

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

In the Matter of)
Steve Kramer) File No.: EB-TCD-24-00036094
) NAL/Acct. No.: 202432170005
) FRN: 0035440791
)

FORFEITURE ORDER

Adopted: September 26, 2024

Released: September 30, 2024

By the Commission: Chairwoman Rosenworcel and Commissioners Gomez issuing separate statements;
Commissioner Simington dissenting.

I. INTRODUCTION

1. We impose a penalty of \$6,000,000 against Steve Kramer (Kramer) for effectuating an
illegal robocall campaign that targeted potential New Hampshire voters two days before the state’s 2024
Democratic Presidential Primary Election (Primary Election) in violation of the Truth in Caller ID Act of
2009, which is codified at section 227(e) of the Communications Act of 1934, as amended
(Communications Act), and section 64.1604 of our rules.¹ Kramer’s illegal robocalls carried a deepfake²
generative artificial intelligence (AI) voice message (Deepfake Message) that imitated U.S. President
Joseph R. Biden, Jr.’s voice and encouraged potential voters not to vote in the then-upcoming Primary
Election. The caller identification (caller ID) information was inaccurate and misleading as the calls
transmitted the telephone number associated with a prominent New Hampshire political operative
(NHPO); in reality, Kramer—without the knowledge or consent of the individual whose telephone
number was identified in the caller ID—was responsible for the spoofed robocalls.

2. Following an extensive investigation by the Federal Communications Commission’s
(Commission or FCC) Enforcement Bureau (Bureau), the Commission determined that Kramer
knowingly caused thousands of illegal prerecorded voice robocalls to be transmitted using misleading and
inaccurate caller ID information with the intent to defraud and cause harm in violation of the Truth in
Caller ID Act and the Commission’s implementing regulation.

3. On May 23, 2024, the Commission adopted a Notice of Apparent Liability for Forfeiture
(NAL) proposing a \$6,000,000 forfeiture against Kramer for the violations of its rules.³ Kramer did not
respond to the NAL.⁴ As such, we see no reason to cancel, withdraw, or reduce the proposed penalty, and
we therefore assess the \$6,000,000 forfeiture as previously proposed.

¹ 47 U.S.C. § 227(e); 47 CFR § 64.1604.

² “Deepfake” is defined as “an image or recording that has been convincingly altered and manipulated to
misrepresent someone as doing or saying something that was not actually done or said.” Deepfake, Merriam-
Webster (last updated Aug. 13, 2024), https://www.merriam-webster.com/dictionary/deepfake.

³ Steve Kramer, Notice of Apparent Liability for Forfeiture, FCC 24-59, 2024 WL 2717624 (May 23, 2024) (NAL).

⁴ The Commission sent the NAL to Kramer via electronic and certified mail. Kramer confirmed receipt of the NAL
via email but did not provide a substantive response. See Email from Steve Kramer to Raul Rojo, Attorney Advisor,
Telecommunications Consumers Division, FCC Enforcement Bureau (May 24, 2024 at 12:31 PM) (on file in EB-
TCD-24-00036094).

II. BACKGROUND

A. Legal Framework

4. Congress recognized that consumers have embraced caller ID as a vital part of voice telephone service, using it to help them decide whether to answer the phone.⁵ Caller ID is only valuable, however, if it is accurate.⁶ To protect consumers, Congress passed the Truth in Caller ID Act which makes it “unlawful for any person . . . to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value”⁷—a practice known as “spoofing.”⁸

5. On February 8, 2024, the Commission confirmed that the Telephone Consumer Protection Act’s restrictions on the making of calls using an “artificial or prerecorded voice” encompass current AI technologies that generate artificial human voices.⁹ In doing so, the Commission observed that uses of voice cloning “can uniquely harm consumers and those whose voice is cloned. Voice cloning can convince a called party that a trusted person, or someone they care about such as a family member, wants or needs them to take some action that they would not otherwise take.”¹⁰ While a Truth in Caller ID violation is not dependent on the content of the call, calls transmitting AI voice-cloned messages and inaccurate or misleading caller ID may further demonstrate a caller’s intent to defraud, cause harm, or wrongfully obtain something of value.

B. Factual Background

6. On January 21, 2024, two days before the New Hampshire Primary Election, thousands of potential voters received robocalls that included the following prerecorded and artificial voice Deepfake Message—all but the last sentence of which was spoken in a voice that was artificially created to sound like President Biden:¹¹

⁵ See 156 Cong. Rec. H2522, H2523 (2010) (remarks of Rep. Stearns) (“Millions of Americans use caller ID to secure greater privacy for their families.”).

⁶ *Id.* at H2524 (remarks of Rep. Engel) (“Now, if you see a caller ID and you see it has a phone number, most people think that it’s ironclad that that’s the actual phone number that’s calling them when in truth it’s not.”); 155 Cong. Rec. S170-02, S173 (2009) (remarks of Sen. Nelson) (“Consumers expect caller I.D. to be accurate because it helps them decide whether to answer a phone call and trust the person on the other end of the line.”).

⁷ 47 U.S.C. § 227(e)(1).

⁸ *Caller ID Spoofing*, Fed. Comm’n’s Comm’n, <https://www.fcc.gov/spoofing> (last updated Mar. 7, 2022) (“Spoofing is when a caller deliberately falsifies the information transmitted to your caller ID display to disguise their identity.”).

⁹ *Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts*, CG Docket No. 23-362, Declaratory Ruling, FCC 24-17, 2024 WL 519167, at *2 (Feb. 8, 2024) (*AI Declaratory Ruling*); see also 47 U.S.C. § 227(b)(1)(A)-(B).

¹⁰ *AI Declaratory Ruling*, 2024 WL 519167, at *2, para. 6.

¹¹ Numerous news outlets have concluded that the recorded voice resembled the voice of President Biden. See, e.g., Alex Seitz-Wald and Mike Memoli, *Fake Joe Biden robocall tells New Hampshire Democrats not to vote Tuesday*, NBC News (Jan. 22, 2024, Updated 11:45 AM EST), <https://www.nbcnews.com/politics/2024-election/fake-joe-biden-robocall-tells-new-hampshire-democrats-not-vote-tuesday-rcna134984> (“The call, an apparent imitation or digital manipulation of the president’s voice . . .”); Jacob Rosen, *Fake Biden robocall encourages voters to skip New Hampshire Democratic primary*, CBS News (Jan. 22, 2024, Updated Jan. 23, 2024 9:17 AM EST), <https://www.cbsnews.com/news/fake-biden-robocall-new-hampshire-primary/> (“A fake robocall impersonating President Biden . . .”); Sasha Pezenik and Brittany Shepherd, *Fake Biden robocall urges New Hampshire voters to skip their primary*, ABC News (Jan. 22, 2024, 8:08 PM), <https://abcnews.go.com/Politics/fake-biden-robocallurges-new-hampshire-voters-skip/story?id=106580926> (“A robocall appearing to impersonate the voice of President Joe Biden . . .”); Em Steck and Andrew Kaczynski, *Fake Joe Biden robocall urges New Hampshire voters not to vote*

(continued....)

This coming Tuesday is the New Hampshire Presidential Preference Primary. Republicans have been trying to push nonpartisan and Democratic voters to participate in their primary. What a bunch of malarkey. We know the value of voting Democratic when our votes count. It's important that you save your vote for the November election. We'll need your help in electing Democrats up and down the ticket. Voting this Tuesday only enables the Republicans in their quest to elect Donald Trump again. Your vote makes a difference in November, not this Tuesday. If you would like to be removed from future calls, please press two now. Call {{ [REDACTED] }} to be removed from future calls.¹²

7. The caller ID information, which matched the number identified in the Deepfake Message, indicated that the calls came from phone number {{ [REDACTED] }} (Spoofed Number), which is subscribed to by the spouse of the NHPO, a former New Hampshire Democratic Party chair and treasurer of a Political Action Committee (PAC) that led an effort to encourage New Hampshire Democrats to write-in President Biden's name in the state's Primary Election.¹³ However, neither the NHPO nor their spouse were in any way involved in making the calls.¹⁴ Indeed, the Deepfake Message was directly counter to the very purpose of the NHPO's efforts with regards to the Primary Election: the NHPO's PAC encouraged voters to write-in Biden's name in the Primary Election, whereas the Deepfake Message encouraged voters to not vote at all.¹⁵

8. The Bureau launched an investigation into the calls in coordination with the New Hampshire Department of Justice, Office of the Attorney General, the bipartisan Anti-Robocall Multistate Litigation Task Force (Task Force),¹⁶ the U.S. Department of Justice, and USTelecom's Industry

in Tuesday's Democratic primary, CNN (Jan. 22, 2024, Updated 5:44 PM EST), <https://www.cnn.com/2024/01/22/politics/fake-joe-biden-robocall/index.html> ("A robocall that appears to be an AI voice resembling President Joe Biden . . .").

¹² See Subpoena Response of Steve Kramer (Mar. 20, 2024) (on file in EB-TCD-24-00036094) (Kramer Subpoena Response) at email from {{ [REDACTED] }} of Voice Broadcasting to Kramer (Jan. 21, 2024 at 2:34 PM) (attaching Deepfake Message audio file); Subpoena Response of Life Corp. (Feb. 7, 2024) (on file in EB-TCD-24-00036094) (Life Subpoena Response) at Response to Request for Information (RFI) No. 1 (confirming thousands of calls made on January 21, 2024, to recipients carrying the Deepfake Message); *see also* YouMail Threat Actor Profile for YPS-6194 (Mar. 19, 2024) (on file in EB-TCD-24-00036094). Material set off by double brackets {{ [REDACTED] }} is confidential and is redacted from the public version of this document.

¹³ Life Subpoena Response at Response to RFI No. 2 (confirming the Spoofed Number used with the calls); Email from NHPO to Brendan O'Donnell, New Hampshire Department of Justice, Office of the Attorney General (Jan. 22, 2024, at 9:11 AM) (on file in EB-TCD-24-00036094) (NHPO Complaint) (stating that the Spoofed Number is "my personal cell phone number," but that the caller ID "showed my [spouse's] name" because their name is "the name under which both our cell phones are billed through US Cellular."); Lisa Kashinsky & Holly Otterbein, *Dems launch pro-Biden super PAC in New Hampshire, give Dean Phillips the cold shoulder*, Politico (Dec. 2, 2023), <https://www.politico.com/news/2023/12/02/biden-super-pac-new-hampshire-dean-phillips-00129750> ("On Friday, longtime New Hampshire democratic operative . . . confirmed to Politico that [they are] helping launch a super PAC [(Granite for America)] to encourage voters to write in Biden in the primary" and the NHPO is the "former chair of the New Hampshire Democratic Party.").

¹⁴ NHPO Complaint ("I have not authorized these calls . . . [My spouse] has not authorized these calls.").

¹⁵ See Lisa Kashinsky & Holly Otterbein, *Dems launch pro-Biden super PAC in New Hampshire, give Dean Phillips the cold shoulder*, Politico (Dec. 2, 2023), <https://www.politico.com/news/2023/12/02/biden-super-pac-new-hampshire-dean-phillips-00129750>.

¹⁶ "The Anti-Robocall Multistate Litigation Task Force is a 51-member collective of state Attorneys General, led by the Attorneys General of Indiana, North Carolina, and Ohio, which is focused on actively investigating and pursuing (continued....)

Traceback Group (ITG).¹⁷ The investigation determined that Lingo Telecom, LLC (Lingo) was the originating provider for a number of these calls, i.e., the first provider in the call path.¹⁸ Lingo identified Life Corp. (Life) as the party that transmitted the calls to Lingo.¹⁹ In turn, Life identified that Voice Broadcasting Corp. (Voice Broadcasting) “use[d] Life’s services and equipment to transmit” the calls via Life to originating providers.²⁰ Voice Broadcasting is an entity that offers to “call a targeted list of your prospects and play your message to them” and in “which Life shares common ownership and control.”²¹ Voice Broadcasting transmitted the calls at the request of Kramer its client.²²

9. Kramer is a longtime political consultant who claims to have worked on campaigns in 38 different states and handled campaigns for 59 members of Congress.²³ He has been described as having “decades of experience working on federal, state and local campaigns[.]”²⁴ In his own words, Kramer is “someone who is knowledgeable about everything that’s going on [in politics].”²⁵

10. Email and text correspondence obtained from the parties involved reveals Kramer’s orchestration of the illegal robocall campaign that ultimately affected thousands of potential New Hampshire Primary Election voters. In the lead up to the New Hampshire Primary Election, Kramer approached an acquaintance (Individual-1) familiar with AI technology about creating the Deepfake Message.²⁶ On Saturday, January 20, 2024, Kramer provided Individual-1 with a call script:²⁷

enforcement actions against various entities in the robocall ecosystem that are identified as being responsible for significant volumes of illegal and fraudulent robocall traffic routed into and across the country.” Letter from Tracy Nayer, Special Deputy Attorney General, Consumer Protection Division, N.C. Dep’t of Justice, to Talal Khalid, CEO, Telcast Network LLC, at n.1 (Nov. 3, 2023), <https://ncdoj.gov/wp-content/uploads/2023/11/State-AG-Task-Force-NOTICE-Letter-to-TELCAST.pdf>.

¹⁷ The ITG is the registered industry consortium selected pursuant to the TRACED Act to conduct tracebacks. See *Implementing Section 13(d) of the Pallone-Thune Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, DA 23-719, 2023 WL 5358422, at *1, para. 1 (EB Aug. 18, 2023).

¹⁸ See ITG Subpoena Response (Jan. 31, 2024) (on file in EB-TCD-24-00036094).

¹⁹ *Id.*

²⁰ Life Subpoena Response, *supra* note 12, at Response to RFI No. 1.

²¹ Voice Broadcasting, <https://voicebroadcasting.com/default/> (last visited Aug. 13, 2024); Life Subpoena Response, *supra* note 12, at n.3.

²² Life Subpoena Response, *supra* note 12, at Response to RFI No. 3.

²³ 77 WABC, Frank Morano Interviews & More, *Steve Kramer* (Feb. 28, 2024) <https://www.listennotes.com/podcasts/frank-morano/steve-kramer-02-28-24-FgzNh3017wB/> (recording on file in EB-TCD-24-00036094) (Morano Podcast) at 11:49.

²⁴ Holly Ramer, *Political consultant behind fake Biden robocalls says he was trying to highlight a need for AI rules*, The Assoc. Press (Feb. 26, 2024), <https://apnews.com/article/ai-robocall-biden-new-hampshire-primary-2024-f94aa2d7f835ccc3cc254a90cd481a99>.

²⁵ Morano Podcast at 12:38.

²⁶ Joint Law Enforcement Interview with Steve Kramer (Feb. 29, 2024) (involving the FCC and New Hampshire Department of Justice, Office of the Attorney General) (recording on file in EB-TCD-24-00036094) (Kramer Interview) at 1:01:39 (Interviewer: “When did you ask [Individual-1] to do the Biden robocall, do you know?” Kramer: “Three days before I sent it out, maybe two days.”).

²⁷ Kramer Subpoena Response, *supra* note 12, at email from Kramer to [Individual-1] (Jan. 20, 2024, at 8:57 AM) (“Attached script. We are launching around 6pm on Sunday, however I’d like to send finished product to my tech today to set up.”).

New Hampshire auto call

This coming Tuesday is the New Hampshire Presidential preference primary.

(2 second pause for effect)

Republicans have been trying to push non-partisan and democratic voters to participate in their primary. What a bunch of Mularkey!! We know the value of voting Democrati ...when our votes count.

It's important that you save your vote for the November election. We'll need your help in electing Democrats up and down the ticket.

Voting this Tuesday only enables the Republicans in their quest to elect Donald Trump again. Your vote makes a difference in November, not this Tuesday.

(2 second pause)

If you would like to be removed from future calls, please press 2 now

Kramer claims he wrote the script himself and specifically incorporated the word “malarkey,” which—according to Kramer—is President Biden’s “signature catchphrase” and “gets people’s attention.”²⁸ Individual-1 then used software available through a website operated by Eleven Labs Inc. (Eleven Labs) to create the Deepfake Message in accordance with the script Kramer provided;²⁹ later that same day, Individual-1 emailed two variations of the Deepfake Message to Kramer.³⁰ Also on January 20, Kramer’s father paid Individual-1 \$150 for the Deepfake Message on Kramer’s behalf.³¹ President Biden was neither involved in creating the Deepfake Message, nor did he authorize the Deepfake Message.³²

²⁸ Kramer Interview at 48:17 (Interviewer: “The statement that you used for the robocalls here in New Hampshire two days before the primary – who created that statement?” Kramer: “I did it.”); *id.* at 49:24 (Kramer: “The Biden voice using ‘malarkey’ as his signature catchphrase gets people’s attention.”); *see also* Ben Guarino, *Joe Biden loves the word ‘malarkey.’ But nobody knows where it came from*, *The Wash. Post* (July 28, 2016), <https://www.washingtonpost.com/news/morning-mix/wp/2016/07/28/joe-biden-loves-the-word-malarkey-but-nobody-knows-where-it-came-from/>.

²⁹ Vijay Balasubramanian, *Pindrop Reveals TTS Engine Behind Biden AI Robocall*, Pindrop, <https://www.pindrop.com/blog/pindrop-reveals-tts-engine-behind-biden-ai-robocall> (last visited July 15, 2024) (concluding that Eleven Labs Inc.’s text-to-speech engine generated the Deepfake Message); Alex Seitz-Wald, *A New Orleans magician says a Democratic operative paid him to make the fake Biden robocall*, *NBC News* (Feb. 23, 2024), <https://www.nbcnews.com/politics/2024-election/biden-robocall-new-hampshire-strategist-rcna139760> (“[Individual 1] used Eleven Labs . . . to create the Biden robocall.”).

³⁰ Kramer Subpoena Response, *supra* note 12, at email from [Individual-1] to Kramer (Jan. 20, 2024, at 10:13 AM) (attaching two variations of the Deepfake Message); *see also* Kramer Interview at 1:04:02 (Kramer: “This kid [Individual-1] seemed like he knew what he was doing and he could do it fast. And he did. And I would say that after I shot him the original script, he sent me one copy, and then maybe another copy a few minutes later, that he had worked on as far as the Biden voice.”).

³¹ Subpoena Response of Individual-1 (Mar. 20, 2024) (on file in EB-TCD-24-00036094) (Individual-1 Subpoena Response) at Screenshot_20240222_143959 Venmo (showing two payments from Kramer’s father totaling \$150.00); Kramer Interview at 58:11 (Kramer: “[Individual-1 is] a street magician. So when I paid him \$150 in order to be able to create this call, I wanted to pay him a fair amount, what I thought would be a fair amount.”); *id.* at 18:07 (“Some of my canvassers don’t have bank accounts, so [Kramer’s father is] the one that keeps track of the Venmos we send out, or CashApp, or different other entities.”).

³² *See Watch: White House holds briefing amid reports of AI-generated robocalls impersonating Biden in New Hampshire*, *PBS News Hour* (Jan. 22, 2024, Updated 3:51 PM EST), <https://www.pbs.org/newshour/politics/watch-live-white-house-holds-daily-briefing-as-biden-and-harris-focus-on-reproductive-rights> (“White House press secretary Karine Jean-Pierre confirmed Monday that the call ‘was indeed fake and not recorded by the president.’”).

11. Kramer needed a caller ID number to pair with the Deepfake Message. He ultimately selected a number associated with the NHPO, which was a carefully calculated decision.³³ Kramer knew he wanted a New Hampshire area code because as he later explained, if you are a resident of New Hampshire “when you see someone from New Hampshire calling you, you’re more likely to pick up.”³⁴ He also specifically wanted to use the telephone number of someone associated with the President Biden write-in campaign.³⁵ Kramer reviewed records pertaining to the NHPO’s super PAC available on the Federal Election Commission website and found the NHPO’s name and number.³⁶

12. Meanwhile, on Friday, January 19, 2024, Kramer solicited Voice Broadcasting to procure “a Sunday night robo[call], probably 25k [calls] range.”³⁷ On Saturday, January 20, Kramer emailed Voice Broadcasting a list of names and numbers for the “robo-call tomorrow,”³⁸ which Kramer later explained was a list of potential New Hampshire voters likely to vote for a Democrat in the Primary Election.³⁹ Kramer’s instructions to Voice Broadcasting were specific: “Call[s] should go out at 6:15pm EST Sunday. Run to answer machines and live pickup . . . we should be able to finish by 8:45pm.”⁴⁰ About a half-hour later, Kramer sent another email to Voice Broadcasting with the Deepfake Message “for Sunday night.”⁴¹ On Sunday, January 21, Kramer instructed Voice Broadcasting to “use [the Spoofed Number] as the caller ID number” for the calls.⁴² With Kramer’s permission, Voice Broadcasting added a sentence to the end of the Deepfake Message that instructed potential voters to “call [the Spoofed Number] to be removed from future calls.”⁴³ By 7:12 p.m. on the night of Sunday, January 21, Voice Broadcasting—“using Life’s services and equipment”—had initiated 9,581 calls carrying the Deepfake Message to potential New Hampshire voters using the Spoofed Number as the caller ID number.⁴⁴

³³ See Kramer Interview, *supra* note 26, at 1:33:29 (Interviewer: “And did I hear you correctly – you provided Voice Broadcasting with the opt-out phone number that belonged to the former New Hampshire DNC Chairman?” Kramer: “Correct. That was a deliberate move by me[.]”).

³⁴ *Id.* at 1:52:13 (Kramer: “I wanted to use someone in-state, in New Hampshire, because when you see someone from New Hampshire calling you, you’re more likely to pick up, which was my intent.”).

³⁵ *Id.* at 1:52:33 (Interviewer: “How did you decide to use [NHPO’s] number out of all of the 603 New Hampshire numbers?” Kramer: “Well, like I discussed before, I looked up on the FEC filings for that particular write-in campaign. [They were] listed as treasurer.”); *id.* at 31:43 (Interviewer: “Kramer, you keep referring to the former chair. What’s the former chair’s name?” Kramer: “Good question. I can’t remember. [They are] well-publicized in the news, I really don’t know [their] name. [They were] running the Biden write-in campaign.”); *id.* at 1:54:52 (Kramer: “I don’t do anything by accident, at least I try not to. So again, the person [NHPO] was chosen because of [their] contacts within the media, certainly in New Hampshire and probably in other places as well[.]”).

³⁶ *Id.* at 32:35 (Interviewer: “How did you get [NHPO’s] phone number?” Kramer: “I looked on the FEC filing for that committee and [they] came up as the treasurer.”); *id.* at 1:52:37 (Kramer: “I looked up on the FEC filings for that particular write-in campaign. [They were] listed as treasurer.”).

³⁷ Life Subpoena Response, *supra* note 12, at LIFE-03-0008.

³⁸ *Id.* at LIFE-03-0022 (attaching a file titled “New Hampshire DEM FEB 2020 Presidential voters”).

³⁹ Kramer Interview, *supra* note 26, at 26:30 (Kramer: “I sent [the call] out to 5,000 people who were registered Democrats who had voted before, so more likely Democrats to vote.”).

⁴⁰ Life Subpoena Response, *supra* note 12, at LIFE-03-0022.

⁴¹ *Id.* at LIFE-03-0023.

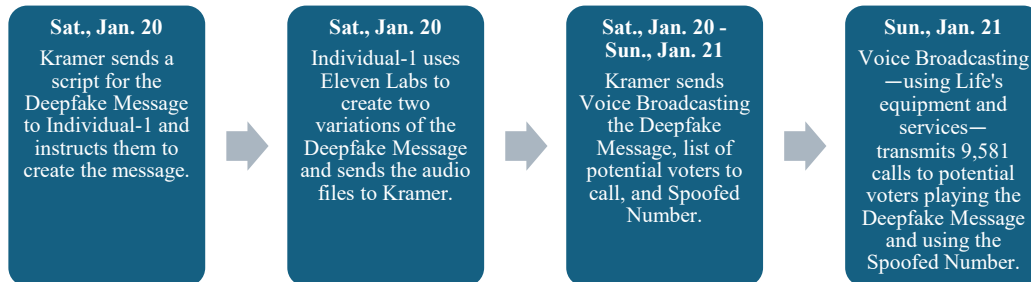
⁴² *Id.* at LIFE-03-0024.

⁴³ See *id.* at Response to RFI No. 1.

⁴⁴ *Id.* at Response to RFI Nos. 1-2 (confirming that Voice Broadcasting “initiated 9,581 calls on January 21, 2024, using Life’s services and equipment with [the Spoofed Number] as the caller identification number”); *id.* at LIFE-03-0013 (showing last call placed at 7:12 p.m.).

13. On Sunday, January 21, 2024, at about 6:17 p.m., the NHPO received a call from a man who had just received a “political call” from what appeared to be the NHPO’s phone number.⁴⁵ The NHPO explained to the caller that they had not called him and the NHPO “shrugged it off.”⁴⁶ By approximately 8:00 p.m., while out to dinner, the NHPO received 10 more calls from unfamiliar numbers.⁴⁷ The NHPO returned one of the calls and reached a woman who explained she received a call from President Biden, and the caller ID showed the NHPO’s spouse’s name.⁴⁸ The woman stated that the message said to call the Spoofed Number to have her name removed from the list, and she asked the NHPO to have her name removed from the list.⁴⁹ The NHPO realized that they had to “leave dinner, go home, and try to fix this.”⁵⁰ They then “spent the rest of the evening and all of the following day . . . focused on correcting the misinformation for as many people as [they] could through Election Day, January 23.”⁵¹ On Monday morning, January 22, the NHPO contacted the New Hampshire Department of Justice, Office of the Attorney General, reported the calls, and warned of an effort at voter suppression and election interference.⁵² The NHPO reported being “deeply concerned about [their] phone number and name being connected with this deepfake call that tried to prevent people from voting.”⁵³

14. The flow chart below depicts the timeline of key events discussed above:



15. The news media began covering the calls almost immediately after they were placed. On the morning of Monday, January 22, 2024, Kramer texted Individual-1 a link to an article covering the robocalls and wrote “[s]hhhhhhh.”⁵⁴ Individual-1 reacted with disbelief.⁵⁵ Later, Kramer told Individual-

⁴⁵ NHPO Complaint, *supra* note 13.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ NHPO Decl. at para. 14, *League of Women Voters of New Hampshire et al. v. Kramer et al.*, No. 1:24-cv-73 (D.N.H. filed Apr. 18, 2024), ECF No. 46-2 (NHPO Decl.).

⁵¹ *Id.* at para. 15.

⁵² NHPO Complaint, *supra* note 13.

⁵³ NHPO Decl. at para. 16.

⁵⁴ Individual-1 Subpoena Response, *supra* note 31, at text message from Kramer to Individual-1 (Jan. 22, 2024, at 10:28 AM).

⁵⁵ *Id.*

l over the phone that because the call was ‘spoofed’ [] it could not be traced back.”⁵⁶ Despite the ensuing news frenzy, Kramer remained silent for weeks about the Deepfake Message he had instigated.

16. On February 23, 2024, Individual-1 publicly disclosed creating the Deepfake Message for Kramer and being asked to delete their email communications reflecting Kramer’s involvement.⁵⁷ Three days later, Kramer publicly accepted responsibility for the calls.⁵⁸ He later stated, “I believe in my actions and I did them deliberately.”⁵⁹ He claimed he had no intention of “apologiz[ing] to the people who might have gotten that call” despite acknowledging he caused them to “feel disenfranchised, or in some way that democracy has been disrupted.”⁶⁰ Kramer claimed the calls were not made on behalf of any other person or entity.⁶¹

C. Originating Service Provider Told to Cease and Desist

17. Following traceback information provided by the ITG, on February 6, 2024, the Bureau sent Lingo a cease-and-desist letter demanding that Lingo stop originating unlawful robocall traffic on its network.⁶² Concurrently with the letter, the Bureau issued a public notice to all U.S.-based voice service providers informing them that if Lingo failed to effectively mitigate illegal robocall traffic within 48 hours of the notice then other service providers could block all calls or cease to accept any traffic from Lingo without liability under the Communications Act or the FCC’s rules.⁶³ On the same day, both the New Hampshire Department of Justice, Office of the Attorney General and the Task Force demanded that

⁵⁶ Decl. of Individual-1 at para. 15, *League of Women Voters of New Hampshire et al. v. Kramer et al.*, No. 1:24-cv-73 (D.N.H. filed Apr. 18, 2024), ECF No. 46-8.

⁵⁷ Alex Seitz-Wald, *A New Orleans magician says a Democratic operative paid him to make the fake Biden robocall*, NBC News (Feb. 23, 2024), <https://www.nbcnews.com/politics/2024-election/biden-robocall-new-hampshire-strategist-rcna139760>.

⁵⁸ *See id.* (“Steve Kramer initially did not respond to multiple requests for comment.”); Marcia Kramer, *Steve Kramer explains why he used AI to impersonate President Biden in New Hampshire*, CBS News (Feb. 26, 2024), <https://www.cbsnews.com/newyork/news/steve-kramer-explains-why-he-used-ai-to-impersonate-president-biden-in-new-hampshire/> (“A political consultant who represents several New York politicians admits he’s the man behind the fake robocall telling President Joe Biden’s supporters not to vote in New Hampshire.”).

⁵⁹ Kramer Interview, *supra* note 26, at 2:17:37 (Kramer: “I believe in my actions and I did them deliberately. And I don’t care about what other people think.”).

⁶⁰ *Id.* at 1:11:25 (Kramer: “And I’m not going to apologize to the people who might have gotten that call, I think that sometimes that’s the way it is.”); Morano Podcast, *supra* note 23, at 19:34 (Kramer: “The people who feel disenfranchised, or in some way that democracy has been disrupted, if I didn’t do this, this regulations, these regulations would have never changed. And in the same way someone who can get through airport security and then is actually working for a security agency in order to be able to show the flaws.”).

⁶¹ Kramer Interview, *supra* note 26, at 1:59:22 (Interviewer: “So, to close the loop on this, it was your idea to use this number, and you didn’t communicate with anyone else about this part of the strategy behind the calls?” Kramer: “Correct.”); Morano Podcast, *supra* note 23, at 25:10 (Kramer: “Dean Phillips’ campaign had no idea I was doing this. I had a different contract with them to get them on the ballot in New York and in Pennsylvania and we did both. They had no knowledge.”); *id.* at 25:22 (Kramer: “The company that I used in order to be able to send out these calls . . . [t]hey had no knowledge of it.”); *id.* at 25:33 (Kramer: “The person who created [the recording], [Individual-1], had no knowledge of how I was going to use it.”).

⁶² Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Alex Valencia, Chief Compliance Officer, Lingo Telecom LLC, 2024 WL 488250 (Feb. 6, 2024), <https://docs.fcc.gov/public/attachments/DOC-400264A1.pdf>.

⁶³ *Robocall Enforcement Notice to All U.S.-Based Voice Service Providers*, Public Notice, DA 24-102, 2024 WL 488244 (Feb. 6, 2024), <https://docs.fcc.gov/public/attachments/DA-24-102A1.pdf>.

Life cease and desist from respectively violating New Hampshire election law and transmitting suspected illegal robocall traffic.⁶⁴

D. Procedural History

18. On May 24, 2024, the Commission released the NAL proposing a \$6,000,000 forfeiture against Steve Kramer for the apparent violations of the Truth in Caller ID Act of 2009 and section 64.1604 of the Commission's rules by perpetrating an illegal robocall campaign that transmitted thousands of spoofed calls.⁶⁵ The NAL ordered Kramer to pay the full amount of the proposed forfeiture or file a written statement seeking reduction or cancellation of the proposed forfeiture.⁶⁶ Kramer has done neither.

19. Also on May 24, 2024, the New Hampshire Department of Justice, Office of the Attorney General announced Kramer had been indicted on charges of felony voter suppression and misdemeanor impersonation of a candidate for his role in perpetrating the illegal robocalls.⁶⁷

III. DISCUSSION

20. In the NAL, the Commission found that Kramer apparently violated the Truth in Caller ID Act and section 64.1604 of the Commission's rules and proposed a forfeiture in accordance with section 503(b) of the Communications Act⁶⁸ and section 1.80 of the Commission's rules.⁶⁹ We 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."⁷⁰ Having done so, we affirm the \$6,000,000 forfeiture proposed in the NAL.⁷¹

21. Kramer's activities violated the Truth in Caller ID Act, which makes it unlawful to "cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value."⁷² The Commission's implementing regulation at section 64.1604 of its rules states that this prohibition applies to a person or entity who knowingly causes, "directly, or indirectly, any caller

⁶⁴ Press Release, N.H. Dep't of Justice, Voter Suppression AI Robocall Investigation Update (Feb. 6, 2024), <https://www.doj.nh.gov/news-and-media/voter-suppression-ai-robocall-investigation-update> (NH Investigation Update) ("Today the Election Law Unit is issuing a cease-and-desist order to Life Corporation[.]"); Letter from Tracy Nayer, Special Deputy Attorney General, Consumer Prot. Div., N.C. Dep't of Justice, to Walter Monk, Founding Owner, Life Corporation, *et al.*, (Feb. 6, 2024), <https://ncdoj.gov/wp-content/uploads/2024/02/State-AG-Task-Force-NOTICE-Letter-to-LIFE-CORP-Feb.-2024-1.pdf>.

⁶⁵ NAL, *supra* note 3, at *1, para. 1. On May 28, 2024, the Commission also issued a Notice of Apparent Liability against Lingo proposing a penalty of \$2,000,000 for apparent violations of section 64.6301(a) of the Commission's rules. *Lingo Telecom LLC*, Notice of Apparent Liability for Forfeiture, FCC 24-60, 2024 WL 2828369, at *4, para. 9 (May 23, 2024). Lingo subsequently resolved this matter by entering into a Consent Decree with the Bureau requiring Lingo to pay a \$1 million civil penalty, adopt more thorough Know-Your-Customer and Know-Your-Upstream-Provider practices, and abide by strict caller ID authentication processes with respect to the Commission's Secure Telephone Identity Revisited and Signature-based Handling of Asserted Information Using toKENs (STIR/SHAKEN) rules. *Lingo Telecom, LLC*, Consent Decree, DA 24-790, 2024 WL 3915892 (Aug. 21, 2024).

⁶⁶ *Id.* at *12, *13, paras. 46, 49.

⁶⁷ Press Release, N.H. Dep't of Justice, Steven Kramer Charged with Voter Suppression Over AI-Generated President Biden Robocalls (May 23, 2024), <https://www.doj.nh.gov/news-and-media/steven-kramer-charged-voter-suppression-over-ai-generated-president-biden-robocalls>.

⁶⁸ 47 U.S.C. § 503(b).

⁶⁹ NAL, *supra* note 3, at *12, paras. 44-45; 47 U.S.C. § 503(b); 47 CFR § 1.80.

⁷⁰ 47 U.S.C. § 503(b)(2)(E).

⁷¹ *See id.*

⁷² *Id.* § 227(e)(1).

identification service to transmit or display misleading or inaccurate caller identification information” with the intent specified in the statute.⁷³

22. As discussed in the NAL and in more detail below, Kramer knowingly used misleading or inaccurate caller ID information with the intent to defraud and cause harm:

Knowingly: Kramer very specifically selected the Spoofed Number for the calls, with full knowledge it was associated with the NHPO, and explicitly directed Voice Broadcasting to place 9,581 calls using the Spoofed Number as the caller ID.

Misleading or Inaccurate: As a result of Kramer’s actions, the caller ID transmitted with the calls was both inaccurate and misleading because the number was associated with the NHPO and their spouse, neither of whom were the actual source of the calls.

Intent to Defraud: Kramer intended to fraudulently deprive voters of their right to cast a ballot in the New Hampshire Primary Election by making false representations of material facts, including by conveying misleading voter eligibility information, using an imitation of President Biden’s voice to deliver that information, and indicating that the call was associated with a local political leader.

Intent to Cause Harm: Kramer intended to cause harm to potential voters and the election process by fueling a false narrative giving potential voters fake information in order to convince them to forgo their right to vote in an election. He also intended to cause harm to the NHPO by subjecting them to a stream of pointless callbacks from confused call recipients.

23. As set forth in the NAL and as discussed in more detail below, we impose a forfeiture in the amount of \$6,000,000. We calculate the forfeiture by assessing a base forfeiture of \$1,000 per each unlawful call. We then apply an upward adjustment of 100% to the proposed amount to reflect the egregiousness, nature, circumstances, extent, and gravity of the violations for which Kramer is culpable. As we have in other mass-spoofing cases, we analyze and verify a portion of the unlawfully spoofed calls and apply the forfeiture amount to those verified calls. In this case, the Bureau verified a subset of 3,000 unlawful spoofed calls.

A. Kramer Knowingly Caused the Transmission of Inaccurate and Misleading Caller ID Information

24. The NAL concluded that Kramer knowingly caused the calls at issue by directing—in detail—Voice Broadcasting to transmit spoofed calls.⁷⁴ Kramer provided Voice Broadcasting with the date and time to make the calls, the list of voters to call, the recording of the message to be played, and the spoofed caller ID number to transmit with the calls.⁷⁵ Kramer instructed Voice Broadcasting to play the recording when either a person answered the call or when the person’s voicemail was activated.⁷⁶ Ultimately, Voice Broadcasting transmitted 9,581 calls through Life pursuant to Kramer’s instructions.⁷⁷

⁷³ 47 CFR § 64.1604(a).

⁷⁴ NAL, *supra* note 3, at *6, paras. 20-21; *see generally Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 et al.*, CG Docket No. 02-278, WC Docket No. 07-135, Declaratory Ruling and Order, 30 FCC Rcd 7961, 7980-81, para. 30 (2015) (stating that the Commission looks at “the totality of the facts and circumstances” to determine who is responsible for making a call for purposes of the TCPA and that a person can be liable for making a call even if he doesn’t physically place the call, if he is “so involved in placing the as to be deemed to have initiated it” and further noting that one of the factors that can be considered is “the extent to which a person willfully enables fraudulent spoofing of telephone numbers”).

⁷⁵ *See supra* para. 12.

⁷⁶ *Id.*

⁷⁷ *Id.*

25. The caller ID number Kramer instructed Voice Broadcasting to use was both inaccurate and misleading, which Kramer not only knew, but planned for and intended. The caller ID information was inaccurate because it did not reflect a number associated with the party causing the calls, i.e., Kramer, but instead was the NHPO's cell phone number.⁷⁸ The caller ID information was also misleading because it reflected a New Hampshire area code.⁷⁹ Indeed, Kramer specifically wanted a New Hampshire number because “when you see someone from New Hampshire calling you, you’re more likely to pick up, which was my intent.”⁸⁰ Kramer further misled call recipients by using the telephone number associated with a prominent member of the New Hampshire Democratic Party who was not connected to the calls.⁸¹ He selected a number associated with the NHPO because of their connection to the campaign to write-in President Biden’s name in the Primary Election.⁸² All of these carefully calculated decisions demonstrate Kramer knowingly caused the calls to be made with inaccurate and misleading caller ID information.

B. Kramer Intended to Defraud and Cause Harm

26. Under the Truth in Caller ID Act, “intent” encompasses a broad scope of objectives, namely, an intent to defraud, cause harm, or wrongfully obtain something of value.⁸³ As detailed in the NAL⁸⁴ and below, the evidence reflects that Kramer acted with intent to defraud and cause harm.

1. Kramer Intended to Defraud Potential Voters

27. The elements of common law fraud are: (1) a false representation; (2) in reference to a material fact; (3) made with knowledge of its falsity; (4) with the intent to deceive; and (5) an action that is taken in reliance upon the representation.⁸⁵ The fifth element—an action taken in reliance upon the representation—is not necessary to establish an intent to defraud under the Truth in Caller ID Act.⁸⁶ A violation of the Truth in Caller ID Act based on an intent to defraud requires only a showing of the first four elements to establish the necessary intent, not a successful result.⁸⁷

⁷⁸ See *supra* para. 11.

⁷⁹ Kramer Interview, *supra* note 26, at 1:52:16.

⁸⁰ *Id.* at 1:52:16.

⁸¹ NHPO Complaint, *supra* note 13 (“I have nothing to do with the calls purporting to be from President Biden. I have not authorized these calls.”).

⁸² See *supra* para. 11.

⁸³ 47 U.S.C. § 227(e)(1).

⁸⁴ NAL, *supra* note 3, at *7-*9, paras. 23-31.

⁸⁵ See *Pence v. United States*, 316 U.S. 332, 338 (1942); *Hercules & Co. v. Shama Rest. Corp.*, 613 A.2d 916, 923 (D.C. 1992); see also *Marini v. Adamo*, 995 F. Supp. 2d 155, 199-200 (E.D.N.Y. 2014) (citing *Chanavil v. Gulatti*, 169 F.3d 168, 171 (2d Cir. 1999)); *M & D Cycles, Inc. v. Am. Honda Motor Co.*, 208 F. Supp. 2d 115, 120 (D.N.H. 2002) (“To establish fraud, a plaintiff must prove that the defendant intentionally made a representation with knowledge of its falsity or with conscious indifference to its truth with the intention to cause another to rely on it. . . . In addition, the plaintiff must prove that he justifiably relied on the misrepresentation, to his detriment.”), *aff’d*, 70 F. App’x 592 (1st Cir. 2003).

⁸⁶ See *Sumco Panama SA, Sumco Panama USA, Virtual Telecom Kft, Virtual Telecom Inc., Davis Telecom Inc., Geist Telecom LLC, Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, And Posting Express Inc.*, Forfeiture Order, 38 FCC Rcd 7235, 7239, para. 11 (2023) (“While reliance on the misrepresentation is required under common law, only a showing of intent to defraud rather than actual reliance and harm is required under the Truth in Caller ID Act.”) (quotations omitted); *John C. Spiller; Jakob A. Mears; Rising Eagle Capital Group LLC; JSquared Telecom LLC; Only Web Leads LLC; Rising Phoenix Group; Rising Phoenix Holdings; RPG Leads; and Rising Eagle Capital Group - Cayman*, Forfeiture Order, 36 FCC Rcd 6225, 6235, para. 20 (2021) (*Rising Eagle Forfeiture Order*) (same).

⁸⁷ See *Rising Eagle Forfeiture Order*, 36 FCC Rcd at 6235, para. 20.

28. *False Representations of Material Facts.* Kramer’s calls conveyed several false representations of material facts. First, the Deepfake Message falsely conveyed that President Biden recorded the message, which he did not; the voice was an AI-generated recording mimicking the president’s voice.⁸⁸ A message seemingly appearing to come from the president of the United States is likely to carry great weight.⁸⁹ Second, the Deepfake Message falsely conveyed that a voter could not vote in the Primary Election *and* the November presidential election: “We know the value of voting Democratic when our votes count. It’s important that you save your vote for the November election.”⁹⁰ A misrepresentation that deceptively tells a potential voter that the president of the United States is telling them to refrain from voting in an election in order to “save” their vote for a later election is a false representation of material facts, and here poses potentially “devastating effects on the democratic election process.”⁹¹ Third, the calls transmitted the Spoofed Number as the caller ID and the Deepfake Message further instructed listeners that they could call the Spoofed Number to be removed from future calls, which of course was not the case.⁹² Use of a New Hampshire area code and number associated with a prominent New Hampshire Democrat, i.e., the NHPO, added significant legitimacy to the false Deepfake Message.⁹³ Failure to provide an accurate name and number of the caller prevented call recipients from opting out of receiving future calls and removed an important privacy protection, and thus this omission is material.⁹⁴

29. *Knowledge of Falsity.* Kramer was well aware that each of these misrepresentations was false because he himself carefully designed each one in order to create a specific outcome—detering potential voters from voting. He knew the message was not created by President Biden; he instructed Individual-1 to create an AI-generated deepfake message in accordance with a script he wrote himself.⁹⁵ He knew that voters need not refrain from voting in the New Hampshire Primary Election in order to “save” their vote for November; Kramer is a long-time political consultant well-versed in basic voting principles.⁹⁶ Lastly, he knew that calling the Spoofed Number would not remove voters from the calling list; the NHPO was not associated with the robocalling campaign in any way and thus had no ability to remove voters from Kramer’s list.⁹⁷

30. *Intent to Deceive.* Kramer made all of these misrepresentations with the intent to deceive voters. He wanted voters to believe that they were hearing from President Biden, as evidenced by his (a) instructions to Individual-1 to use AI to make the message sound like President Biden and (b) incorporation of Biden’s catchphrase term, “malarkey,” into the script.⁹⁸ Kramer wanted voters to believe

⁸⁸ See *supra* paras. 6, 10.

⁸⁹ See Kramer Interview, *supra* note 26, at 26:30 (Kramer: “I sent [the call] out to 5,000 people who were registered Democrats who had voted before, so more likely Democrats to vote.”).

⁹⁰ See *supra* para. 6.

⁹¹ See NH Investigation Update, *supra* note 64; *McCutcheon v. Fed. Election Comm’n*, 572 U.S. 185, 191 (2014) (“There is no right more basic in our democracy than the right to participate in electing our political leaders.”); *Reynolds v. Sims*, 377 U.S. 533, 555 (1964) (“The right to vote freely for the candidate of one’s choice is of the essence of a democratic society[.]”).

⁹² See *supra* paras. 6, 12.

⁹³ See *supra* paras. 7, 11.

⁹⁴ See 47 CFR § 64.1200(b)(1)–(3) (requiring artificial or prerecorded voice messages state the identity of the caller, telephone number of the caller, and when left on answering machines to include “a toll free number that enables the called person to call back at a later time”).

⁹⁵ See *supra* para. 10.

⁹⁶ See *supra* para. 9.

⁹⁷ See *supra* paras. 7, 11.

⁹⁸ See *supra* para. 10.

that voting in the Primary Election meant they could not vote in November, as evidenced by the language of the script instructing voters to “save” their vote.⁹⁹ That Kramer wanted voters to believe the calls came from someone with a New Hampshire area code and specifically from the NHPO, a prominent figure in the super PAC that was leading President Biden’s write-in campaign in New Hampshire—instead of himself—is evidenced by his use of a number associated with the NHPO, and by his inclusion of that number in the Deepfake Message itself as the number to call to be removed from future calls.¹⁰⁰ Kramer admitted that his belief was voters felt “duped” by his efforts.¹⁰¹

2. Kramer Intended to Cause Harm to Potential Voters by Depriving Them of Their Vote in the Primary Election and the NHPO by Subjecting Them to a Stream of Unsettling and Unwarranted Callbacks

31. Kramer intended to harm potential voters by giving them false information in order to convince them to forgo their right to vote in an election.¹⁰² Kramer himself acknowledged—without regret—that people may have felt “disenfranchised” or that “democracy has been disrupted” as a result of his calls.¹⁰³ Kramer’s calls not only harmed potential voters but also interfered with the Primary Election and potentially could have interfered with the November 2024 General Election. Interfering with an election undermines public trust in the electoral process that is the foundation of our democracy.¹⁰⁴

32. Kramer also intended to harm the NHPO by using the Spoofed Number as the caller ID for the calls and explicitly instructing recipients to call the Spoofed Number to avoid future calls.¹⁰⁵ We have long recognized that receiving unsolicited “call backs” as a result of having one’s number spoofed is a “harm” under the Truth in Caller ID Act.¹⁰⁶ The NHPO received a stream of such calls as a result of Kramer using the Spoofed Number.¹⁰⁷ Indeed, Kramer admits he specifically anticipated that potential

⁹⁹ See *supra* para. 6.

¹⁰⁰ See *supra* paras. 6-7, 11-12.

¹⁰¹ Marissa Tansino, *Man says he was behind AI robocalls impersonating Joe Biden before New Hampshire Primary*, WMUR-9 Manchester (Feb. 28, 2024), <https://www.wmur.com/article/joe-biden-ai-robocall-new-hampshire-steve-kramer/60005189> (Kramer: “Now there’s real impact and it’s going to keep happening, so that we have real regulations that protect those same people who thought they were duped[.]”).

¹⁰² See *supra* para. 28.

¹⁰³ Morano Podcast, *supra* note 23, at 19:34 (Kramer: “The people who feel disenfranchised or in some way that democracy has been disrupted, if I didn’t do this, this regulations, these regulations would have never changed. And in the same way someone who can get through airport security and then is actually working for a security agency in order to be able to show the flaws? You know this in a similar way, not exactly the same but in a similar way allows an innocuous happening to be seen by everybody. You know Thomas Jefferson used to say, you do a thing act as the whole world is watching. And they were. And everyone was watching on that Monday and Tuesday of the primary.”); see also Kramer Interview, *supra* note 26, at 2:17:37 (Kramer: “I believe in my actions and I did them deliberately.”).

¹⁰⁴ See NH Investigation Update, *supra* note 64 (quoting New Hampshire Attorney General Formella: “Ensuring public confidence in the electoral process is vital. AI-generated recordings used to deceive voters have the potential to have devastating effects on the democratic election process.”).

¹⁰⁵ See *supra* paras. 6-7, 11.

¹⁰⁶ See *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 5418, 5424, para. 18 (“‘Neighbor spoofing’ also harms the true subscriber of the spoofed number when affected consumers redial the spoofed number.”).

¹⁰⁷ See *supra* para. 13.

voters would futilely attempt to return calls to the NHPO,¹⁰⁸ subjecting the NHPO to annoyance and intruding on their privacy.

3. Kramer Used Generative AI Technology and Spoofing to Perpetrate Election Interference

33. Kramer's actions convey his intent to utilize dishonest and deceptive tactics to disrupt the New Hampshire Primary Election. He wanted to send a message to voters telling them not to vote. Kramer no doubt understood that any phone message using his own number and his own voice would be a pointless exercise. But he knew that a lot of people—potentially thousands in New Hampshire—would care what the president of the United States had to say; and he knew New Hampshire Primary Election voters would pay attention to a phone call from the NHPO, who was a prominent local figure.¹⁰⁹ He also knew that he did not want to get caught for any of the deceptions he sought to undertake.

34. Generative AI technology and spoofing made it possible for Kramer to achieve these harmful objectives. He engaged the help of an acquaintance—Individual-1—whom he knew to be familiar with AI technology.¹¹⁰ Kramer gave Individual-1 specific instructions on cloning President Biden's voice, including instructing Individual-1 to use the word “malarkey” in the script Kramer drafted, which he knew to be the president's preferred nomenclature.¹¹¹

35. Not surprisingly, Kramer likely realized that faking the president's voice but using his own phone number to send the message to voters would not achieve the disruptive effects in the election that he intended. So in addition to misleading potential voters about the message, he also chose to mislead them about who was calling them, using a number associated with the NHPO.¹¹² The use of AI technology can be beneficial; however, the manner in which Kramer used it was detrimental to the free exercise of the right to vote in a democracy. The use of spoofing technology can be detrimental as well.¹¹³ The combination of these technologies in a single scheme to interfere with an election can be potent. In addition to interfering with the freedom to vote, Kramer caused havoc for the NHPO, whose private number was made known to thousands of call recipients. The NHPO was implicated in egregious misconduct in which they had absolutely no involvement.¹¹⁴ The NHPO was subjected to phone calls throughout the evening of January 21, while the NHPO was at dinner with their spouse, with comments and questions concerning a matter the NHPO knew nothing about.¹¹⁵ Kramer sought to disrupt the New Hampshire Primary Election and knowingly violated the NHPO's privacy.

C. Forfeiture

36. We affirm the Commission's conclusions in the NAL and impose a \$6,000,000 forfeiture against Kramer. Consistent with the proposed approach in the NAL, the base forfeiture appropriate for the Truth in Caller ID Act violations here is \$1,000 per call, which we increase by 100% in light of the

¹⁰⁸ See Kramer Interview, *supra* note 26 at 1:57:15 (Kramer: “Usually [the number] is generic in nature, and if we do the campaign number, I ask them to put a line that isn't going to get tied up, because you are going to get a response. Every time you put out an automated call, everybody likes automated calls. So sometimes they like to complain.”); *id.* at 28:03 (Kramer: “I put that number because I knew [NHPO] would blow it up.”).

¹⁰⁹ See *id.* at 1:16:55 (Kramer explaining use of an AI-generated voice of a known politician causes a “tremendous jump” in poll responsiveness).

¹¹⁰ See *supra* para. 10.

¹¹¹ See *id.*

¹¹² See *supra* para. 11.

¹¹³ See *supra* para. 5.

¹¹⁴ See *supra* paras. 7, 11.

¹¹⁵ See *supra* para. 13.

circumstances present, and multiply by the number of verified calls to yield a total forfeiture of \$6,000,000.

37. The Commission may “proceed expeditiously . . . and, where appropriate, assess a forfeiture penalty against, any person or entity engaged in prohibited caller ID spoofing without first issuing a citation.”¹¹⁶ The Commission’s rules authorize a forfeiture of up to \$14,067 for each spoofing violation.¹¹⁷ Unlike forfeitures assessed under section 503(b)(1)(B) of the Communications Act, “the Truth in Caller ID Act does not require ‘willful’ or ‘repeated’ violations to justify imposition of a penalty”¹¹⁸—though the violations at issue here would easily meet that standard. Thus, the Commission is not required to demonstrate the “conscious and deliberate commission or omission of such act” or that such act happened more than once or for more than one day to propose a forfeiture for unlawful spoofing.¹¹⁹

38. In exercising its forfeiture authority, the Commission considers 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.”¹²⁰ The Commission may adjust a base forfeiture upward or downward based on various criteria.¹²¹ Among other criteria, the Commission may apply an upward adjustment for violations that are intentional, involve egregious misconduct, or cause substantial harm.¹²²

1. We Impose a Base Forfeiture of \$1,000 Per Unlawful Spoofed Robocall

39. The Commission has utilized a base forfeiture of \$1,000 per unlawful spoofed robocall in past mass-spoofing enforcement actions.¹²³ The Commission has applied the \$1,000 amount in prior cases on the basis that the aggregate forfeiture would serve the dual goals of punishment and deterrence, and that higher amounts would be unlikely to achieve a more effective result.¹²⁴ We believe that rationale applies to this case as well and thus impose a base forfeiture amount of \$1,000 per violation.

¹¹⁶ *Rules and Regulations Implementing the Truth in Caller ID Act of 2009*, WC Docket No. 11-39, Report and Order, 26 FCC Rcd 9114, 9132, para. 47 (2011) (*Truth in Caller ID Order*); see also 47 U.S.C. § 227(e)(5)(A)(ii) (“Paragraph (5) of section 503(b) of this title shall not apply in the case of a violation of this subsection.”). The Truth in Caller ID Act requires that the Commission provide the notice required under section 503(b)(3) (notice and an opportunity for a hearing before the Commission or an administrative law judge) or section 503(b)(4) of the Communications Act (Notice of Apparent Liability) before assessing a forfeiture for unlawful spoofing. See 47 U.S.C. § 227(e)(5)(A)(iii). The NAL provided the required notice under section 503(b)(4) of the Communications Act.

¹¹⁷ 47 CFR § 1.80(b)(4); see *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 23, 2023); see also *Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting January 15, 2024, as the effective date for the increases).

¹¹⁸ *Truth in Caller ID Order*, 26 FCC Rcd at 9133, para. 48; see also 47 CFR § 1.80(a)(4).

¹¹⁹ 47 U.S.C. § 312(f)(1)-(2) (defining “willful” and “repeated”).

¹²⁰ *Id.* § 503(b)(2)(E); see also 47 CFR § 1.80(b)(11).

¹²¹ See 47 CFR § 1.80(b)(11) tbl. 3.

¹²² See *id.*

¹²³ See, e.g., *Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek*, Forfeiture Order, 36 FCC Rcd 705, 728, para. 54 (2021) (*Rhodes Forfeiture Order*); *Rising Eagle Forfeiture Order*, *supra* note 86, at 6256-57, para. 59 (same).

¹²⁴ See, e.g., *John C. Spiller; Jakob A. Mears; Rising Eagle Capital Group LLC; JSquared Telecom LLC; Only Web Leads LLC; Rising Phoenix Group; Rising Phoenix Holdings; RPG Leads; and Rising Eagle Capital Group – Cayman*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 5948, 5963, para. 38 (2020).

2. Kramer's Intentional, Egregious, and Harmful Actions Warrant a 100% Upward Adjustment

40. The Commission considers specific upward and downward adjustment criteria which may increase or decrease the base forfeiture, including—among other criteria—whether the violation was minor, whether the violation involves egregious misconduct, whether the violation was intentional, and whether the violation caused substantial harm.¹²⁵ Based on the balancing of the criteria that are applicable here, we find that the circumstances warrant a 100% upward adjustment from the base penalty. We base this finding on our assessment that Kramer's violations caused substantial harm, were intentional, and constituted egregious misconduct.

41. *Substantial Harm.* Kramer's illegal robocalls—nearly 10,000 of them—caused harm in multiple ways to multiple people. The Deepfake Message aimed to deceive potential voters about who was calling them and convince them to not exercise their right to vote.¹²⁶ The calls further risked degrading the general public's faith in elections. Kramer's actions also harmed the NHPO, who received a slew of calls to their personal cell phone from individuals seeking to be removed from future calls.¹²⁷ This factor weighs in favor of an upward adjustment.

42. *Intentional Misconduct.* Kramer designed and executed this scheme with purpose.¹²⁸ He wrote the script used to create the Deepfake Message.¹²⁹ He carefully selected the Spoofed Number knowing it was associated with the NHPO.¹³⁰ He provided detailed instructions to Voice Broadcasting to launch the campaign,¹³¹ which as he explained in his own words, "I don't do anything by accident."¹³² This factor weighs in favor of an upward adjustment.

43. *Egregious Misconduct.* Kramer sent thousands of potential voters a prerecorded AI-generated voice message that imitated the voice of the president of the United States.¹³³ The message he scripted told people not to vote in the New Hampshire primary.¹³⁴ And he did so under the cover of the phone number of an unknowing and unconsenting local political leader.¹³⁵ Further, he acted without remorse, publicly claiming that his actions were justified to pursue his own agenda.¹³⁶ The egregiousness of this conduct—interfering with an election—undermines public trust in the electoral process. This factor weighs in favor of an upward adjustment.

¹²⁵ See 47 CFR § 1.80(b)(11) tbl. 3; see also *The Comm'n's Forfeiture Policy Statement & Amend. of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, CI Docket No. 95-6, Report and Order, 12 FCC Rcd 17087, 17100-17101, para. 27 (1997).

¹²⁶ See *supra* paras. 6, 28.

¹²⁷ See *supra* para. 13.

¹²⁸ See *supra* para. 16.

¹²⁹ See *supra* para. 10.

¹³⁰ See *supra* para. 11.

¹³¹ See *supra* para. 12.

¹³² See Kramer Interview, *supra* note 26, at 1:54:53; see also *id.* at 2:17:37 (Kramer: "I believe in my actions and I did them deliberately.").

¹³³ See *supra* para. 6.

¹³⁴ *Id.*

¹³⁵ See *supra* paras. 7, 11, 13.

¹³⁶ See *supra* para. 16.

44. Lastly, in assessing a forfeiture, the Commission may consider “such other matters as justice may require.”¹³⁷ Kramer’s misuse of AI technology to disseminate false information through an illegal robocall campaign warrants an increased penalty as a matter of justice. Kramer misused AI technology to clone the voice of the president to deceive voters and interfere with an election. This conduct erodes the public’s trust in our communication networks and democracy itself, and warrants a substantial penalty.

3. We Apply the Adjusted Base Forfeiture Amount to a Subset of Unlawful Spoofed Calls

45. Lastly, as has been the case in prior spoofing enforcement actions,¹³⁸ we apply the base forfeiture to a subset of calls which the Commission verified to be unlawful. The reasons for doing so, rather than proposing a forfeiture based on the total number of spoofed calls, are pragmatic. First, in some cases, depending on the specific spoofing scheme, it can be time-consuming to analyze every spoofed call. Second, in large spoofing schemes, we find that applying a base forfeiture amount (with any applicable upward or downward adjustment) to a subset of verified calls results in a proposed forfeiture that achieves the dual goals of penalizing wrongful conduct and preventing it from recurring. Each case is unique, and we must use our discretion in proposing an appropriate penalty to meet the specific circumstances.

46. The Bureau reviewed a sample of 3,000 of the 9,581 robocalls for violations of the Truth in Caller ID Act.¹³⁹ The Bureau verified that the Spoofed Number was used for each of the 3,000 calls.¹⁴⁰

47. In sum, as proposed in the NAL, we increase the base forfeiture of \$1,000 by 100% to yield a \$2,000 per-call adjusted base penalty. We multiply that by the subset of 3,000 verified calls to yield a total forfeiture of \$6,000,000.

IV. CONCLUSION

48. We find that Kramer is responsible for knowingly causing thousands of calls that used misleading and inaccurate caller ID information with the intent to defraud and cause harm in violation of section 227(e) of the Communications Act and section 64.1604 of the Commission’s rules. As such, Kramer is liable for a forfeiture of \$6,000,000.

V. ORDERING CLAUSES

49. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission’s rules, 47 CFR § 1.80,¹⁴¹ Steve Kramer **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of six million dollars (\$6,000,000) for violations of section 227(e) of the Communications Act, 47 U.S.C. § 227(e), and section 64.1604 of the Commission’s rules, 47 CFR § 64.1604.

50. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission’s rules within thirty (30) calendar days after the release of this Forfeiture Order.¹⁴² Steve Kramer shall send electronic notification of payment to Lisa Ford, Enforcement Bureau, Federal

¹³⁷ 47 U.S.C. § 503(b)(2)(E); *see also* 47 CFR § 1.80(b)(11).

¹³⁸ *See, e.g., Rhodes Forfeiture Order, supra* note 123, at 728, para. 54 (multiplying the base forfeiture amount by the number of verified spoofed calls to reach a total proposed base forfeiture); *Rising Eagle Forfeiture Order, supra* note 86, at 6256-57, para. 59 (same).

¹³⁹ *See* Verified Call Detail Records (on file in EB-TCD-24-00036094); Decl. of B. Labbor, FCC Enforcement Bureau (May 1, 2024) (on file in EB-TCD-24-00036094) (Labbor Decl.) (explaining how the calls were verified).

¹⁴⁰ Labbor Decl.

¹⁴¹ 47 CFR § 1.80.

¹⁴² *Id.*

Communications Commission, at lisa.ford@fcc.gov on the date said payment is made. 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.¹⁴³

51. In order for Steve Kramer to pay the forfeiture, Steve Kramer shall notify Lisa Ford, Enforcement Bureau, Federal Communications Commission, at lisa.ford@fcc.gov of his intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. Payment of the forfeiture must be made by credit card using CORES at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:¹⁴⁴

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159¹⁴⁵ or printed CORES form¹⁴⁶ must be faxed to the Federal Communications Commission at 202-418-2843 or emailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN)¹⁴⁷ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two

¹⁴³ 47 U.S.C. § 504(a).

¹⁴⁴ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

¹⁴⁵ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

¹⁴⁶ Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

¹⁴⁷ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

52. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554.¹⁴⁸ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by email, ARINQUIRIES@fcc.gov.

53. **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 Steve Kramer at {{
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FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁴⁸ See 47 CFR § 1.1914.

**STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *In the Matter of Steve Kramer*, Forfeiture Order, File No.: EB-TCD-24-00036094 (September 26, 2024).

The future of our democracy is in the hands of those who vote. But in this election something new is emerging. It is now cheap and easy to use Artificial Intelligence to clone voices and flood us with fake sounds and images. By unlawfully appropriating the likeness of someone we know, this technology can illegally interfere with elections. We need to call it out when we see it and use every tool at our disposal to stop this fraud.

Earlier this year, thousands of people in New Hampshire received a robocall with a message from President Biden. Just days before the primary election in the state, he urged voters to sit this one out and save their vote for the general election. This was bunk. It was his voice, but not his words. This was not the first time we saw the use of this kind technology in a campaign. Last summer, the campaign of Governor DeSantis was flagged for circulating AI-altered images of former President Trump. Also not good. But what happened in New Hampshire involved a phone call—and that means this agency has a role.

We kicked into high gear at the Federal Communications Commission. We acted fast. We unanimously adopted a ruling that made clear that “artificial or prerecorded” robocalls using AI voice cloning technology violate the Telephone Consumer Protection Act. We partnered in this effort with State Attorneys General, including the New Hampshire Attorney General, who is one of 49 State Attorneys General who have signed on to a Memorandum of Understanding to work with this agency on junk robocalls. This ruling matters. Because it gives our state colleagues the right to go after bad actors behind these calls and seek damages under the law. Then we worked with carriers to trace those responsible for this calling campaign. When we found the carrier behind it, we sent a cease-and-desist letter and notified all other carriers to go ahead and stop carrying their traffic. Then we proposed a fine, with the carrier ultimately paying \$1,000,000 and putting in place policies to stop these calls going forward. When we found the individual behind it—Steve Kramer—we proposed a \$6,000,000 fine. It is this individual and this fine that we finalize here today.

Let me be very clear. If you flood our phones with this junk, we will find you and you will pay. And it is not just this agency you will need to worry about. The New Hampshire Attorney General is prosecuting Steve Kramer for voter suppression and impersonation of a candidate, and we are committed to assist our colleagues in the state every step of the way.

We are also committed to making clear that whenever this technology is used it must be disclosed. That is why we have proposed requiring callers and texters to make clear they are using AI-generated technology and to disclose the use of AI-generated voices at the start of a call. It is also why we have proposed to require local, state, and issue campaigns to disclose if they use AI technology in the advertisements they air on television and radio, building on disclosure practices we have had at this agency for decades. Because as these tools become more accessible, every one of us has a right to know if they are being used.

I want to close by sharing a statement from New Hampshire Attorney General John Formella that shows just how this work impacts our democracy:

“Secure, trustworthy, and transparent elections are the cornerstone of our democratic system at both the federal and state levels. It is imperative that our elections remain free from unlawful interference. The State of New Hampshire, working closely with the FCC, as well as our other federal and state partners, has demonstrated a unified commitment to protecting voters from harmful robocalls and voter suppression tactics. I firmly believe that the FCC’s enforcement action today will send a strong deterrent signal to anyone who might consider interfering with elections, whether through the use of unlawful robocalls, artificial intelligence, or any other means.

Today's actions underscore our steadfast collective resolve to safeguarding and upholding the integrity of our electoral process. In New Hampshire, we unequivocally oppose any attempts to compromise our democracy, especially through the misuse of technology and will pursue all avenues of legal recourse against those who seek to undermine our democratic values. This substantial FCC fine, paired with ongoing legal efforts, sends a clear and resounding warning: voter suppression tactics will not be tolerated. We are grateful for the collaborative partnership with the FCC in this investigation. Together, we will ensure that our elections remain fair and transparent for all citizens."

Well said.

For this action today, I want to thank the staff from the Enforcement Bureau, Wireline Competition Bureau, Consumer and Governmental Affairs Bureau, the Office of General Counsel, and the Office of Economics and Analytics for their work.

**STATEMENT OF
COMMISSIONER ANNA M. GOMEZ**

Re: *In the Matter of Steve Kramer*, Forfeiture Order, File No.: EB-TCD-24-00036094 (September 26, 2024).

Today, we adopt a Forfeiture Order that affirms the Notice of Apparent Liability imposing a \$6,000,000 penalty on Mr. Steve Kramer for perpetrating an illegal robocall campaign in violation of our rules. With this action, we hold a bad actor accountable for harming consumers using robocalls.

After an investigation led by the Enforcement Bureau, we find that Kramer acted with the intent to defraud New Hampshire consumers. The Truth in Caller ID Act makes spoofing unlawful – that is to cause to transmit misleading or inaccurate caller identification information with the intent to defraud. Kramer enacted a plan to send thousands of spoofed robocalls targeting New Hampshire consumers. The message in those calls was created with Artificial Intelligence (AI) in an effort to imitate President Biden’s voice instructing listeners to refrain from voting in the New Hampshire primary election.

Not only did Kramer’s scheme violated our rules, but it also harnessed AI technology for harm. The consequences for consumers stemming from scams like the one Kramer perpetrated and the threat to our democratic processes warrant a strong response. That is why this forfeiture order is so important. In addition to enforcing our longstanding rules, the FCC must do what is within our power to deter scams manipulating new technologies to prey on consumers and threaten our democratic processes.

Thank you to the Enforcement Bureau and all staff at the FCC that contributed to this critical enforcement action.