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

In the Matter of	)	
	)	
	)	
MEXICO MARKETING, LLC	)	File No. EB-06-TC-130
d/b/a TravelComm, Inc.	)	
d/b/a TravelComm Industries, Inc.	)	NAL/Acct. No. 200732170070
d/b/a Canadian Travel	)	FRN: 0016560401
d/b/a Patriot Travel	)	
d/b/a CancunAllInclusive.net	)	
d/b/a Cheapticketscancun	)	
d/b/a International Resort Reservations	)	
d/b/a Cancun Adventures, Inc.	)	
	)	
Apparent Liability for Forfeiture	)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 31, 2007 **Released: July 31, 2007**

By the Commission:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL")[1], we find that Mexico Marketing, LLC ("Mexico Marketing")[2] apparently willfully or repeatedly violated section 227 of the

---

[1] *See* 47 U.S.C. § 503(b)(1). The Commission has the authority under this section of the Act to assess a forfeiture against any person who has "willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act ...." *See also* 47 U.S.C. § 503(b)(5) (stating that the Commission has the authority under this section of the Act to assess a forfeiture penalty against any person who does not hold a license, permit, certificate or other authorization issued by the Commission or an applicant for any of those listed instrumentalities so long as such person (A) is first issued 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 nearest to the person's place of residence; and (C) subsequently engages in conduct of the type described in the citation).

[2] According to publicly available information, Mexico Marketing is also doing business as TravelComm, Inc., TravelComm Industries, Inc., Canadian Travel, Patriot Travel, CancunAllInclusive.net, Cheapticketscancun, International Resort Reservations and Cancun Adventures, Inc. Therefore, all references in this NAL to "Mexico Marketing" encompass Mexico Marketing as well as TravelComm, Inc., TravelComm Industries, Inc., Canadian Travel, Patriot Travel, CancunAllInclusive.net, Cheapticketscancun, International Resort Reservations and Cancun Adventures, Inc. Mexico Marketing has offices at 5895 Carrier Drive, Orlando, FL 32819; 5850 Lakehurst Drive, #280, Orlando, FL 32819; P.O. Box 300245, Casselberry, FL 32730 and 322 W Newell St., Winter Garden, FL 34787. Jerry Decker, President of Sales and Marketing, is listed as the contact person for Mexico Marketing. Dan Hatfield and Rigoberto Sotolongo are listed as Presidents for Mexico Marketing and Peter Sotolongo is the Manager. Accordingly, all references in this NAL to "Mexico Marketing" also encompass the foregoing individuals and all other principals and officers of this entity, as well as the corporate entity itself. The Registered Agent for Mexico Marketing is listed as Dorough, Calzada & Hamner, P.L., 419 North Magnolia Avenue, Orlando, FL 32801.

(continued....)

Communications Act of 1934, as amended ("Act"), and the Commission's related rules and orders, by delivering at least 209 unsolicited advertisements to the telephone facsimile machines of at least 45 consumers.[3] Based on the facts and circumstances surrounding these apparent violations, we find that Mexico Marketing is apparently liable for a forfeiture in the amount of $1,133,000.

II. BACKGROUND

2. Section 227(b)(1)(C) of the Act makes it "unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States . . . to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement."[4] The term "unsolicited advertisement" is defined in the Act and the Commission's rules as "any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission in writing or otherwise."[5] Under the Commission's Rules, an "established business relationship"[6] exception permits a party to deliver a message to a consumer if the sender has an established business relationship with the recipient *and* the sender obtained the number of the facsimile machine through the voluntary communication by the recipient, directly to the sender, within the context of the established business relationship, or through a directory, advertisement, or a site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution.[7]

3. On June 30, 2006, in response to one or more consumer complaints alleging that Mexico Marketing had faxed unsolicited advertisements, the Commission staff issued a citation[8] to Mexico Marketing pursuant to section 503(b)(5) of the Act.[9] The staff cited Mexico Marketing for using a telephone facsimile machine, computer, or other device, to send unsolicited advertisements to a telephone facsimile machine, in violation of section 227 of the Act and the Commission's related rules and orders. The citation, which the staff served by certified mail, return receipt requested, warned Mexico Marketing, that subsequent violations could result in the imposition of monetary forfeitures of up to $11,000 per violation, and included a copy of the consumer complaints that formed the basis of the citation.[10] The

(...continued from previous page)

[3] *See* 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64.1200(a)(3); *see also Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Report and Order and Third Order on Reconsideration*, 21 FCC Rcd 3787 (2006).

[4] 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. §64.1200(a)(3).

[5] 47 U.S.C. §227(a)(4); 47 C.F.R. §64.1200 (f)(13).

[6] An "established business relationship" is defined as a prior or existing relationship formed by a voluntary two-way communication "with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the business or residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party." 47 C.F.R. § 64.1200(f)(5).

[7] *See* 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64 (a)(3)(i), (ii).

[8] Citation from Kurt A. Schroeder, Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau, File No. EB-06-TC-130, issued to Mexico Marketing, LLC on June 30, 2006. The Commission staff previously issued a citation for unsolicited facsimile advertising to TravelComm Industries, Inc. on May 19, 2005.

[9] *See* 47 U.S.C. § 503(b)(5) (authorizing the Commission to issue citations to persons who do not hold a license, permit, certificate or other authorization issued by the Commission or an applicant for any of those listed instrumentalities for violations of the Act or of the Commission's rules and orders).

[10] Commission staff mailed the citation to Mexico Marketing, LLC's three Florida addresses: 5895 Carrier Drive, Orlando, FL 32819, P.O. Box 300245, Casselberry, FL 32730 and 322 W. Newell St., Winter Garden, FL 34787. The citation was also sent by regular mail to P.O. Box 300245, Casselberry, FL 32730.

citation informed Mexico Marketing within 30 days of the date of the citation, it could either request an interview with Commission staff, or could provide a written statement responding to the citation. Mexico Marketing did not request an interview or otherwise respond to the citation.

4. Despite the June 30, 2006 citation's warning that subsequent violations could result in the imposition of monetary forfeitures, we have received additional consumer complaints indicating that Mexico Marketing continued to engage in such conduct after receiving the citation.[11] We base our action here specifically on complaints filed by 45 consumers establishing that Mexico Marketing continued to send 209 unsolicited advertisements to telephone facsimile machines after the date of the citation.[12]

5. Section 503(b) of the Act authorizes the Commission to assess a forfeiture of up to $11,000 for each violation of the Act or of any rule, regulation, or order issued by the Commission under the Act by a non-common carrier or other entity not specifically designated in section 503 of the Act.[13] In exercising such authority, we are to take into account "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."[14]

III. DISCUSSION

A. Violations of the Commission's Rules Restricting Unsolicited Facsimile Advertisements

6. We find that Mexico Marketing apparently violated section 227 of the Act and the Commission's related rules and orders by using a telephone facsimile machine, computer, or other device to send at least 209 unsolicited advertisements to the 45 consumers identified in the Appendix. This NAL is based on evidence that these consumers received unsolicited fax advertisements from Mexico Marketing *after* the Commission's citation. Each of those facsimile transmissions advertises a vacation package. Further, according to their complaints, the consumers neither had an established business relationship with Mexico Marketing nor gave Mexico Marketing permission to send the facsimile transmissions.[15] The faxes at issue here therefore fall within the definition of an "unsolicited

---

[11] *See* Appendix for a listing of the consumer complaints against Mexico Marketing requesting Commission action.

[12] We note that evidence of additional instances of unlawful conduct by Mexico Marketing may form the basis of subsequent enforcement action.

[13] Section 503(b)(2)(C) provides for forfeitures up to $10,000 for each violation in cases not covered by subparagraph (A) or (B), which address forfeitures for violations by licensees and common carriers, among others. *See* 47 U.S.C. § 503(b). In accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, Pub. L. 104-134, Sec. 31001, 110 Stat. 1321, the Commission implemented an increase of the maximum statutory forfeiture under section 503(b)(2)(C) to $11,000. *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); *see also Amendment of Section 1.80(b) of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 19 FCC Rcd 10945 (2004) (this recent amendment of section 1.80(b) to reflect inflation left the forfeiture maximum for this type of violator at $11,000).

[14] 47 U.S.C. § 503(b)(2)(D); *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines, Report and Order*, 12 FCC Rcd 17087, 17100-01 para. 27 (1997) (*Forfeiture Policy Statement*), *recon. denied*, 15 FCC Rcd 303 (1999).

[15] *See, e.g.*, complaint dated January 23, 2007, from Nicole McMahan of M. B. Kahn Construction Company, Inc. (stating that the unsolicited faxes they received from companies including Mexico Marketing were "not requested" nor do they have a "prior business relationship with any of the companies"). All of the complainants involved in this action are listed in the Appendix below.

advertisement."[16] Based on the entire record, including the consumer complaints, we conclude that Mexico Marketing apparently violated section 227 of the Act and the Commission's related rules and orders by sending 209 unsolicited advertisements to 45 consumers' facsimile machines.

B. Proposed Forfeiture

7. We find that Mexico Marketing is apparently liable for a forfeiture in the amount of $1,133,000. Although the *Commission's Forfeiture Policy Statement* does not establish a base forfeiture amount for violating the prohibition against using a telephone facsimile machine to send unsolicited advertisements, the Commission has previously considered $4,500 per unsolicited fax advertisement to be an appropriate base amount.[17] We apply that base amount to each of 174 of the apparent violations. In addition, where the consumer requests the company to stop sending facsimile messages, and the company continues to send them, the Commission has previously considered $10,000 per unsolicited fax advertisement the appropriate forfeiture for such egregious violations.[18] Here, 18 consumers specifically requested that Mexico Marketing cease sending facsimiles. Notwithstanding these requests, an additional 35 facsimiles were sent to these consumers. Thus, we apply the $10,000 amount to each of 35 of the apparent violations. Thus, a total forfeiture of $1,133,000 is proposed. Mexico Marketing will have the opportunity to submit evidence and arguments in response to this NAL to show that no forfeiture should be imposed or that some lesser amount should be assessed.[19]

IV. CONCLUSION AND ORDERING CLAUSES

8. We have determined that Mexico Marketing, LLC apparently violated section 227 of the Act and the Commission's related rules and orders by using a telephone facsimile machine, computer, or other device to send at least 209 unsolicited advertisements to the 45 consumers identified in the Appendix. We have further determined that Mexico Marketing Industries, Inc. is apparently liable for a forfeiture in the amount of $1,133,000.

9. Accordingly, IT IS ORDERED, pursuant to section 503(b) of the Act, and section 1.80 of the Rules, 47 C.F.R. § 1.80, 47 U.S.C. § 503(b), that Mexico Marketing, LLC is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of $1,133,000 for willful or repeated violations of section 227(b)(1)(C) of the Communications Act, 47 U.S.C. § 227(b)(1)(C), sections 64.1200(a)(3) of the Commission's rules, 47 C.F.R. § 64.1200(a)(3), and the related orders described in the paragraphs above.

10. IT IS FURTHER ORDERED THAT, pursuant to section 1.80 of the Commission's rules,[20] within thirty (30) days of the release date of this *Notice of Apparent Liability for Forfeiture*, Mexico Marketing, LLC SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a

---

[16] 47 U.S.C. § 227(a)(4); 47 C.F.R. § 64.1200(f)(13) (definition previously at § 64.1200(f)(10)).

[17] *See Get-Aways, Inc.,* Notice of Apparent Liability For Forfeiture, 15 FCC Rcd 1805 (1999); *Get-Aways, Inc.,* Forfeiture Order, 15 FCC Rcd 4843 (2000); *see also US Notary, Inc.,* Notice of Apparent Liability for Forfeiture, 15 Rcd 16999 (2000); *US Notary, Inc.,* Forfeiture Order, 16 FCC Rcd 18398 (2001); *Tri-Star Marketing, Inc.,* Notice of Apparent Liability For Forfeiture, 15 FCC Rcd 11295 (2000); *Tri-Star Marketing, Inc.,* Forfeiture Order, 15 FCC Rcd 23198 (2000).

[18] *See Carolina Liquidators, Inc.*, Notice of Apparent Liability for Forfeiture, 15 FCC 16,837, 16,842 (2000); *21st Century Fax(es) Ltd., AKA 20th Century Fax(es)*, 15 FCC Rcd 24,406, 24,411 (2000).

[19] *See* 47 U.S.C. § 503(b)(4)(C); 47 C.F.R. § 1.80(f)(3).

[20] 47 C.F.R. § 1.80.

written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment by check or money order, payable to the order of the "Federal Communications Commission," may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251. Payment by overnight mail may be sent to Mellon Client Service Center, 500 Ross Street, Room 670, Pittsburgh, PA 15262-0001, Attn: FCC Module Supervisor. Payment by wire transfer may be made to: ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6229. The payment should note NAL/Acct. No. 200732170070.

12. The response, if any, must be mailed both to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division, and to Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, and must include the NAL/Acct. No. referenced in the caption.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for payment of the full amount of this *Notice of Apparent Liability for Forfeiture* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, SW, Washington, DC 20554.[21]

15. IT IS FURTHER ORDERED that a copy of this *Notice of Apparent Liability for Forfeiture* shall be sent by Certified Mail Return Receipt Requested to Mexico Marketing, LLC, Attention: Rigoberto Sotolongo, President, 5895 Carrier Drive, Orlando, FL 32819; 5850 Lakehurst Drive, #280, Orlando, FL 32819; P.O. Box 300245, Casselberry, FL 32730; 322 W Newell St., Winter Garden, FL 34787 and c/o Dorough, Calzada & Hamner, P.L., 419 North Magnolia Avenue, Orlando, FL 32801.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[21] 47 C.F.R. § 1.1914.

APPENDIX

Complainant	Violation Date(s)
Maggie Church	2/8/07; 2/9/07
Arthur H. Cobb – Cobb & Associates, Ltd.	9/28/06
Luis Cuevas	9/6/06
Warren Davis	10/30/06; 11/9/06; 12/8/06; 12/20/06; 1/15/07; 1/19/07; 1/31/07; 2/6/07; 2/12/07; 2/16/07; 2/28/07; 3/12/07; 3/16/07; 3/22/07
Leonard Gaudreau – Foothill Drilling, Inc.	11/06 (8 faxes); 12/06 (3 faxes)
Jerome Grdina	8/7/06; 8/15/06; 8/24/06; 8/30/06
Harold Hallikainen	2/14/07
David and Deborah Hawkins	10/06 (12 faxes)
David Hochstetler	8/31/06
Bill Jenkins	8/29/06
William Kulaski -- Kulaski Realty	12/29/07; 1/3/07; 1/19/07
David Kurzman – Backroom Sales	10/16/07
Thaddeus Kuziela	1/17/07
Craig Maelen	3/30/07
Richard Lucas	8/2/06; 8/21/06; 12/18/06; 1/10/07
Nicole McMahan – M. B. Kahn Construction Company, Inc.	9/06; 10/06 (2 faxes); 11/06; 1/07 (3 faxes)
Don Morrison – Rotations, Inc.	8/14/06; 8/22/06; 8/30/06; 2/22/07; 3/6/07; 3/12/07; 3/16/07; 3/26/07
Tom Neumann	8/20/06
Julia Norman – Virginia Literacy Foundation	10/9/06
Benjamin Schultz	8/11/06
Karen Shill	8/1/06
Andrea Silver	12/5/06
James Stewart	8/16/06 (2 faxes)
James Sutton	8/11/06; 8/23/06; 8/29/06; 9/9/06; 9/28/06; 10/5/06; 10/11/06; 10/23/06; 10/28/06; 11/2/06; 11/3/06; 11/14/06; 11/17/06; 11/24/06; 12/11/06; 12/12/06; 12/15/06; 12/21/06 (2 faxes); 12/28/06; 1/11/07; 1/17/07; 1/23/07; 1/29/07; 2/2/07; 2/8/07; 2/9/07 (2 faxes); 2/20/07; 2/23/07; 3/6/07; 3/12/07; 3/16/07; 3/21/07; 3/27/07; 3/28/07; 4/5/07; 4/10/07; 4/13/07; 4/18/07; 4/23/07; 4/25/07; 4/30/07; 5/3/07
R. Bryan Tilden	9/5/06; 9/12/06; 9/24/06; 9/26/06; 1/3/07; 1/9/07; 1/15/07; 1/19/07; 1/25/07; 1/31/07; 2/12/07; 3/29/07
Thomas Van Stavern	8/15/06; 10/11/06; 10/17/06; 10/23/06; 10/23/06; 10/30/06 (2 faxes); 11/6/07 (2 faxes); 11/13/06; 11/16/06; 11/24/06; 12/7/06 (2 faxes); 12/13/06; 12/19/06; 12/27/06; 1/4/07 (2 faxes); 1/11/07 (2 faxes); 1/17/07 (2 faxes); 1/23/07 (2 faxes); 1/30/07; 2/6/07 (2 faxes); 2/9/07; 3/3/07; 3/5/07; 3/12/07 (2 faxes); 3/16/07; 3/22/07 (2 faxes); 3/28/07;
Barbara Zipp	10/20/06

Complainant was sent facsimile solicitations after requesting no more be sent	**Violation Date(s)**
William Agosto	10/27/06; 11/14/06; 11/17/06; 11/24/06; 12/6/07; 12/26/07; 1/8/07; 1/12/07; 1/24/07
Robert Clark – Community Housing Group, LLC	8/17/06
Kathleen Edwards	8/4/06
Carol Lynn Esposito	12/26/06; 1/9/07
Craig Esselman – Eastern Modular Transportation	9/18/06
Ira Friedman	11/1/06; 11/7/06; 11/13/06; 11/17/06; 11/27/06; 12/1/06
David Graves	10/2/06
Chase Harlan	10/24/06
Sheila Massey	1/10/07; 1/16/07
Judith McElhatton	11/20/06
Barbara Murphy – Packaging & Shipping Group, Inc.	9/20/06
Lynn Muscat	8/26/06; 9/11/06
Michelle North – LynuxWorks, Inc.	1/24/07
Carol Pendergrass	3/14/07
Eric Sonju	1/31/07
Scott Storlid – Natural Resources Consulting, Inc.	9/8/06
Dinesh Wilson	9/6/06
Joanne Zapata – Stern Capital, LLC	9/27/06; 10/3/06