

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

In the Matter of
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.
File No.: EB-TCD-21-00031913
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FORFEITURE ORDER

Adopted: August 3, 2023

Released: August 3, 2023

By the Commission: Chairwoman Rosenworcel issuing a statement.

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**I. INTRODUCTION**

1. We impose a penalty of \$299,997,000 against 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. (collectively, the Enterprise or Entities) jointly and severally, which placed over five billion auto warranty robocalls to consumers between January 2021 and March 2021 in violation of the Telephone Consumer Protection Act (TCPA) and Truth in Caller ID Act. The Enterprise devised and executed a complex auto warranty robocall sales lead generation scheme, which placed spoofed calls to consumers without their consent. The Enterprise’s activities were orchestrated by numerous individuals, including Roy M. Cox Jr., Aaron Michael Jones, and Stacey E. Yim.

2. On December 23, 2022, the Federal Communications Commission (Commission or FCC) issued a Notice of Apparent Liability for Forfeiture (*Notice*) proposing a \$299,997,000 forfeiture against the Entities for violations of its rules.<sup>1</sup> We proposed to hold the Entities jointly and severally liable for the proposed forfeiture,<sup>2</sup> and ordered payment or a written response seeking reduction or cancellation within 30 days.<sup>3</sup> The Commission never received payment or a response to the *Notice*. Therefore, we affirm the proposed forfeiture.

3. This fine is calculated based on a randomly selected subset of 33,333 calls the Enterprise placed and is appropriate in light of the number of violations, scope, and nature of the unlawful calling campaign. We hold all Entities named in the *Notice* jointly and severally liable.

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<sup>1</sup> *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.*, Notice of Apparent Liability for Forfeiture, FCC 22-99, 2022 WL 17958841 (2022) (*Notice*). The *Notice* includes a more complete discussion of the facts and history of this case and is incorporated herein by reference.

<sup>2</sup> *Id.* at paras. 82-96.

<sup>3</sup> *Id.* at para. 98.

## II. BACKGROUND

### A. Legal Framework

#### 1. Prohibited Prerecorded Telemarketing Calls

4. Congress passed the TCPA in the wake of “pervasive” telemarketing that constituted a “nuisance and an invasion of privacy.”<sup>4</sup> The Commission has made combatting unlawful robocalls a top consumer protection priority.<sup>5</sup>

5. Under the Commission’s TCPA rules, it is unlawful to “[i]nitiate, or cause to be initiated, any telephone call that includes or introduces an advertisement or constitutes telemarketing, using . . . an artificial or prerecorded voice” to cell phones, absent “prior express written consent.”<sup>6</sup> It is also unlawful to “[i]nitiate any telephone call to any residential line using an artificial or prerecorded voice to deliver a message without [ ] prior express written consent” unless the call is not made for a commercial purpose or is made for a commercial purpose but does not include or introduce an advertisement or constitute telemarketing.<sup>7</sup> It is also not permitted to initiate any telephone solicitation to residential telephone or cell phone subscribers who have registered their numbers on the National Do Not Call Registry.<sup>8</sup> While some narrow exceptions apply to the aforementioned prohibitions, none are applicable here.<sup>9</sup>

6. “Prior express written consent” means “an agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called, advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice.”<sup>10</sup> This written agreement must specify the phone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered and must include the called party’s written or electronic signature.<sup>11</sup> Additionally, this written agreement must include a “clear and conspicuous disclosure” informing the person signing that (a) by signing the consent agreement the person authorizes the “seller to deliver or cause to be delivered to the signatory telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice,” and (b) “the person is not required to sign the agreement (directly or indirectly), or agree to enter into such an agreement as a condition of purchasing any property, goods, or services.”<sup>12</sup> “Clear and conspicuous” means “a notice that would be apparent to the reasonable consumer, separate and distinguishable from the advertising copy or other disclosures.”<sup>13</sup>

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<sup>4</sup> Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 § 2.

<sup>5</sup> FCC, *Robocall Response Team: Combating Scam Robocalls & Robotexts*, <https://www.fcc.gov/spoofed-robocalls> (last visited June 20, 2023).

<sup>6</sup> 47 CFR § 64.1200(a)(2); *see also id.* § 64.1200(f)(1) (“The term ‘advertisement’ means any material advertising the commercial availability or quality of any property, goods, or services.”); *id.* § 64.1200(f)(13) (“The term ‘telemarketing’ means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.”).

<sup>7</sup> *See id.* § 64.1200(a)(3); 47 U.S.C. § 227(b)(1)(B).

<sup>8</sup> 47 CFR § 64.1200(c)(2), (e); *see also* 47 U.S.C. § 227(c).

<sup>9</sup> *See, e.g.*, 47 CFR §§ 64.1200(a)(1)(iii), 64.1200(a)(3)(i-v); 47 U.S.C. § 227(b)(1)(A)(i-iii).

<sup>10</sup> 47 CFR § 64.1200(f)(9); 47 U.S.C. § 227(b)(2)(D)(i). For the purposes of this Forfeiture Order, the Enterprise is considered the seller under 47 CFR § 64.1200(f)(9).

<sup>11</sup> 47 CFR § 64.1200(f)(9).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* § 64.1200(f)(3).

7. Artificial or prerecorded messages must also include certain disclosures and must comply with telephone solicitation methods prescribed by the Commission.<sup>14</sup> The message must “state clearly the identity” of the party calling at the beginning of the message.<sup>15</sup> Where such calls include advertisements or telemarketing, within two seconds of providing identification information, the artificial or prerecorded voice messages must “provide an automated, interactive voice- and/or key press-activated opt-out mechanism for the called person to make a do-not-call request.”<sup>16</sup>

## 2. Prohibited Caller ID Practices

8. Congress has recognized that consumers have embraced caller ID as a vital part of voice telephone service, which helps them decide whether to answer the phone.<sup>17</sup> The Commission has stated that “[a]ccurate caller ID also allows the phone companies and law enforcement to detect and combat unlawful calls, such as unlawful telemarketing calls.”<sup>18</sup> Caller ID is only valuable if it is accurate.<sup>19</sup> The Commission has acknowledged that “[a]s technology has advanced, the dangerous combination of spoofing and illegal telemarketing calls has become much more pervasive and harder to stop.”<sup>20</sup>

9. Accordingly, it is unlawful to “knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value.”<sup>21</sup>

10. *Inaccurate or Misleading Caller ID Information.* It is prohibited “to transmit or display misleading or inaccurate caller identification information.”<sup>22</sup> Caller ID is misleading if it is used in a “manner calculated to obscure its identity, evade detection, and prevent consumers from opting out of future calls.”<sup>23</sup>

11. *Unlawful Intent.* “Intent” can be demonstrated where the consequences of the actions are “desired” or “substantially certain.”<sup>24</sup> “Harm” is a “broad concept that encompasses financial, physical,

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<sup>14</sup> *Id.* § 64.1200(b); 47 U.S.C. § 227(b).

<sup>15</sup> 47 CFR § 64.1200(b)(1); 47 U.S.C. § 227(d)(3)(A).

<sup>16</sup> 47 CFR § 64.1200(b)(3).

<sup>17</sup> 153 Cong. Rec. S2357, S2361 (2007) (Remarks of Sen. Nelson).

<sup>18</sup> *See Affordable Enterprises of Arizona, LLC*, Forfeiture Order, 35 FCC Rcd 12142, 12143, para. 1 (2020) (*Affordable Enterprises of Arizona Forfeiture Order*).

<sup>19</sup> *See* 156 Cong. Rec. H2522, H2524 (2010) (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.”).

<sup>20</sup> *See Affordable Enterprises of Arizona Forfeiture Order* at 12143, para. 1.

<sup>21</sup> 47 U.S.C. § 227(e)(1); *see also* 47 CFR § 64.1604(a)-(b). There are exceptions for investigative, protective, or intelligence activities, which do not apply here. *See, e.g.*, 47 CFR § 64.1604(d).

<sup>22</sup> 47 CFR § 64.1604(a); 47 U.S.C. § 227(e).

<sup>23</sup> *Affordable Enterprises of Arizona Forfeiture Order*, 35 FCC Rcd at 12152, para. 25.

<sup>24</sup> *See Staub v. Proctor Hosp.*, 562 U.S. 411, 422 n.3 (2011) (“‘intent’ . . . denote[s] that the actor desires to cause consequences of his act, or that he believes that the consequences are substantially certain to result from it.”); *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, 6237, para. 25 (2021) (*Rising Eagle Forfeiture Order*).

and emotional harm.”<sup>25</sup> Actual harm is not required.<sup>26</sup> “[A]nything of value” is not limited to monetary value or tangible assets.<sup>27</sup> For example, evading legal liability constitutes a thing of value.<sup>28</sup> Common law fraud requires the following: “(1) a false representation (2) in reference to a material fact (3) made with knowledge of its falsity (4) and with the intent to deceive . . . .”<sup>29</sup> 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.<sup>30</sup>

## B. Factual Background

12. Since at least July 2018, the Enterprise has operated an unlawful robocall operation that generated billions of robocalls for the purpose of generating leads for vehicle service contract sellers. Cox and Jones, key participants in the Enterprise, are currently banned from any form of telemarketing, and have been since 2013 and 2017, respectively.<sup>31</sup> However, they have continued illegal telemarketing practices by using an international network of companies to conceal their involvement.

13. *Lead Generation Contracts.* Three of the Entities, Davis Telecom Inc. (Davis Telecom), Virtual Telecom Inc., and Tech Direct LLC (Tech Direct), contracted with vehicle service contract sellers (Clients) to identify potential purchasers for the Clients’ vehicle service contracts.<sup>32</sup> The Clients paid the

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<sup>25</sup> See *Rules and Regulations Implementing the Truth in Caller ID Act of 2009*, Report and Order, 26 FCC Rcd 9114, 9122, para. 22 (2011) (*Truth in Caller ID Order*).

<sup>26</sup> See 47 CFR § 64.1604(a); 47 U.S.C. § 227(e) (requiring “intent” only).

<sup>27</sup> See *United States v. Picquet*, 963 F.2d 54, 55-56 (5th Cir. 1992) (a sales tax payment constitutes “a thing of value” for the purposes of 18 U.S.C. § 1029(a)(2)); see also *United States v. Singleton*, 144 F.3d 1343, 1349-50 (10th Cir. 1998) (“We agree with those circuits which have held that the test of value is whether the recipient subjectively attaches value to the thing received.”), *rev’d on other grounds*, 165 F.3d 1297 (10th Cir. 1999); *United States v. Draves*, 103 F.3d 1328, 1332 (7th Cir. 1997) (applying expansive interpretation of the phrase “anything of value”); *United States v. Schwartz*, 785 F.2d 673, 680 (9th Cir. 1986) (noting the broad range of intangibles that have been found to be “things of value” by prior courts); *United States v. Sheker*, 618 F.2d 607, 609-10 (9th Cir. 1980) (holding that “value” includes anything recognized or appreciated by others).

<sup>28</sup> See *Best Insurance Contracts, Inc., and Philip Roesel, dba Wilmington Insurance Quotes*, Forfeiture Order, 33 FCC Rcd 9204, 9212, para. 22 (2018) (*Roesel Forfeiture Order*).

<sup>29</sup> *Pence v. United States*, 316 U.S. 332, 338 (1942).

<sup>30</sup> See *Rising Eagle Forfeiture Order*, *supra* note 24, at 6235, para. 20 (emphasis included).

<sup>31</sup> See Stipulated Judgment and Order for Permanent Injunction at 4-5, *United States v. Cox et al*, No. 8:11-cv-01910 (C.D. Cal. Feb. 4, 2013), ECF No. 22 (“It is therefore ordered that Individual Defendant, whether acting directly or through any person, trust, corporation, partnership limited liability company, subsidiary, division, or other device, or any of them, is hereby permanently restrained and enjoined from telemarketing, or assisting others engaged in telemarketing.”); see also Entry of Default Judgment and Final Order for Permanent Injunction at 4, *Fed. Trade Comm’n v. Jones, et al.*, No. 17-cv-00058 (C.D. Cal. May 31, 2017), ECF No. 88 (“It is ordered that Defendant Jones, whether acting directly or through an intermediary, is permanently restrained and enjoined from: (A) Engaging in, or assisting others to engage in Telemarketing, which includes, without limitation, providing others with access to automated dialing systems, providing others with Caller ID numbers, and providing others with data lists containing consumer information; (B) Initiating, causing others to initiate, or assisting others in initiating any telephone call that plays or delivers a prerecorded message; (C) Initiating, causing others to initiate, or assisting others in initiating any telephone call to any telephone number listed on the National Do Not Call Registry; and (D) Holding any ownership interest, share, or stock in any business that engages in any of the acts and practices listed in paragraphs A–C of this Section.”).

<sup>32</sup> See Vendor Services Agreement, Affordable Automotive Solutions-Tech Direct (Jan. 1, 2020) on file at EB-TCD-21-00031913; see also Vendor Services Agreement, Affordable Automotive Solutions-Virtual Telecom (Jan. 1, 2020) (Virtual Telecom signed a one-year contract to provide “billable leads” and also signed a 2018 contract with A&E Services to generate sales leads); see also Vendor Services Agreement, Affordable Automotive Services-Davis Telecom on file at EB-TCD-21-00031913 (Oct. 19, 2020) (Davis Telecom Inc. contracted with a Florida-based

Enterprise a commission to identify individuals—targets—that may be interested in purchasing vehicle service contracts.<sup>33</sup> The Clients are not subject to liability in this proceeding.

14. *Robocalls Without Consent.* To identify potential purchasers for the Clients, five of the Entities (Dialers) placed approximately 5,187,677,000 prerecorded calls to 550,138,650 wireless and residential phones between January 2021 and March 2021.<sup>34</sup> The calls played seven substantially similar prerecorded messages that all purported to offer consumers the opportunity to extend their existing car warranties.<sup>35</sup> Some of the recipients of the calls were on the National Do Not Call Registry.<sup>36</sup> None of the Dialers or other Entities have demonstrated to the Commission that they had prior express written consent from the call recipients to make the calls. The Dialers included: Virtual Telecom Inc. and its Hungarian counterpart, Virtual Telecom kft (collectively, Virtual Telecom), Sumco Panama USA, and its counterpart in Panama, Sumco Panama SA (collectively, Sumco Panama), and Mobi Telecom LLC (Mobi Telecom) (collectively, Dialers); and at least as early as April 2021, Fugle Telecom LLC (Fugle Telecom) also began dialing calls on behalf of the Enterprise.<sup>37</sup>

15. *The Deception.* The Dialers generated robocalls that encouraged call recipients to follow prompts to speak with a “warranty specialist” about extending or reinstating their car’s warranty.<sup>38</sup> Some of the calls contained the following pre-recorded message:

We’ve been trying to reach you concerning your car’s extended warranty. You should have received something in the mail about your car’s extended warranty. Since we have not gotten a response, we are giving you a final courtesy call before we close out your file. Press 2 to be removed and put on our do-not-call list. Press 1 to speak with someone about extending or reinstating your car’s warranty. Again, press 1 to speak with a warranty specialist. (Pause) Or call our 800 number at 833-304-1447.<sup>39</sup>

If the consumer pressed “1” they would hear a 10 second pause before being connected to a live operator, who would confirm that the call recipient wanted to purchase an auto warranty and ask questions about

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company, Affordable Automotive Solutions, to generate “vehicle service coverage calls” in which a call with an interested call recipient (“Billable Lead”) lasts past the buffer time.)

<sup>33</sup> See, e.g., Vendor Services Agreement, Affordable Automotive Solutions-Tech Direct on file at EB-TCD-21-00031913 (Jan. 1, 2020).

<sup>34</sup> A complete spreadsheet identifying each apparently unlawful call placed to a consumer was provided to each party identified in the Notice. A copy of this spread sheet is available in the Commission’s electronic file at EB-21-00031913 (Call Detail Records); compare List of DIDs purchased from G4 Telecom on file at EB-TCD-21-00031913 with ITG Subpoena Response on file at EB-TCD-21-00031913 (Dec. 22, 2021) (ITG Subpoena Response).

<sup>35</sup> See ITG Subpoena Response.

<sup>36</sup> See, e.g., FCC Complaint #4466560 (Jan. 4, 2021) (“Auto Warranty Services continues to call my cell phone from different numbers all day. I am on the Do Not Call registry. I have opted out and they still continue. I want them to stop.”); FCC Complaint #4475666 (Jan. 8, 2021) (“I am on the do not call [sic] registry and receive robo calls that i [sic] have not consented to.”); FCC Complaint #4471642 (Jan. 6, 2021) (“Continue to get robo calls from {[REDACTED]} trying to sell extended car warranties. I have already put my number on the do not call list over 3 years ago. What else can I do to stop these calls?”); FCC Complaint #4471901 (“I have filed previous complaints with FTC and [the Better Business Bureau]. I am on the do not call registry. I get calls all the time.”). Material set off by double brackets {[ ]} is confidential and is redacted from the public version of this document.

<sup>37</sup> See ITG Subpoena Response; see also Affidavit of {[REDACTED]}, Director, Policy & ITG Traceback, USTelecom – The Broadband Association on file at EB-TCD-21-00031913 (Feb. 11, 2022).

<sup>38</sup> See ITG Subpoena Response.

<sup>39</sup> See *id.*

the consumer's vehicle.<sup>40</sup> The operator would then transfer the call to a Client's sales agent, who would attempt to sell the consumer a vehicle service contract.<sup>41</sup> Variations of this message stated that the caller's name was "Susie" and she was calling from "vehicle service."<sup>42</sup> Though there were six other variations of this message, the messages were substantially similar.<sup>43</sup>

16. The messages were false in almost all respects. The Dialers were not calling about the consumer's "extended warranty," they were attempting to sell new vehicle service contracts.<sup>44</sup> Neither the Dialers nor Clients had the capability of extending a consumer's existing car warranty, to the extent a consumer had one in the first place. And pressing 2 did not add the consumer to the Enterprise's internal do-not-call list.<sup>45</sup>

17. *Neighbor Spoofing.* The calls displayed 1,051,461 unique caller IDs.<sup>46</sup> The foreign Dialers, Sumco Panama, Virtual Telecom, and Mobi Telecom, used Direct Inward Dial (DID) numbers<sup>47</sup> with U.S. area codes from VoIP providers as U.S. caller IDs.<sup>48</sup> The Enterprise selected and used numbers with area codes that matched the area code of the called party so that the call appeared local, a practice known as "neighbor spoofing."<sup>49</sup>

18. *The Magnitude.* The Enterprise was able to generate a large volume of calls by using Session Initiation Protocol (SIP) Trunking.<sup>50</sup> Using G4 Telecom's service, the Enterprise generated more

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<sup>40</sup> See Affidavit of {[REDACTED]} at 1 on file at EB-TCD-21-00031913 {[REDACTED]} (Apr. 30, 2021).

<sup>41</sup> See *id.*

<sup>42</sup> See FCC Complaint #4556779 ("Susie" from "Vehicle Service Department" calls with a recorded message on occasion.); FCC Complaint #4673299 (Mar. 29, 2021); FCC Complaint #4469369 (Jan. 5, 2021) (all of the aforementioned EB-TCD-21-00031913).

<sup>43</sup> See ITG Subpoena Response, *supra* note 34.

<sup>44</sup> See FCC Complaint #4471642 (Jan. 6, 2021) ("Continue to get robo calls from {[REDACTED]} trying to sell extended car warranties.); see FCC Complaint #4547338 (Feb. 9, 2021) (a consumer who spoke to a live agent reported that the agent sold Omega Auto Care policies on behalf of Affordable Automotive Solutions.).

<sup>45</sup> See FCC Complaint #4475488 (Jan. 8, 2021) ("The pre-recorded message said to press 2 to stop the calls. I pressed 2 and the call hung up on me."); see also FCC #4470983 (Jan. 6, 2021) ("At the end of the recording it says I can press '2' to stop the calls and be placed on the Do-Not-Call list. Despite me doing this multiple times now, I still continue to receive the calls.").

<sup>46</sup> Call Detail Records on file at EB-TCD-21-00031913.

<sup>47</sup> See *Direct Inward Dialing (DID)*, Twilio Docs, <https://www.twilio.com/docs/glossary/what-direct-inward-dialing-did> (last visited June 15, 2023) ("Direct Inward Dialing (DID) is a telephone service that allows a phone number to ring through directly to a specific phone at a business instead of going to a menu or a queue and needing to dial an extension. A phone number that is used like this is often called a 'DID' (and multiple numbers are called 'DIDs').")

<sup>48</sup> See North Dakota Attorney General Subpoena Response from Mash Telecom on file at EB-TCD-21-00031913 (Feb. 10, 2021); G4 Skype Conversations on file at EB-TCD-21-00031913 (Nov. 3, 2020).

<sup>49</sup> See G4 Telecom Skype Conversations (Nov. 2, 2020) (G4 Telecom: "Are the numbers On. [sic] the list [of DIDs] important or can Teli just give us any numbers?" Virtual Telecom: "needs to be in the same area code."); see, e.g., FCC Complaint #4466838 (Jan. 4, 2021) ("I frequently am bothered by robocalls offering vehicle warranties. They are almost always from the same area code as my cell number, even though I live on the other side of the country. I do not have a car warranty and do not consent to these calls."); see also *Cyber Aware*, AT&T, <https://about.att.com/pages/cyberaware/ni/neighbor> (last visited May 26, 2023) ("Neighbor spoofing is when you get a call from an unknown number that looks a lot like the numbers where you live. The incoming call will have the same area code and maybe the same prefix (the three numbers after the area code) as your number. Bad guys do this hoping you'll think it's a 'neighbor.'").

<sup>50</sup> See *What is SIP Trunking? How it Works, Benefits & How to Get It*, Nextiva (Dec. 9, 2022),

than 15,000 calls at once.<sup>51</sup> The Enterprise connected at least 2,000 phones to a cloud-based service provider that transmitted calls to VoIP service providers.<sup>52</sup> The VoIP providers also sold blocks of DID numbers to Geist,<sup>53</sup> which the Enterprise used.<sup>54</sup> This eliminated the need for separate lines for each phone<sup>55</sup> and allowed the Enterprise to generate substantial amounts of robocalls with relatively few phone lines. The Enterprise transmitted robocall traffic through at least eight providers that offered an array of services to assist a robocalling campaign.<sup>56</sup> For example, Great Choice Telecom and Avid Telecom offered DID number rotation, which would permit the dialing entities to change the caller ID after each call.<sup>57</sup> This feature would render consumers' call blocking efforts futile. G4 Telecom assisted the Enterprise with the purchase of 500,000 numbers from other providers and told Mobi Telecom that it had "unlimited capacity" to handle the volume of traffic being generated.<sup>58</sup> Mash Telecom also provided DID numbers to the Enterprise.<sup>59</sup>

19. *The Money Trail.* The Enterprise distributed the financial gains from the illegal robocalling campaign among the Entities. The Clients routed funds to Posting Express Inc. (Posting

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<https://www.nextiva.com/blog/what-is-sip-trunking.html> ("SIP, short for Session Initiation Protocol, is an application layer protocol that lets you run your phone system over an internet connection instead of traditional phone lines. Trunking refers to the backbone of phone lines used by multiple users that connects to a telephone network. SIP Trunks provision Voice over Internet Protocol (VoIP) connectivity between an on-premise phone system and the public switched telephone network, also known as PSTN.").

<sup>51</sup> See G4 Telecom Skype Conversations, Screenshot of Real Time Statistics, (Nov. 6, 2020) (showing Virtual Telecom with 15,663 active calls).

<sup>52</sup> The Enterprise maintained at least one server with Vultr, a company that provides private servers. This server was connected to 2,000 phone lines. See E-mail from {REDACTED} to Vultr customer service representative (Feb. 27, 2021).

<sup>53</sup> See North Dakota Attorney General Subpoena Response from Mash Telecom on file at EB-TCD-21-00031913 (showing the Enterprise obtained almost 500,000 numbers in November 2020, as well as a substantial volume of numbers a month earlier); see also G4 Telecom Skype Conversations with Mobi Telecom on file at EB-TCD-21-00031913 (Dec. 7, 2020) (email from Jason Ritter (Blitz) to Adam Radimiri (Geist Telecom) stating that Blitz will send the MSA for the DIDs and looks forward to working with Geist Telecom).

<sup>54</sup> See *Direct Inward Dialing (DID)*, Twilio Docs, <https://www.twilio.com/docs/glossary/what-direct-inward-dialing-did> (last visited June 15, 2023) ("Direct Inward Dialing (DID) is a telephone service that allows a phone number to ring through directly to a specific phone at a business instead of going to a menu or a queue and needing to dial an extension.").

<sup>55</sup> *Id.*; AT&T Services, Inc., *Call Blocking NPRM and NOI* Comments, CG Docket No.17-59, at 6 (Sept. 24, 2018) ("In AT&T's experience, many high-volume illegal robocallers purchase direct inward dialing ('DID') service from one provider (typically a competitive local exchange carrier) and rely on and a separate provider (typically a small VoIP provider) for outbound dialing service. These robocallers typically then spoof the DIDs supplied by the inbound service provider and, using SIP trunks supplied by the outbound service provider, place tens of thousands (sometimes millions) of illegal calls in a brief period of time. This practice helps the fraudsters avoid detection.").

<sup>56</sup> See ITG Subpoena Response, *supra* note 34.

<sup>57</sup> See DIDs, Avid Telecom, (Jan. 23, 2021, 3:37:37), <https://web.archive.org/web/20210123033737/https://avidtelecom.net/> ("We can offer you fresh numbers on a regular rotation or port your existing inventory."); Great Choice Telecom, Our Services, (Mar. 13, 2021, 6:22:12), <https://web.archive.org/web/20210313061728/https://greatchoicetelecom.com/> ("Built in automatic DID rotator that will provide you a hands free system for Caller ID's to change after every call made, engineered to help have more connected calls as well as stay away from scam likely.").

<sup>58</sup> See G4 Telecom Subpoena Response, Skype Conversations (Nov. 10, 2020) (G4 Telecom: "we are implementing the 404 block system for your calls to disconnected DIDs. . . . Mobi Telecom: Ok great . . . G4 Telecom: yes really great news as it will coincide [sic] with the 500K block of new DIDs and the traffic increase as well.").

<sup>59</sup> North Dakota Attorney General Subpoena Response from Mash Telecom on file at EB-TCD-21-00031913 (Feb. 10, 2021).



Express), which is owned by Yim,<sup>60</sup> Jones's wife.<sup>61</sup> The Clients also paid Virtual Telecom, Tech Direct, and Davis Telecom.<sup>62</sup> In turn, Virtual Telecom sent payments to Tech Direct,<sup>63</sup> Davis Telecom,<sup>64</sup> and Sumco.<sup>65</sup> Tech Direct sent funds to Cox<sup>66</sup> and Sumco.<sup>67</sup> Tech Direct also made payments towards Jones's customized "voice-prompted software," which the Enterprise used to answer consumer call backs.<sup>68</sup> Davis Telecom sent payments to Tech Direct<sup>69</sup> and Virtual Telecom.<sup>70</sup>

20. *Participants.* Cox recruited numerous individuals to assist with the daily affairs of the robocalling scheme (collectively, Participants):

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<sup>60</sup> See Bank of America Subpoena Response on file at EB-TCD-21-00031913 (June 8, 2021) (Business Signature Card with Substitute Form W-9 shows Stacey Yim as the owner of the Posting Express Account); Bank of America Deposits and Withdrawals, Posting Express on file at EB-TCD-21-00031913 (June 8, 2021) (showing payments from Dialers and Clients).

<sup>61</sup> See *Stacey Yim and Mike Jones Wedding Registry*, The Knot Registry, <https://registry.theknot.com/stacey-yim-mike-jones-july-2017-ca/19021073> (last visited June 16, 2023).

<sup>62</sup> See, e.g., Wells Fargo Subpoena Response, Virtual Telecom Business Choice Checking Statement on file at EB-TCD-21-00031913 (Oct. 31, 2020) (showing six payments from Affordable Automotive Holdings, LLC in the month of October 2020); Wells Fargo Subpoena Response, Tech Direct Simple Business Checking Statement on file at EB-TCD-21-00031913 (Aug. 31, 2020) (showing eight payments from Affordable Automotive Holdings, LLC in the month of August 2020); JP Morgan Chase Subpoena Response, Davis Telecom Chase Performance Business Checking Statement on file at EB-TCD-21-00031913 (Jan. 31, 2021) (showing a payment of \$27,560 from Affordable Automotive Holdings, LLC).

<sup>63</sup> See, e.g., Wells Fargo Subpoena Response, Virtual Telecom Business Choice Checking Statement on file at EB-TCD-21-00031913 (July 31, 2020) (showing payment of \$24,500 to Tech Direct).

<sup>64</sup> See, e.g., Wells Fargo Subpoena Response, Virtual Telecom Business Choice Checking Statement on file at EB-TCD-21-00031913 (Sept. 30, 2020) (showing payment of \$14,000 to Davis Telecom).

<sup>65</sup> See, e.g., Wells Fargo Subpoena Response, Virtual Telecom Business Choice Checking Statement on file at EB-TCD-21-00031913 (Feb. 29, 2020) (showing four payments to Sumco Panama in the month of February 2020)

<sup>66</sup> See, e.g., Wells Fargo Subpoena Response, Tech Direct Simple Business Checking Statement on file at EB-TCD-21-00031913 (Aug. 31, 2020) (showing five payments to "Cox Roy" throughout the month of August 2020).

<sup>67</sup> See, e.g., Wells Fargo Subpoena Response, Tech Direct Simple Business Checking Statement on file at EB-TCD-21-00031913 (Feb. 29, 2020) (showing a payment of \$3,290.00 to Sumco Panama SA).

<sup>68</sup> Declaration of {{[REDACTED]}} at 1 ({{[REDACTED]}}) ("The payments sent from Tech Direct, LLC were for payments to the Maxim account set up by Mike Jones" for a customized a voice-prompted software.); compare Wells Fargo Wire Full Transaction Report, Tech Direct (Mar. 31, 2020) (showing a payment in the amount of \$5,261.89 to Vocinity Inc.), with Invoice to Jones #1038 (Mar. 30, 2020) (showing invoice in the same amount); compare Wells Fargo Wire Full Transaction Report, Tech Direct (Apr. 6, 2020) (showing payment of \$1,396.90 to Vocinity Inc.), with Invoice to Jones #1041 (Apr. 1, 2020) (showing invoice in the same amount) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>69</sup> See, e.g., Wells Fargo Subpoena Response, Tech Direct Simple Business Checking Statement on file at EB-TCD-21-00031913 (Oct. 31, 2020) (showing a deposit from Davis Telecom labeled "Commission Payment").

<sup>70</sup> See, e.g., Wells Fargo Subpoena Response, Virtual Telecom Business Choice Checking Statement on file at EB-TCD-21-00031913 (July 31, 2020) (showing \$120,000 payment from Davis Telecom).

PARTICIPANTS		
Name	Location	Role
Jovita Luna Migdaris Cedeno	Panama	Officer of Sumco Panama SA. <sup>71</sup> Signatory on Sumco Panama USA's Wells Fargo account. <sup>72</sup> Managed daily calling operations for Sumco Panama SA, Virtual Telecom, and Mobi Telecom and ensured that the operators placed a large volume of calls daily. <sup>73</sup> Coordinated with service providers to acquire numbers and VoIP services and to pay invoices for Sumco Panama and Virtual Telecom. <sup>74</sup>
Livia Szuromi	Hungary	Officer at Davis Telecom Inc. and Sumco Panama SA. <sup>75</sup> Signatory on Davis Telecom's Wells Fargo account. <sup>76</sup>
Julie Kathryn Bridge	California	Signatory on Davis Telecom's JP Morgan Chase account and Wells Fargo account, and Virtual Telecom's Wells Fargo account. <sup>77</sup> Performed clerical tasks such as conducting banking transactions and filing corporate registration paperwork. <sup>78</sup> Paid Virtual Telecom's and Mobi Telecom's invoices from service providers and conducted banking transactions on their behalf. <sup>79</sup>

<sup>71</sup> Sumco Panama SA, Anonymous Society, Registration, Public Registry of Panama (Dec. 5, 2019).

<sup>72</sup> See, e.g., Wells Fargo Subpoena Response, Sumco Panama USA Business Account Application on file at EB-TCD-21-00031913 (Feb. 18, 2020) (showing Jovita Cedeno Luna as the signer for the account and describing her business relationship with the Entity as "Owner with Control of the Entity").

<sup>73</sup> See E-mail from { [REDACTED] } to Vultr customer service representative (Feb. 27, 2021); see also G4 Telecom Skype Conversations on file at EB-TCD-21-00031913 (Nov. 2, 2020) ("G4 Telecom: why is traffic so low? Mobi Telecom: DID's. Trying not to burn. The DID's [sic]. G4 Telecom: Ok. I'll get the rest [no problem].").

<sup>74</sup> See Vultr Subpoena Response at 95 on file at EB-TCD-21-00031913 (Apr. 3, 2021) (showing communications of Sumco Panama SA with Vultr in which Szuromi and Migdaris Cedeno submit forms of identification to gain the call center access to the cloud platform).

<sup>75</sup> See Davis Telecom, Profit Corporation Articles of Dissolution by Incorporators or Initial Directors, Wyoming Secretary of State (Apr. 9, 2021); Sumco Panama SA, Anonymous Society, Registration, Public Registry of Panama (Dec. 5, 2019) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>76</sup> See Wells Fargo Subpoena Response, Davis Telecom Business Account Application on file at EB-TCD-21-00031913 (Nov. 19, 2018) (showing Bridge and Szuromi as authorized signer).

<sup>77</sup> See JP Morgan Chase Subpoena Response, Davis Telecom Business Signature Card (July 25, 2019); Wells Fargo Subpoena Response, Davis Telecom Business Account Application, (Nov. 19, 2018) (showing Bridge and Szuromi as authorized signer); Wells Fargo Subpoena Response, Virtual Telecom Addendum to Certificate of Authority (May 25, 2019) (removing Cox as an account signatory, making Bridge the sole authorized signer); Wells Fargo Subpoena Response, Virtual Telecom Business Account Application (May 25, 2019) (showing Bridge as the sole authorized signer) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>78</sup> See Response of Julie Bridge to FCC Subpoena (Bridge Resp.) at 2-3; see also Cox Deposition Transcript (Cox Dep.) at 75 (all of the foregoing on file at EB-TCD-21-00031913).

<sup>79</sup> See Bridge Resp. at 2-3; see also Cox Dep. at 75 (all of the foregoing on file at EB-TCD-21-00031913).

PARTICIPANTS		
Name	Location	Role
June Batista	California	Signatory on Tech Direct's Wells Fargo account and JP Morgan Chase account. <sup>80</sup> Performed clerical tasks such as conducting banking transactions and filing corporate registration paperwork. <sup>81</sup> Paid Virtual Telecom's, Sumco Panama's, and Mobi Telecom's invoices from service providers and conducted banking transactions on their behalf. <sup>82</sup>
Andrea Horvath	Hungary	Officer at Virtual Telecom. <sup>83</sup>

Cox coordinated with these individuals through messaging apps and in-person meetings.<sup>84</sup>

### C. Enforcement Bureau Actions

21. In February 2021, the Ohio State Attorney General's Office (OHAG) informed the Bureau that it was investigating the Enterprise for making billions of suspected illegal robocalls.<sup>85</sup> Upon receipt of the OHAG's information, the Bureau initiated its own investigation. The investigation confirmed the existence of the robocall campaign and confirmed that the Enterprise was initiating the calls.

22. On July 7, 2022, the Bureau issued a Public Notice alerting all U.S.-based voice service providers to a substantial number of unlawful calls originating from the Enterprise and authorizing service providers to cease carrying any traffic originating from eight originating providers, including four providers within the Enterprise.<sup>86</sup> The Bureau also sent cease-and-desist letters to the originating voice service providers.<sup>87</sup> The cease-and-desist letters warned the originating voice service providers to stop transmitting this suspected illegal robocall traffic within 48 hours and ordered that they report the steps taken to mitigate the traffic to the FCC and continue to mitigate illegal traffic on their networks.<sup>88</sup> The letters warned that failure to respond assuring compliance with these requests could result in the Bureau

<sup>80</sup> See JP Morgan Chase Subpoena Response, Davis Telecom Business Signature Card (Mar. 15, 2019); Wells Fargo Subpoena Response, Tech Direct Business Account Application, (Mar. 26, 2019) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>81</sup> See Bridge Resp. at 2-3; see also Cox Dep. at 75 (all of the foregoing on file at EB-TCD-21-00031913).

<sup>82</sup> See Bridge Resp at 2-3; see also Cox Dep. at 75 (all of the foregoing on file at EB-TCD-21-00031913).

<sup>83</sup> Virtual Telecom Profit Corporation Annual Report, Wyoming Secretary of State, (July 1, 2019) (Andrea Horvath signing as the secretary and treasurer of Virtual Telecom).

<sup>84</sup> See Cox Dep. at 16, 20-21, 49, 61 on file at EB-21-00031913; see also Notice, *supra* note 1 at \*7-8, paras. 17-20.

<sup>85</sup> Email from Erin Leahy-Connolly, Senior Assistant Attorney General, Ohio Attorney General's Office on file at EB-21-00031913 (Feb. 10, 2021).

<sup>86</sup> FCC Enforcement Bureau Notifies all U.S.-Based Telecommunications Providers They May Block Auto Warranty Robocalls Originating From Certain Providers, Public Notice, DA 22-727, 2022 WL 2664189 (EB July 7, 2022).

<sup>87</sup> See Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to James Ryan, Fugle Telecom LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Adam Radimiri, CEO, Geist Telecom LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Davinder Singh, President, Mobi Telecom LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Maria Alejandra Gonzalez, Virtual Telecom Inc., and Andrea Horvath, CEO, Virtual Telecom kft (July 7, 2022). These letters are available on the Commission's website at <https://www.fcc.gov/robocall-facilitators-must-cease-and-desist>.

<sup>88</sup> *Id.*

directing other providers to cease transmitting traffic from these companies.<sup>89</sup> None of the Entities that received letters responded.

23. On July 21, 2022, the Bureau issued an Order directing all U.S.-based voice service providers to take immediate steps to effectively mitigate suspected illegal robocall traffic made by or on behalf of Cox, Jones, their individual associates and the originating providers that received letters.<sup>90</sup> The Order further warned that the Commission might deem any voice service provider that failed to comply with the Order to have knowingly and willfully engaged in transmitting unlawful robocalls.<sup>91</sup>

24. As a result of the Commission's actions, auto warranty calls declined sharply. According to YouMail, a third-party robocall monitoring platform, by July 20, 2022, auto warranty robocalls dropped by about 80 percent.<sup>92</sup> Robokiller, another robocall monitoring platform, found that the number of car warranty robocalls plunged from nearly one billion in June 2022 to fewer than seven million just three months later.<sup>93</sup>

### III. DISCUSSION

25. We find that the Enterprise intentionally violated the TCPA and our implementing rules by placing more than five billion prerecorded voice message telemarketing calls without the requisite consent of the called parties, including by reaching consumers on the National Do Not Call Registry. In addition to lacking consent, the prerecorded messages did not contain the requisite disclosures. The Enterprise also violated the Truth In Caller ID Act and our implementing rules by transmitting misleading caller ID that mimicked the called party's own area code to induce consumers to answer the phone.

#### A. The Enterprise Calls Lacked Consumer Consent

26. It is unlawful to initiate prerecorded telemarketing or advertising calls to cell phones, absent that consumer's prior express written consent.<sup>94</sup> It is also unlawful to initiate prerecorded telemarketing calls to a residential line absent that consumer's prior express written consent.<sup>95</sup> At least

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<sup>89</sup> *Id.*

<sup>90</sup> See *FCC Enforcement Bureau Warns All U.S.-Based Voice Service Providers to Avoid or Cease Carriage of Auto Warranty Robocall Traffic from Sumco Panama Operation*, EB Docket No. 21-31913, Report and Order, DA 22-784, 2022 WL 2903941 (EB July 21, 2022).

<sup>91</sup> *Id.* Also on July 7, 2022, the Ohio Attorney General's Office filed a complaint in the Southern District of Ohio targeting many of the same individuals and entities identified in the *Notice* for allegedly initiating over 77 million deceptive robocalls per day linked to the sale of Vehicle Service Contracts. *Ohio v. Jones et al.*, No. 2:2022cv02700, (S.D. Ohio July 7, 2022).

<sup>92</sup> See Karl Bode, *July Enforcement Achieve Success in Escalating the War on Robocalls*, YouMail (July 20, 2022), <https://blog.youmail.com/2022/07/july-enforcement-achieve-success-in-escalating-the-war-on-robocalls/> ("There are still warranty robocalls out there but they are relatively minor in terms of overall volume . . . We have gone from nearly 30 million warranty calls per day that were defeating network filtering down to under 1 million warranty calls per day now being received by consumers."); see also Karl Bode, *FCC, State Action Nets an Amazing 80% Reduction in Auto Warranty Scam Robocalls*, TechDirt (Aug. 25, 2022, 5:28 AM), <https://www.techdirt.com/2022/08/25/fcc-state-action-nets-an-amazing-80-reduction-in-auto-warranty-scam-robocalls/>.

<sup>93</sup> *Car Warranty Robocalls Plummeted in Late 2022: Here's Why*, Robokiller (Nov. 16, 2022), <https://www.robokiller.com/blog/2022-car-warranty-call-trends> ("The steep decline in car warranty robocalls can be traced back to July 7, 2022. That day, the Federal Communications Commission (FCC) announced a series of actions designed to mitigate these scams.").

<sup>94</sup> 47 CFR § 64.1200(a)(2); see also *id.* § 64.1200(f)(1) ("The term 'advertisement' means any material advertising the commercial availability or quality of any property, goods, or services."); *id.* § 64.1200(f)(13) ("The term 'telemarketing' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.").

<sup>95</sup> 47 CFR § 64.1200(a)(3); 47 U.S.C. § 227(b).

33,333 of the calls placed by the Enterprise between January 1, 2021 and March 31, 2021 to both residential lines and cell phones contained prerecorded messages.<sup>96</sup> The calls advertised auto warranties and constitute telemarketing or advertising calls.<sup>97</sup> Consumers who received the calls and filed complaints with the Commission stated that they never gave the Enterprise permission to call them.<sup>98</sup> The Enterprise did not respond to the *Notice* with evidence to the contrary. Without “prior express written consent,” *i.e.*, “an agreement, in writing, bearing the signature of the person” and which complies with our rules, such prerecorded calls were unlawful.<sup>99</sup>

### **B. The Enterprise Calls Lacked Requisite Disclosures**

27. Prerecorded messages must identify the caller at the beginning of the message.<sup>100</sup> Telemarketing calls must also, within two seconds of providing identification information, provide a mechanism by which the called party can make a “do-not-call request.”<sup>101</sup>

28. Calls from the Enterprise did not comply with these requirements. Voicemail recordings of the messages revealed that the Enterprise’s messages did not identify the caller at the beginning of the message.<sup>102</sup> While the recorded message purported to provide consumers with an option to be included on the Enterprise’s do not call list,<sup>103</sup> this option did not work.<sup>104</sup> Pressing the specified opt-out key did not result in removal.<sup>105</sup> The Enterprise did not respond to the *Notice* with evidence disputing the calls’ lack of required disclosures.

### **C. The Enterprise Calls Included Consumers on the National Do Not Call Registry**

29. It is unlawful to call residential or wireless telephone subscribers who have included their phone numbers on the National Do Not Call Registry, subject to a narrow set of exceptions that do not apply here.<sup>106</sup> The Commission reviewed a sample of 33,333 calls and found that the Enterprise placed 11,982 calls (36 percent of sampled calls) to numbers on the National Do Not Call Registry.<sup>107</sup> The

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<sup>96</sup> The Bureau analyzed the Call Detail Records using Interactive Marketing Solutions, EasyID, <https://www.ims-dm.com/mvc/page/easyid/> (last visited May 5, 2022). EasyID is Interactive Marketing Solutions’ software that allows clients to eliminate wireless numbers from calling lists. *Id.* Interactive Marketing Solutions, Inc. is a member of the Direct Marketing Association and bills itself as “the country’s largest single-source supplier” of data identifying telephone numbers that have been assigned or ported to wireless devices, “to help businesses comply with state and federal legislation.” Interactive Marketing Solutions – Do Not Contact List Solutions, <https://www.ims-dm.com/mvc/index.php> (last visited May 5, 2022); *see also, e.g.*, FCC Complaint #4475666 (Jan. 8, 2021) (“I am on the do not call [sic] registry and receive robo calls that i [sic] have not consented to.”).

<sup>97</sup> *See* ITG Subpoena Response, *supra* note 34.

<sup>98</sup> *See, e.g.*, FCC Complaint #4466838 (Jan. 4, 2021) (“I frequently am bothered by robocalls offering vehicle warranties. They are almost always from the same area code as my cell number, even though I live on the other side of the country. I do not have a car warranty and do not consent to these calls.”); FCC Complaint #4467180 (Jan. 4, 2021); FCC Complaint #4475666 (Jan. 8, 2021) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>99</sup> 47 CFR § 64.1200(a)(2)-(3), (f)(9).

<sup>100</sup> *Id.* § 64.1200(b)(1); 47 U.S.C. § 227(d)(3)(A).

<sup>101</sup> 47 CFR § 64.1200(b)(3).

<sup>102</sup> *See* ITG Subpoena Response, *supra* note 34.

<sup>103</sup> *Id.*

<sup>104</sup> *See* FCC Complaint #4469369 on file at EB-TCD-21-00031913 (Jan. 5, 2021) (explaining that the call stated the recipient could “press 9” to be removed from the calling list, however, despite the consumer “press[ing] 9 many times the previous times they called” the consumer continued to receive message).

<sup>105</sup> *Id.*

<sup>106</sup> 47 CFR § 64.1200(c)(2), (e).

<sup>107</sup> *See supra* note 96.

Enterprise did not respond to the *Notice* with evidence disputing that it called numbers on the National Do Not Call Registry, or that its calls were otherwise permissible under any of the excepted grounds.

**D. The Enterprise Violated the TCPA with Intent**

30. Both Cox and Jones—who were key participants in the operations of the Enterprise<sup>108</sup>—were aware of telemarketing regulations, having been the subjects of robocall enforcement actions concerning similar requirements under the Telemarketing Sales Rule.<sup>109</sup> Cox was the subject of a Federal Trade Commission (FTC) and U.S. Department of Justice (DOJ) enforcement action for abusive robocall telemarketing practices.<sup>110</sup> In three separate cases, the FTC and the state of Texas sued Jones for making illegal prerecorded message calls to people who were listed on the National Do Not Call Registry and transmitting inaccurate caller ID information.<sup>111</sup> As a result of the collective lawsuits against them, both Cox and Jones are prohibited from engaging in telemarketing.<sup>112</sup> Because of these prior enforcement actions, Cox and Jones had actual knowledge of telemarketing regulations.<sup>113</sup> These facts persuade us that the Enterprise intentionally violated the TCPA. The Enterprise did not respond to the *Notice* with evidence to the contrary.

**E. The Enterprise Calls Used Misleading Caller ID**

31. The Truth in Caller ID Act prohibits “knowingly transmit[ing] misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value.”<sup>114</sup> Between January 1 through March 31, 2021, the Enterprise placed more than five billion calls to wireless and residential phones, collectively displaying more than one million telephone numbers that could not easily be linked to the Enterprise, and did so with unlawful intent. The Enterprise did not respond to the *Notice* with evidence to the contrary.

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<sup>108</sup> See *supra* para. 20; see also *infra* paras. 50, 52-53.

<sup>109</sup> See *United States v. Cox et al.*, 8:11-cv-01910 (C.D. Cal. 2011); *Federal Trade Comm’n v. Jones et al.*, 8:17-cv-00058 (C.D. Cal. 2017).

<sup>110</sup> See *United States v. Cox et al.*, 8:11-cv-01910 (C.D. Cal. 2011); *United States v. Cox et al.*, No. 8:11-cv-01910 (C.D. Cal. 2014).

<sup>111</sup> See Compl. at 2, *Fed. Trade Comm’n v. Jones, et al.*, No. 8:17-cv-00058 (C.D. Cal. Jan. 11, 2017) ECF No. 1; see also Default Final Order of Permanent Injunction and Monetary Judgment at 8, *Federal Trade Comm’n v. Pointbreak Media, LLC*, 0:18-cv-61017 (S.D. Fla. Apr. 25, 2019) ECF No. 265 (enjoining and restraining Jones from telemarketing after Jones was found to have participated in illegal telemarketing); Stipulated Order for Permanent Injunction and Monetary Judgment at 8-10, *Texas v. Sem Media, Inc. et al.*, No. 1:09-cv-00387 (W.D. Tex. Apr. 6, 2011) ECF No. 83 (ordering Jones to comply with federal and Texas telemarketing statutes and not to initiate calls to consumers who request otherwise).

<sup>112</sup> Stipulated Judgement and Order for Permanent Injunction at 4-5, *United States v. Cox et al.*, No. 8:11-cv-01910 (C.D. Cal. Feb. 4, 2013), ECF No. 22; Entry of Default Judgment and Final Order for Permanent Injunction at 4, *Fed. Trade Comm’n v. Jones, et al.*, No. 17-cv-00058 (C.D. Cal. May 31, 2017), ECF No. 88.

<sup>113</sup> The DOJ litigation alleged violations of the section 5(a) of the Federal Trade Commission Act and the FTC’s Telemarketing Sales Rule (TSR), which contain requirements almost identical to those in the TCPA. For example, the TSR prohibits telemarketing calls to anyone listed on the National Do Not Call Registry unless the telemarketer has the express written consent that the called party is willing to receive the calls. 16 CFR § 310.4(b)(1)(v)(A). The TSR requires telemarketers to transmit the telemarketer’s telephone number and other identifying information. *Id.* § 310.4(a)(8). Thus, even if the Enterprise was not aware that the TCPA imposed such restrictions and disclosures, it was aware that making telemarketing calls without prior consent and without disclosing the identity of the caller violated federal law and regulations.

<sup>114</sup> 47 U.S.C. § 227(e)(1); see also 47 CFR § 64.1604(a). There are exceptions for investigative, protective, or intelligence activities, but those exceptions do not apply here.

## 1. The Caller ID Was Misleading

32. It is misleading to use caller ID information in a “manner calculated to obscure [the caller’s] identity, evade detection, and prevent consumers from opting out of future calls.”<sup>115</sup> The Enterprise displayed Direct Inward Dial numbers as its caller ID, which was misleading in two ways.

33. First, the Enterprise used area codes that matched the call recipients’ area codes in order to mislead the recipients into believing a local party was trying to contact them.<sup>116</sup> The Enterprise, through Geist Telecom LLC (Geist Telecom),<sup>117</sup> purchased over one million DID numbers from 297 area codes.<sup>118</sup> This allowed the Enterprise to place multiple calls to the same recipient using a different caller ID each time, and thereby evade any block the consumer had set up.<sup>119</sup> Consumers reported believing that the calls originated locally because the numbers matched their own telephone area code.<sup>120</sup> This practice also prevented consumers and regulatory enforcement entities from easily determining the owner of the number or the source of the calls. For these reasons, the Enterprise’s use of DID numbers constituted a display of misleading caller ID.

34. Second, the number displayed did not always permit a consumer to call back. Failing to provide a means to contact the telemarketer using the number displayed in the caller ID constitutes misleading caller ID.<sup>121</sup> Consumers who called the number displayed in the caller ID reported several results, including hearing that the number is no longer in service,<sup>122</sup> hearing the same pre-recorded message as the consumer had heard during the initial call,<sup>123</sup> or reaching a telemarketer who terminated the call when asked to provide identifying information.<sup>124</sup> Accordingly, the caller ID was misleading because consumers were unable to call back and request to be placed on a do-not-call list.

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<sup>115</sup> *Affordable Enterprises of Arizona Forfeiture Order*, *supra* note 18, at 12152, para. 25.

<sup>116</sup> See G4 Telecom Skype Conversations on file at EB-TCD-21-00031913 (Nov. 2, 2020) (insisting that the acquired numbers “need[] to be in the same area code.”); *see, e.g.*, FCC Complaint #4466838 (Jan. 4, 2021) (“I frequently am bothered by robocalls offering vehicle warranties. They are almost always from the same area code as my cell number, even though I live on the other side of the country.”).

<sup>117</sup> See G4 Telecom Skype Conversations on file at EB-TCD-21-00031913 (Dec. 8, 2020).

<sup>118</sup> See North Dakota Attorney General Subpoena Response from Mash Telecom on file at EB-TCD-21-00031913 (showing the Enterprise obtained almost 500,000 numbers in November 2020, as well as a substantial volume of numbers a month earlier).

<sup>119</sup> See Call Detail Records on file at on file at EB-TCD-21-00031913 (reflecting no number dialed the same consumer twice).

<sup>120</sup> See, *e.g.*, FCC Complaint #4669075 (Mar. 26, 2021) (“I think I got scammed . . . So I got a call today Friday March 26th, *from a local number*. . . I just bought a car a month ago, and they offered me a warranty for 100,000 miles.. and I was reluctant at first because of the price, then afterwards she gave me a cheaper price, so I was sold.. my card was charged 150\$ [sic] I didn’t receive a receipt.” (emphasis added)).

<sup>121</sup> See *Affordable Enterprises of Arizona Forfeiture Order*, *supra* note 18, at 12155, para. 33 (finding that even if the caller ID did, in some instances, reflect phone numbers associated with the telemarketer, because the telemarketer “either did not answer those phones or, if it did answer, it did not respond to callers in a meaningful way” – for example, the telemarketer hung up on the caller – the caller ID was misleading).

<sup>122</sup> See FCC Complaint #4471642 (Jan. 6, 2021) (“looks like a spoofed phone number as the call back number is disconnected or no longer in service, despite calling it back within minutes of receiving the call.”).

<sup>123</sup> See { [REDACTED] }; Aff. at 1 (consumer reported hearing the same message as the one he heard when the Enterprise picked up); FCC Complaint #4515248 (Jan. 26, 2021) (“They call themselves ‘Dealer Services’ when I press the number to be connected, and when I ask additional questions, they hang up on me.”); OHAG Recording on file at EB-21-00031913 (Mar. 11, 2021).

<sup>124</sup> See, *e.g.*, FCC Complaint #4470373 (Jan. 6, 2021) (“they continue to harrass [sic] me trying to provoke me into buying a warranty. I talk to a rep and ask them to take me off their list and they hang Up! Then call again tomorrow.

## 2. The Enterprise Knowingly Used Misleading Caller ID Information

35. *The Enterprise intentionally selected misleading area codes.* The Dialers, located in Panama and Hungary, intentionally selected caller IDs that would appear to originate from the vicinity of the called party in the United States. In November and December 2020, G4 Telecom facilitated the purchase of DID numbers from Blitz Telecom and Teli Communications.<sup>125</sup> G4 Telecom allowed Virtual Telecom and Mobi Telecom to customize the order by specifying the number of DID numbers and the area codes of the DID numbers to be purchased.<sup>126</sup> Migdaris Cedeno, acting on behalf of Virtual Telecom and Mobi Telecom, executed the sale using funds from Davis Telecom,<sup>127</sup> then requested that the numbers be assigned to Geist Telecom.<sup>128</sup>

36. After Geist Telecom purchased the numbers, Virtual Telecom dialed consumers using those DID numbers with area codes that were similar to the area codes of the destination numbers.<sup>129</sup> As a result, approximately 75 percent of caller IDs in related Commission complaints contained area codes that (a) matched the consumer's area code, (b) belonged to area codes adjacent to the consumer's area code, or (c) belonged to an area code in the same state.<sup>130</sup> The result of selecting caller IDs in this manner is "neighbor spoofing."<sup>131</sup>

37. The Enterprise's decision to purchase over one million numbers for the purpose of creating caller IDs that would lead consumers to wrongly believe that they were receiving a local call and then answer the phone, indicates it knowingly used inaccurate caller ID. The Enterprise has offered no evidence to the contrary.

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Please help[.]"); FCC Complaint #4475632 (Jan. 8, 2021); FCC Complaint #4475721 (Jan. 8, 2021); *see also* {[REDACTED]}; Aff. At 1 (consumer reported hearing the same message as the one he heard when the Enterprise picked up); FCC Complaint #4515248 (Jan. 26, 2021); OHAG Recording on file at EB-21-00031913 (Mar. 11, 2021).

<sup>125</sup> *See* G4 Telecom Skype Conversations with Mobi Telecom (Nov. 3, 2020) ("G4 Telecom: Just indicate what area codes you want and tell them to get as many as they can. Pick 10 and ask for 20 numbers each. Virtual Telecom: but they already sent the 3xx k DID's. I need to check what they sent already and deduct them. . . . I need to verify what was fulfilled. It's not an easy process. You have the list of what we got already. Correct. Virtual Telecom: some area we need more DID than others.").

<sup>126</sup> *See id.*

<sup>127</sup> *See* JP Morgan Chase Bank Records for Davis Telecom on file at EB-TCD-21-00031913 (reflecting payment to G4 Telecom on Nov. 4, 2020 for Teli DIDs in the amount of 13,313.35); *see* JP Morgan Chase Bank Records for Davis Telecom on file at EB-TCD-21-00031913 (reflecting payment to G4 Telecom on Dec. 4, 2020 for Blitz DIDs in the amount of 13,006.40).

<sup>128</sup> *See* G4 Telecom Skype Conversations with Mobi Telecom on file at EB-TCD-21-00031913 (Dec. 7, 2020) (email from Jason Ritter (Blitz) to Adam Radimiri (Geist Telecom) stating that Blitz will send the MSA for the DIDs and looks forward to working with Geist Telecom).

<sup>129</sup> *See* G4 Telecom Skype Conversations with Mobi Telecom (Nov. 3, 2020) ("G4 Telecom: Just indicate what area codes you want and tell them to get as many as they can. Pick 10 and ask for 20 numbers each.").

<sup>130</sup> *See, e.g.*, FCC Complaint #4475448 (Jan. 8, 2021) ("I have been receiving automatic calls about a 'vehicle warranty' from the state I used to live in for many months. I moved from Colorado to Texas in 2015, but have been getting continuously called about a nonexistent vehicle warranty from numbers that are always different."); Call Detail Records on file at EB-TCD-21-00031913 (over 62 percent of calls were to and from the same area codes and an additional over 12 percent of calls were to and from area codes that were contiguous or within the same state); Phone and Area Code Search, [www.allareacodes.com](http://www.allareacodes.com).

<sup>131</sup> *See* USTelecom – The Broadband Association, *Numbering Policies for Modern Communications* Comments, WC Docket No. 13-97, at 2 (Oct. 14, 2021) ("Some sophisticated bad actor robocallers already are moving from spoofing fake numbers to using valid numbers in their schemes . . . . In addition, with access to local numbers from across the country, they rely on a next-generation version of 'neighbor spoofing,' using those local numbers as the calling number when making calls to the same or neighboring area codes – just using their own allocated or assigned numbers rather than spoofed ones.").



### 3. The Enterprise Intended to Defraud, Cause Harm, and Wrongfully Obtain Something of Value

#### a. The Enterprise Intended to Defraud Consumers

38. Fraud requires (a) a false representation; (b) in reference to a material fact; (c) with knowledge of its falsity; and (d) with the intent to deceive.<sup>132</sup> The factual representation is material if a “reasonable person” would consider the matter to be of importance regarding the transaction.<sup>133</sup> “Intent can be inferred from the totality of the circumstances rather than direct evidence.”<sup>134</sup> The Enterprise’s conduct satisfies each of these elements.

39. The messages to consumers were riddled with materially false statements. The Enterprise attempted to persuade consumers that the caller had an existing relationship with the consumer and a warranty for their vehicle.<sup>135</sup> The caller did not have an existing relationship with the consumer or a warranty covering the consumer’s car.<sup>136</sup> The Enterprise tried to create a false sense of urgency by claiming the consumer had missed previous attempts to be contacted and that the consumer’s “file” would be closed imminently if they did not act.<sup>137</sup> There was no “file” associated with a pre-existing warranty.<sup>138</sup> The Enterprise claimed to offer means by which to extend an existing warranty.<sup>139</sup> Ultimately, however, the consumer could only purchase a new vehicle service contract.<sup>140</sup> These falsehoods would have convinced many consumers to continue to engage with the Enterprise under the false belief that they were renewing or extending a warranty, making them material.<sup>141</sup>

40. The Enterprise delivered the messages to consumers with full knowledge of the falsehoods contained therein in order to deceive consumers. The lead generation contracts between the Clients and the Enterprise do not reflect that the Clients had a preexisting relationship with consumers.<sup>142</sup>

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<sup>132</sup> *Pence*, *supra* note 29, 316 U.S. at 338. Common law fraud requires a fifth element, action taken in reliance on the misrepresentation. *Id.* This element is inapplicable because the Truth in Caller ID Act only demands a showing of intent to defraud, not that the attempt was successful. 47 U.S.C. § 227(e); *see also Rising Eagle Forfeiture Order*, *supra* note 24, at 6234, para. 20.

<sup>133</sup> *United States v. Philip Morris USA Inc.*, 566 F.3d 1095, 1122 (D.C. Cir. 2009).

<sup>134</sup> *See Rising Eagle Forfeiture Order*, *supra* note 24, at 6235, para. 20 (citing *United States v. Alston*, 609 F.2d 531, 538 (D.C. Cir. 1979), cert. denied, 445 U.S. 918 (1980)).

<sup>135</sup> *See* ITG Subpoena Response, *supra* note 34.

<sup>136</sup> *See, e.g.*, FCC Complaint #4469369 on file at EB-TCD-21-00031913 (Jan 5, 2021) (“... This is NOT the dealer, and our warranty is not passed factory, and we have not received any mail.”).

<sup>137</sup> *See* ITG Subpoena Response, *supra* note 34.

<sup>138</sup> *See, e.g.*, FCC Complaint #4469369 on file at EB-TCD-21-00031913 (Jan 5, 2021) (“... This is NOT the dealer, and our warranty is not passed factory, and we have not received any mail.”).

<sup>139</sup> *See* ITG Subpoena Response, *supra* note 34.

<sup>140</sup> *See, e.g.*, {[REDACTED]} Aff. at 1 and accompanying FCC Complaint #4547338 (Feb. 9, 2021) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>141</sup> *See, e.g.*, FCC Complaint #4669075 (Mar. 26, 2021) (“I think I got scammed... So I got a call today Friday March 26<sup>th</sup>, from a local number... I just bought a car a month ago, and they offered me a warranty for 100,000 miles.. and I was reluctant at first because of the price, then afterwards she gave me a cheaper price, so I was sold.. my card was charged 150\$ [sic] I didn’t receive a receipt.”).

<sup>142</sup> *See* Vendor Services Agreement, Affordable Automotive Solutions-Tech Direct (Jan. 1, 2020) on file at EB-TCD-21-00031913 (Vendor Services Agreement Tech Direct); Vendor Services Agreement, Affordable Automotive Solutions-Virtual Telecom on file at EB-TCD-21-00031913 (Jan. 1, 2020) (Vendor Services Agreement Virtual Telecom); Vendor Services Agreement, Affordable Automotive Services-Davis Telecom on file at EB-TCD-21-00031913 (Oct. 19, 2020) (Vendor Services Agreement Davis Telecom).

Nor do the contracts reflect that the Clients had “files” on each consumer that would close imminently.<sup>143</sup> Nor do the contracts reflect that the Clients could extend a consumer’s existing warranty.<sup>144</sup> The false statements in the messages to the contrary were intentionally made to trick consumers into becoming “leads” for the Clients.<sup>145</sup> The Enterprise’s use of neighbor spoofing further suggests an intent to deceive the called parties.<sup>146</sup>

**b. The Enterprise Intended to Cause Harm to Consumers, the General Public, and Service Providers**

41. “Harm” encompasses “financial, physical, and emotional harm.”<sup>147</sup> Actual harm is not required to prove intent to harm.<sup>148</sup> We find that the Enterprise intended to cause harm to: (1) consumers (emotionally), (2) the general public (physically), and (3) voice service providers (financially).

42. *The Enterprise intended to cause emotional harm to consumers.* The Enterprise called consumers incessantly—over five billion times in three months.<sup>149</sup> Both Congress and the Commission have long recognized that the placement of illegal robocalls causes consumers significant harm, including that such calls are a nuisance and invasion of privacy.<sup>150</sup> Consumers could not avoid the harmful calls because the Enterprise used misleading caller ID and did not allow consumers to opt out of the calls.<sup>151</sup> Consumers could not easily use a third-party blocking service, because the Enterprise used an ever-

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<sup>143</sup> See Vendor Services Agreement Tech Direct; Vendor Services Agreement Virtual Telecom; Vendor Services Agreement Davis Telecom.

<sup>144</sup> See Vendor Services Agreement Tech Direct; Vendor Services Agreement Virtual Telecom; Vendor Services Agreement Davis Telecom.

<sup>145</sup> See, e.g., FCC Complaint #4547338 (Feb. 9, 2021) (consumer spoke with Omega Auto Care sales agents, appeared to be interested in the product, and obtained copies of contracts and the name of the obligor on the contract, Palmer Administrative Services); see also FCC Complaint #4669075 (Mar. 26, 2021) (“I think I got scammed...So I got a call today Friday March 26<sup>th</sup>, from a local number... I just bought a car a month ago, and they offered me a warranty for 100,000 miles.. and I was reluctant at first because of the price, then afterwards she gave me a cheaper price, so I was sold.. my card was charged 150\$ [sic] I didn’t receive a receipt.”).

<sup>146</sup> See *Rising Eagle Forfeiture Order*, *supra* note 24, at 6235, para. 20; *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4668, para. 15 (2017) (*Abramovich Forfeiture Order*); see also *United States v. Rogers*, 321 F.3d 1226, 1230 (9th Cir. 2003) (“It is settled law that intent to defraud may be established by circumstantial evidence.”).

<sup>147</sup> See *Truth in Caller ID Order*, *supra* note 25, at 9122, para. 22.

<sup>148</sup> See *Rising Eagle Forfeiture Order*, *supra* note 24, at 6242, para. 35.

<sup>149</sup> See Call Detail Records on file at EB-TCD-21-00031913.

<sup>150</sup> See S. Rep. No. 102-178, at 2 (1991); Pub. L. No. 102-243, § 2(10), 105 Stat. 2394, 2394 (1991); *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 7 FCC Rcd 8752, 8753, para. 2 (1992); see also *Roesel Forfeiture Order*, *supra* note 28, at 9218, para. 40; *Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 372 (2012) (recognizing Congress’s finding that robocalls are an invasion of privacy); *Frisby v. Schultz*, 487 U.S. 474, 484 (1988); *Van Patten v. Vertical Fitness Enter., LLC*, 847 F.3d 1037, 1043 (9th Cir. 2017); *LaVigne v. First Cmty. Bancshares, Inc.*, 215 F. Supp. 3d 1138, 1146-47 (D.N.M. 2016).

<sup>151</sup> See FCC Complaint #4475660 (Jan. 8, 2021) (“I keep receiving calls from Auto Warranty services from [REDACTED] [REDACTED]}. I have contacted them multiple times and asked to stop being called, and have supposedly opted out in their system, but I keep receiving their calls. I have even blocked many of the calling numbers that they use, but they keep calling. I want them to stop calling me.”); FCC Complaint #4475510 (Jan. 8, 2021) (all of the foregoing on file at EB-TCD-21-00031913).

shifting supply of phone numbers as caller ID.<sup>152</sup> It was substantially certain that transmitting inaccurate caller ID information for the volume of calls at issue here would cause harm.

43. *The Enterprise intended to cause physical harm to the public.* The transmission of inaccurate caller ID information also posed a threat to public safety by disturbing healthcare workers and hospitals.<sup>153</sup> For example, the Bureau received a complaint from a surgeon who received an auto warranty robocall on his hospital-issued phone during a procedure.<sup>154</sup> The calls used the area code and central office code of the hospital's emergency room which caused him to interrupt the procedure to answer the call.<sup>155</sup> It cannot be disputed that placing harassing phone calls to medical providers while they are providing medical services is substantially certain to endanger those receiving medical care.

44. *The Enterprise intended to cause financial harm to voice service providers.* Large-scale illegal robocalling campaigns harm the service providers that have to transmit the calls by placing undue burdens on network and financial resources.<sup>156</sup> A large volume of calls, such as what the Dialers generated, can overwhelm a network's capacity, and using misleading or inaccurate caller ID makes it harder for carriers to detect those calls and take remedial action.<sup>157</sup>

45. Additionally, the Enterprise caused harm by depleting the supply of available DID numbers for service providers and legitimate businesses trying to obtain them. The Enterprise rendered the purchased numbers toxic by associating them with illegal robocalling.<sup>158</sup> Once a phone number has been tainted by association with a robocall campaign, it can have a long lasting, negative impact on that number.<sup>159</sup> Number scarcity forces legitimate businesses to scour the market for available telephone numbers.<sup>160</sup> The Enterprise repeatedly ordered large quantities of DID numbers, which providers

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<sup>152</sup> See, e.g., FCC Complaint #4475492 (Jan. 8, 2021) ("I have been receiving many calls over the past few months regarding a 'vehicle warranty renewal'. I have been blocking the numbers, but the automated calls change the source number often."); FCC Complaint #4483308 (Jan. 12, 2021); FCC Complaint #4466560 (Jan. 4, 2021).

<sup>153</sup> See FCC Complaint #4680700 (Mar. 31, 2021) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>154</sup> See {[REDACTED]} Aff. at 1 on file at EB-TCD-21-00031913.

<sup>155</sup> *Id.*

<sup>156</sup> See *Abramovich Forfeiture Order*, *supra* note 146, at 4668, para. 17.

<sup>157</sup> See *id.* at 4671, para. 27.

<sup>158</sup> See, e.g., FCC Complaint #4475660 (Jan. 8, 2021) ("I keep receiving calls from Auto Warranty services from {[REDACTED]}. I have contacted them multiple times and asked to stop being called, and have supposedly opted out in their system, but I keep receiving their calls. I have even blocked many of the calling numbers that they use, but they keep calling. I want them to stop calling me."); FCC Complaint #4475510 (Jan. 8, 2021) ("I have had dozens of calls from various numbers for auto warranty renewal. I have blocked the number, tried to opt out and nothing changes. I have also talked to a person who just hangs up on me.").

<sup>159</sup> See *Scott Rhodes A.K.A. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek*, Forfeiture Order, 36 FCC Rcd 705, 723, para. 44 (2021) ("[S]poofing can cause caller identification services to flag the number as untrustworthy. Any service provider that allocates the previously unassigned phone number to a subscriber in the future risks saddling that subscriber with a toxic phone number.").

<sup>160</sup> See *Numbering Resource Optimization*, CC Docket Nos. 99-200 and 92-237, Order, 33 FCC Rcd 6866, 6866, para. 1 (2018) ("Telephone numbers are a valuable resource for the American public, and the effective, efficient management of this resource is essential to facilitating communications and maintaining a modern telecommunications network."); see also Wireline Competition Bureau, *Numbering Resources*, <https://www.fcc.gov/general/numbering-resources> (last visited June 16, 2023) ("objectives of the Bureau include] [e]xtending the life of the 10-digit number system, known as the North American Numbering Plan" and "preventing premature exhaustion of numbers.").

struggled to fulfill.<sup>161</sup> Because of the negative impact on telephone networks and numbering resources, we find that the Enterprise intended to harm service providers financially.

**c. The Enterprise Intended to Wrongfully Obtain Something of Value**

46. The Enterprise intended to make a large number of spoofed phone calls to wrongfully obtain something of value in the form of (1) money and (2) evasion of liability. The Enterprise received compensation for generating sales leads for the Clients and dispersed it among the Entities.<sup>162</sup> Because the calls were made pursuant to an unlawful robocalling scheme, we find that the Enterprise knowingly used misleading caller ID to wrongfully obtain financial compensation.

47. The Enterprise was also able to evade accountability for the illegal robocalls—temporarily—by using misleading and inaccurate caller ID. Evading, or at least delaying, liability constitutes a thing of value.<sup>163</sup> In this case, an attempt to evade TCPA liability and an avoidance of culpability has a specific, ascertainable dollar value—namely, up to \$22,021 per unlawful robocall in a forfeiture action brought by the FCC for violation of section 227(b) of the Communications Act of 1934, as amended (the Act).<sup>164</sup> Additionally, in a private action, the potential liability is up to \$1,500 per illegal robocall.<sup>165</sup> Thus, the Enterprise used misleading caller ID to wrongfully obtain things of value.

**IV. ENTERPRISE LIABILITY**

**A. Each Entity Is Liable Under the Enterprise Liability Doctrine**

48. The Entities are jointly and severally liable under the enterprise liability doctrine. In cases where the enforcement action is targeted at conduct which is orchestrated by a common enterprise, each corporate entity within that enterprise may be held liable for the actions of the enterprise.<sup>166</sup> “Where the statutory purpose could . . . be easily frustrated through the use of separate entities,” the enterprise liability doctrine allows the Commission “to look through the corporate form and treat the separate entities as one and the same for the purposes of regulation.”<sup>167</sup> The Commission has applied the

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<sup>161</sup> See G4 Telecom Skype Conversations (Nov. 2, 2020) (“G4 Telecom: it does take a bit [to complete the order for DIDs] because of quantity and having to use bulk processing procedure.”); see also *id.* (G4 Telecom: “why is traffic so low?”) Mobi Telecom: “DID’s. Trying not to burn. The DID’s [sic].” G4 Telecom: “Ok. I’ll get the rest np.”).

<sup>162</sup> See, e.g., Bank of America Account Statement for Posting Express on file at EB-TCD-21-00031913 (June 8, 2021) (showing payments from Clients to Posting Express); Vendor Services Agreement, Affordable Automotive Services-Davis Telecom (Oct. 19, 2020) (all of the foregoing on file EB-TCD-21-00031913).

<sup>163</sup> See *Rising Eagle Forfeiture Order*, *supra* note 24, at 6243, para. 38 (“The Commission has recognized that ‘[a]voidance of culpability is a benefit that qualifies as a thing of value.’”); see also *Best Insurance Contracts, Inc., and Philip Roesel, dba Wilmington Insurance Quotes*, Notice of Apparent Liability, 32 FCC Rcd 6403 at 6413, para. 27 (2017); *Roesel Forfeiture Order*, *supra* note 28, at 9212, para. 22.

<sup>164</sup> See 47 CFR § 1.80(b)(9); see also *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 22-1356 (EB Dec. 23, 2022).

<sup>165</sup> See 47 U.S.C. § 227(b)(3).

<sup>166</sup> See *Gen. Tel. Co. of the S.W. v. United States*, 449 F.2d 846, 855 (5th Cir. 1971); see also *Capital Tel. Co., Inc. v. FCC*, 498 F.2d 734, 737-39 (D.C. Cir. 1974) (Commission correctly treated individual and company he controlled as the same entity); *Sunshine Art Studios, Inc. v. FTC*, 481 F.2d 1171, 1175 (1st Cir. 1973); *Delaware Watch Co. v. FTC*, 332 F.2d 745, 746-47 (2d Cir. 1964); *F.T.C. v. PayDay Financial LLC*, 989 F. Supp. 2d 799, 809 (D.S.D. 2013).

<sup>167</sup> *Improving Public Safety Communications in the 800 MHz Band*, Declaratory Ruling, 25 FCC Rcd 13874, 13887-888, para. 33 (2010) (*Improving Public Safety Declaratory Ruling*).

enterprise liability doctrine in other enforcement actions where parties engaged in illegal conduct as a common enterprise.<sup>168</sup> In such cases each party may be held liable for the actions of the enterprise.<sup>169</sup>

49. We find that the enterprise liability analysis set forth in the *Notice* was correct and therefore find the Entities jointly and severally liable under that doctrine.<sup>170</sup> Among other things, as stated in the *Notice*, the Commission notes the existence of the following factors support the conclusion that parties are acting jointly and should be held liable under the enterprise liability doctrine: (1) members of the alleged enterprise acted for or on behalf of one another in furtherance of a common regulatory or business goal; (2) different members held different assets and provided different services necessary to or helpful in achieving the unified goal; (3) the parent company directed or coordinated the interrelationship between or the operation of the subsidiaries to facilitate the unified regulatory or business goal; and (4) the Entities presented themselves to the Commission and the public as a unified entity.<sup>171</sup>

50. *Members working towards a common goal.* The Enterprise's common goal was to generate leads for the Clients and make money. The Participants acted as signatories for the Tech Direct, Davis Telecom, Sumco Panama USA, and Virtual Telecom, Inc. accounts with U.S. banks<sup>172</sup> and made payments to service providers on behalf of Sumco Panama, Virtual Telecom, and Mobi Telecom.<sup>173</sup> Cox also made payments to service providers from his personal account on behalf of Sumco Panama.<sup>174</sup> Migdaris Cedenó transferred funds to U.S. banks<sup>175</sup> and authorized cryptocurrency payments to some providers on behalf of Sumco Panama.<sup>176</sup>

<sup>168</sup> See *Thomas Dorsher; ChariTel Inc; OnTel Inc; and ScammerBlaster Inc.*, Notice of Apparent Liability, FCC 22-57, 2022 WL 2805894, \*15-16, para. 33; *Rising Eagle Forfeiture Order*, *supra* note 24, at 6254, para. 55; see also *Improving Public Safety Declaratory Ruling*, 25 FCC Rcd at 13889, para. 34.

<sup>169</sup> See *Gen. Tel. Co. of the S.W. v. United States*, 449 F.2d 846, 855 (5th Cir. 1971); see also *Capital Tel. Co., Inc. v. Fed. Comm'n Comm'n*, 498 F.2d 734, 737-39 (D.C. Cir. 1974) (Commission correctly treated individual and company he controlled as the same entity and granted only one license).

<sup>170</sup> See *Notice*, *supra* note 1, at \*36-41, paras. 82-96.

<sup>171</sup> *Improving Public Safety Declaratory Ruling*, 25 FCC Rcd at 13887-90, paras. 33-36.

<sup>172</sup> See Wells Fargo Subpoena Response, Virtual Telecom Business Application (May 25, 2019) (showing Bridge and Cox as signatories); see also Wells Fargo Subpoena Response, Virtual Telecom Business Account Application (Jan. 31, 2017) (showing Bridge and Cox as signatories); Wells Fargo Subpoena Response, Addendum to Certificate of Authority (May 25, 2019) (showing Bridge and Cox as signatories); see also Wells Fargo Subpoena Response, Tech Direct Business Account Application (Mar. 26, 2019) (showing Batista as signatory); see also JP Morgan Chase Subpoena Response (Mar. 15, 2019) (reflecting Batista opened a Business Signature Card for Tech Direct as a "member" and provided her personal email address) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>173</sup> See, e.g., G4 Telecom conversations (Feb. 15, 2021) (showing payment from Julie Bridge on behalf of Virtual Telecom to G4 Telecom for \$30,000); see Email from {REDACTED} to {REDACTED} (Apr. 27, 2020) (thanking Sumco Panama SA for \$3,000 payment); Wells Fargo Simple Business Checking, Tech Direct (Apr. 27, 2020) (payment to Talkie Communications in the amount of \$3,000); Email from {REDACTED} to {REDACTED} (May 8, 2020) (thanking Sumco for \$14,000 payment); Wells Fargo Simple Business Checking, Tech Direct (May 8, 2020) (showing a payment to Talkie Communications in the amount of \$14,000); Wells Fargo Simple Business Checking, Tech Direct (July 3, 2020) (showing a payment to Talkie Communications in the amount of \$7,000); Email from {REDACTED} to {REDACTED} (July 3, 2020) (thanking Mobi Telecom LLC for a payment in the amount of \$7,000) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>174</sup> See Vultr Subpoena Response on file at EB-TCD-21-00031913 (Apr. 3, 2021) (showing payments to the Sumco Panama account from Cox via PayPal and using his Citibank Mastercard on Feb. 20, 2020).

<sup>175</sup> See, e.g., Wells Fargo Subpoena Response on file at EB-TCD-21-00031913 (Apr. 13, 2021) (showing a transfer between a Sumco Panama SA account at a Panamanian bank to Sumco Panama USA's Wells Fargo account).

<sup>176</sup> See Vultr Subpoena Response on file at EB-TCD-21-00031913 (Apr. 3, 2021) (showing nearly all payments made to the Sumco Panama account were in bitcoin).

51. *Members provided different services to advance the common goal.* Davis Telecom, Virtual Telecom, and Tech Direct contracted with Clients.<sup>177</sup> The Dialers initiated the illegal calls through their call centers.<sup>178</sup> Geist Telecom obtained DID numbers for the Dialers.<sup>179</sup> Virtual Telecom and Tech Direct paid invoices from service providers used to make the calls.<sup>180</sup> Tech Direct made payments to Posting Express to pay invoices from the software company that provided software to enable the calls.<sup>181</sup>

52. Tech Direct funded the Enterprise's use of an interactive voice software,<sup>182</sup> which customers heard when returning the calls.<sup>183</sup> Jones directed Vocinity, Inc. to develop the software.<sup>184</sup> The software included a prerecorded message similar to the one that the consumers initially heard and asked preliminary screening questions.<sup>185</sup>

53. *Cox facilitated the relationships among the Entities.* Cox met Szuromi in 2008 after she responded to an ad he placed on Craigslist seeking a bilingual liaison to work with employees at an emergency notification call center in Argentina.<sup>186</sup> Cox met Migdaris Cedeno<sup>187</sup> at a social event in Panama City around 2019.<sup>188</sup> Cox met Migdaris Cedeno the following evening for dinner and wine.<sup>189</sup>

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<sup>177</sup> See Vendor Services Agreement, Affordable Automotive Solutions-Tech Direct (Jan. 1, 2020); see also Vendor Services Agreement, Affordable Automotive Solutions-Virtual Telecom (Jan. 1, 2020) (Virtual Telecom signed a one-year contract to provide "billable leads" and also signed a 2018 contract with A&E Services to generate sales leads); see also Vendor Services Agreement, Affordable Automotive Services-Davis Telecom on file at EB-TCD-21-00031913 (Oct. 19, 2020) (Davis Telecom Inc. contracted with a Florida-based company, Affordable Automotive Solutions, to generate "vehicle service coverage calls" in which a call with an interested call recipient ("Billable Lead") lasts past the buffer time) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>178</sup> See ITG Subpoena Response on file at EB-TCD-21-00031913 (Nov. 23, 2021).

<sup>179</sup> See G4 Telecom Skype Conversations with Mobi Telecom on file at EB-TCD-21-00031913 (Dec. 7, 2020) (email from Jason Ritter (Blitz) to Adam Radimiri (Geist Telecom) stating that Blitz will send the MSA for the DIDs and looks forward to working with Geist Telecom).

<sup>180</sup> See JP Morgan Chase Subpoena Response (Davis Telecom bank statements from January 2021 showing withdrawals to providers G4 Telecom, Great Choice Telecom, Avid Telecom, Talkie Communications, Sumco Panama, and Virtual Telecom.); see also G4 Telecom Subpoena Response (showing a payment on Feb. 16, 2021 from Julie Bridge on behalf of the Virtual Telecom bank account in the amount of \$30,000; see also G4 Telecom Subpoena Response (showing a payment on Aug. 8, 2020 from June Batista on behalf of the Tech Direct bank account in the amount of \$6,000) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>181</sup> See Bank of America Records for Posting Express on file at EB-TCD-21-00031913 (June 8, 2021).

<sup>182</sup> { [REDACTED] } Declaration, *supra* note 68, at 1 on file at EB-TCD-21-00031913 (July 2, 2021) (stating the payments from Tech Direct paid balances of an account owned by Mike Jones, who purchased the "bot" and invested in Vocinity); see also, e.g., Wells Fargo Wire Full Transaction Report, Tech Direct (Mar. 31, 2020) (showing a payment in the amount of \$5,261.89 to Vocinity Inc).

<sup>183</sup> See Affidavit of { [REDACTED] } at 1; see also Call Detail Records on file at EB-TCD-21-00031913 (showing Sumco Panama routed some of its incoming calls to Jones's software). Vultr is an online cloud hosting service. The IP address associated with Jones's software belonged to Sumco Panama's Vultr account.

<sup>184</sup> { [REDACTED] } Declaration, *supra* note 68, at 1 on file at EB-TCD-21-00031913 (July 2, 2021) ("[Mike Jones] wanted Vocinity, Inc. to develop a voice-prompted bot to answer inbound calls without the use of a live operator, prescreen callers regarding their interest in a vehicle warranty and then transfer interested callers to a live operator.").

<sup>185</sup> *Id.*

<sup>186</sup> Cox Dep., *supra* note 78, at 49.

<sup>187</sup> *Id.* at 55.

<sup>188</sup> *Id.* at 55-56.

<sup>189</sup> *Id.* at 58.

Following their dinner, he provided Migdaris Cedeno's contact information to Szuromi, who contacted her<sup>190</sup> and the two began working together.<sup>191</sup> Szuromi and Migdaris Cedeno formed Sumco Panama together.<sup>192</sup> In 2017, Cox sold his interest in Virtual Telecom to Szuromi and Horvath.<sup>193</sup> Szuromi and Horvath later partnered with Migdaris Cedeno.<sup>194</sup> Thus, Cox was the nexus between many of the individuals and Dialers and facilitated relationships between the Entities.

54. The Entities had common officers or employees who controlled the companies.<sup>195</sup> Migdaris Cedeno is a manager whose name is on the account for Sumco Panama's server.<sup>196</sup> She also manages daily calling operations<sup>197</sup> and the Skype account shared by Mobi Telecom and Virtual Telecom used to interact with providers.<sup>198</sup> Similarly, Szuromi is listed as an owner of Sumco Panama's server account, the President of Davis Telecom,<sup>199</sup> and the Director and Secretary of Sumco Panama SA.<sup>200</sup> Alejandra Gonzalez is the President of Tech Direct<sup>201</sup> and uses a Virtual Telecom email address in that capacity.<sup>202</sup>

55. *The Entities present as one entity.* The Dialers, Sumco Panama, Virtual Telecom, Fugle Telecom, and Mobi Telecom, presented themselves as the same entity to voice service providers and the ITG.<sup>203</sup> Migdaris Cedeno's Skype account was named Migdaris Virtual Telecom.<sup>204</sup> This account corresponded with G4 Telecom and facilitated the purchase of services needed to support the call

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<sup>190</sup> *Id.* at 58.

<sup>191</sup> *Id.* at 58.

<sup>192</sup> *Id.* at 69; *see also* Sumco Panama S.A., Anonymous Society, Registration, Public Registry of Panama (Dec. 5, 2019).

<sup>193</sup> Cox Dep., *supra* note 78, at 68 (stating that he sold his 90 percent interest in the company to Szuromi and Horvath for \$1.00).

<sup>194</sup> *See* Bridge Resp, *supra* note 79, at 2.

<sup>195</sup> *E.g., compare* Davis Telecom, Profit Corporation Articles of Dissolution by Incorporators or Initial Directors, Wyoming Secretary of State (Apr. 9, 2021) *with* Sumco Panama S.A., Anonymous Society, Registration, Public Registry of Panama (Dec. 5, 2019) (showing Szuromi as an officer or president within both Entities) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>196</sup> *See* Vultr Subpoena Response on file at EB-TCD-21-00031913 (Apr. 3, 2021).

<sup>197</sup> *See* E-mail from { [REDACTED] } to Vultr customer service representative on file at EB-TCD-21-00031913 (Feb. 27, 2021).

<sup>198</sup> *See* G4 Telecom Skype Conversation on file at EB-TCD-21-00031913.

<sup>199</sup> *See* Davis Telecom, Profit Corporation Articles of Dissolution by Incorporators or Initial Directors, Wyoming Secretary of State on file at EB-TCD-21-00031913 (Apr. 9, 2021).

<sup>200</sup> *See* Sumco Panama SA, Anonymous Society, Registration, Public Registry of Panama on file at EB-TCD-21-00031913 (Dec. 5, 2019).

<sup>201</sup> *See* Vendor Services Agreement, Affordable Automotive Solutions-Tech Direct on file at EB-TCD-21-00031913 (Jan. 1, 2020).

<sup>202</sup> *Id.*

<sup>203</sup> *See* G4 Telecom Skype Conversation on file at EB-TCD-21-00031913 (Dec. 3, 2020) (The "Migdaris Virtual Telecom 15K Ports" account provided opt-in information in response to a traceback for Mobi Telecom and provided contact information for Mobi Telecom to the ITG).

<sup>204</sup> *See* G4 Telecom Conversations on file at EB-TCD-21-00031913.

centers.<sup>205</sup> This account also executed transactions on behalf of Mobi Telecom.<sup>206</sup> Additionally, the Enterprise's account with Talkie Communications used the names of multiple Entities.<sup>207</sup> The account was named "Davis," then "virtualt Sumco," then "Mobi Telecom" in 2020.<sup>208</sup> An individual who opened a credit card on behalf of Fugle Telecom listed email addresses associated with Geist Telecom and Mobi Telecom on the account; the same account was also used in late 2020 and early 2021 to pay legal fees associated with the preparation of Fugle Telecom's FCC 499 Form.<sup>209</sup> Fugle Telecom began generating calls once the other Dialers began winding down operations in early 2021.<sup>210</sup> The fact that the Enterprise used names of the Entities interchangeably demonstrates that it presented itself as a cohesive singular enterprise.

56. The evidence shows that the Enterprise acted as a singular entity with a unified business goal. Thus, each Entity should be held liable for the illegal robocalls under the enterprise liability doctrine.

## V. FORFEITURE

57. In the *Notice* we proposed a forfeiture in the amount of \$299,997,000. We calculated the proposed forfeiture by assessing a base forfeiture of \$4,500 per each of the 33,333 unlawful robocalls that we verified were made without prior express written consent, and without the requisite disclosures, in violation of the TCPA. Additional factors also warranted an upward adjustment. Many of the verified calls were made in violation of the National Do Not Call Registry requirements.<sup>211</sup> We also find that the Enterprise egregiously violated the Truth in Caller ID Act, warranting an upward adjustment of 100 percent. Our base forfeiture for the 33,333 verified calls is \$149,998,500. The 100 percent upward adjustment to the base penalty yields a total forfeiture amount of \$299,997,000. The Enterprise did not challenge the forfeiture proposed in the NAL. We affirm the amount of the forfeiture and hold the parties jointly and severally liable for the sum.

## VI. ORDERING CLAUSES

58. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, 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. are **JOINTLY AND SEVERALLY LIABLE FOR A MONETARY FORFEITURE** in the amount of two hundred ninety-

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<sup>205</sup> *Id.*

<sup>206</sup> *Id.* (Jan. 8, 2021) (showing the name, account balance, and number of transactions for Mobi Telecom in the Migdaris Virtual Telecom Skype chat).

<sup>207</sup> Talkie Communications Invoice to Mobi Telecom and Sumco Panama SA-USA on file on file at EB-TCD-21-00031913 (June 22, 2020); *see also* Wells Fargo Bank Records for Virtual Telecom (showing that payment from Virtual Telecom to Talkie Communications) (all of the foregoing on file at EB-TCD-21-00031913).

<sup>208</sup> *See* Email from [REDACTED] to [REDACTED] on file at EB-TCD-21-00031913 (June 3, 2019); Email from [REDACTED] to [REDACTED] on file at EB-TCD-21-00031913 (Apr. 27, 2020); Email from [REDACTED] to [REDACTED] on file at EB-TCD-21-00031913 (Nov. 4, 2020).

<sup>209</sup> *See* PayPal Account Information for [REDACTED] (showing cc statement name "Fugle Telecom" along with three email addresses: [fugletelecom@protonmail.com](mailto:fugletelecom@protonmail.com), [info@geisttelecom.net](mailto:info@geisttelecom.net), and [mobitelecom@protonmail.com](mailto:mobitelecom@protonmail.com)); PayPal Transaction Log (showing payments on August 12, 2020, October 17, 2020, December 8, 2020, and February 8, 2021 to a telecommunications law firm for FCC 499 registration and filing preparation).

<sup>210</sup> *See* Affidavit of [REDACTED] Director, Policy & ITG Traceback, USTelecom – The Broadband Association on file at EB-TCD-21-00031913 (Feb. 11, 2022). Fugle Telecom first appeared in tracebacks for auto warranty robocalls on April 26, 2021. *Id.*

<sup>211</sup> *See supra* para. 29.



nine million nine hundred ninety-seven thousand dollars (\$299,997,000) for willful and repeated violations of section 227(b) of the Act, 47 U.S.C. 227(b), and sections 64.1200(a)(2) and 64.1200(a)(3) of the Commission's rules, 47 CFR § 64.1200(a)(2)-(3), with an upward adjustment for violations of section 227(e) of the Act, 47 U.S.C. § 227(e), and section 64.1604(a) of the Commission's rules, 47 CFR § 64.1604(a).

59. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) calendar days after the release of this Forfeiture Order. Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, Geist Telecom LLC, and Posting Express Inc. shall send electronic notification of payment to Lisa Ford, Enforcement Bureau, Federal Communications Commission, at [Lisa.Ford@fcc.gov](mailto: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 47 U.S.C. § 504(a).

60. In order for Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, Geist Telecom LLC, and Posting Express Inc. to pay the forfeiture, Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, Geist Telecom LLC, and Posting Express Inc. shall notify Lisa Ford at [Lisa.Ford@fcc.gov](mailto:Lisa.Ford@fcc.gov) of their intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://fcc.gov/cores/userLogin.do>. Payment of the forfeiture must be made by credit card using the Commission's Registration System (CORES) at <https://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 Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected.<sup>212</sup>

- 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 159<sup>213</sup> or printed CORES form<sup>214</sup> must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto: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.<sup>215</sup> 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://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.

<sup>212</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

<sup>213</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>214</sup> Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://fcc.gov/cores/userLogin.do>.

<sup>215</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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://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 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.

61. 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, DC 20554.<sup>216</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

62. **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: Virtual Telecom kft, Sumco Panama SA, Virtual Telecom Inc., and Davis Telecom Inc. at {{[REDACTED]}}; Sumco Panama USA and Mobi Telecom LLC, c/o Cloud Peak Law Group, {{[REDACTED]}}; Geist Telecom LLC and Fugle Telecom LLC at Cloud Peak Law Group, {{[REDACTED]}}; Tech Direct LLC at {{[REDACTED]}}; and Posting Express Inc. c/o United States Corporation Agents Inc., {{[REDACTED]}}.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

<sup>216</sup> See 47 CFR § 1.1914.

**STATEMENT OF  
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *In the Matter of 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.*, File No.: EB-TCD-21-00031913, Forfeiture Order (August 3, 2023)

Not that long ago you may have received a call from someone desperately trying to reach you about extending your auto warranty. I know I did. At one point, it seemed like these calls were everywhere. They were more than just a nuisance. That's because this scheme flooding our lines marketing fake car warranties was part of a scam to gain access to our personal and financial information.

So the Federal Communications Commission kicked into high gear. We worked to identify who was sending these junk calls—more than five billion of them!—and then armed with the facts gave phone companies permission to cut off this traffic before going one step further and directing them to block it outright. We got results. Following our action, the number of auto warranty calls fell by 99 percent.

We were able to stop these illegal robocalls because we had a terrific colleague working alongside us—the Ohio Attorney General's Office. The Forfeiture Order we adopt here is a testament to our joint efforts. At nearly \$300 million, it is also the largest fine in FCC history.

But the Ohio Attorney General is not the only authority we are working with to address fraudulent robocalls. We now have signed agreements to work with Attorneys General in 46 states because today we welcome our two newest signatories, Hawaii and New Mexico. These partnerships matter. There are many more scammers out there; we know there is more work to do. But we also know that combining our understanding of networks with state experts in fraud can yield results. Today's action is proof.

What happens next? Under the law we will refer this Forfeiture Order to the Department of Justice to collect payment. I hope, however, that Congress will consider giving the FCC authority to go to court and collect these fines ourselves. In the meantime, we will keep using the tools we have to hold those behind fraudulent calling schemes accountable. In fact, just this week the Enforcement Bureau identified another source of illegal robocalls and we have put all phone companies on notice they can block these calls. We know the scam artists behind these calls are relentless—but we are coming for them and won't stop until we get this junk off the line.

Thank you to the Robocall Response Team for this order, including Caitlin Barbas, Jessica Manuel, Daniel Stepanicich, Jane van Benten, Kristi Thompson, Victoria Randazzo, Rakesh Patel, and Loyaan Egal from the Enforcement Bureau; Elizabeth Drogula, Zachary Ross, Hayley Steffen, Callie Coker, and Edward Krachmer from the Wireline Competition Bureau; Kristi Thornton from the Consumer and Governmental Affairs Bureau; Ed Cureg, Alex Simmons, and Ramesh Vishnubhotla from the Office of Economics and Analytics; and Valerie Hill, Richard Mallen, Wisam Naoum, and Chin Yoo from the Office of General Counsel.