



**FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

July 13, 2009

**VIA CERTIFIED MAIL AND REGULAR MAIL**  
**RETURN RECEIPT REQUESTED**

American West Advertising  
aka American West Tour and Travel  
2108 SW 152<sup>nd</sup> Street  
Burien, WA 98166

RE: File No. EB-09-TC-395

Dear Correspondent:

This is an official **CITATION**, issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 503(b)(5), for violations of the Act and the Federal Communications Commission's rules that govern telephone solicitations and unsolicited advertisements.<sup>1</sup> As explained below, you may appeal this citation. In addition, future violations of the Act or Commission's rules in this regard may subject you and your company to monetary forfeitures.<sup>2</sup>

Attached are consumer complaints regarding autodialed, prerecorded<sup>3</sup>, or artificial voice messages that your company, acting under your direction, has delivered to an emergency telephone line, a telephone line of a guest or patient room at a health care facility, or a telephone number assigned to a paging service, cellular telephone service or any service for which the called party is charged for the call. These complaints indicate that you and your company have violated section 227(b)(1)(A) of the Act and section 64.1200(a)(1) of the Commission's rules. *See* 47 U.S.C. § 227(b)(1)(A); 47 C.F.R. § 64.1200(a)(1).

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<sup>1</sup> 47 U.S.C. § 227; 47 C.F.R. § 64.1200. A copy of these provisions is enclosed for your convenience. Section 227 was added to the Communications Act by the Telephone Consumer Protection Act of 1991 and is most commonly known as the TCPA. The TCPA and the Commission's parallel rules restrict a variety of practices that are associated with telephone solicitation and use of the telephone network to deliver unsolicited advertisements, including prerecorded messages to residential telephone lines.

<sup>2</sup> We have attached one complaint at issue in this citation. Within the complaint is the telephone number 206-242-9026, which your business utilized during the time period at issue.

<sup>3</sup> In cases where the complaint form indicates that the type of call is "P", the consumer has selected "prerecorded" as the type of call.

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Under Section 227(b)(1)(A) of the Act and section 64.1200(a)(1) of the Commission's rules, it is unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States to initiate calls using an automatic telephone dialing system<sup>4</sup> or an artificial or prerecorded voice to (1) any emergency telephone line, (2) the telephone line of any guest or patient room at a health care facility, or (3) any telephone number assigned to a paging service, cellular telephone service or any service for which the called party is charged for the call.<sup>5</sup> The provisions provide exceptions when the call is made (1) for emergency purposes, or (2) with the prior express consent of the called party.<sup>6</sup>

**If, after receipt of this citation, you or your company violate the Communications Act or the Commission's rules 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 occurring before September 2, 2008, and \$16,000 for each such violation or each day of a continuing violation occurring on or after September 2, 2008.<sup>7</sup>**

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. You may use this response to appeal this citation. For example, you may claim that you can document that you had an established business relationship with the called party at the time of the call or that you are a tax-exempt nonprofit organization. In addition, your response should specify the actions that you are taking to ensure that you do not violate the Commission's rules governing prerecorded messages, as described above.

**You may schedule a personal interview at the nearest Commission field office. These offices are located in: Atlanta, GA; Boston, MA; Chicago, IL; Columbia, MD; Dallas, TX; Denver, CO; Detroit, MI; Kansas City, MO; Los Angeles, CA; New Orleans, LA; New York, NY; Philadelphia, PA; San Diego, CA; San Francisco, CA; Seattle, WA; and Tampa, FL. Please call Al McCloud at 202-418-2499 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:**

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<sup>4</sup> The term "automatic telephone dialing system" means "equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator, and to dial such numbers." 47 U.S.C. § 227(a)(1); 47 C.F.R. § 64.1200(f)(1).

<sup>5</sup> 47 U.S.C. § 227(b)(1)(A)(i) - (iii); 47 C.F.R. § 64.1200(a)(1)(i) - (iii).

<sup>6</sup> 47 U.S.C. § 227(b)(1)(A); 47 C.F.R. § 64.1200(a)(1).

<sup>7</sup> See 47 C.F.R. § 1.80(b)(3); *Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 15 FCC Rcd 18221 (2000) (forfeiture maximum set at \$11,000 for violators who are not common carriers or other entities specifically designated in section 503 of the Act); *Amendment of Section 1.80(b) of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 19 FCC Rcd 10945 (2004) (amendment of section 1.80(b) to reflect inflation left the forfeiture maximum for this type of violator at \$11,000); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, FCC 08-154, rel. June 13, 2008 (amendment of section 1.80(b) to reflect inflation increased the forfeiture maximum for this type of violator to \$16,000, effective September 2, 2008).

## Federal Communications Commission

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Kurt A. Schroeder  
Deputy Chief  
Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission  
445-12<sup>th</sup> Street, S.W.  
Rm. 4-C222  
Washington, D.C. 20554

### **Reference EB-09-TC-395 when corresponding with the Commission.**

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](mailto: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).

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,

Kurt A. Schroeder  
Deputy Chief, Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission

Enclosures