

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

In the Matter of)	File No.: EB-08-TC-2507
)	
Presidential Who's Who)	NAL/Acct. No.: 201132170023
dba Presidential Who's Who, Inc.)	FRN: 0020197919
)	
Apparent Liability for Forfeiture)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: June 13, 2011

Released: June 13, 2011

By the Commission:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find that Presidential Who’s Who dba Presidential Who’s Who, Inc. (“Presidential Who’s Who”)¹ apparently willfully and repeatedly violated section 227(b)(1)(C) of the Communications Act of 1934, as amended (the “Communications Act” or “Act”), and section 64.1200(a)(3) of the Commission’s rules, by delivering 31 unsolicited advertisements, or “junk faxes,” to the telephone facsimile machines of 30 consumers.² Based on the facts and circumstances surrounding these apparent violations, we find that Presidential Who’s Who is apparently liable for a forfeiture in the amount of \$295,000.

II. BACKGROUND

2. The Telephone Consumer Protection Act of 1991 (“TCPA”) was enacted by Congress to address problems of abusive telemarketing, including junk faxes.³ Unsolicited faxes often impose unwanted burdens on the called party, including costs of paper and ink, and making fax machines unavailable for legitimate business messages. Section 227(b)(1)(C) of the Act

¹ According to publicly available information, Presidential Who’s Who is also doing business as Presidential Who’s Who, Inc. Therefore, all references in this NAL to “Presidential Who’s Who” encompass Presidential Who’s Who as well as Presidential Who’s Who, Inc. Presidential Who’s Who has offices at 134 Rockaway Ave., Valley Stream, NY 11580. Frank Ciaccio, President, and Mark Anthony McGuinness, Chief Operating Officer, are the contact persons for Presidential Who’s Who. Accordingly, all references in this NAL to Presidential Who’s Who also encompass the foregoing individuals and all other principals and officers of this entity, as well as the corporate entity itself.

² 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).

³ Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394, *codified at* 47 U.S.C. § 227. See also Junk Fax Prevention Act of 2005, Pub. L. No. 109-21, 119 Stat. 359 (2005), *codified at* 47 U.S.C. § 227.

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

3. On June 18, 2008, in response to a consumer complaint alleging that Presidential Who’s Who had faxed an unsolicited advertisement, the Enforcement Bureau (“Bureau”) issued a citation to Presidential Who’s Who, pursuant to section 503(b)(5) of the Act.⁵ The Bureau cited Presidential Who’s Who for using a telephone facsimile machine, computer, or other device, to send an unsolicited advertisement for entry in and sale of the publication “Presidential Who’s Who” to a telephone facsimile machine, in violation of section 227(b)(1)(C) of the Act and section 64.1200(a)(3) of the Commission’s rules.⁶ The citation informed Presidential Who’s Who that within 30 days of the date of the citation, it could either request an interview with Commission staff, or provide a written statement responding to the citation. Frank Ciaccio, on behalf of Presidential Who’s Who, requested an interview and claimed that the fax on which the citation was based was not an advertisement.⁷ However, staff determined that the fax in question was, in fact, an advertisement.⁸

4. Subsequently, the Commission received numerous complaints from consumers alleging that Presidential Who’s Who had faxed additional unsolicited advertisements to them. The complaints filed by 69 consumers (alleging 73 violations of our junk fax rules) resulted in the issuance of an NAL against Presidential Who’s Who on September 13, 2010 in the amount of \$345,000.⁹ The *September 2010 NAL* ordered Presidential Who’s Who either to pay the proposed forfeiture amount within 30 days or to submit evidence or arguments to show that no forfeiture

⁴ 47 U.S.C. § 227(b)(1)(C). The prohibition is subject to certain exceptions, such as if the sender has an “established business relationship” (“EBR”) with the recipient; and the sender obtained the facsimile number from the recipient through voluntary communication in the context of an EBR, or from a directory, advertisement, or website on which the recipient voluntarily and publicly provided its facsimile number. In addition, the unsolicited ad must notify the recipient how to opt out of receiving future such ads, subject to certain requirements. The Commission has adopted implementing rules. 47 C.F.R. § 64.1200(a)(3); *See also Junk Fax Prevention Act R&O*, 21 FCC Rcd 3787, 3793-96 (2006), *modified on other grounds*, 23 FCC Rcd 15059 (2008).

⁵ *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 applicants for any of those listed instrumentalities, or engaged in activities for which such instrumentalities are necessary, for violations of the Act or of the Commission’s rules and orders).

⁶ Citation from Kurt A. Schroeder, Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau, File No. EB-08-TC-2507, issued to Presidential Who’s Who on June 18, 2008.

⁷ Telephone interview conducted on July 11, 2008 between Frank Ciaccio, representing Presidential Who’s Who, and Kurt Schroeder, Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau, and Mary Romano, Special Advisor, Telecommunications Consumers Division, Enforcement Bureau.

⁸ *See infra* ¶ 8. Presidential Who’s Who did not provide any information to indicate that its fax was part of a prior transaction or that it had an established business relationship with the fax recipient. Additionally, neither the TCPA nor the Commission’s rules contain any exceptions for unsolicited fax advertisements sent in error.

⁹ *See Presidential Who’s Who dba Presidential Who’s Who, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 13759 (2010) (“*September 2010 NAL*”).

should be imposed or that some lesser amount should be assessed.¹⁰ Presidential Who's Who responded to this first NAL on January 26, 2011, claiming the fax numbers to which the alleged unsolicited facsimile advertisements were sent were obtained legally. It did not, however, provide any basis for this argument.

5. In addition to the complaints forming the basis of the *September 2010 NAL*, the Commission has received still more complaints. Specifically, the Commission has received additional complaints filed by 30 consumers, alleging that Presidential Who's Who sent 31 additional unsolicited advertisements not accounted for in the *September 2010 NAL* to telephone facsimile machines between June 14, 2010 and October 20, 2010.¹¹

III. DISCUSSION

A. Apparent Violations of Section 227(b)(1)(C) of the Act and the Commission's Rules Restricting Unsolicited Facsimile Advertisements

6. In this NAL, we find that Presidential Who's Who has again apparently violated section 227(b)(1)(C) of the Act and section 64.1200(a)(3) of our rules by using a facsimile machine, computer, or other device to send unsolicited advertisements to consumers. Each of the consumers listed in the Appendix has provided evidence that Presidential Who's Who apparently used a telephone facsimile machine, computer, or other device to send the consumer at least one unsolicited advertisement.

7. For purposes of our "junk fax" rules, an "unsolicited advertisement" is "any material advertising the commercial availability of 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."¹² The Commission has explained that faxes promoting publications at no cost can qualify:

"Free" publications are often part of an overall marketing campaign to sell property, goods, or services. For instance, while the publication itself may be offered at no cost to the recipient, the products promoted within the publication are often commercially available. Based on this, it is reasonable to presume that such messages describe the "quality of any property, goods, or services." Therefore, facsimile communications regarding such free goods and services, if not purely "transactional," would require the sender to obtain the recipient's permission beforehand, in the absence of an EBR.¹³

8. The faxes of Presidential Who's Who appear to qualify as unsolicited fax advertisements. The facsimile transmissions at issue advertise entry in and sale of the publication "Presidential Who's Who." While the faxes do not charge individuals for listings in the "Presidential Who's Who" publication, they do either offer for sale the publication itself, or serve as a prelude to such an offer. For example, as we explained in the *September 2010 NAL*,

¹⁰ See *September 2010 NAL*, 25 FCC Rcd at 13763.

¹¹ See Appendix for a listing of the consumer complaints against Presidential Who's Who requesting Commission action. We note that evidence of additional instances of unlawful conduct by Presidential Who's Who may form the basis of subsequent enforcement action.

¹² 47 C.F.R. § 64.1200(f)(13).

¹³ *Junk Fax Prevention Act of 2005*, 21 FCC Rcd at 3814 (footnotes omitted).

evidence demonstrates that Presidential Who's Who attempts to sell the publication in follow-up calls between the complainant and the company.¹⁴ As such, the faxes appear to be part of an "overall marketing campaign" to sell the publication.¹⁵ Under these circumstances, and given that the recipients have not authorized Presidential Who's Who to send them the faxes, the faxes underlying the complaints at issue in the current NAL qualify as unsolicited advertisements. Because the consumers, according to their complaints, did not have an established business relationship with Presidential Who's Who,¹⁶ we conclude in the current NAL that Presidential Who's Who has apparently violated section 227(b)(1)(C) of the Act and section 64.1200(a)(3) of the Commission's rules by sending 31 unsolicited advertisements to 30 consumers' facsimile machines.

B. Proposed Forfeiture

9. After we have first issued a citation to an entity, as we have in this case, section 503(b) of the Act authorizes the Commission to propose a forfeiture for each subsequent violation of the Act, or of any rule, regulation, or order issued by the Commission under the Act.¹⁷ Section 503(b)(2)(E) mandates that, "[i]n 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."¹⁸ 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.¹⁹ 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 "[p]rior violations of any FCC requirements."²⁰ The maximum penalty that the

¹⁴ The company's website also advertises that the publication is for sale. *See* <http://www.presidentialwhoswho.org/index-5.html>.

¹⁵ *Junk Fax Prevention Act of 2005*, 21 FCC Rcd at 3814 (footnotes omitted).

¹⁶ *See, e.g.*, complaint dated June 14, 2010 from A. Gallo (stating that complainant 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).

¹⁷ *See* 47 U.S.C. § 503(b)(1)(C). 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]" *Id.* The Commission has the authority under section 503(b)(5) of the Act to assess such 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. 47 U.S.C. § 503(b)(5).

¹⁸ 47 U.S.C. § 503(b)(2)(E).

¹⁹ 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 17087, 17110 (1997).

²⁰ 47 C.F.R. § 1.80(b)(4) note.

Commission may impose against an entity such as Presidential Who's Who is currently \$16,000 per violation.²¹

10. The Commission has previously considered \$4,500 per unsolicited fax advertisement as an appropriate base forfeiture for violating the prohibition against sending them.²² In addition, where the consumer has requested that the company stop sending facsimile messages, and the company has continued to send them, the Commission has previously considered \$10,000 per unsolicited fax advertisement the appropriate forfeiture for such egregious violations.²³ Consistent with this past approach, we will apply the \$4,500 base forfeiture to 30 of the apparent violations at issue in this NAL, and a \$10,000 forfeiture to one of the apparent violations involved in this NAL where the consumer received a facsimile from Presidential Who's Who after specifically requesting that the company cease sending them.²⁴ Based on application of these standards, the total forfeiture proposed in this case would be \$145,000.

11. In the past, the Commission generally has not adjusted upward the base forfeiture for multiple, repeated violations of our junk fax rules. The base forfeiture of \$4,500 alone was generally considered sufficient to protect consumers and deter companies from engaging in further unlawful conduct.²⁵ It has become increasingly apparent, however, that the amount of our proposed forfeitures for apparent violations of the junk fax prohibitions has failed to deter the more persistent wrongdoers, as is evident in the instant case.²⁶

²¹ 47 U.S.C. § 503(b)(2)(C). Section 503(b)(2)(C) provides for forfeitures of up to \$10,000 for each violation in cases, as in the instant case, where the violation does not involve a Commission licensee, common carriers, among others. See 47 U.S.C. § 503(b)(2)(C). 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) first to \$11,000 and more recently to \$16,000. See 47 C.F.R. § 1.80(b)(3). See also *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, 23 FCC Rcd 9845 (2008) (amendment of section 1.80(b) to reflect inflation increased the forfeiture maximum for this type of violator to \$16,000).

²² 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 FCC 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).

²³ See *Carolina Liquidators, Inc.*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 16,837, 16,842 (2000); *21st Century Fax(es) Ltd., a/k/a 20th Century Fax(es)*, 15 FCC Rcd 24,406, 24,411 (2000).

²⁴ See Appendix for a listing of the consumer complaints against Presidential Who's Who requesting Commission action.

²⁵ See e.g., *Get-Away, Inc.* 15 FCC Rcd at 1812. But see *The Street Map Company*, Notice of Apparent Liability for Forfeiture, FCC 11-85 (June 1, 2011) ("*The Street Map NAL*") (implementing approach similar to that in the instant NAL, and imposing an upward adjustment for repeat violations); *Fax.com, Inc.*, Notice of Apparent Liability for Forfeiture, 17 FCC Rcd 15927 (2002) (applying an upward adjustment to the base forfeiture for each of 489 apparent junk fax violations for a total proposed forfeiture of \$5,379,000).

²⁶ For example, we recently issued a forfeiture order against another entity, assessing a *total penalty of over \$1.6 million*, imposed through *three different NALs*, and involving *nearly 300 violations* of our junk fax rules. *Mexico Marketing, LLC*, Forfeiture Order, FCC 11-48 (2011). The repeated nature of the apparent

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12. As a result, we believe that different and harsher penalties than those we have imposed in the past are now appropriate for entities who engage in a significant number of violations, such as Presidential Who's Who.²⁷ With today's NAL, we have now taken *three enforcement actions*, involving a total of *more than one hundred violations*, against Presidential Who's Who for noncompliance with section 227 of the Act that Congress enacted and that we have implemented and are charged with enforcing.²⁸ All of these apparent violations, except those that formed the basis for the original citation, occurred *after* the Bureau first warned Presidential Who's Who, via citation, that its conduct violated the law, and some apparent violations relate to conduct that occurred after the *September 2010 NAL*. The penalty that we apply must take into account, in the language of section 503(b)(2)(E), this "degree of culpability" and "history of prior offenses,"²⁹ and in the language of the forfeiture guidelines, such "intentional misconduct" and "prior violations of ... FCC requirements."³⁰

13. Accordingly, weighing the facts before us, including the fact that Presidential Who's Who has engaged in a significant number of violations after warnings by the Commission, we impose an upward adjustment of \$150,000 for the unsolicited fax advertisements at issue here, for a total proposed forfeiture of \$295,000. (\$145,000 + \$150,000 = \$295,000) As a practical matter, this adjustment amounts to a penalty of approximately \$9,500 for each of the apparent violations at issue in this NAL.³¹ The penalty we propose here is well within our statutory

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violations in this case and those at issue in *The Street Map NAL* and *Mexico Marketing* persuade us that an upward adjustment is necessary to adequately deter entities from violating our junk fax prohibitions. Our decision to impose an adjustment in today's NAL demonstrates our recognition of the greater power that Congress has given us, and that appears is necessary to be exercised in order to enforce Congress's prohibition against unsolicited fax ads.

²⁷ This is consistent with the action taken by the Commission with respect to *The Street Map Company and Fax.com, Inc.* where we imposed a harsher penalty for a significant number of violations. See *Street Map NAL*, *supra* n. 25 and *Fax.com, Inc.*, 17 FCC Rcd at 15493.

²⁸ Section 504(c) of the Act, 47 U.S.C. § 504(c), prohibits the Commission from using the issuance of an NAL against a party in one proceeding to the prejudice of that party in another proceeding, until either the party pays the forfeiture or a court issues a final order that it do so. However, this prohibition does not restrict the Commission from considering the *facts* that underlie prior NALs. *Commission's Forfeiture Policy Statement & Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report & Order, 12 FCC Rcd 17087, 17102-17104 (1997). Thus, consideration in the current NAL of Presidential Who's Who's past conduct that led to our earlier enforcement actions is fully consistent with section 504(c) of the Act. See *Commission's Forfeiture Policy Statement & Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Memorandum Opinion & Order, 15 FCC Rcd 303, 303-305 (1999).

²⁹ 47 U.S.C. § 503(b)(2)(E).

³⁰ 47 C.F.R. § 1.80 sec. II (Adjustment Criteria for Section 503 Forfeitures).

³¹ The upward adjustment of \$150,000 amounts to approximately \$5,000 for each of 30 of the violations at issue in this NAL that are not already subject to upward adjustment (*i.e.*, all of the violations except the one for which we assess a \$10,000 penalty). The combination of the base forfeiture and the upward adjustment per violation for each of the 30 violations is therefore approximately \$9,500, which is in the range of the \$10,000 penalty we assess when a consumer has specifically requested a company not to send an unsolicited fax. It is more than the approximate \$6,000 per violation forfeiture we proposed in *The Street Map NAL* where the overall number of apparent junk fax violations was significantly less than the over one hundred violations in this case. The upward adjustment we apply in the instant NAL and that in *The Street Map NAL* are proportionate to the difference in the number of violations at issue in each case. We note,

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discretion, because as indicated above, the Act permits us to impose a forfeiture of as much as \$16,000 per violation, or a total of \$496,000 for the 31 violations at issue in this NAL. Moreover, while in the past we generally have not adjusted upward the base forfeiture for junk faxes as a result of the number of violations at issue, doing so now is clearly within our discretion under the factors set forth in section 503(b)(2)(E) of the Act, and in fact consistent with our past approach of applying a harsher penalty to junk fax violations for a significant number of apparent violations.³² We believe the upward adjustment and overall proposed penalty that we impose here against Presidential Who's Who is appropriate due to the number of apparent violations, and the fact that Presidential Who's Who apparently engaged in much of its misconduct deliberately, given its disregard for the Commission's previous warnings. Those who violate our junk fax rules are on notice that we intend to use the full range of our enforcement power to deter future noncompliance and protect consumers from annoyance and harms caused by such conduct, including assessing the statutory maximum forfeiture amount of \$16,000 per violation.

IV. CONCLUSION

14. We have determined that Presidential Who's Who apparently violated section 227(b)(1)(C) of the Act and section 64.1200(a)(3) of the Commission's rules, by using a telephone facsimile machine, computer, or other device to send 31 unsolicited advertisements to the 30 consumers identified in the Appendix. We have further determined that Presidential Who's Who is apparently liable for a forfeiture in the amount of \$295,000.

V. ORDERING CLAUSES

15. 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 rules, 47 C.F.R. § 1.80, that Presidential Who's Who dba Presidential Who's Who, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of \$295,000 for willful and repeated violations of section 227(b)(1)(C) of the Communications Act of 1934, as amended, 47 U.S.C. § 227(b)(1)(C), and section 64.1200(a)(3) of the Commission's rules, 47 C.F.R. § 64.1200(a)(3).

16. **IT IS FURTHER ORDERED THAT**, pursuant to section 1.80 of the Commission's rules,³³ within thirty (30) days of the release date of this *Notice of Apparent Liability for Forfeiture*, Presidential Who's Who dba Presidential Who's Who, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

17. 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

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however, that while the upward adjustment the Commission applies today in this case amounts to approximately \$5,000 per violation, it is not the Commission's intent in every case to mechanically apply a \$5,000 upward adjustment. We fully intend, as we did in this case and in *The Street Map NAL*, to apply an appropriate upward adjustment on a case-by-case bases taking into account our obligation under section 503(b)(2)(E) of the Act. In this respect, we may apply a higher forfeiture amount, including the \$16,000 statutory maximum if the facts of a particular case warrant.

³² See *supra* note 27.

³³ 47 C.F.R. § 1.80.

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). Presidential Who’s Who dba Presidential Who’s Who, Inc. 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, SW, 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.

18. 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, S.W., 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.

19. 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.

20. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for a Forfeiture* shall be sent by Certified Mail Return Receipt Requested and First Class mail to Presidential Who’s Who dba Presidential Who’s Who, Inc., Attention: Frank Ciaccio, President, and Mark Anthony McGuinness, 134 Rockaway Avenue, Valley Stream, NY 11580.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

Complainants and Violation Dates

Complainant received facsimile solicitations	Violation Date(s)
Adams, R.	6/22/10
Bernard, T.	7/23/10
Byron, F.	9/10/10
Buchicchio, K.	9/21/10
Cochran, R.	9/21/10
Dawdy, C.	9/29/10
Elkowitz, A.	9/29/10
Gallo, A.	6/14/10
Glick, L.	9/13/10
Gonzales, J.	8/6/10
Goodman, L.	9/13/10
Jacobs, M.	6/29/10
Kay, K.	10/6/10
Lester, R.	6/16/10
Leyman, L.	9/7/10
Marzane, D.	6/29/10
McKeown, C.	8/11/10
Meyers, J.	9/13/10
Neil, Sr., L.	9/7/10
Pitric, M.	6/22/10
Rothstein, M.	10/20/10
Schroeder, J.	7/19/10, 9/21/10
Shaw, L.	6/14/10
Smith, M.	10/5/10
Sparks, H.	9/13/10
Spivey, S.	9/7/10
Stern, L.	8/6/10
Wells, G.	9/13/10
Yi, M.	9/29/10

Complainant received facsimile solicitations after requesting no more be sent	Violation Date(s)
McDonald, A.	8/3/10