

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

In the Matter of	)	
	)	
Teresa Goldberg	)	File No.: EB-TCD-12-00000241 <sup>1</sup>
a/k/a Tammy Pocknett	)	
d/b/a Software Training Company, Software	)	NAL/Acct. No.: 201232170004
Business Management, and Software Managing	)	
Systems	)	FRN: 0021522776

**FORFEITURE ORDER**

**Adopted: May 3, 2013**

**Released: May 7, 2013**

By the Commission: Commissioner McDowell not participating.

**I. INTRODUCTION**

1. In this Forfeiture Order (Order), we issue a forfeiture of \$432,000 against Teresa Goldberg a/k/a Tammy Pocknett d/b/a Software Training Company, Software Business Management, and Software Managing Systems (Teresa Goldberg d/b/a Software Training Company) for willful and repeated violations of Section 227(b)(1)(C) of the Communications Act of 1934, as amended (Act), and Section 64.1200(a)(4) of the Commission’s rules,<sup>2</sup> by delivering 27 unsolicited advertisements, or “junk faxes,” to the telephone facsimile machines of 27 consumers.

**II. BACKGROUND**

2. Congress enacted the Telephone Consumer Protection Act of 1991 (TCPA) to address problems of abusive telemarketing, including unsolicited facsimile advertisements or “junk faxes.”<sup>3</sup> As a result of the TCPA, Section 227(b)(1)(C) of the Act makes it “unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States . . . to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement.”<sup>4</sup>

3. Pursuant to Section 503(b)(5) of the Act,<sup>5</sup> the Enforcement Bureau (Bureau) issued a junk

<sup>1</sup> This case was formerly assigned the file number EB-10-TC-487. In January 2011, the Telecommunications Consumers Division reassigned this case the number set forth in the caption.

<sup>2</sup> See 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64.1200(a)(4).

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

<sup>4</sup> 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 through which the recipient voluntarily agreed to make its facsimile number available for public distribution. In addition, the unsolicited ad must notify the recipient how to opt out of receiving future such ads, and do so in compliance with certain requirements. The Commission adopted implementing rules. 47 C.F.R. § 64.1200(a)(4).

<sup>5</sup> 47 U.S.C. § 503(b)(5).

fax citation to Teresa Goldberg d/b/a Software Training Company on December 20, 2010 in response to a consumer complaint alleging that Teresa Goldberg d/b/a Software Training Company had faxed unsolicited advertisements.<sup>6</sup> On December 30, 2010, Software Training Company responded to the citation, claiming that the company was “no longer active or in business” and that it had “no plan or resources to start the company again.”<sup>7</sup>

4. Subsequently, between February and September 2011, the Commission received complaints from consumers alleging that they had received unsolicited facsimile advertisements from “Software Business Management” and “Software Managing Systems.” On February 23, 2012, the Commission issued a Notice of Apparent Liability of Forfeiture (NAL) against Teresa Goldberg d/b/a Software Training Company in the amount of \$432,000, finding that “‘Software Business Management’ and ‘Software Managing Systems’ are nothing more than names through which Teresa Goldberg d/b/a Software Training Company operates.”<sup>8</sup> The *February 2012 NAL* ordered Teresa Goldberg d/b/a Software Training Company to pay the proposed forfeiture amount within thirty (30) days, submit evidence or arguments in response to the NAL to show that no forfeiture should be imposed, or show that some lesser amount should be assessed.<sup>9</sup> Although the Bureau confirmed that Teresa Goldberg d/b/a Software Training Company received the *February 2012 NAL* by hand delivery, she has not paid the forfeiture or responded to the Commission.<sup>10</sup>

### III. DISCUSSION

5. Section 503(b)(2)(D) authorizes the Commission to assess a maximum forfeiture of \$16,000 per violation against an entity such as Teresa Goldberg d/b/a Software Training Company.<sup>11</sup> In exercising such authority, the Commission must consider “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.”<sup>12</sup>

6. Teresa Goldberg d/b/a Software Training Company did not respond to the *February 2012 NAL*. We are, therefore, unaware of any mitigating circumstances to warrant a cancellation or reduction of the forfeiture penalty. Accordingly, we affirm our findings in the February 2012 NAL that Teresa Goldberg d/b/a Software Training Company willfully and repeatedly violated Section 227(b)(1)(C) of the

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<sup>6</sup> Citation from Joshua P. Zeldis, Assistant Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Software Training Company (Dec. 20, 2010) (on file in EB-TCD-00000241).

<sup>7</sup> Letter from Richard Goldberg, Software Training Company, to Federal Communications Commission (Dec. 30, 2010) (on file in EB-TCD-00000241).

<sup>8</sup> *Teresa Goldberg a/k/a Tammy Pocknett d/b/a Software Training Company, Software Business Management and Software Managing Systems*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 2723, 2725 (2012) (*February 2012 NAL*).

<sup>9</sup> *February 2012 NAL*, 27 FCC Rcd at 2726, para. 15.

<sup>10</sup> The *February 2012 NAL* was served on Teresa Goldberg a/k/a Tammy Pocknett at 10:40 a.m., May 18, 2012, 17127 Clemons Drive, Encino, CA 91436-4025, by FCC field agent Jeff Garretson.

<sup>11</sup> 47 U.S.C. § 503(b)(2)(D). Section 503(b)(2)(D) provides for forfeitures of up to \$10,000 for each in cases where the violation does not involve a Commission licensee or 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. No. 104-134, Sec. 31001, 110 Stat. 1321, the Commission increased the maximum statutory forfeiture under Section 503(b)(2)(C) to \$16,000. See 47 C.F.R. § 1.80(b); 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 an increase in the maximum forfeiture for this type of violation to \$16,000).

<sup>12</sup> 47 U.S.C. § 503(b)(2)(E).

Act<sup>13</sup> and Section 64.1200(a)(4) of the Commission's rules<sup>14</sup> by delivering 27 junk faxes to the telephone facsimile machines of 27 consumers. In imposing the penalty, we emphasize that for the reasons articulated in the *February 2012 NAL*, the forfeiture penalty attaches to Teresa Goldberg a/k/a Tammy Pocknett as well "Software Training Company," "Software Business Management," "Software Managing Systems," and any other name through which she does business.<sup>15</sup> Because we have no evidence to suggest that the proposed forfeitures should be reduced or cancelled, we hereby impose a total forfeiture of \$432,000 against Teresa Goldberg d/b/a Software Training Company for willfully and repeatedly violating Section 227(b)(1)(C) of the Act and Section 64.1200(a)(4) of the Commission's rules, as set forth in the *February 2012 NAL*.

#### IV. ORDERING CLAUSES

7. 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(f)(4) of the Commission's rules, 47 C.F.R. § 1.80(f)(4), that Teresa Goldberg a/k/a Tammy Pocknett d/b/a Software Training Company, Software Business Management and Software Managing Systems **IS LIABLE FOR A MONETARY FORFEITURE** to the United States Government in the sum of \$432,000 for willfully and repeatedly violating Section 227(b)(1)(C) of the Communications Act, 47 U.S.C. § 227(b)(1)(C), and Section 64.1200(a)(4) of the Commission's rules, 47 C.F.R. § 64.1200(a)(4).

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.<sup>16</sup> If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.<sup>17</sup> Teresa Goldberg d/b/a Software Training Company shall send electronic notification of payment to Johnny Drake at [Johnny.Drake@fcc.gov](mailto:Johnny.Drake@fcc.gov), Rosemary Cabral at [Rosemary.Cabral@fcc.gov](mailto:Rosemary.Cabral@fcc.gov), and Phillip Priesman at [Phillip.Priesman@fcc.gov](mailto:Phillip.Priesman@fcc.gov) on the date said payment is made.

9. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>18</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 you should follow based on the form of payment you select:

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<sup>13</sup> 47 U.S.C. § 227(b)(1)(C).

<sup>14</sup> 47 C.F.R. § 64.1200(a)(4).

<sup>15</sup> As explained in the *February 2012 NAL*, "Software Training Company" is a fictitious business name registered to "Teresa Goldberg" and using the address 17127 Clemons Drive, Encino, California. Software Training Company, Fictitious Business Name Record, ID No. 20090624|7563, filed July 3, 2009, Westlaw RPCA-CA database, available at <http://www.westlaw.com> (last visited Dec. 10, 2012). "Teresa Goldberg" is another name used by Tammy Pocknett, who owns the property located at the address used by Software Training Company. Los Angeles, California Real Property Tax Assessor Record, Parcel Number: 2292-020-007, Westlaw Public Records - Real Property Records Combined database, available at <http://www.westlaw.com> (last visited Dec. 10, 2012). Ms. Goldberg/Pocknett appears to use the names "Software Business Management" and "Software Training Systems" to carry out the business formerly conducted by "Software Training Company."

<sup>16</sup> 47 C.F.R. § 1.80.

<sup>17</sup> 47 U.S.C. § 504(a).

<sup>18</sup> FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- 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.

10. Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>19</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](mailto:ARINQUIRIES@fcc.gov).

11. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by First Class mail and Certified Mail Return Receipt Requested to Teresa Goldberg a/k/a Tammy Pocknett d/b/a Software Training Company, Software Business Management and Software Managing Systems, 17127 Clemons Drive, Encino, CA 91436.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>19</sup> See 47 C.F.R. § 1.1914.