

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Security First of Alabama, LLC)	File No.: EB-TCD-12-00000258 ¹
)	NAL/Acct. No.: 201132170017
)	FRN: 0020780128

FORFEITURE ORDER

Adopted: February 13, 2015

Released: February 18, 2015

By the Commission:

1. We impose a penalty of \$342,000 against Security First of Alabama, LLC (Security First) for delivering 43 unsolicited, prerecorded advertising messages to 33 consumers. The Telephone Consumer Protection Act (TCPA) generally requires telemarketers to obtain a consumer's prior express consent before making calls using prerecorded voice messages. The Commission has adopted rules implementing the TCPA, and we hold Security First accountable for its violations of these rules.

2. On April 14, 2011, the Commission issued a Notice of Apparent Liability for Forfeiture (*NAL*) proposing a \$342,000 forfeiture against Security First² for willful and repeated violation of Section 227(b)(1)(B) of the Communications Act of 1934, as amended (Act),³ and Section 64.1200(a)(2) of the Commission's rules (Rules), as that section existed at the time of the violations,⁴ by delivering 43 prerecorded advertising calls to 33 consumers without either prior express consent or an established business relationship.⁵ Security First has not filed a timely response to the *NAL*.⁶ Based on the information before us, we affirm the forfeiture proposed in the *NAL*.

¹ The investigation began under EB-08-TC-6825 and was subsequently assigned File No. EB-TCD-12-00000258. Any future correspondence with the Commission concerning this matter should reflect the new case number.

² *Security First of Alabama, LLC*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 6490 (2011) (*NAL*). The *NAL* noted that the proposed forfeiture penalty applied to both the corporate entity and all principals and officers, including the designated contact person Raul L. Baguer II, who is the owner and Chief Executive Officer of Security First. This forfeiture order also applies to the corporate entity and these individuals.

³ 47 U.S.C. § 227(b)(1)(B).

⁴ At the time of the violations and when the *NAL* was issued, the Commission's rules governing prerecorded calls to residential telephone lines were codified at 47 C.F.R. § 64.1200(a)(2). Since then, the Commission has amended and renumbered the provisions contained therein as 47 C.F.R. § 64.1200(a)(3). *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 27 FCC Rcd 1830 (2012) (amending rules governing prerecorded advertising calls to require that prior express consent to receive such calls must be in writing and to remove the exemption for calls made under an established business relationship).

⁵ The *NAL* includes a more complete discussion of the facts and history of this case and is incorporated herein by reference. *NAL*, 26 FCC Rcd at 6491-93, paras. 5-9.

⁶ Neither Security First nor Mr. Baguer filed a motion requesting an extension of time to respond to the *NAL*. See 47 C.F.R. § 1.46. Nonetheless, on June 10, 2011, the Commission received a letter from Mr. Baguer claiming that neither he nor Security First was responsible for making the calls at issue in the *NAL*. Letter from Raul L. Baguer II, Owner/CEO, Security First, to Marlene H. Dortch, Secretary, FCC (May 7, 2011) (Baguer Letter). Although the Baguer Letter is dated May 7, 2011, within the time frame for a timely response to the *NAL*, the postmark shows that it was not mailed until June 3, 2011, 18 days after the response deadline. Further, the May 7, 2011 date on the Baguer Letter predates an attachment to that letter, which itself is dated after the deadline to respond to the *NAL*.

(continued....)

3. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act⁷ and Section 1.80 of the Rules,⁸ Security First of Alabama, LLC **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of three hundred forty-two thousand dollars (\$342,000) for willfully and repeatedly violating Section 227(b)(1)(B) of the Act⁹ and Section 64.1200(a)(2) of the Rules, as that section existed at the time of the violations.¹⁰

4. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within fifteen (15) calendar days after the release date of this Forfeiture Order.¹¹ 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.¹²

5. 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. Security First of Alabama, LLC shall send electronic notification of payment to Johnny Drake at johnny.drake@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹³ When completing the 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 that should be followed 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,

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Accordingly, we reject the Bager Letter as untimely. Moreover, even if the Bager Letter had been timely, it is meritless—Mr. Bager’s claim that neither he nor Security First made the prerecorded calls at issue but instead by a third party is belied by the fact that consumer complainants expressly state that the callback number provided in the prerecorded call is one assigned to Security First. An unrelated telemarketer would have no incentive to leave a callback number other than one at which it could be contacted by would-be purchasers of its product. Mr. Bager’s further suggestion that someone else made the calls at issue because he contends that Security First markets only in Alabama yet some complainants were located outside of the state is belied by the fact that 30 of the 33 complaints on which the NAL was based were from Alabamans. The remaining three were from South Carolinians. As a result, Mr. Bager’s claims are unsubstantiated and are at odds with the facts reported by consumers and discussed in the *NAL*.

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 227(b)(1)(B).

¹⁰ 47 C.F.R. § 64.1200(a)(2) (2003).

¹¹ 47 C.F.R. § 1.80.

¹² 47 U.S.C. § 504(a).

¹³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

6. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, D.C. 20554.¹⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

7. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Raul L. Baguer II, Member, Security First of Alabama, LLC, 4068 Crossings Lane, Birmingham, AL 35242; Raul L. Baguer II, Member, Security First of Alabama, LLC, 2308 Colony Park Dr., Birmingham, AL 35243; Raul L. Baguer II, Member, Security First of Alabama, LLC, 622 Cahaba River Parc, Birmingham, AL 35243; Security First of Alabama, LLC, c/o CSC-Lawyers Incorporating Service, 150 S Perry Street, Montgomery, AL 36104.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁴ See 47 C.F.R. § 1.1914.