

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

In the Matter of	)	File No.: EB-09-IH-1945
	)	
Unipoint Technologies, Inc.	)	NAL/Acct. No.: 201332080001
	)	
Apparent Liability for Forfeiture	)	FRN: 0016749186

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: October 9, 2012**

**Released: October 11, 2012**

By the Commission:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Unipoint Technologies, Inc. d/b/a Comfi.com (Unipoint or the Company) apparently violated Section 214(a) of the Communications Act of 1934, as amended (Act),<sup>1</sup> and Sections 43.61, 52.17(b), 52.32(b), 54.711, 63.18, and 64.604(c)(5)(iii)(A)–(B) of the Commission’s rules (Rules)<sup>2</sup> by willfully or repeatedly failing to: (1) apply for and obtain authorization from the Commission to provide international telecommunications service; (2) file its Telecommunications Reporting Worksheet (Form 499-A); (3) contribute fully to the Telecommunications Relay Service (TRS) Fund; and (4) file annual traffic and revenue reports for service between the United States and overseas points. Based on our review of the facts and circumstances surrounding this matter, and for the reasons discussed below, we find that Unipoint is apparently liable for forfeiture penalties totaling one hundred seventy-nine thousand dollars (\$179,000).

**II. BACKGROUND**

2. Section 214(a) of the Act prohibits any carrier from constructing, extending, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate of authorization from the Commission (Section 214 authority).<sup>3</sup> Although the Commission has granted “blanket” Section 214 authority to carriers providing domestic service,<sup>4</sup> meaning that such carriers do not need to seek Commission approval before providing domestic service, the Commission has not

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<sup>1</sup> 47 U.S.C. § 214(a). Comfi.com is also known as Communications Fidelity. During the period covered by the Commission’s investigation, Unipoint has listed this trade name on its Annual Telecommunications Reporting Worksheets. See Unipoint Technologies, Inc., 2007–2011 Form 499-A Telecommunications Reporting Worksheet, at Item 112 (on file in EB-09-IH-1945) (*Unipoint Annual Reporting Worksheets, 2007–2011*).

<sup>2</sup> 47 C.F.R. §§ 43.61, 52.17(b), 52.32(b), 54.711, 63.18, 64.604(c)(5)(iii)(A)–(B).

<sup>3</sup> See 47 U.S.C. § 214(a).

<sup>4</sup> 47 C.F.R. § 63.01(a) (authorizing “[a]ny party that would be a domestic interstate communications common carrier . . . to provide domestic, interstate services to any domestic point and to construct or operate any domestic transmission line as long as it obtains all necessary authorizations from the Commission for use of radio frequencies”).

done the same for providers of international telecommunications services.<sup>5</sup> Instead, a carrier must seek and obtain Section 214 authority from the Commission prior to providing such services.<sup>6</sup> The Commission has explained that the international Section 214 authority review process enables the Commission to review applications for risks to competition, particularly in situations where the applicant has an affiliation with a foreign carrier that possesses market power on the foreign end of the route. The Commission's concern is that the carrier may be able to leverage that market power to discriminate against U.S. competitors to the detriment of U.S. consumers.<sup>7</sup> The Commission's international Section 214 application review process also includes consultation with Executive Branch agencies regarding national security, law enforcement, foreign policy, and trade concerns that may be unique to the provision of international service.<sup>8</sup>

3. Section 63.18 of the Rules requires any carrier that seeks Section 214 authority “for provision of common carrier communication services between the United States, its territories or possessions, and a foreign point” to request such authority by formal application.<sup>9</sup> This application requirement applies to carriers that resell the international services of another authorized carrier, as well as to facilities-based international services providers.<sup>10</sup> The applicant must provide the Commission with, among other items, contact information, ownership information, information on any affiliations the applicant may have with foreign carriers, certification that it will comply with the Rules, and certification that the applicant is not subject to denial of Federal benefits pursuant to the Anti-Drug Abuse Act of 1988.<sup>11</sup> Section 63.18(e)(2) establishes specific requirements for parties “applying for authority to resell the international services of authorized common carriers,” and Section 63.23 of the Rules, in turn, identifies the conditions that apply to “carriers authorized to resell the international services of other authorized carriers.”<sup>12</sup>

4. In addition to requiring that telecommunications carriers obtain international Section 214 authority, the Act charges the Commission with establishing, administering, and maintaining various telecommunications regulatory programs, and with funding these programs through assessments on the telecommunications providers that benefit from them. To help accomplish these goals, the Commission requires, subject to limited exceptions not applicable here, that all interstate, international, and intrastate telecommunications providers file FCC Form 499-A, also known as the annual Telecommunications

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<sup>5</sup> See *Implementation of Section 402(b)(2)(A) of the Telecomm. Act of 1996*, Report and Order in CC Docket No. 97-11, Second Memorandum Opinion & Order in AAD File No. 98-43, 14 FCC Rcd 11364, para. 2 & n.8 (1999) (grant of blanket authority is only for domestic services and does not extend to international services).

<sup>6</sup> 47 C.F.R. § 63.18; see also 47 U.S.C. § 214(a).

<sup>7</sup> See *1998 Biennial Regulatory Review – Review of International Common Carrier Regulations*, Report and Order, 14 FCC Rcd 4909, 4914–16, paras. 14–16 (1999) (*1998 International Biennial Review Order*); *Personal Communications Industry Ass’n’s Broadband Personal Communications Services Alliance’s Petition for Forbearance for Broadband Personal Communications Services*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16882–83, para. 50 (1998) (*PCIA Forbearance Order*).

<sup>8</sup> See *1998 International Biennial Review Order*, 14 FCC Rcd at 4915, para. 15; *PCIA Forbearance Order*, 13 FCC Rcd at 16882, para. 50.

<sup>9</sup> 47 C.F.R. § 63.18.

<sup>10</sup> *Id.* § 63.18(e)(1)–(2); see *Start Wireless Group, Inc. d/b/a Page Plus Cellular*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 350 (Enf. Bur. 2012).

<sup>11</sup> See 47 C.F.R. § 63.18(e)(1)–(2).

<sup>12</sup> *Id.* §§ 63.18(e)(2), 63.23.

Reporting Worksheet (Annual Worksheet or Form 499-A).<sup>13</sup> Certain of the information reported on this form helps the Commission monitor the entry and operation of interstate telecommunications providers to ensure, among other things, that the providers are qualified to provide telecommunications service, do not engage in fraud, and do not evade oversight.<sup>14</sup>

5. The Rules also require telecommunications providers to report revenue information on their Annual Worksheets for the purpose of determining the providers' Universal Service Fund (USF), TRS, Local Number Portability (LNP), North American Numbering Plan (NANP) administration, and regulatory fee payments.<sup>15</sup> These periodic filings enable the regulatory fund administrators to determine the contribution amounts, if any, owed to the various funds, and to handle the subsequent billing and fund payment collection.<sup>16</sup> For example, the TRS Fund administrator uses the annual filings to determine each contributor's TRS Fund contribution amount.<sup>17</sup> Carrier contributors must timely pay their contribution invoices,<sup>18</sup> and the Rules explicitly warn contributors that failure to file forms or submit payments potentially subjects them to enforcement action.<sup>19</sup>

6. Section 225(b)(1) of the Act, which codifies Title IV of the Americans with Disabilities Act of 1990, directs the Commission to "ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States."<sup>20</sup> To that end, the Commission established the TRS Fund to reimburse TRS providers for the costs of providing interstate telecommunications relay services.<sup>21</sup> Pursuant to Section 64.604(c)(5)(iii)(A) of the Rules, every provider of interstate or

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<sup>13</sup> See, e.g., *2012 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A)*, available at <http://transition.fcc.gov/Forms/Form499-A/499a-2012.pdf> (March 2012) (last visited Aug. 19, 2012); see also 47 C.F.R. §§ 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B), 64.1195.

<sup>14</sup> See *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996, 16024–26, paras. 59–62 (2000) (*Carrier Selection Order*).

<sup>15</sup> See *infra* note 58 for citations to the relevant Rules. Upon receipt of a Form 499-A registration, the Universal Service Administrative Company (USAC), the administrator of the USF, issues a filer identification number to the registrant. That number is associated with further filings by the company and is used to track the provider's contributions and invoices.

<sup>16</sup> See 47 U.S.C. §§ 225(d)(3), 254(d). In 1999, to streamline the administration of the programs and to ease the burden on regulatees, the Commission consolidated the information filing requirements for multiple telecommunications regulatory programs into the annual Telecommunications Reporting Worksheet. See *1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with the Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, Report and Order, 14 FCC Rcd 16602 (1999).

<sup>17</sup> 47 C.F.R. § 64.604(c)(5)(iii)(B).

<sup>18</sup> See, e.g., *id.* ("Carriers shall complete and submit, and contributions shall be based on, a 'Telecommunications Reporting Worksheet' (as published by the Commission in the Federal Register)."); see also *ADMA Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 838, 838–39, paras. 2–3 (2009) (*ADMA NAL*).

<sup>19</sup> See 47 C.F.R. § 54.713(a); see *id.* § 54.713(c) (stating that the Commission also may pursue enforcement action against late filers and delinquent contributors).

<sup>20</sup> 47 U.S.C. § 225(b)(1).

<sup>21</sup> See *Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, Third Report and Order, 8 FCC Rcd 5300, para. 3 (1993). Telecommunications relay services enable persons with hearing and speech disabilities to communicate by telephone with voice-telephone users. Such services provide telephone access to a

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international telecommunications services must contribute to the TRS Fund based upon its end-user revenues.<sup>22</sup>

7. Section 219(a) of the Act authorizes the Commission to “require annual reports from all carriers subject to [the Act] . . . .”<sup>23</sup> Section 220(a)(1) of the Act, in pertinent part, gives the Commission “discretion [to] prescribe the forms of any and all accounts [and] records to be kept by carriers subject to [the] Act, including . . . the accounts [and] records . . . of the movement of traffic, as well as of receipts and expenditures of moneys.”<sup>24</sup> Section 43.61(a) of the Rules requires, in pertinent part, that “[e]ach common carrier engaged in providing international telecommunications service between the United States . . . and any country or point outside” the United States “shall file a report with the Commission not later than July 31 of each year” providing specified traffic and revenue data pertaining to the common carrier’s international telecommunications service provided in the preceding calendar year.<sup>25</sup>

8. Unipoint is a Massachusetts corporation<sup>26</sup> that, through the trade name Comfi.com, operates as a prepaid calling card provider that resells international and domestic telecommunications services.<sup>27</sup> Unipoint offers “a wide range of calling cards for destinations around the globe.”<sup>28</sup> To become a customer, an end user must register an on-line account with, and agree to make payment to, Comfi.com.<sup>29</sup> The customer then receives an access number, a personal identification number (PIN), and

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significant number of Americans who, without it, might not be able to make calls to or receive calls from voice-telephone users. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, 15 FCC Rcd 5140, 5141, 5143, paras. 2, 5 (2000).

<sup>22</sup> 47 C.F.R. § 64.604(c)(5)(iii)(A) (requiring every carrier that provides “interstate services, including . . . international . . . services” to contribute to the TRS Fund).

<sup>23</sup> 47 U.S.C. § 219(a).

<sup>24</sup> 47 U.S.C. § 220(a)(1).

<sup>25</sup> 47 C.F.R. § 43.61(a).

<sup>26</sup> *See* Website of the Commonwealth of Massachusetts, Secretary of the Commonwealth, Corporations Division, “Unipoint Technologies, Inc. – Summary Screen,” *available at* <http://corp.sec.state.ma.us/corp/corptest/CorpSearchSummary.asp?ReadFromDB=True&UpdateAllowed=&FEIN=000608176> (last visited Aug. 13, 2012) (stating that Unipoint’s date of organization in Massachusetts was March 2, 1998).

<sup>27</sup> *See* “Unipoint Technologies, Inc. – The Company,” *available at* <http://www.unipointhome.com/company.html>, (last visited Aug. 14, 2012); “Unipoint Technologies, Inc. – Projects,” *available at* <http://www.unipointhome.com/products.html> (last visited Aug. 13, 2012) (stating that ComFi “offers [a] variety of telecommunications services. . . .”); “Comfi.com Becomes Most Visited Phone Card Site on the Internet!,” ComFi.com Press Release (Feb. 22, 2007), *available at* <http://www.comfi.com/references/COMFI-MOST-VISITED-PHONE-CARD-SITE> (last visited Aug. 14, 2012) (*ComFi.com Press Release*) (stating that “Comfi.com, a subsidiary of Unipoint Technologies, is now the most visited phone card site on the Internet”); “About Us – Comfi – Communications Fidelity,” *available at* <http://www.comfi.com/AboutUs> (last visited Aug. 13, 2012).

<sup>28</sup> *See Comfi.com Press Release supra* note 27; *see also* “Comfi – Communications Fidelity International Calling Cards,” *available at* <http://www.comfi.com/?gclid=CJf73Y7J5bECFQJx4AodaFMACQ> (last visited Aug. 13, 2012) (listing, among other products, prepaid calling card offerings for calls placed from the United States to a variety of domestic and foreign destinations); “Best selection of US phone cards and domestic calling cards,” *available at* <http://www.comfi.com/calling-cards/USA> (last visited Aug. 17, 2012).

<sup>29</sup> *See* “Registering Online and Creating Your Account” *available at* [www.comfi.com/p/Help-Registration.html](http://www.comfi.com/p/Help-Registration.html) (last visited Aug. 15, 2012); “Placing and Order and Online Payment,” *available at* [www.comfi.com/p/Help-PlacingOrder.html](http://www.comfi.com/p/Help-PlacingOrder.html) (last visited Aug. 15, 2012).

dialing instructions via e-mail.<sup>30</sup> The customer places a call by dialing his or her access number, followed by the PIN, and then the phone number of the party that the customer wants to reach.<sup>31</sup> Unipoint sells refillable and non-refillable cards.<sup>32</sup> A refillable card gives the customer the ability to reuse a PIN, as well as the option of PIN-less dialing, by registering a phone number with Comfi.com that is linked to the customer's Comfi.com account.<sup>33</sup>

9. On April 22, 2009, Unipoint applied for international Section 214 authority.<sup>34</sup> Its application did not address whether Unipoint had been providing unauthorized international common carrier service.<sup>35</sup> On May 8, 2009, the Commission granted Unipoint international Section 214 authority.<sup>36</sup> On August 17, 2009, Unipoint self-disclosed to the Commission that the Company may have violated the Act and the Rules.<sup>37</sup> The Enforcement Bureau (Bureau) initiated an investigation shortly thereafter. Through its investigation, the Bureau learned that Unipoint may have begun providing international prepaid calling card telecommunications services without first obtaining Section 214 authority.<sup>38</sup>

10. The Bureau's investigation also disclosed that Unipoint apparently had failed to timely file its 2007 Annual Worksheet (reporting 2006 calendar year revenues), timely make its TRS Fund contributions for 2007 and 2008, and timely file its 2008, 2009, and 2011 international telecommunications traffic reports (for calendar years 2007, 2008, and 2010, respectively):

- Unipoint's 2007 Annual Worksheet was due on April 1, 2007, but was not filed until September 22, 2009, more than twenty-nine months after its due date.<sup>39</sup>

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<sup>30</sup> See "Receiving Your PIN and Dialing Instructions," available at [www.comfi.com/p/Help-ReceivingPIN.html](http://www.comfi.com/p/Help-ReceivingPIN.html) (last visited Aug. 15, 2012).

<sup>31</sup> *Id.*

<sup>32</sup> See "Selecting a Card," available at [www.comfi.com/p/Help-SelectingCard.html](http://www.comfi.com/p/Help-SelectingCard.html) (last visited Aug. 15, 2012).

<sup>33</sup> *Id.*

<sup>34</sup> See International Bureau Filing System (IBFS) File No.: ITC-214-20090422-00173 (filed Apr. 22, 2009), available at [http://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr031b.htm?q\\_set=V\\_SITE\\_ANTENNA\\_FREQ.file\\_numberC/File+Number/%3D/ITC2142009042200173&prepare=&column=V\\_SITE\\_ANTENNA\\_FREQ.file\\_numberC/File+Number](http://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr031b.htm?q_set=V_SITE_ANTENNA_FREQ.file_numberC/File+Number/%3D/ITC2142009042200173&prepare=&column=V_SITE_ANTENNA_FREQ.file_numberC/File+Number) (last visited Aug. 15, 2012).

<sup>35</sup> *Id.*

<sup>36</sup> See *International Authorization Granted – Section 214 Applications* (47 C.F.R. 63.18); *Section 310(b)(4) Requests*, Public Notice, Report No. TEL-01361, 24 FCC Rcd 5779 (Int'l Bur. 2009).

<sup>37</sup> See E-mail from Cheng-yi Liu, Counsel for Unipoint Technologies, Inc., Law Offices of Thomas K. Crowe, P.C., to Trent Harkrader, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau (Aug. 17, 2009, 5:51 PM EDT).

<sup>38</sup> Although we cannot disclose the specific date on which Unipoint began providing international telecommunications services because of a pending request for confidential treatment, that date is well prior to Unipoint's receipt of international Section 214 authority.

<sup>39</sup> See Universal Service Administrative Company, *Unipoint – Form 499 – Search Form*, available at <https://efile.universalservice.org/form499/source/search.asp> (last visited Aug. 29, 2012) (on file in EB-09-IH-1945)

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- Unipoint was obligated to make a \$13,553.05 contribution to the TRS Fund for 2007 by July 26, 2007, but did not make that contribution until October 20, 2009, approximately twenty-seven months late.<sup>40</sup>
- Unipoint was obliged to make a \$33,614.22 contribution to the TRS Fund for 2008 by July 28, 2008, but did not make that contribution until October 20, 2009, approximately fifteen months late.<sup>41</sup>
- Unipoint did not file its 2008 international telecommunications traffic report until March 31, 2010, approximately 20 months after the July 31, 2008, due date for that report.<sup>42</sup>
- Unipoint did not file its 2009 international telecommunications traffic report until March 31, 2010, eight months after its July 31, 2009, due date.<sup>43</sup>
- Unipoint did not file its 2011 international telecommunications traffic report until August 18, 2011, 18 days after its July 31, 2011, due date.<sup>44</sup>

### III. DISCUSSION

11. Under Section 503(b)(1) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.<sup>45</sup> Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.<sup>46</sup> The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,<sup>47</sup> and the Commission has so interpreted the term in the Section 503(b) context.<sup>48</sup> The Commission may also assess

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(Unipoint 2007-2012 Annual Reporting Worksheet Filing Dates).

<sup>40</sup> See E-mail from Marina Aparicio, National Exchange Carriers Association, TRS Fund Administrator, to Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Apr. 14, 2010, 11:33 AM EDT) (*Aparicio Apr. 14, 2010, E-mail*); E-mail from Marina Aparicio, National Exchange Carriers Association, TRS Fund Administrator, to Elizabeth Mumaw, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Mar. 1, 2010, 3:22 PM EDT) (*Aparicio Mar. 1, 2010, E-mail*).

<sup>41</sup> See *Aparicio Apr. 14, 2010, E-mail supra* note 40; *Aparicio Mar. 1, 2010, E-mail supra* note 40.

<sup>42</sup> See Letter from Gary Norden, Unipoint Technologies, Inc., to Marlene H. Dortch, Secretary, FCC (Mar. 31, 2010) (on file in EB-09-IH-1945) (filing Unipoint’s 2008 international telecommunications traffic report).

<sup>43</sup> See Letter from Gary Norden, Unipoint Technologies, Inc., to Marlene H. Dortch, Secretary, FCC (Mar. 31, 2010) (on file in EB-09-IH-1945) (filing Unipoint’s 2009 international telecommunications traffic report).

<sup>44</sup> See Letter from Cheng-yi Liu, Counsel for Unipoint Technologies, Inc., Law Offices of Thomas K. Crowe, P.C., to Marlene H. Dortch, Secretary, FCC (Aug. 18, 2011) (on file in EB-09-IH-1945) (filing Unipoint’s 2011 international telecommunications traffic report).

<sup>45</sup> See 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

<sup>46</sup> 47 U.S.C. § 312(f)(1).

<sup>47</sup> See H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982).

<sup>48</sup> See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991) (*Southern California Broadcasting*).

a forfeiture for violations that are merely repeated, and not willful.<sup>49</sup> “Repeated” means that the act was committed or omitted more than once, or lasts more than one day.<sup>50</sup> To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.<sup>51</sup> The Commission will then issue a forfeiture if it finds, based on the evidence, that the person has violated the Act or a Rule.<sup>52</sup>

12. The issues in this case are whether Unipoint apparently violated the Act and the Rules by willfully or repeatedly failing to: (1) apply for and obtain authorization from the Commission to provide international telecommunications service before providing such service; (2) timely file its 2007 Annual Worksheet; (3) timely contribute to the TRS Fund; and (4) timely file its 2008, 2009, and 2011 international telecommunications traffic reports. We answer these questions in the affirmative. As set forth below, we conclude that Unipoint is apparently liable for forfeiture for willful or repeated violations of Section 214(a) of the Act and Sections 43.61, 52.17(b), 52.32(b), 54.711, 63.18, and 64.604(c)(5)(iii)(A)–(B) of the Rules.<sup>53</sup> Based on the facts and circumstances before us, we therefore conclude that Unipoint is apparently liable for forfeiture penalties totaling one hundred seventy-nine thousand dollars (\$179,000).

**A. Unipoint Apparently Failed to Obtain an International Section 214 Authorization Before Providing International Telecommunications Service**

13. We find that Unipoint apparently provided international telecommunications service without Commission authorization in violation of Section 214 of the Act and Section 63.18 of the Rules. That unauthorized service appears to have persisted for several years and apparently did not end until the Commission granted Unipoint international Section 214 authorization on May 8, 2009. A failure to obtain an international Section 214 authorization prior to offering international telecommunications service constitutes a continuing violation until the violation is cured.<sup>54</sup> Unipoint did not even address whether it had been providing such service when it finally did submit an application for international Section 214 authority on April 22, 2009.<sup>55</sup> Nor did Unipoint request or receive Special Temporary Authority (STA) to offer international service during the pendency of that application.<sup>56</sup> We therefore conclude, based on a preponderance of the evidence, that Unipoint apparently has willfully or repeatedly violated Section 214 of the Act and Section 63.18 of the Rules.

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<sup>49</sup> See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision*) (issuing an NAL for, *inter alia*, a cable television operator’s repeated violation of the cable signal leakage rules).

<sup>50</sup> *Southern California Broadcasting*, 6 FCC Rcd at 4388, para. 5; *Callais Cablevision*, 16 FCC Rcd at 1362, para. 9.

<sup>51</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

<sup>52</sup> See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, para. 4 (2002).

<sup>53</sup> 47 U.S.C. § 214(a); 47 C.F.R. §§ 43.61, 52.17(b), 52.32(b), 54.711, 63.18, and 64.604(c)(5)(iii)(A)–(B).

<sup>54</sup> See, e.g., *InPhonic, Inc.*, Order of Forfeiture and Further Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 8689, 8695, 8706, paras. 13, 41 (2007) (*InPhonic Forfeiture Order and Further NAL*).

<sup>55</sup> See International Bureau Filing System (IBFS) File No.: ITC-214-20090422-00173 (filed Apr. 22, 2009), available at [http://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr031b.his?q\\_set=V\\_SITE\\_ANTENNA\\_FREQ.file\\_numberC/File+Number/%3D/ITC2142009042200173&prepare=&column=V\\_SITE\\_ANTENNA\\_FREQ.file\\_numberC/File+Number](http://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr031b.his?q_set=V_SITE_ANTENNA_FREQ.file_numberC/File+Number/%3D/ITC2142009042200173&prepare=&column=V_SITE_ANTENNA_FREQ.file_numberC/File+Number) (last visited Aug. 15, 2012).

<sup>56</sup> See 47 C.F.R. §§ 1.10016, 63.25.

**B. Unipoint Apparently Failed to Timely File its 2007 Annual Telecommunications Reporting Worksheet**

14. We conclude that Unipoint violated Sections 52.17(b), 52.32(b), 54.711, and 64.604(c)(5)(iii)(B) of the Rules by failing to timely file its 2007 Annual Telecommunications Reporting Worksheet.<sup>57</sup> These Rules require that all telecommunications service providers file an Annual Worksheet.<sup>58</sup> A failure to file an Annual Worksheet constitutes a continuing violation until the violation is cured.<sup>59</sup> Unipoint filed its 2007 Annual Worksheet more than twenty-nine months after its April 1, 2007, due date.<sup>60</sup> Based on a preponderance of the evidence, we therefore find that Unipoint apparently has violated 52.17(b), 52.32(b), 54.711, and 64.604(c)(5)(iii)(B) of the Rules by willfully or repeatedly failing to file its 2007 Annual Worksheet.<sup>61</sup>

**C. Unipoint Apparently Failed to Timely Make Required TRS Fund Contributions for 2007 and 2008**

15. As a provider of interstate and international telecommunications services, Unipoint was obligated to contribute to the TRS Fund on the basis of its interstate and international end-user telecommunications revenues reported on its Annual Worksheet.<sup>62</sup> The contribution that a carrier is required to make to the TRS Fund is calculated by applying a contribution factor (determined annually by the Commission) to the carrier's revenues for the prior calendar year.<sup>63</sup> Subject carriers must make TRS contributions on an annual basis, with certain exceptions that are not applicable to Unipoint.<sup>64</sup> Failures to

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<sup>57</sup> 47 C.F.R. §§ 52.17(b), 52.32(b), 54.711, 64.604(c)(5)(iii)(B).

<sup>58</sup> See 47 C.F.R. §§ 52.17(b) (requiring that “[a]ll telecommunications carriers . . . shall complete and submit a ‘Telecommunications Reporting Worksheet’ . . . , which sets forth the information needed to calculate” their NANP contributions); 52.32(b) (requiring that “[a]ll telecommunications carriers . . . shall complete and submit a ‘Telecommunications Reporting Worksheet’ . . . , which sets forth the information needed to calculate” their LNP contributions); 54.711(a) (requiring that USF “[c]ontributions . . . be calculated . . . in accordance with the Telecommunications Worksheet which . . . sets forth information that the contributor must submit to [USAC]); 64.604(c)(5)(iii)(B) (requiring that “[c]arriers shall complete and submit, and [TRS] contributions shall be based on, a ‘Telecommunications Reporting Worksheet’); 2012 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A) at 2 (stating that “The Commission also uses the revenue data reported on this Worksheet to calculate and assess Interstate Telecommunications Service Provider (ITSP) regulatory fees.”), *available at* <http://transition.fcc.gov/Forms/Form499-A/499a-2012.pdf> (last visited Aug. 29, 2012) (*2012 Form 499-A Worksheet Instructions*); see also, e.g., 2012 Form 499-A Worksheet Instructions at 2 (“[A]ll intrastate, interstate, and international providers of telecommunications in the United States must file this Worksheet. . .”).

<sup>59</sup> See, e.g., *Compass Global, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6125, 6138, para. 29 (2008).

<sup>60</sup> See *Unipoint's 2007-2012 Annual Reporting Worksheet Filing Dates*, *supra* note 39.

<sup>61</sup> 47 C.F.R. §§ 52.17(b), 52.32(b), 54.711, 64.604(c)(5)(iii)(B).

<sup>62</sup> 47 C.F.R. § 64.604(c)(5)(iii)(A); see also *id.* at (c)(5)(iii)(B) (setting forth methods of computation and payment of contributions to TRS Fund).

<sup>63</sup> *Id.* at (c)(5)(iii)(B).

<sup>64</sup> *Id.* Under the Rules, each subject carrier must contribute at least \$25 per year, and providers whose annual contributions are less than \$1,200 must pay the entire amount at the beginning of the contribution period. Otherwise, providers may divide their contributions into equal monthly payments. *Id.* The billing cycle for TRS assessments runs from July 1 to June 30 of each year, with assessments made based on carriers' reported revenue information for the corresponding FCC Form 499-A.



timely contribute to the TRS Fund constitute continuing violations until the violations are cured.<sup>65</sup> Unipoint was obligated to make a \$13,553.05 contribution to the TRS fund for 2007 by July 26, 2007, but did not make that contribution until October 20, 2009, a delay of approximately 27 months.<sup>66</sup> The Company was obligated to make a \$33,614.22 contribution to the TRS Fund for 2008 by July 28, 2008, but did not make that contribution until October 20, 2009, approximately 15 months late.<sup>67</sup> We therefore conclude, based on a preponderance of the evidence, that Unipoint has apparently violated Section 64.604(c)(5)(iii)(A) of the Rules by willfully or repeatedly failing to timely make required TRS contributions for 2007 and 2008.

**D. Unipoint Apparently Failed to Timely File its 2008, 2009, and 2011 International Telecommunications Traffic Reports**

16. Section 43.61 of the Rules requires common carriers that provide international telecommunications services to file reports with the Commission containing data on overseas traffic.<sup>68</sup> The Commission's records indicate that Unipoint failed to file its 2008, 2009, and 2011 international telecommunications traffic reports (providing calendar year 2007, 2008, and 2010 data, respectively) in a timely manner.<sup>69</sup> Failures to timely file international telecommunications traffic reports constitute continuing violations until the violations are cured.<sup>70</sup> Unipoint was obligated to submit its 2008 international telecommunications traffic report by July 31, 2008, but did not do so until twenty months later on March 31, 2010.<sup>71</sup> Unipoint was obligated to file its 2009 international telecommunications traffic report by July 31, 2009, but did not do so until eight months later on March 31, 2010.<sup>72</sup> Unipoint was obliged to file its 2011 international telecommunications traffic report by July 31, 2011, but did not do so until August 18, 2011, nearly three weeks late.<sup>73</sup> Notably, Unipoint's late filing of its 2011 international telecommunications traffic report occurred while the Company was under investigation concerning the

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<sup>65</sup> See, e.g., *RB Communications, Inc., d/b/a Starfone*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 4393, 4402, para. 25 (2012) (*Starfone NAL*); *Omniate International Telecom, LLC d/b/a Omnite Telecom*, Notice of Apparent Liability for Forfeiture and Order, 24 FCC Rcd 4254, 4265-66, paras. 27, 29 (2009) (*Omniate NAL*).

<sup>66</sup> See *Aparicio Apr. 14, 2010, E-mail supra* note 40; *Aparicio Mar. 1, 2010, E-mail supra* note 40.

<sup>67</sup> *Id.*

<sup>68</sup> 47 C.F.R. § 43.61.

<sup>69</sup> Unipoint timely filed its 2010 and 2012 international telecommunications traffic reports (providing calendar year 2009 and 2011 data, respectively) See Letter from Gary Norden, Unipoint Technologies, Inc., to Marlene H. Dortch, Secretary, FCC (Mar. 31, 2010) (on file in EB-09-IH-1945) (filing Unipoint's 2010 international telecommunications traffic report); Letter from Dmitriy Lubarsky, President, Unipoint Technologies, Inc., to Marlene H. Dortch, Secretary, FCC (Jul. 6, 2012) (on file in EB-09-IH-1945) (filing Unipoint's 2012 international telecommunications traffic report).

<sup>70</sup> See, e.g., *Compass Global NAL*, 23 FCC Rcd at 6138, para. 29 (addressing failure to timely file Telecommunications Reporting Worksheets).

<sup>71</sup> See Letter from Gary Norden, Unipoint Technologies, Inc., to Marlene H. Dortch, Secretary, FCC (Mar. 31, 2010) (on file in EB-09-IH-1945) (filing Unipoint's 2008 international telecommunications traffic report); see also 47 C.F.R. § 43.61 (specifying that the international telecommunications traffic reports are due "not later than July 31 of each year for service actually provided in the preceding calendar year").

<sup>72</sup> See Letter from Gary Norden, Unipoint Technologies, Inc., to Marlene H. Dortch, Secretary, FCC (Mar. 31, 2010) (on file in EB-09-IH-1945) (filing Unipoint's 2009 international telecommunications traffic report); see also 47 C.F.R. § 43.61.

<sup>73</sup> See Letter from Cheng-yi Liu, Counsel for Unipoint Technologies, Inc., Law Offices of Thomas K. Crowe, P.C., to Marlene H. Dortch, Secretary, FCC (Aug. 18, 2011) (on file in EB-09-IH-1945) (filing Unipoint's 2011 international telecommunications traffic report); see also 47 C.F.R. § 43.61.

lateness of its 2008 and 2009 international telecommunications traffic report. Based on a preponderance of the evidence, we conclude that Unipoint apparently violated Section 43.61 of the Rules by willfully or repeatedly failing to timely file its 2008, 2009, and 2011 international telecommunications traffic reports providing data for calendar years 2007, 2008, and 2010.<sup>74</sup>

### E. Proposed Forfeitures

17. Section 503(b)(1) of the Act provides that any person who willfully or repeatedly fails to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.<sup>75</sup> Section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture of up to \$150,000 for each violation or each day of a continuing violation by a common carrier, up to a statutory maximum of \$1,500,000 for a single act or failure to act.<sup>76</sup> In determining the appropriate forfeiture amount, we consider the factors enumerated in Section 503(b)(2)(E) of the Act, including “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,” as well as our forfeiture guidelines.<sup>77</sup>

18. We conclude that Unipoint apparently failed to obtain an international Section 214 authorization from the Commission prior to providing international telecommunications service. Unipoint apparently operated as an international telecommunications service provider for an extended period without authorization from the Commission.<sup>78</sup> We therefore find that this apparent violation of the Act and the Rules was both willful and repeated. Given the unambiguous language of the Act,<sup>79</sup> the Commission’s Rules and decisions,<sup>80</sup> and the Commission’s website,<sup>81</sup> it should have been apparent to Unipoint that it was required to obtain Section 214 authority from the Commission prior to providing international telecommunications service.

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<sup>74</sup> 47 C.F.R. § 43.61.

<sup>75</sup> 47 U.S.C. § 503(b)(1)(B).

<sup>76</sup> 47 U.S.C. § 503(b)(2)(B); *see also* 47 C.F.R. § 1.80(b)(2). The Commission has amended Section 1.80(b)(2) of the Rules three times to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note. The most recent inflation adjustment took effect September 2, 2008 and applies to violations that occur after that date. *See Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 23 FCC Rcd 9845 (2008) (adjusting the maximum statutory amounts for common carriers from \$130,000/\$1,325,000 to \$150,000/\$1,500,000).

<sup>77</sup> 47 U.S.C. § 503(b)(2)(E); *see also* 47 C.F.R. § 1.80(b)(6), Note to paragraph (b)(6): Guidelines for Assessing Forfeitures.

<sup>78</sup> *See supra* note 38.

<sup>79</sup> 47 U.S.C. § 214(a).

<sup>80</sup> *See, e.g.*, 47 C.F.R. §§ 63.12, 63.18, 63.20, 63.21, 63.23; *see also* 1998 International Biennial Review Order, *supra* at note 7; *Regulation of International Common Carrier Services*, Report and Order, 7 FCC Rcd 7331 (1992).

<sup>81</sup> For example, the Commission’s website has a list of frequently asked questions about Section 214 applications for providers of international telecommunications services. *See* <http://transition.fcc.gov/ib/pd/pf/214faq.html>. Among the questions and answers are the following: “Question 7: If I am merely reselling the international services of another carrier, do I have to file a Section 214 application? Answer: Yes, including in the case of mobile international services. Refer to 47 CFR § 63.18(e)(2), global resale service.” *See* “Frequently Asked Questions (FAQs),” *available at* <http://transition.fcc.gov/ib/pd/pf/214faq.html> (last visited Aug. 19, 2012).

19. We view Unipoint's apparent failure to obtain international Section 214 authority prior to offering international telecommunications service as a serious dereliction of its responsibilities under the Act and the Rules. The Commission requires applications for international Section 214 authority so that it may address national security, law enforcement, foreign policy, and trade concerns that may be associated with the provision of international service prior to the commencement of such service.<sup>82</sup> International telecommunications carriers that operate without Section 214 authority thus may endanger important public interests.<sup>83</sup> Consistent with Commission precedent,<sup>84</sup> we find that Unipoint is apparently liable for a forfeiture of one hundred thousand dollars (\$100,000) for its willful or repeated failure to obtain international Section 214 authority from the Commission prior to providing international telecommunications service.

20. We conclude that Unipoint apparently failed to timely file its 2007 Annual Worksheet, in apparent willful or repeated violation of Sections 52.17(b), 52.32(b), 54.711, and 64.604(c)(5)(iii)(B) of the Rules.<sup>85</sup> We view Unipoint's apparent failure to timely file its Annual Worksheet as a serious dereliction of its responsibilities under our Rules. The data filed on an Annual Worksheet are relied upon to determine a carrier's contributions, if any, to the USF and the TRS Fund, and to determine a carrier's payments for LNP and NANP cost recovery.<sup>86</sup> Unipoint's failure to timely file its 2007 Annual Worksheet thus had serious implications for administration of those programs. Consistent with Commission precedent,<sup>87</sup> we find that Unipoint is apparently liable for a forfeiture of fifty thousand dollars (\$50,000) for willful or repeated failure to timely file its 2007 Annual Worksheet.

21. We also find that Unipoint apparently failed to make timely TRS contributions for 2007 and 2008. As discussed above, these contributions were not made until 2009. Where a provider fails to satisfy its TRS obligations for an extended period of time, it impedes our efforts to ensure that "telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States," as Section 225(b)(1) of the Act directs.<sup>88</sup> The Commission has established a base forfeiture amount of \$10,000 for each instance in which a contributor fails to make required TRS contributions.<sup>89</sup> Consistent with Commission precedent,<sup>90</sup> we find

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<sup>82</sup> See *1998 International Biennial Review Order*, 14 FCC Rcd at 4914–16, paras. 14–16; *PCIA Forbearance Order*, 13 FCC Rcd at 16882–83, para. 50.

<sup>83</sup> See *1998 International Biennial Review Order*, 14 FCC Rcd at 4915–17, paras. 15–18; *id.* at 4939–40, paras. 72–74.

<sup>84</sup> See, e.g., *ADMA Telecom, Inc.*, Forfeiture Order, 26 FCC Rcd 4152, 4161–62, paras. 26–27 (2011) (*ADMA Forfeiture Order*) (assessing a \$100,000 forfeiture against a prepaid calling card company for unauthorized international telecommunications service); *Starfone NAL*, 27 FCC Rcd at 4400, para. 20–22 (finding an apparent liability for a \$100,000 forfeiture for unauthorized international telecommunications service); *Teleplus, LLC*,

Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 7666, 7670–77, para. 12 (2009) (same); *Omniat NAL*, 24 FCC Rcd at 4264, para. 25 (same); *InPhonic Further NAL* 22 FCC Rcd at 8695, 8706, paras. 13, 41 (same).

<sup>85</sup> 47 C.F.R. §§ 52.17(b), 52.32(b), 54.711, 64.604(c)(5)(iii)(B).

<sup>86</sup> 47 C.F.R. §§ 52.17, 52.32, 54.711, 64.604(c)(5)(iii).

<sup>87</sup> See, e.g., *ADMA Forfeiture Order*, 26 FCC Rcd at 4155, 4162, paras. 9, 28 (assessing a \$150,000 forfeiture for failure to timely file three quarterly Telecommunications Reporting Worksheets); *Globcom, Inc.*, Order of Forfeiture, 21 FCC Rcd 4710, 4720–21, 4727, paras. 26–28, 31, 45 (2006) (assessing a \$150,000 forfeiture for failure to timely file quarterly or annual Telecommunications Reporting Worksheets on three occasions) (*Globcom Forfeiture Order*).

<sup>88</sup> 47 U.S.C. § 225(b)(1).

<sup>89</sup> See, e.g., *ADMA Forfeiture Order*, 26 FCC Rcd at 4158, para. 18; *Globcom Forfeiture Order*, 21 FCC Rcd at 4721, 4727, paras. 31, 45; *Starfone NAL*, 27 FCC Rcd at 4402, para. 26.

that Unipoint is apparently liable for a forfeiture of twenty thousand dollars (\$20,000) for failure to timely pay its TRS Fund contributions for 2007 and 2008.

22. Finally, we find that Unipoint apparently willfully or repeatedly failed to timely file international telecommunications traffic reports in 2008, 2009, and 2011, as Section 43.61 of our Rules requires. The Commission has held that the data it receives through international telecommunications traffic reports are “invaluable” to the discharge of essential regulatory tasks, including “evaluating applications for international facilities, considering facility planning options, monitoring the development and competitiveness of each international market, formulating policies consistent with the public interest and gauging the competitive impact of [its] decisions on the market.”<sup>91</sup> Failure to timely file international telecommunications traffic reports impedes the work of the Commission and hampers the discharge of its obligations under the Act. The Commission’s *Forfeiture Policy Statement* and implementing Rules prescribe a base forfeiture of \$3,000 for failure to file required forms or information.<sup>92</sup> Therefore, we find Unipoint is apparently liable for a forfeiture of nine thousand dollars (\$9,000) for its willful or repeated failure to timely file international telecommunications traffic reports in 2008, 2009, and 2011.

#### IV. CONCLUSION

23. In light of the seriousness, duration, and scope of the apparent violations, we propose forfeitures totaling one hundred seventy-nine thousand dollars (\$179,000) against Unipoint, consisting of one hundred thousand dollars (\$100,000) for providing international telecommunications service without authorization; fifty thousand dollars (\$50,000) for failure to timely file a 2007 Annual Worksheet; twenty thousand dollars (\$20,000) for failure to timely make contributions to the TRS Fund in 2007 and 2008; and nine thousand dollars (\$9,000) for failure to timely file international telecommunications traffic reports in 2008, 2009, and 2011.

#### V. ORDERING CLAUSES

24. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Act,<sup>93</sup> and Section 1.80 of the Rules,<sup>94</sup> Unipoint Technologies, Inc. is hereby **NOTIFIED OF ITS APPARENT**

(Continued from previous page) \_\_\_\_\_

<sup>90</sup> See, e.g., *ADMA Forfeiture Order*, 26 FCC Rcd at 4158–59, 4162, paras. 18, 20, 28 (assessing a base forfeiture of \$10,000 for each of two failures to timely make contributions to the TRS Fund (\$20,000) and adding an upward adjustment of \$60,706, for a total forfeiture of \$80,706); *Globcom Forfeiture Order*, 21 FCC Rcd at 4727, para. 45 (assessing a base forfeiture amount of \$10,000 for each of two failures to timely make contributions to the TRS Fund (\$20,000) and adding an upward adjustment of \$5,943, for a total forfeiture of \$25,943). Unipoint does not now have an unpaid TRS balance.

<sup>91</sup> Amendment of Section 43.61 of the Commission’s Rules to Update and Simplify the Required Traffic Data Reports Filed by International Telecommunications Carriers, Report and Order, 100 FCC 2d 578, 580, paras. 1, 7 (1985); see also Reporting Requirements for U.S. Providers of International Telecommunications Services – Amendment of Part 43 of the Commission’s Rules, First Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 7274, 7275–76, paras. 1–2 (2011) (concluding that the Commission should continue to require U.S. providers of international telecommunications services to report information on their international telecommunications traffic).

<sup>92</sup> See *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, 17113 (1997) (*Forfeiture Policy Statement*), *recons. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b), Note to paragraph (b)(6) “Section I. Base Amounts for Section 503 Forfeitures.”

<sup>93</sup> 47 U.S.C. § 503(b).

<sup>94</sup> 47 C.F.R. § 1.80.

**LIABILITY FOR A FORFEITURE** in the amount of one hundred seventy-nine thousand dollars (\$179,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(a), and Sections 43.61, 52.17(b), 52.32(b), 54.711, 63.18, and 64.604(c)(5)(iii)(A)–(B) of the Commission’s rules, 47 C.F.R. §§ 43.61, 52.17(b), 52.32(b), 54.711, 63.18, 64.604(c)(5)(iii)(A)–(B).

25. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Unipoint **SHALL PAY** the full amount of the proposed forfeitures or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeitures.

26. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Unipoint shall also send electronic notification within forty-eight (48) hours of the date said payment is made to Terry.Cavanaugh@fcc.gov and to Robert.Krinsky@fcc.gov. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>95</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions to follow based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

27. Any request for full payment under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>96</sup> If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

28. The written statement seeking reduction or cancellation of the proposed forfeitures, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.80(f)(3) and 1.16 of the Commission’s Rules.<sup>97</sup> The written statement must be

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<sup>95</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>96</sup> See 47 C.F.R. § 1.1914.

<sup>97</sup> See 47 C.F.R. §§ 1.80(f)(3), 1.16.



mailed to Theresa Z. Cavanaugh, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 4-C330, Washington, D.C. 20554 and must include the NAL/Account number referenced above. The written statement shall also be e-mailed to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov and to Robert B. Krinsky at Robert.Krinsky@fcc.gov.

29. 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 (GAAP); 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.

30. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to: Dmitriy V. Lubarsky, Chief Executive Officer, Unipoint Technologies, Inc., 34 Washington Street, Suite 201, Wellesley, MA 02481.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary