

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

In the Matter of	)	
	)	File No. EB-07-TC-2540
Tropical Travel Marketing	)	NAL/Acct. No. 200832170068
	)	
	)	FRN: 0017919812
	)	

**FORFEITURE ORDER**

**Adopted: September 16, 2010**

**Released: September 28, 2010**

By the Commission:

**I. INTRODUCTION**

1. In this *Forfeiture Order* (“Order”), we issue a monetary forfeiture in the amount of \$144,000 against Tropical Travel Marketing (“Tropical Travel”) for willful and repeated violations of section 227 of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> and the Commission’s related rules and orders,<sup>2</sup> by delivering at least 32 unsolicited advertisements to the telephone facsimile machines of at least 27 consumers.

**II. BACKGROUND**

2. The facts and circumstances surrounding this case are set forth in the Commission’s two Notices of Apparent Liability for Forfeiture<sup>3</sup> and need not be reiterated at length.

3. Section 227(b)(1)(C) of the Act makes it “unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States . . . to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement.”<sup>4</sup> On June 29, 2007, in response to one or more consumer complaints alleging that Tropical Travel had faxed unsolicited advertisements, the Enforcement Bureau (“Bureau”) issued a

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<sup>1</sup> 47 U.S.C. § 227.

<sup>2</sup> See also 47 U.S.C. § 503(b)(1). The Commission has the authority under this section of the Act to assess a forfeiture against any person who has “willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act . . .”; see also 47 U.S.C. § 503(b)(5) (stating that the Commission has the authority under this section of the Act to assess a forfeiture penalty against any person who does not hold a license, permit, certificate or other authorization issued by the Commission or an applicant for any of those listed instrumentalities so long as such person (A) is first issued a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission nearest to the person’s place of residence; and (C) subsequently engages in conduct of the type described in the citation).

<sup>3</sup> Tropical Travel Marketing, *Notice of Apparent Liability for Forfeiture*, 23 FCC Rcd 10749 (2008); Tropical Travel Marketing, *Notice of Apparent Liability for Forfeiture*, 23 FCC Rcd 15027 (2008).

<sup>4</sup> 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64.1200(a)(3).

citation<sup>5</sup> to Tropical Travel, pursuant to section 503(b)(5) of the Act,<sup>6</sup> for using a telephone facsimile machine, computer, or other device, to send unsolicited advertisements for vacation travel packages, in violation of section 227 of the Act and the Commission's related rules and orders. The citation informed Tropical Travel that within 30 days of the date of the citation, it could either request an interview with Commission staff, or provide a written statement responding to the citation. Tropical Travel did not request an interview or otherwise respond to the citation.

4. Following the issuance of the citation, the Commission received at least 27 complaints from consumers alleging that Tropical Travel faxed at least 32 unsolicited advertisements to them. These violations, which occurred after the Bureau's citation, resulted in the issuance of two Notices of Apparent Liability for Forfeiture against Tropical Travel: on July 3, 2008 in the amount of \$49,500, and on October 7, 2008 in the amount of \$94,500.<sup>7</sup> The *NALs* ordered Tropical Travel either to pay the proposed forfeiture amounts within thirty (30) days or submit evidence or arguments in response to the *NALs* to show that no forfeitures should be imposed or that some lesser amounts should be assessed. Tropical Travel did not respond to the *NALs* or pay the proposed forfeiture amounts.

### III. DISCUSSION

5. Tropical Travel did not respond to the *NALs*, and has accordingly failed to identify facts or circumstances to persuade us that there is a basis for modifying the proposed forfeitures. We are therefore not aware of any mitigating circumstances to warrant a reduction of the forfeiture penalties. For these reasons, and based on the information before us, we hereby impose a total forfeiture of \$144,000 for Tropical Travel's willful or repeated violation of section 227 of the Act and the Commission's related rules and orders, for the reasons set forth in the *NALs*.

### IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and section 1.80(f)(4) of the Commission's rules, 47 C.F.R. § 1.80(f)(4), that Tropical Travel Marketing IS LIABLE FOR A MONETARY FORFEITURE to the United States Government in the sum of \$144,000 for willfully and repeatedly violating section 227(b)(1)(C) of the Communications Act, 47 U.S.C. § 227(b)(1)(C), section 64.1200(a)(3) of the Commission's rules, 47 C.F.R. § 64.1200(a)(3), and related orders.

7. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission's rules within thirty (30) days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to section 504(a) of the Act.<sup>8</sup> Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the *NAL*/Account Number and *FRN* Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005

<sup>5</sup> Citation from Kurt A. Schroeder, Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau, File No. EB-07-TC-2540, issued to Tropical Travel on June 29, 2007.

<sup>6</sup> See 47 U.S.C. § 503(b)(5) (authorizing the Commission to issue citations to persons who do not hold a license, permit, certificate or other authorization issued by the Commission or an applicant for any of those listed instrumentalities for violations of the Act or of the Commission's rules and orders).

<sup>7</sup> See n.3 *supra*; see also 47 U.S.C. § 503(b)(1).

<sup>8</sup> 47 U.S.C. § 504(a).

Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Tropical Travel will also send electronic notification to [Johnny.Drake@fcc.gov](mailto:Johnny.Drake@fcc.gov) on the date said payment is made. Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures.

8. IT IS FURTHER ORDERED that a copy of the Forfeiture Order shall be sent by First Class mail and certified mail return receipt requested to: Tropical Travel Marketing, Attention: Louis Quiles, CEO, 1450 Eden Drive, Deltona, FL 32725-3766.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary