § 64.604(c)(5)(iii).
- (r) “TRS Fund administrator” or “Administrator” means the entity selected by the Commission to administer the TRS Fund, 47 C.F.R. § 64.604(c)(5)(iii).
- (s) “TRS Rules” means the regulations set forth at Section 64.601 through Section 64.613 of the Rules, 47 C.F.R. §§ 64.601 *et. seq.* and Commission orders implementing and interpreting 47 U.S.C. § 225 of the Act, and any other Commission rules and orders applicable to TRS providers.
- (t) “Voluntary Contribution” means the payment made by or on behalf of ANI to the United States Treasury pursuant to this Consent Decree and described at paragraph 17.
- (u) “VRS” means Video Relay Service, 47 C.F.R. § 64.601(a)(27).

II. BACKGROUND

2. TRS enables persons who have a hearing or speech impairment to communicate using voice communications services in a manner that is functionally equivalent to that of persons without such disabilities.⁴ Section 225 of the Act requires the Commission to ensure that TRS is “available, to the extent possible and in the most efficient manner” to persons with hearing or speech disabilities in the United States.⁵ In meeting its obligations under the statute, the Commission has recognized numerous forms of TRS.⁶

3. TRS users do not pay to use the service. Rather, the cost of providing TRS is ultimately paid for by the subscribers of telecommunications and interconnected VoIP services, through a surcharge that providers of these services impose on the monthly bills of their subscribers.⁷ These providers pay the monies they collect from the surcharges into the TRS Fund, which is then used to reimburse eligible TRS providers for the cost of providing TRS.⁸ The TRS Rules require TRS providers seeking compensation from the TRS Fund to submit true and adequate data to the TRS Fund Administrator, as well as to provide upon request additional data the Administrator may need to verify payment requests.⁹

4. In 2008, the Commission adopted a new numbering system, involving ten-digit numbers linked to the North American Numbering Plan, for Internet-based TRS use, and imposed certain new obligations on Internet-based TRS providers.¹⁰ Among other things, the Commission prohibited, after December 31, 2008, an Internet-based TRS provider from providing (non-emergency) service to a new user without first registering that user and assigning him or her a ten-digit number.¹¹ With respect to existing users, the Commission ultimately mandated that Internet-based providers cease providing (non-emergency) service, absent registration and assignment of a ten-digit number, after November 12, 2009.¹²

⁴ See 47 U.S.C. § 225(a)(3). See also 47 C.F.R. § 64.601(a)(22).

⁵ 47 U.S.C. § 225(b)(1).

⁶ 47 C.F.R. § 64.601.

⁷ 47 C.F.R. § 64.604(c)(5) (setting out the method for recovering the costs of TRS from subscribers of interstate and intrastate telecommunications, e.g., mobile telephone, operator services, voice telephone services, toll free number services, international, etc.); *IP-Enabled Services*, WC Docket No. 04-36, WT Docket No., 96-198, CG Docket No. 03-123, CC Docket No. 92-105, Report & Order, 22 FCC Rcd 11275, 11283-291 (2007) (requiring providers of interconnected VoIP services to contribute to the TRS Fund).

⁸ 47 U.S.C. § 225(d)(3).

⁹ 47 C.F.R. §§ 64.604(c)(5)(iii)(D), (E).

¹⁰ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) (*Internet-Based TRS Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791 (2008) (*Second Internet-Based TRS Report & Order*).

¹¹ *Internet-Based TRS Report & Order*, 23 FCC Rcd at 11610.

¹² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; WC Docket No. 05-196, Order, 24 FCC Rcd 8000, 8002 (2009).

5. On January 23, 2012, the Bureau issued a Letter of Inquiry (LOI) and subpoena to ANI seeking information to assess whether the Company complied with the TRS Rules and Commission orders governing Internet-based TRS, including whether the Company had established a reasonable process for verifying information provided by users registering for ten-digit numbers.¹³ The LOI and subpoena required ANI to submit specific information associated with registrations completed since January 1, 2009.

6. On February 22, 2012, ANI submitted its response, which indicated that ANI may have billed the TRS Fund for calls by unregistered Internet-based TRS users after the date that such conduct was impermissible.¹⁴ In subsequent discussions, the Company acknowledged that it had determined that ANI's subcontractor failed to register any IP Relay users but still processed calls and ANI billed the TRS Fund for them. After conducting an internal review, the Company determined that it was financially unable to proceed as an ongoing operation and decided to cease providing TRS.

7. ANI subsequently met with the Bureau for purposes of reaching agreement to resolve all outstanding issues related to its compliance with the Act, the Rules, and Commission orders, and terminating the Bureau's Investigation.

8. The Administrator is currently holding \$183,462.65 that is associated with claims for compensation filed by ANI.

III. TERMS OF AGREEMENT

9. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

10. **Jurisdiction.** ANI agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

11. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date, as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

12. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, ANI agrees to the terms, conditions, and procedures contained herein. ANI also agrees that for a period of two years from the Effective Date, neither the Company nor its principals will engage in any business activities related to provisioning or otherwise providing any form of TRS (e.g., offer TRS, manage TRS call centers, subcontract to provide any services) where the Company or any Company principal is reimbursed directly

¹³ See Letter from Richard A. Hindman, Chief, TCD, FCC Enforcement Bureau, to Kent Charugundla, President, American Network, Inc., (January 23, 2012) (on file in EB-11-TC-021/EB-TCD-12-00000342).

¹⁴ See Letter from Kent Charugundla, President, American Network, Inc., to Sharon Lee, Deputy Division Chief, TCD, FCC Enforcement Bureau (February 23, 2012) (on file in EB-11-TC-021/EB-TCD-12-00000342).

or indirectly through payments from the TRS Fund. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against ANI concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in these Investigations through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against ANI with respect to ANI's basic qualifications, including its character qualifications, to be a Commission licensee or certified TRS provider, or to hold Commission certifications, licenses, or authorizations. The Bureau represents that, except for the Investigation, it has no other enforcement investigation or inquiry currently underway against ANI that involves the same factual allegations underlying the Investigation.

13. **Representations; Warranties.** ANI warrants that in March 2012, the Company ceased to provide Internet-based TRS and is no longer certified as an Internet-based TRS provider. ANI further represents that the Company does not currently provide any form of TRS, directly or indirectly. ANI agrees that the Company will notify the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Sharon Lee at sharon.lee@fcc.gov and to fccebaaccess@fcc.gov ninety (90) calendar days prior to providing any form of TRS, directly or as a contractor.

14. **Reporting Noncompliance.** ANI shall report any noncompliance with the TRS Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of each instance of noncompliance. All reports of noncompliance shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Sharon Lee at sharon.lee@fcc.gov and to fccebaaccess@fcc.gov.

15. **Compliance Reports.** For purposes of settling the matters set forth herein, ANI agrees to submit to the Commission within thirty (30) calendar days after the Effective Date of this Consent Decree a Compliance Report that: (i) identifies the date on which ANI ceased conducting any TRS business; (ii) includes copies of all notices that ANI sent to its employees, independent contractors, and Internet-based TRS users notifying them that ANI closed its TRS business; and (iii) includes copies of any contracts or agreements that relate to the sale, use, transfer, or management of call centers, personnel, and the infrastructure associated with ANI's TRS business. ANI shall also file a Compliance Report with the Commission six (6) and twelve (12) months after the Effective Date that: (i) confirms the status of ANI's business as it relates to TRS and (ii) includes a copy of any contract(s) and a detailed description of any arrangement(s) the Company has entered into that relate to TRS. Both the initial and subsequent compliance reports shall be submitted to the Chief, Telecommunications Consumer Division, Enforcement Bureau, Federal Communications, 4-C224, 445 12th Street, S.W. Washington, D.C. 20554, with a copy submitted electronically to Richard Hindman at richard.hindman@fcc.gov and to Sharon Lee at sharon.lee@fcc.gov and to fccebaaccess@fcc.gov.

16. **Termination Date.** Unless stated otherwise, the obligations set forth in paragraphs 14 and 15 of this Consent Decree shall expire twenty-four months (24) months after the Effective Date.

17. **Voluntary Contribution.** ANI agrees that it will make a Voluntary Contribution to the United States Treasury in the amount of \$59,019.25. Furthermore, ANI acknowledges and agrees that upon execution of this Consent Decree, the amount of the Voluntary Contribution is a "Claim" or "Debt"

as defined in 31 U.S.C. § 3701(b)(1).¹⁵ The Debt may be fully satisfied by administrative offset initiated by the Commission on the Effective Date.

18. **Reimbursement to the TRS Fund.** ANI agrees that it shall make a Refund Payment to the TRS Fund within thirty (30) calendar days after the Effective Date totaling \$124,443.40, which includes accrued interest calculated from the Reimbursement Dates. ANI acknowledges and agrees that upon execution of this Consent Decree, the amount of the Refund Payment is a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1). The Debt may be fully satisfied by administrative offset initiated by the Commission on the Effective Date.

19. **Interest and Charges for Collection.** In the event the Debt cannot be satisfied by administrative offset, then as to any remaining unpaid balance of the Debt, ANI will have committed an event of default under this Consent Decree. Thereafter, automatically, and without further notice, the then entire unpaid amount of the Debt shall accrue interest at a rate of 15.75% per annum from the date of the event of default until payment in full. An event of default on either payment of the Voluntary Contribution or the Refund Payment will result in a cross default on both amounts. Upon an event of default, the then unpaid amount of the Debt together with interest, as aforesaid, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charge(s), plus the costs of collection, litigation, and attorneys’ fees, is accelerated and shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by ANI. Upon an event of default by nonpayment of the Debt, all procedures for collection permitted by the Debt Collection Improvement Act of 1996¹⁶ and other provisions of law¹⁷ may, at the Commission’s discretion, be initiated.

20. **Waivers.** ANI waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither ANI nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and ANI shall waive any statutory right to a trial *de novo*. ANI hereby agrees to waive any claims it may have under the Equal Access to Justice Act¹⁸ relating to the matters addressed in this Consent Decree.

21. **Invalidity.** The Parties agree that if a court of competent jurisdiction renders any of the provisions of the Adopting Order or the Consent Decree invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

¹⁵ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

¹⁶ *Id.*

¹⁷ See 31 C.F.R. Parts 900-904; 47 C.F.R. § 1.1901, *et seq.*

¹⁸ Equal Access to Justice Act, Pub L. No 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

22. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which ANI does not expressly consent) that provision will be superseded by such Rule or Commission order.

23. **Successors and Assigns.** ANI agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

24. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigations. The Parties further agree that this Consent Decree does not constitute an adjudication on the merits, or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

25. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

26. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

27. **Authorized Representative.** The individual signing this Consent Decree on behalf of ANI represents and warrants that he is authorized by ANI to execute this Consent Decree and to bind ANI to the obligations, including all payment obligations, set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

28. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

P. Michele Ellison
Chief
Enforcement Bureau

Kent Charugundla
President
American Network, Inc.

Date

Date