

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

In the Matter of)	
)	
Travel Club Marketing Inc.)	File No. EB-10-TC-428
dba Travelink Corp)	File No. EB-10-TC-473
dba Proven Results Direct Marketing Inc.)	
dba Direct Marketing Travel Services Inc.)	NAL/Acct. No. 201232170001
dba Diamond Vacations)	
dba Great Vacations)	FRN: 0021255427

Apparent Liability for Forfeiture

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: October 31, 2011

Released: October 31, 2011

By the Commission:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Travel Club Marketing Inc. (“Travel Club”)¹ has apparently willfully and repeatedly violated section 227(b)(1) of the Communications Act of 1934, as amended (“Communications Act” or “Act”) and section 64.1200(a) of the Commission’s rules by delivering 185 unsolicited, prerecorded messages to 142 telephone numbers assigned either to cell phones or residential telephone lines.² Moreover, in the case of at least one of the prerecorded calls, Travel Club also apparently violated section 64.1601(e) of the Commission’s rules, requiring that telemarketers transmit caller identification information.³ Based on the facts and circumstances surrounding Travel Club’s apparent violations of the prohibitions against unsolicited, prerecorded messages, we find that Travel Club is apparently liable for a proposed forfeiture in the amount of \$2,960,000.

¹ According to publicly available information, Travel Club also appears to do business as, or use the names of, Travelink Corp., Proven Results Direct Marketing Inc., Direct Marketing Travel Services Inc., Diamond Vacations and Great Vacations. *See infra* para. 14. Therefore, all references in this NAL to “Travel Club Marketing Inc.” or “Travel Club” encompass Travelink Corp., Proven Results Direct Marketing Inc., Direct Marketing Travel Services Inc., Diamond Vacations, Great Vacations, and any other names used by Travel Club or its President, Mr. Olen Miller as well. Travel Club has offices at 3240 S. Dale Mabry Hwy., Tampa, FL 33629, 324 N. Dale Mabry Hwy., Tampa, FL 33609 and 5700 Memorial Hwy., Tampa, FL 33615. Mr. Olen Miller, aka Mr. Okie Miller, is listed as the contact person for Travel Club. Accordingly, all references in this NAL to Travel Club Marketing Inc. or Travel Club also encompass the foregoing individual and all other principals and officers of this entity, as well as the corporate entity itself.

² 47 U.S.C. § 227(b)(1); 47 C.F.R. § 64.1200(a).

³ 47 C.F.R. § 64.1601(e)(1).

II. BACKGROUND

2. The Telephone Consumer Protection Act of 1991 (“TCPA”) was enacted to address problems of abusive telemarketing, including unsolicited prerecorded calls.⁴ Section 227(b)(1)(A)(iii) of the Communications Act and section 64.1200(a)(1)(iii) of the Commission’s rules make 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 initiate calls using an automatic telephone dialing system or an artificial or prerecorded voice to, *inter alia*, any cellular telephone number.⁵ The Act and the rules provide exceptions when the call is made (1) for emergency purposes or (2) with the prior express consent of the called party.⁶

3. Separately, section 227(b)(1)(B) of the Act prohibits any person from initiating “any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Commission”⁷ Section 64.1200(a)(2) of the Commission’s rules provides exemptions to this prohibition for calls: 1) made for emergency purposes; 2) not made for a commercial purpose; 3) “made for a commercial purpose but [that do] not include or introduce an unsolicited advertisement⁸ or constitute a telephone solicitation;”⁹ 4) made to any person “with whom the caller has an established business relationship¹⁰ at the time the call is made;” or 5) “made by or on behalf of a tax-exempt nonprofit organization”¹¹ (footnotes added).

4. In addition, section 64.1601(e) of the Commission’s rules requires telemarketers to transmit caller identification information.¹² Telemarketers are specifically required to deliver caller ID information that permits consumers to make a do-not-call request during regular business hours.¹³

⁴ Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (codified at 47 U.S.C. § 227).

⁵ 47 U.S.C. § 227(b)(1)(A)(i)–(iii); 47 C.F.R. § 64.1200(a)(1)(i)–(iii).

⁶ 47 U.S.C. § 227(b)(1)(A); 47 C.F.R. § 64.1200(a)(1). *See also* 47 C.F.R. § 64.1200(a)(1)(iv) (caller is not liable for call to wireless number, when call is voice call, not knowingly made to a wireless number, within 15 days of porting from wireline, and number is not on national do-not-call registry or company-specific do-not call list).

⁷ 47 U.S.C. § 227(b)(1)(B); 47 C.F.R. § 64.1200(a)(2).

⁸ An “unsolicited advertisement” is defined 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.” 47 U.S.C. § 227(a)(5); 47 C.F.R. § 64.1200(f)(13).

⁹ A “telephone solicitation” is defined as “the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person’s prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax-exempt nonprofit organization.” 47 U.S.C. § 227(a)(4). *See also* 47 C.F.R. § 64.1200(f)(12).

¹⁰ An “established business relationship” is defined as “a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of the subscriber’s purchase or transaction with the entity within the eighteen (18) months immediately preceding the date of the telephone call or on the basis of the subscriber’s inquiry or application regarding products or services offered by the entity within the three months immediately preceding the date of the call, which relationship has not been previously terminated by either party.” 47 C.F.R. § 64.1200(f)(4). *See also* 47 U.S.C. § 227(a)(2).

¹¹ 47 C.F.R. § 64.1200(a)(2).

¹² 47 C.F.R. § 64.1601(e). *See also* Truth in Caller ID Act of 2009, Pub. L. No. 111-331, 124 Stat. 3572 (2010) (codified at 47 U.S.C. § 227(e)).

¹³ 47 C.F.R. § 64.1601(e)(1).

5. On July 29, 2010, and September 28, 2010, in response to consumer complaints concerning unsolicited prerecorded calls, the Enforcement Bureau (“Bureau”) issued citations¹⁴ to Travel Club, pursuant to section 503(b)(5) of the Act.¹⁵ Travel Club responded to the first citation by letter, dated September 7, 2010, over the signature of Olen Miller, stating that “Travel Club Marketing & Travelink Corp. are two (2) Florida Corporations that are deceased and are no longer functioning. . . . The primary function of these deceased businesses were marketing, travel services for timeshares and travel clubs to only business customers. Not residential or consumers.”¹⁶ Further, the company asserted that it had “taken the proper measures in making sure that we have scrubbed our business list\leads against the Federal Do Not Call list and have removed any and all consumer & residential phone numbers. We have ceased on leaving all types of messages to businesses [sic].”¹⁷ Travel Club did not respond to the second citation.

6. Despite the citations’ warnings that subsequent violations could result in the imposition of monetary forfeitures, and Travel Club’s claims that two of its businesses were “deceased” and that it had taken steps to remove residential numbers from its call lists, we have received 142 additional consumer complaints indicating that Travel Club continued to deliver unsolicited prerecorded calls to residential consumers and cell phones after the dates of the citations.¹⁸ These calls occurred from November 1, 2010 through October 11, 2011.

III. DISCUSSION

A. Apparent Violations of Section 227(b)(1) of the Act and the Commission’s Rules Restricting Unsolicited Prerecorded Calls

7. We find that Travel Club has apparently violated section 227(b)(1)(A)(iii) of the Act and section 64.1200(a)(1)(iii) of the Commission’s rules by delivering 144 unsolicited, prerecorded messages to 113 cellular telephone numbers.¹⁹ According to the complaints, these messages were not made either for an emergency purpose or with the prior express consent of the called party.²⁰ Almost all of the complainants state that the messages promoted travel deals, vacation packages, free vacations, and time-shares.²¹ Based on the entire record, including the consumer complaints, we conclude that Travel Club

¹⁴ Citation from Joshua Zeldis, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau, File No. EB-10-TC-428, issued to Travel Club (July 29, 2010); Citation from Joshua Zeldis, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau, File No. EB-10-TC-473, issued to Travel Club (Sept. 28, 2010).

¹⁵ See 47 U.S.C. § 503(b)(5) (requiring the Commission to issue citations to persons who do not hold a license, permit, certificate, or other authorization issued by the Commission, or who are not an applicant for any of those listed instrumentalities, for violations of the Act or of the Commission’s rules and orders).

¹⁶ Letter from Olen Miller, Travel Club, File No. EB-10-TC-428, to Joshua Zeldis, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau (dated Sept. 7, 2010) (“*Citation Response*”).

¹⁷ *Id.*

¹⁸ See Appendices A, B, and C for a listing of the consumer complaints against Travel Club requesting Commission action.

¹⁹ 47 U.S.C. § 227(b)(1)(A)(iii); 47 C.F.R. § 64.1200(a)(1)(iii).

²⁰ See, e.g., complaint dated November 2, 2010 from R. Augenstein (stating that she had never done any business with the company, never made an inquiry or application to the company, and never gave permission for the company to make the call). The complaints involving prerecorded calls to cellular phones are listed in Appendix A below.

²¹ Although some of the complaints state that the messages ostensibly offered free services or products, or are silent as to whether the call was commercial in nature, our finding of a violation remains the same. The fact that some calls appeared to offer free vacations does not change the commercial nature of these prerecorded calls. The

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has apparently violated section 227(b)(1)(A)(iii) of the Act and section 64.1200(a)(1)(iii) of the Commission's rules by delivering 144 unsolicited prerecorded messages to 113 cellular telephone numbers.

8. We also find that Travel Club has apparently violated section 227(b)(1)(B) of the Act and section 64.1200(a)(2) of the Commission's rules by delivering 41 unsolicited, prerecorded advertising messages to the residential telephone lines of 29 consumers.²² According to the complaints, these unsolicited, prerecorded messages were received at residential telephone lines, were not made for any emergency or non-commercial purposes, were not on behalf of a tax-exempt, nonprofit organization, and were commercial in nature. All complainants also indicated that they neither had an established business relationship with Travel Club nor gave Travel Club permission to deliver the unsolicited, prerecorded messages. Thus, these messages were not exempt from the prohibitions against delivery of unsolicited, prerecorded messages. As in the case of the calls to cell phones, these solicitations offered travel and vacation packages, and time-shares. The prerecorded messages at issue here therefore fall within the definition of an "unsolicited advertisement."²³ Based on the entire record, including the consumer complaints, we conclude that Travel Club has apparently violated section 227(b)(1)(B) of the Act and section 64.1200(a)(2) of the Commission's rules by delivering 41 unsolicited prerecorded advertising messages to the residential telephone lines of 29 consumers.

9. We also find that Travel Club has apparently violated section 64.1601(e) of the Commission's rules, which requires that telemarketers transmit caller identification information, including information that permits consumers to make do-not-call requests during regular business hours, on at least one occasion. One consumer who received a prerecorded solicitation to a residential phone also said that caller ID information for the call was blocked.²⁴

B. Proposed Forfeiture

10. After we have first issued a citation to a person, as we have in this case, section 503(b) of the Act authorizes the Commission to propose a forfeiture against that person when it subsequently determines that such person has willfully or repeatedly failed to comply with the Act, or any rule, regulation, or order issued by the Commission under the Act.²⁵ Section 503(b)(2)(E) mandates that, "[i]n

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Commission has previously found that "prerecorded messages containing free offers and information about goods and services that are commercially available are prohibited to residential telephone subscribers, if not otherwise exempted." *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, CG Docket No. 02-278, 18 FCC Rcd 14014, 14097-98, para. 140 (2003). Furthermore, the complaints that failed to specify whether the call was commercial in nature were based on calls made to wireless devices and thus are prohibited under the Commission's rules regardless of whether the call was made for commercial purposes. *See* 47 C.F.R. § 64.1200(a)(1)(iii).

²² 47 U.S.C. § 227(b)(1)(B); 47 C.F.R. § 64.1200(a)(2).

²³ *See* 47 U.S.C. § 227(a)(5); 47 C.F.R. § 64.1200(f)(13). *Supra* note 9.

²⁴ *See* complaint dated December 29, 2010 from J. Wolfe (stating that "[t]he call history on my phone said that the origin number of the call was blocked. When I tried *57, it said that the number was untraceable or had call forward blocked.") In addition, the complainant reports difficulty making a do-not-call request when she finally was able to reach the company, stating that the first operator refused to record the do-not-call request "unless I gave her more information to verify that I 'qualified' for the service they were trying to sell." This complaint is listed in Appendix C below.

²⁵ 47 U.S.C. § 503(b)(1)(B). *See also* 47 U.S.C. § 503(b)(5) (the Commission may 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, (continued....)

determining the amount of such a forfeiture penalty, the Commission or its designee shall 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.”²⁶ Our forfeiture guidelines set forth the base amount for penalties for certain kinds of violations, and identify criteria, consistent with the section 503(b)(2)(E) factors, that may influence whether we adjust the base amount downward or upward.²⁷ For example, we may adjust a penalty upward for “[e]gregious misconduct,” an “[i]ntentional violation,” or where the subject of an enforcement action has engaged in “[r]epeated or continuous violation.”²⁸ The maximum penalty for each such violation in the present case is \$16,000.²⁹

11. We propose the maximum penalty of \$16,000 for each of Travel Club’s 185 apparent violations at issue in this NAL, for a total proposed forfeiture of \$2,960,000. This penalty is based on the number of apparent willful, repeated violations involved, as well as Travel Club’s apparent deceptive and evasive conduct, as explained below.

12. The Commission has previously considered \$4,500 per message to be an appropriate base amount for delivering an unsolicited, prerecorded message.³⁰ The Commission’s penalty structure for prerecorded call violations is based on its approach for “junk fax” violations – the sending of unsolicited advertisements via fax.³¹ Recently, we began to adjust upward the base forfeiture for multiple, repeated violations of the junk fax rules, finding that application of only the base forfeiture “has failed to deter the more persistent wrongdoers,” and that as a result, “different and harsher penalties than those we have imposed in the past are appropriate for entities who engage in a significant number of violations.”³² We find that we should continue to model our approach for violations of our prerecorded calls after that for junk fax rules, and thus will adjust upward the base forfeiture for multiple, repeated violations of our rules

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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).

²⁶ 47 U.S.C. § 503(b)(2)(E).

²⁷ 47 C.F.R. § 1.80(b)(4) note. The absence of a particular type of violation from the forfeiture guidelines must “not be taken to mean that the violation is unimportant or nonexistent,” and “the Commission retains discretion to impose forfeitures for other violations.” *Commission’s Forfeiture Policy Statement*, Report & Order, 12 FCC Rcd 17,087, 17,110 (1997).

²⁸ 47 C.F.R. § 1.80(b)(4) note.

²⁹ Section 503(b)(2)(D) of the Act provides for forfeitures of up to \$10,000 for each violation by a person who is not a regulated entity such as a broadcast station licensee or common carrier. 47 U.S.C. § 503(b)(2)(D). The Commission adjusts this amount for inflation. 47 C.F.R. § 1.80(b)(5). The Commission has made such inflation adjustments and the current maximum forfeiture is \$16,000 for each violation under section 503(b)(2)(D). 47 C.F.R. § 1.80(b)(5)(iii).

³⁰ See *Warrior Custom Golf, Inc.*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 23648, 23652 (2004) (“*Warrior Custom Golf*”) (first NAL to address pre-recorded advertising messages); see also *Septic Safety, Inc.*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd. 2179 (2005); *Septic Safety, Inc.*, Forfeiture Order, 21 FCC Rcd 6868 (2006); *1 Home Lending Corporation, d/b/a Capital Line Financial, LLC*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 11852 (2006); *1 Home Lending Corporation, d/b/a Capital Line Financial, LLC*, Forfeiture Order, 24 FCC Rcd 2888 (2009).

³¹ *Warrior Custom Golf*, 19 FCC Rcd at 23652.

³² *Presidential Who’s Who*, Notice of Apparent Liability for Forfeiture, FCC 11-95 (rel. June 13, 2011) (“*Presidential Who’s Who*”); *The Street Map Co.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd. 8318 (2011) (“*Street Map*”). See also *Laser Technologies*, Notice of Apparent Liability for Forfeiture, FCC 11-112 (rel. Jul. 18, 2011).

against prerecorded calls. The magnitude of the adjustment will depend on the facts we are presented with in each case.

13. The magnitude of the adjustment we propose here is based not only on the number of multiple, repeated apparent violations at issue, but also, in the words of section 503(b)(2)(E), the “circumstances . . . of the violation,” the “culpability” of the violator, and “such other matters as justice may require.”³³ Travel Club has engaged in at least *185 prerecorded call violations* – after being warned through *not one but two citations* that its conduct was unlawful. This suggests that Travel Club consciously and deliberately disregarded – and therefore intentionally violated – Commission rules. In addition, as noted, Travel Club appears to have violated not only our prerecorded call rules, but also certain of our caller identification rules.³⁴

14. Moreover, Travel Club’s response to the citation appears to have been deceptive, evasive, and misleading – if not completely false. As explained above, Travel Club claims in its 2010 response that “Travel Club Marketing & Travelink Corp. . . . are deceased and no longer functioning [and] have been out of business since 2010 [so] you can rest assured that this type of violation will never happen again.”³⁵ Other facts suggest, however, that Travel Club became inactive as a legal matter much earlier, and that its unlawful activities have continued under different business names. Official records from the Florida Department of State Division of Corporations indicate that “Travel Club Marketing Inc.,” with a mailing address of 5700 Memorial Highway in Tampa, and an officer and registered agent of “Olen Miller,” became inactive in *September 2008*, and that “Travellink Corp.,” with the same address, a principal of “Okie O. Miller,” and a registered agent of “Olen Miller” became inactive in *2009*. Just a few months before Travel Club Marketing Inc. became inactive, businesses by the name of “Direct Marketing Travel Services Inc.” and “Proven Results Direct Marketing Inc.” – with the same mailing addresses, officers, and registered agents as Travel Club Marketing Inc. and Travellink Corp. – appear to have been formed or reinstated. Proven Results Direct Marketing Inc., in turn, became inactive not long after Mr. Miller responded to our citation – and shortly thereafter we began to receive complaints about prerecorded calls from “Diamond Vacations” and “Great Vacations,” apparently using a telephone number that we have established is assigned to “Travellink Corp.” The fact that Mr. Miller, as the principal of Travel Club, appears to be engaged in creating and shutting down different businesses to conduct the same or similar unlawful activities that have led to the issuance of this NAL suggests a degree of culpability that our proposed forfeiture must reflect.³⁶

³³ 47 U.S.C. § 503(b)(2)(E).

³⁴ See *supra* note 25. Although we do not propose a specific penalty for the apparent caller identification rule violation because we have not previously cited Travel Club for such violations, section 503(b)(2)(E) empowers us to consider the presence of this additional apparent violation when assessing the penalty for the prerecorded call violations. See 47 U.S.C. § 503(b)(2)(E) (“In determining the amount of . . . a forfeiture penalty, the Commission . . . shall 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, . . . and such other matters as justice may require.”) (emphasis added). Because Travel Club’s apparent failure to comply with our caller identification rules is relevant to our assessment of the appropriate amount of forfeiture penalty, we may consider Travel Club’s apparent caller ID violation in this proceeding. Indeed, the Commission has previously adjusted upward the base forfeiture for prerecorded call violations when they have been coupled with caller identification rule violations. See, e.g., *Security First of Alabama, LLC*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 6490, 6493 (2011).

³⁵ *Citation Response*.

³⁶ The Commission and the courts have long stated that “[w]here the statutory purpose could . . . be easily frustrated through the use of separate . . . entities, the Commission is entitled to look through corporate form and treat the separate entities as one and the same for purpose of regulation.” *Improving Public Safety Communications in the 800 MHz Band*, Fifth Report and Order, Eleventh Report and Order, Sixth Report and Order, and Declaratory Ruling, 25 FCC Rcd 13874, 13887-88 (2010). Further, “the Commission has treated affiliated entities collectively

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15. Years before we began assessing upward adjustments for multiple, repeated violations of our “junk fax” rules,³⁷ we imposed the statutory maximum forfeiture against an egregious violator of those rules, Fax.com.³⁸ Our decision to assess the maximum penalty there was based on the fact “that Fax.com’s primary business activity itself constitutes a massive on-going violation of [the junk fax provisions of the Act and the Commission’s rules], and Fax.com is well aware of this fact.”³⁹ The Commission in the NAL explained that Fax.com’s business was a fax broadcasting service “that clearly does not comply with federal restrictions governing facsimile advertisements”; explained how Fax.com had made deceptive, if not false, statements, to consumers, courts, and the Commission; and proposed a forfeiture based on nearly 500 instances of noncompliance.⁴⁰ While the specific facts differ between *Fax.com* and the instant case, the two cases are similar in a few fundamental respects: the wrongdoers engaged in mass violations, undertook such violations intentionally, and were deceitful in their dealings with the Commission and the public.⁴¹ For these reasons, we find, as we did in *Fax.com*, that the statutory maximum per violation forfeiture is appropriate. As today’s action shows, we intend to use the full extent of our forfeiture authority against entities who persist in violating our consumer protection rules – and we will not hesitate to impose the maximum penalty permitted by law in appropriate circumstances.

IV. CONCLUSION

16. We conclude that Travel Club Marketing Inc. apparently has violated section 227(b)(1) of the Act and section 64.1200(a) of the Commission’s rules by delivering 185 unsolicited, prerecorded advertising messages to the 142 consumers identified in the Appendices, and apparently has violated section 64.1601(e) of the Commission’s rules by failing to deliver caller identification information in the case of a call to at least one consumer. We further conclude that Travel Club Marketing, Inc. is apparently liable for a forfeiture in the amount of \$2,960,000 for its apparent violations of section 227(b)(1) of the Act and section 64.1200(a) of the Commission’s rules.

V. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED**, 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 Travel Club Marketing Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of \$2,960,000 for willful and repeated violations of sections 227(b)(1)(A)(iii) and 227(b)(1)(B) of the Communications Act, 47 U.S.C. § 227(b)(1)(A)(iii), 47 U.S.C. §

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where necessary to ensure compliance with the Communications Act and Commission policies and regulations. In the enforcement context, for example, the Commission has imposed a monetary forfeiture on a parent corporation for rule violations by a wholly owned subsidiary. In other enforcement actions, the Commission has looked to the financial status of affiliates in deciding whether to reduce the amounts of monetary forfeitures imposed on corporations holding Commission licenses.” *Id.* at 13888 (footnotes omitted).

³⁷ See *supra* ¶ 12.

³⁸ *Fax.com*, Notice of Apparent Liability for Forfeiture, 17 FCC Rcd 15927 (2002) (“*Fax.com*”), *aff’d* 19 FCC Rcd 748 (2004).

³⁹ 17 FCC Rcd at 15938.

⁴⁰ *Id.* at 15938-15943.

⁴¹ Although *Security First* also involved apparent violations of the provisions governing prerecorded calls and caller identification, we find Travel Club’s conduct to be more egregious. Travel Club not only engaged in a much higher number of apparent violations, but, as noted, also pursued its conduct in a manner that appears intentionally designed to evade law enforcement and deceitful in terms of its interaction with the Commission.

227(b)(1)(B), and sections 64.1200(a)(1)(iii) and 64.1200(a)(2) of the Commission's rules, 47 C.F.R. §§ 64.1200(a)(1)(iii), 64.1200(a)(2).

18. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules,⁴² within thirty (30) days of the release date of this Notice of Apparent Liability for Forfeiture, Travel Club Marketing Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

19. 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/Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Travel Club shall also send electronic notification on the date said payment is made to Johnny.Drake@fcc.gov. Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures.

20. The response, if any, must be mailed both to: Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division; and to Richard A. Hindman, 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. Documents sent by overnight mail (*other than* United States Postal Service Express Mail) must be addressed to: Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary, 9300 East Hampton Drive, Capitol Heights, MD 20743. Hand or messenger-delivered mail should be directed, without envelopes, to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554 (deliveries accepted Monday through Friday 8:00 a.m. to 7:00 p.m. only). See www.fcc.gov/osec/guidelines.html for further instructions on FCC filing addresses.

21. The Commission will not consider reducing or canceling a proposed 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.

22. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail Return Receipt Requested and First Class mail to Travel Club Marketing Inc. dba Travelink Corp., Attention: Mr. Olen Miller, 3240 S. Dale Mabry Hwy., Tampa, FL

⁴² 47 C.F.R. § 1.80.

33629; 324 N. Dale Mabry Hwy., Tampa, FL 33609; and 5700 Memorial Hwy., Tampa, FL 33615, and to Proven Results Direct Marketing, Inc., Attention: Olen Miller, 5700 Memorial Hwy., Tampa, FL 33615.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Complainants and Violation Dates

Complainants who received unsolicited prerecorded messages at a cellular phone	Violation Date(s)
J. Compton	11/1/2010
W. Strenger	11/1/2010
T. Fitzsimmons	11/2/2010
R. Augenstein	11/2/2010
B. White	11/04/2010
R. Boyle	11/8/2010
G. On	11/8/2010
S. Forslund	11/9/2010
J. Brown	11/9/2010
D. Boackle	11/9/2010
R. McMullen	11/10/2010
D. Allen	11/11/2010 (3 messages)
L. Schuman	11/13/2010
J. Erickson	11/14/2010
L. Binder	11/15/2010
M. Glazer	11/16/2010
E. Vagnoni	11/16/2010
J. Pierce	11/16/2010
C. Hermoza	11/17/2010
S. Barron	11/17/2010
D. Cook	11/17/2010
N. Schrade	11/17/2010
J. Irby	11/18/2010
G. Williams	11/20/2010
A. Ferreira	11/22/2010
R. Ghaul	11/23/2010
T. Swanson	11/23/2010
S. Anderson	11/26/2010
R. McDonald	11/27/2010
J. Costaldi	11/27/2010
J. Wagg	11/18/2010 (2 messages); 11/22/2010; 11/28/2010
J. Sims	11/30/2010
W. Gerhardt	11/30/2010
S. Bartlette	12/1/2010
M. Summey	12/1/2010
L. Knight	12/7/2010
S. Eddy	12/9/2010
B. Perry	12/7/2010; 12/9/2010
G. Yancey	12/11/2010
A. Taylor	12/15/2010
W. Nemath	1/6/2011
S. Donahue	1/7/2011
C. DeShazo	1/12/2011
L. Pope	1/14/2011
G. Baker	1/14/2011

T. Wheeler	1/18/2011
A. Grayson	1/19/2011
R. Partin	1/4/2011; 1/7/2011; 1/15/2011; 1/20/2011
T. Stephens	1/23/2011
T. Fields	1/26/2011
A. Hayes	2/2/2011
R. Gilbert	2/4/2011
C. Davis	2/4/2011
B. Berry	2/4/2011; 2/8/2011
C. Braden	2/10/2011
E. Lawrence	2/1/2011; 2/15/2011
J. Augustine	2/17/2011; 2/18/2011
T. Phillips	2/25/2011
R. Thompson	2/27/2011
C. Clemons	2/22/2011; 2/28/2011
G. Merkle	2/12/2011; 3/2/2011
L. Miller	3/3/2011
I. Houser	3/7/2011; 3/17/2011
D. James	3/21/2011
J. Hurd	3/21/2011 (3 calls)
C. Smith	3/17/2011; 3/18/2011; 3/21/2011
M. Friedel	2/17/2011; 3/17/2011; 3/22/2011; 3/24/2011
I. Parker	4/4/2011
J. Young	4/10/2011; 4/11/2011
M. Henderson	4/12/2011
D. Snyder	4/18/2011; 4/19/2011; 4/20/2011
B. Boerner	4/26/2011; 4/28/2011 (2 messages)
B. Sheffron	5/4/2011
D. Fowler	5/7/2011
W. Cleveland	4/30/2011; 5/13/2011
M. Fares	5/13/2011
E. Alford	5/18/2011
K. Lolans	5/18/2011
W. Malaise	5/18/2011
B. Rawls	5/21/2011
J. Koonce	5/23/2011
M. Minor	5/24/2011
B. Kramer	5/31/2011
M. Wainwright	5/31/2011
S. Likins	6/2/2011; 6/13/2011
J. Bledsoe	6/8/2011; 6/13/2011
J. Lambert	6/16/2011
M. Marcinko	6/16/2011
D. Herrera	6/18/2011
H. Stauffer	6/21/2011
B. Joffrion	6/24/2011
S. Purvis	6/24/2011
A. Boerngen	7/1/2011
C. Milbourne	7/6/2011
G. Harris	7/14/2011

L. Murray	7/21/2011
C. Stiehl	7/21/2011
D. Zimmerman	7/19/2011; 7/22/2011
T. Kimura	7/23/2011
C. Clifton	7/28/2011
A. Vazquez	8/15/2011
C. Curtis	8/17/2011
L. LaVecchio	8/17/2011
K. Post	8/17/2011
R. Squier	8/22/2011
E. Sommerfeld	8/27/2011
R. Smith	8/31/2011
W. DuVall	9/1/2011
J. Weeks	9/5/2011
R. Pearce	9/27/2011
C. Humphreys	10/5/2011
R. Marsh	10/5/2011
D. Cantor	10/11/2011

APPENDIX B

Complainants and Violation Dates

Complainants who received unsolicited prerecorded messages at a residential phone	Violation Date(s)
T. Fox	1/5/2011
M. Mandeville	1/10/2011
L. Perrigin	1/25/2011
J. LaPoint	2/8/2011
D. Goodwin	3/1/2011
P. Szydlo	3/1/2011; 3/3/2011
E. Eck	3/3/2011
C. Fonville	3/9/2011; 3/22/2011
J. Carmack	3/16/2011; 3/23/2011
B. Veenstra	5/19/2011
G. Bumgardner	5/24/2011
C. Smith	5/31/2011
M. Robertson	6/1/2011
S. Fountain	6/20/2011 (2 messages); 6/21/2011 (2 messages)
J. Krohne	6/22/2011
W. Newman	7/2/2011
K. Johnson	7/5/2011
B. Koscher	7/11/2011
A. Nevelos	7/21/2011
S. Waters	8/3/2011 (2 messages)
D. Groth	8/24/2011
P. Fagley	9/1/2011
C. Kariya	9/12/2011
E. Frierson	9/14/2011; 9/15/2011
M. Hillman	9/17/2011
J. Rinehart	9/24/2011 (3 messages); 10/4/2011
F. Reynolds	9/27/2011; 9/28/2011
E. Moscicki	9/28/2011

APPENDIX C

Complainants and Violation Dates

Complainant who received unsolicited prerecorded messages at a residential phone and also did not receive Caller ID information	Violation Date
J. Wolfe	12/29/2010