

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

In the Matter of	)	File No.: EB-TCD-13-00010173
	)	
Mr. Richard Jackowitz	)	NAL/Acct. No.: 201432170004
IT Connect, Inc.	)	
	)	
Apparent Liability for Forfeiture	)	FRNs: 0021888045
	)	0021888037
	)	
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: March 25, 2014**

**Released: March 26, 2014**

By the Commission:

**I. INTRODUCTION**

1. We find that Mr. Richard Jackowitz and IT Connect, Inc. (IT Connect)<sup>1</sup> apparently willfully and repeatedly violated Section 52.107 of the Commission’s rules<sup>2</sup> by brokering 210 toll free numbers for fees ranging from \$375 to \$60,000 per number.<sup>3</sup> Based on our review of the record, we find that Mr. Jackowitz and IT Connect are apparently jointly and severally liable for a proposed forfeiture penalty of three million three hundred and sixty thousand dollars (\$3,360,000).

**II. BACKGROUND**

2. Section 251(e)(1) of the Communications Act of 1934, as amended (Communications Act or Act), directs that telephone numbers, including toll free telephone numbers, be made “available on an equitable basis.”<sup>4</sup> Pursuant to Section 251 of the Act, the Commission has adopted rules “to ensure the efficient, fair, and orderly allocation of toll free numbers.”<sup>5</sup> The Commission’s rules mandate that toll free numbers “shall be made available on a first-come, first-served basis unless otherwise directed by the

<sup>1</sup> Mr. Jackowitz is the owner and chief executive officer of IT Connect. *See* IT Connect, Inc., About Us, <http://www.itconnect.com/aboutus.html> (last visited Mar. 25, 2014) (identifying Mr. Jackowitz as “Founder and CEO of IT Connect, Inc.”); Letter from Stephen G. Huggard, Counsel for Sokolove Law, LLC, to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau at Sokolove Appendix A, SOKOLOVE000031 (Dec. 11, 2013) (on file in EB-TCD-13-00010173) (December LOI Response) (Mr. Jackowitz identifies himself as “CEO” and “100% owner” of IT Connect). This Notice of Apparent Liability for Forfeiture (NAL) is directed to Mr. Jackowitz in his personal capacity and to IT Connect as a corporate entity. *See infra* paras. 7, 11–13.

<sup>2</sup> 47 C.F.R. § 52.107.

<sup>3</sup> Although we refer in this NAL to “brokering” violations, we could alternatively characterize them as “hoarding” violations. *See* 47 C.F.R. § 52.107(a) (noting that “[t]he definition of hoarding . . . includes number brokering”).

<sup>4</sup> 47 U.S.C. § 251(e)(1).

<sup>5</sup> *Toll Free Service Access Codes*, Second Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 11162, 11164, para. 2 (1997) (*Toll Free Second Report and Order*); *see, e.g.*, 47 C.F.R. § 52.107 (prohibiting hoarding, including brokering).

Commission.<sup>6</sup> Further, the Commission's policy makes clear that toll free numbers are a public resource, and that no individual or entity has any ownership interest in them.<sup>7</sup> Accordingly, the Commission determined that the practice of brokering toll free numbers—i.e., “the selling of a toll free number by a private entity for a fee”<sup>8</sup>—is “contrary to the public interest and thus subject to sanction by the Commission.”<sup>9</sup>

3. On November 20, 2007, the Enforcement Bureau (Bureau) issued a citation (*2007 Citation*) to Mr. Jackowitz and IT Connect for violations of the Commission's rules regarding toll free number administration.<sup>10</sup> Specifically, the Bureau cited Mr. Jackowitz and IT Connect for warehousing, hoarding, and brokering toll free numbers.<sup>11</sup> The *2007 Citation* put Mr. Jackowitz and IT Connect on notice that if Mr. Jackowitz or the company subsequently “violate[d] the Communications Act or the Commission's rules in any manner described [in the *2007 Citation*], the Commission [could] impose monetary forfeitures.”<sup>12</sup> Despite the citation's warning, in July 2011 (well after the issuance of the *2007 Citation*) the Bureau received a complaint indicating that, in June and July of 2011, Mr. Jackowitz and IT Connect continued to violate the Commission's numbering rules by brokering 15 toll free numbers to a pharmaceutical company for fees ranging from \$10,000 to \$17,500 per number.<sup>13</sup> Based on that complaint and associated evidence, the Commission issued a Notice of Apparent Liability (*2012 NAL*) and Forfeiture Order (*2013 FO*) and found Mr. Jackowitz and IT Connect jointly and severally liable for a forfeiture penalty of \$240,000.<sup>14</sup> To date, neither Mr. Jackowitz nor IT Connect has responded to the *2012 NAL* or *2013 FO*, nor have they paid the forfeiture penalty. The Commission has referred the *2013 FO* to the Department of Justice for an enforcement proceeding pursuant to Section 504(a) of the Act.<sup>15</sup>

4. Notwithstanding the *2007 Citation*, *2012 NAL*, and *2013 FO*, the Bureau has uncovered yet more evidence indicating that Mr. Jackowitz, in his personal capacity and on behalf of IT Connect, has apparently continued to broker toll free numbers. Specifically, in early 2013, the Bureau received industry tips indicating that Mr. Jackowitz had sold several toll free numbers to a law firm, Sokolove

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<sup>6</sup> 47 C.F.R. § 52.111.

<sup>7</sup> *Toll Free Second Report and Order*, 12 FCC Rcd at 11185–86, paras. 30–32; see *Toll Free Service Access Codes*, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058, 9061, para. 6, n.14 (1998) (“The Commission had previously characterized telephone numbers as a public resource and concluded that neither carriers nor subscribers could ‘own’ their telephone numbers.”).

<sup>8</sup> 47 C.F.R. § 52.107(a); see *Toll Free Second Report and Order*, 12 FCC Rcd at 11189, para. 38.

<sup>9</sup> *Toll Free Second Report and Order*, 12 FCC Rcd at 11164–65, para. 2.

<sup>10</sup> *Mr. Richard Jackowitz*, Citation, 22 FCC Rcd 19998 (Enf. Bur. 2007) (*2007 Citation*). The citation was issued to Mr. Jackowitz both as chief executive officer of IT Connect and in his personal capacity. See *id.* at 19998 (“[F]uture violations of the Act or [the] Commission's rules [with respect to toll free numbering] may subject *you and your company* to monetary forfeitures.” (emphasis added)); *id.* at 19999.

<sup>11</sup> See *id.* (“It has come to [the Commission's] attention that your company, acting under your direction, reserved toll free numbers, either directly or indirectly through an affiliate, from the Service Management System database without having an actual toll free subscriber for whom those numbers were being reserved. In addition, your company, acting under your direction, engaged in the selling of toll free numbers for a fee.”); see also *id.* at 19998–99 (defining warehousing, hoarding, and brokering).

<sup>12</sup> *Id.* at 19999.

<sup>13</sup> See Informal Complaint No. 11-C00318946 (filed July 22, 2011).

<sup>14</sup> See *Richard Jackowitz*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 7896 (2012) (*2012 NAL*); see *Richard Jackowitz*, Forfeiture Order, 28 FCC Rcd 6692 (2013) (*2013 FO*).

<sup>15</sup> 47 U.S.C. § 504(a).

Law, LLC (Sokolove), for substantial fees.<sup>16</sup> Based on this information, the Bureau issued a Letter of Inquiry (LOI) on November 25, 2013, to Sokolove ordering it to provide, *inter alia*, certain information and documents related to toll free numbers that it had purchased from Mr. Jackowitz or IT Connect.<sup>17</sup> The LOI also required Sokolove to identify any additional toll free numbers that Mr. Jackowitz and/or IT Connect had offered for sale but that Sokolove did not ultimately obtain.<sup>18</sup> Sokolove submitted responses to the LOI on December 11, 2013,<sup>19</sup> and January 14, 2014.<sup>20</sup>

5. According to the record, IT Connect supplies toll free numbers to Sokolove for use in its business operations.<sup>21</sup> Mr. Jackowitz is Sokolove's "primary point of contact at IT Connect" and often solicits Sokolove to broker toll free numbers.<sup>22</sup> Notably, the Bureau's investigation uncovered four separate contracts, signed by Mr. Jackowitz as chief executive officer or president of IT Connect, in which it sold over 32 toll free numbers to Sokolove for substantial fees.<sup>23</sup> The first contract, dated April 9, 2013, reflects the sale of 12 toll free numbers for \$550 per number, totaling \$6,600.<sup>24</sup> Pursuant to another contract, dated May 3, 2013, Mr. Jackowitz sold four toll free numbers for \$375 per number, totaling \$1,500.<sup>25</sup> The third contract, dated May 25, 2013, reflects the sale of 15 toll free numbers for a fee of \$400 per number, totaling \$6,000.<sup>26</sup> The final contract, dated October 3, 2013, indicates that

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<sup>16</sup> Sokolove Law, LLC, is a personal injury law firm based in Wellesley, Massachusetts. See Sokolove Law, LLC, Main Page, <http://www.sokolovelaw.com> (last visited Mar. 25, 2014).

<sup>17</sup> See Letter from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Mr. Glover, Sokolove Law, LLC, at 2 (Nov. 25, 2013) (on file in EB-TCD-13-00010173).

<sup>18</sup> See *id.* at 3.

<sup>19</sup> See December LOI Response at 1.

<sup>20</sup> See E-mail from Stephen G. Huggard, Counsel for Sokolove Law, LLC, to Shante Willis, Attorney-Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (Jan. 14, 2014) (on file in EB-TCD-13-00010173) (January LOI Response).

<sup>21</sup> See December LOI Response at 1.

<sup>22</sup> See *id.* at 1–2. Sokolove produced over 1300 documents, including hundreds of e-mails in which Mr. Jackowitz solicited Sokolove to purchase toll free numbers. See *id.* at Sokolove Appendix A.

<sup>23</sup> See January LOI Response at 1. The evidence makes clear that these toll free numbers were offered for *purchase*, rather than for lease, shared use, or any other arrangement. *Id.*; see also December LOI Response at Sokolove Appendix A, SOKOLOVE001325–26 (identifying each of the 32 toll free numbers that Sokolove purchased). Mr. Jackowitz also sold 20 additional toll free numbers to Sokolove pursuant to an agreement dated January 4, 2013. December LOI Response at Sokolove Appendix A, SOKOLOVE001327–33 ("Standard Terms and Conditions" and "Statement of Work" for each toll free number purchased on January 4, 2013). The proposed forfeiture in this NAL, however, is for apparent violations within the one-year statute of limitations and not, therefore, for the numbers sold on January 4, 2013. See 47 U.S.C. § 503(b)(6)(B).

<sup>24</sup> See Appendix A to this NAL (Appendix A) (detailing each of the toll free numbers that IT Connect sold to Sokolove on April 9, 2013); see also December LOI Response at Sokolove Appendix A, SOKOLOVE001334–38 ("Standard Terms and Conditions" and "Statement of Work" for each toll free number that Mr. Jackowitz and IT Connect sold to Sokolove on April 9, 2013).

<sup>25</sup> See Appendix A (detailing each of the toll free numbers that IT Connect sold to Sokolove on May 3, 2013); see also December LOI Response at Sokolove Appendix A, SOKOLOVE001339–43 ("Standard Terms and Conditions" and "Statement of Work" for each toll free number that Mr. Jackowitz and IT Connect sold to Sokolove on May 3, 2013).

<sup>26</sup> See Appendix A (detailing each of the toll free numbers that IT Connect sold to Sokolove on May 25, 2013); see also December LOI Response at Sokolove Appendix A, SOKOLOVE001344–45 ("Statement of Work" for each toll free number that Mr. Jackowitz and IT Connect sold to Sokolove on May 25, 2013).

Mr. Jackowitz sold a single toll free number to Sokolove for \$10,000.<sup>27</sup> In addition, on several occasions Mr. Jackowitz, through IT Connect, solicited Sokolove to purchase toll free numbers for substantial fees, but (for different reasons in each instance) no sale was ever consummated. Specifically, on several dates between April 8 and August 21, 2013, Mr. Jackowitz offered Sokolove 178 toll free numbers for varying fees, ranging from \$575 to \$60,000 per number.<sup>28</sup> The record also reflects that Mr. Jackowitz, through IT Connect, made several blanket offers to sell bulk sets of unidentified toll free numbers.<sup>29</sup>

### III. DISCUSSION

#### A. Apparent Violations of Section 52.107 of the Commission's Rules

6. As noted above, Section 52.107 of the Commission's rules prohibits brokering,<sup>30</sup> which is "the selling of a toll free number by a private entity for a fee."<sup>31</sup> This prohibition against "selling" toll free numbers reaches *offers* to sell such numbers, even if no final sale is ever consummated.<sup>32</sup> Additionally, the Commission has made clear that Section 52.107 prohibits any private sale of toll free numbers—whether by individuals or corporate entities.<sup>33</sup>

7. In this NAL, we find that Mr. Jackowitz and IT Connect have, yet again, apparently violated the prohibition against brokering.<sup>34</sup> As discussed above, the record in this proceeding indicates

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<sup>27</sup> See Appendix A (detailing the toll free number that Mr. Jackowitz and IT Connect sold to Sokolove on October 3, 2013); see also December LOI Response at Sokolove Appendix A, SOKOLOVE001346–47 ("Statement of Work" for the toll free number that Mr. Jackowitz and IT Connect sold to Sokolove on October 3, 2013). Mr. Jackowitz and Sokolove apparently agreed to rescind the sale for the toll free number sold on October 3, 2013, and Mr. Jackowitz later returned the "advanced funds" of \$8,000 that Sokolove had previously paid for that number. See December LOI Response at 1–2; see also *id.* at Sokolove Appendix A, SOKOLOVE001389–91.

<sup>28</sup> See Appendix B to this NAL (Appendix B) (detailing each of these 178 numbers); see also December LOI Response at Sokolove Appendix A, SOKOLOVE001319–24 ("Toll Free Numbers Offered By IT Connect which Sokolove Did Not Obtain").

<sup>29</sup> See, e.g., December LOI Response at Sokolove Appendix A, SOKOLOVE001323 (detailing IT Connect's offer to sell bulk sets of unidentified toll free numbers, including "twenty-five repeaters" at a rate of \$550 per toll free number). While it would be within our discretion to include these unidentified toll free numbers in the forfeiture penalty proposed in this NAL, we decline to do so here. Nonetheless, we underscore that this conduct violates our brokering rules even though Mr. Jackowitz and IT Connect did not specifically identify the numbers described as "repeaters" when offered for sale. We warn that if the forfeiture here does not adequately deter Mr. Jackowitz or others who engage in similar conduct, we will not hesitate to take further enforcement action—including issuing NALs for brokering unidentified toll free numbers.

<sup>30</sup> See *supra* note 5 and accompanying text.

<sup>31</sup> 47 C.F.R. § 52.107(a); see *supra* para. 2.

<sup>32</sup> See 2012 NAL, 27 FCC Rcd at 7901, paras. 9–10; see also 2013 FO, 28 FCC Rcd at 6695, para. 7 n.24 (assessing forfeitures for certain offers to sell toll free numbers).

<sup>33</sup> 47 C.F.R. § 52.107(a); *Toll Free Second Report and Order*, 12 FCC Rcd at 11240, para. 141 (Appendix A –Final Regulatory Flexibility Analysis) ("We further conclude that *the private sale* of numbers involved in number brokering is contrary to the public interest." (emphasis added)); 2012 NAL, 27 FCC Rcd at 7902, para. 11 ("In view of the objectives that animate the Commission's prohibition on number brokering, the reference in Section 52.107(a) to 'a private entity' necessarily encompasses both corporate entities and natural persons."). See also 2013 FO, 28 FCC Rcd at 6692, para. 1 n.1 (directing the 2013 FO to both "Mr. Jackowitz in his personal capacity and IT Connect as a corporate entity" for the reasons discussed in the 2012 NAL).

<sup>34</sup> As stated *supra* note 3, although we characterize these violations as "brokering," we can also describe them as "hoarding," which is the "acquisition by a toll free subscriber from a Responsible Organization of more toll free numbers than the toll free subscriber intends to use for the provision of toll free service." 47 C.F.R. § 52.107(a). "The definition of hoarding also includes number brokering," and both are unlawful. *Id.*

that IT Connect brokered a total of 210 toll free numbers to Sokolove beginning on April 8, 2013, and continuing through October 3, 2013, for substantial fees.<sup>35</sup> We also find (as we did in the *2012 NAL* and *2013 FO*) that Mr. Jackowitz brokered toll free numbers on behalf of IT Connect both as its owner and chief executive officer and in his personal capacity.<sup>36</sup> Mr. Jackowitz's correspondence with Sokolove, including correspondence requesting that payments be made to him or his wife personally (and in personal bank accounts), supports this finding.<sup>37</sup>

### B. Proposed Forfeiture

8. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Communications Act] or of any rule, regulation, or order issued by the Commission."<sup>38</sup> As to certain violators—for example, individuals who are not themselves holders of or applicants for any form of Commission authorization and whose violations do not involve conduct for which such authorization is necessary—the Commission must issue a citation warning them of the violation charged before imposing monetary penalties.<sup>39</sup> If such violators subsequently engage "in conduct of the type described in [the] citation," the Commission then may issue an NAL proposing a forfeiture.<sup>40</sup> "In determining the amount of . . . a forfeiture penalty," Section 503(b)(2)(E) mandates that "the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."<sup>41</sup> The Commission may also consider deterrence as a factor in determining the appropriate forfeiture amount.<sup>42</sup>

9. Section 503 and the Commission's forfeiture guidelines establish maximum penalties for violations of the Act or the Commission's rules.<sup>43</sup> For the violations at issue here, the maximum authorized penalty is \$16,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$112,500 for any single act or failure to act.<sup>44</sup>

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<sup>35</sup> See *supra* para. 5 (describing the 32 toll free numbers that Mr. Jackowitz sold to IT Connect and the 178 additional toll free numbers that Mr. Jackowitz offered to sell to Sokolove when no sale was ever consummated).

<sup>36</sup> See *infra* paras. 11–13; see *2012 NAL*, 27 FCC Rcd at 7902, paras. 7–8, 12; see *2013 FO*, 28 FCC Rcd at 6695, paras. 1, 7.

<sup>37</sup> See *infra* paras. 11–13.

<sup>38</sup> 47 U.S.C. § 503(b)(1)(B).

<sup>39</sup> See *id.* § 503(b)(5).

<sup>40</sup> *Id.*

<sup>41</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>42</sup> See, e.g., *Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17098, para. 20 (1997) (recognizing the relevance of creating the appropriate deterrent in choosing the forfeiture).

<sup>43</sup> See 47 U.S.C. § 503(b)(2)(A)–(D), (F); 47 C.F.R. § 1.80(b)(1)–(7).

<sup>44</sup> See 47 U.S.C. § 503(b)(2)(D); 47 C.F.R. § 1.80(b)(7). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(D) (\$10,000 per violation or per day of a continuing violation and \$75,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. See 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. See *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, 28 FCC Rcd 10785 (Enf. Bur. 2013); see also *Inflation Adjustment of Monetary Penalties*, 78 Fed. Reg.

(continued....)

10. In our *2013 FO*, the Commission assessed the maximum forfeiture penalty of \$16,000 against Mr. Jackowitz and IT Connect for each brokered toll free number uncovered in that investigation.<sup>45</sup> The Commission assessed the maximum penalty “for several reasons,” including “to deter” Mr. Jackowitz and IT Connect from violating the Commission’s toll free numbering rules in the future.<sup>46</sup> Based on the record in this investigation, we find that an equally significant forfeiture penalty is warranted here. Mr. Jackowitz has continued to broker toll free numbers as a regular practice—and often at exorbitant prices—despite the Commission’s actions to deter such violations. Notably, in addition to the 210 toll free numbers referenced in the NAL, our investigation uncovered e-mails in which Mr. Jackowitz admitted to several other violations that took place outside the applicable statute of limitations,<sup>47</sup> including the sale of a single toll free number to another entity for \$1,175,000.<sup>48</sup> The fact that Mr. Jackowitz and IT Connect continued to engage in a large number of violations (often producing a substantial economic gain)—despite having been warned and assessed forfeitures for similar conduct—strongly suggests that they acted with deliberate and intentional disregard for the Commission’s rules. These egregious actions warrant the maximum possible forfeiture for each toll free number sold or offered for sale. Moreover, Mr. Jackowitz and IT Connect employed several Responsible Organizations (Resp Orgs)<sup>49</sup> to effect their brokering practice, including [REDACTED]. We have taken aggressive action against Mr. Jackowitz and IT Connect here and in our previous action, and we will employ all tools available to us in cases like this, including limiting any “RespOrg’s allocation of toll free numbers or possibly decertify[ing] it as a Resp Org”<sup>50</sup> and enjoining violators from obtaining additional toll free numbers from the numbering administrator’s spare pool of toll free numbers.

11. Consistent with prior enforcement actions taken against Mr. Jackowitz and IT Connect, the proposed penalty here applies to Mr. Jackowitz personally, whether acting in his own name or through IT Connect.<sup>51</sup> As demonstrated more fully below, Mr. Jackowitz’s failure to adhere to corporate formalities, including the commingling of assets, makes clear that no separate personality exists as between Mr. Jackowitz and IT Connect. Based on the record, IT Connect merely functions as an

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49,370-01 (Aug. 14, 2013) (setting Sept. 13, 2013, as the effective date for the increases). Because the DCIA specifies that any inflationary adjustment “shall apply only to violations that occur after the date the increase takes effect,” however, we apply the forfeiture penalties in effect at the time the apparent violation took place. 28 U.S.C. § 2461 note (6). Here, because all but one of the apparent violations at issue occurred before September 13, 2013, the proposed forfeiture uses the applicable maximum penalties that became effective with the Commission’s previous inflation adjustment on September 2, 2008. *See Inflation Adjustment of Maximum Forfeiture Penalties*, 73 Fed. Reg. 44,663, 44,664 (July 31, 2008).

<sup>45</sup> *2013 FO*, 28 FCC Rcd at 6695, para. 7.

<sup>46</sup> *Id.*

<sup>47</sup> *See* 47 U.S.C. § 503(b)(6). The statute of limitations in Section 503(b)(6) of the Act prevents the Commission from imposing a forfeiture for violations that occurred more than one year prior to the issuance of an NAL.

<sup>48</sup> *See* December LOI Response at Sokolove Appendix A, SOKOLOVE000671 (“Vanities are worth what someone is willing to sell at and a buyer is willing to pay. My biggest deal in 2010 reached \$1,175,000 . . . [f]or an 888 number.”).

<sup>49</sup> A Responsible Organization (Resp Org) is “[t]he entity chosen by a toll free subscriber to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber.” 47 C.F.R. § 52.101(b); *see also id.* at 52.101(d) (defining Service Management System as “[t]he administrative database system for toll free numbers. The Service Management System is a computer system that enables Responsible Organizations to enter and amend the data about toll free numbers within their control.”).

<sup>50</sup> *Toll Free Second Report and Order*, 12 FCC Rcd at 11184–85, para. 29.

<sup>51</sup> *See supra* note 36.

instrumentality of Mr. Jackowitz, and Mr. Jackowitz cannot be allowed to circumvent personal liability simply by engaging in business transactions in the name of IT Connect.<sup>52</sup>

12. The record demonstrates that when Mr. Jackowitz brokered toll free numbers to Sokolove he did so in the name of IT Connect. Each of the four contracts between IT Connect and Sokolove for the sale of toll free numbers was executed by Mr. Jackowitz and included a signature block identifying Mr. Jackowitz as president or chief executive officer of IT Connect.<sup>53</sup> Notwithstanding the use of IT Connect's corporate name, the record further demonstrates that Mr. Jackowitz brokered the toll free numbers in his personal capacity. In this regard, Mr. Jackowitz regularly used his personal e-mail account, [REDACTED], to solicit Sokolove to purchase toll free numbers.<sup>54</sup> Mr. Jackowitz also directed Sokolove to submit payments to him in his own name, and specifically requested that IT Connect's corporate name be excluded. For example, on one occasion Mr. Jackowitz stated: "It's okay [that] the agreement is in the name of IT Connect but payment is going to Richard Jackowitz[,] [D]on't double endorse by adding IT Connect. . . ."<sup>55</sup> On another occasion, Mr. Jackowitz directed Sokolove to submit a payment in the name of his wife, Debra Jackowitz. Specifically, Mr. Jackowitz stated: "If you prefer you can reinstate the [electronic funds transfer] to Debra Jackowitz. . . ."<sup>56</sup> In addition to designating his wife as the recipient of the payment, in this instance Mr. Jackowitz also requested that IT Connect's corporate name be excluded by stating: ". . . drop the double [endorsement], please make out to Debra Jackowitz only[,] thanks."<sup>57</sup> Compounding this, Mr. Jackowitz has also directed Sokolove to submit payments into his wife's personal bank account, specifically informing Sokolove that the ". . . bank is correct and the account number is correct[,] but it's my wife's account[,] Debra Jackowitz. . . ."<sup>58</sup> Further, Mr. Jackowitz also directed Sokolove to mail payments to his personal residence, specifically instructing Sokolove to send a payment "to Richard Jackowitz[,] [REDACTED] [REDACTED]."<sup>59</sup>

13. Mr. Jackowitz is also personally liable for the actions of IT Connect because he personally participated in its conduct and otherwise had the authority to control its actions.<sup>60</sup> As indicated

<sup>52</sup> See *Millennium Constr., LLC v. Loupolover*, 845 N.Y.S.2d 110, 111 (N.Y. App. Div. 2d Dept. 2007); see *APCC Servs., Inc. v. NetworkIP, LLC*, Memorandum Opinion and Order, 22 FCC Rcd 4286, 4307, para. 47 (2007).

<sup>53</sup> See December LOI Response at Sokolove Appendix A, SOKOLOVE001327-47.

<sup>54</sup> See December LOI Response at Sokolove Appendix A.

<sup>55</sup> *Id.* at Sokolove Appendix A, SOKOLOVE000749.

<sup>56</sup> *Id.* at Sokolove Appendix A, SOKOLOVE000572; see also *Id.* at Sokolove Appendix A, SOKOLOVE000495 (Mr. Jackowitz refers to Debra Jackowitz as his wife).

<sup>57</sup> *Id.* at Sokolove Appendix A, SOKOLOVE000578.

<sup>58</sup> See *id.* at Sokolove Appendix A, SOKOLOVE000495 ("The bank is correct and the account number is correct but it's my wife's account Debra Jackowitz. This has happened before and if IT Connect is on there they will kick back the EFT. So if you can change the EFT to just my wife's name that will work. If it's to[o] late to change it then please cancel it and send check tomorrow Fed Ex Priority overnight.")

<sup>59</sup> *Id.* at SOKOLOVE000751. The Bureau's independent investigation confirmed this to be a personal address for Mr. Jackowitz.

<sup>60</sup> See *Texas v. Am. Blastfax, Inc.*, 164 F. Supp. 2d 892, 897 (W.D. Texas 2001) ("[I]f the officer directly participated in or authorized the statutory violation, even though acting on behalf of the corporation, he may be personally liable" for violations of the TCPA). See also *United States v. Pollution Abatement Servs. of Oswego, Inc.*, 763 F.2d 133, 134-35 (2d Cir. 1985) ("In light of the clear congressional intent to hold 'person[s]' liable for violations [of the Rivers and Harbors Appropriations Act], we see no reason to shield from civil liability those corporate officers who are personally involved in or directly responsible for statutorily proscribed activity."). See also 47 U.S.C. § 153(39) (defining a "person" to include individuals as well as corporate entities). In other contexts, the courts have found the responsible corporate officer of a company to be personally liable for unlawful acts where the corporate officer was in a position of responsibility *vis-à-vis* the illegal conduct, had the power to prevent others (continued....)

above, Mr. Jackowitz holds the position of owner and chief executive officer of IT Connect and was directly involved in brokering the numbers that are the subject of this NAL.

14. We therefore propose a total forfeiture of \$3,360,000, for which Mr. Jackowitz and IT Connect shall be jointly and severally liable. The proposed forfeiture represents a penalty of \$16,000 for each of the 32 toll free numbers that Mr. Jackowitz and IT Connect sold to Sokolove on April 9, May 3, May 25, and October 3, 2013, combined with a penalty of \$16,000 for each of the 178 toll free numbers that Mr. Jackowitz and IT Connect offered to sell to Sokolove for substantial fees on several dates between April 8, 2013 and August 21, 2013.

#### IV. CONCLUSION

15. We have determined that Mr. Jackowitz and IT Connect apparently willfully and repeatedly violated Section 52.107 of the Commission's rules. We have further determined that Mr. Jackowitz and IT Connect are apparently jointly and severally liable for a forfeiture in the amount of three million three hundred and sixty thousand dollars (\$3,360,000).

#### V. ORDERING CLAUSES

16. 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 of the Commission's rules, 47 C.F.R. § 1.80, that Mr. Richard Jackowitz and IT Connect, Inc. are hereby **NOTIFIED** of this **APPARENT JOINT AND SEVERAL LIABILITY FOR A FORFEITURE** in the amount of three million three hundred sixty thousand dollars (\$3,360,000) for willful and repeated violations of Section 52.107 of the Commission's rules, 47 C.F.R. § 52.107, regarding the hoarding and brokering of toll free numbers.

17. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, within thirty (30) days of the release date of this Notice of Apparent Liability for Forfeiture, Mr. Richard Jackowitz and/or IT Connect, Inc. **SHALL PAY** the full amount of the proposed forfeiture, for which they are jointly and severally liable, or each **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

18. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRNs referenced above. Mr. Richard Jackowitz and/or IT Connect, Inc. shall send electronic notification of payment to Johnny.Drake@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>61</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions Mr. Richard Jackowitz and/or IT Connect, Inc. should follow based on the form of payment they select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and

(Continued from previous page) \_\_\_\_\_  
from engaging in such conduct or to promptly correct the violation, and failed to take action. See e.g. *United States v. Hodges X-Ray, Inc.*, 759 F.2d 557, 560–62 (6th Cir. 1985).

<sup>61</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

19. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>62</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

20. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Rules.<sup>63</sup> Mail the written statement to both Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division; and to Richard A. Hindman, Division Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, and include the NAL/Acct. No. referenced in the caption. Mr. Richard Jackowitz and/or IT Connect, Inc. also shall e-mail the written response to Richard A. Hindman at Richard.Hindman@fcc.gov.

21. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting principles (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

22. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and first class mail to IT Connect, Inc., 314 Route 94, Suite 2, South Warwick, NY 10990, and to Mr. Richard Jackowitz, 10 Knollcroft Terrace, Warwick, NY 10990-2929.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

<sup>62</sup> See 47 C.F.R. § 1.1914.

<sup>63</sup> 47 C.F.R. §§ 1.16, 1.80(f)(3).

## Appendix A

## Toll Free Numbers IT Connect sold to Sokolove

## Toll Free Numbers Sold on April 9, 2013

Toll Free Number	Per Number Fee
888-888-4566	\$550
888-888-2757	\$550
888-888-3731	\$550
888-888-4814	\$550
888-888-4815	\$550
888-888-4816	\$550
888-888-6682	\$550
888-888-8944	\$550
888-888-9141	\$550
888-888-9429	\$550
888-888-9597	\$550
888-888-7562	\$550

## Toll Free Numbers Sold on May 3, 2013

Toll Free Number	Per Number Fee
800-879-2100	\$375
800-953-6400	\$375
800-464-9696	\$375
800-254-1313	\$375

## Toll Free Numbers Sold on May 25, 2013

Toll Free Number	Per Number Fee
800-232-6644	\$400
800-336-5656	\$400
800-352-8080	\$400
800-406-3355	\$400
800-533-2929	\$400
800-562-8383	\$400
800-688-5454	\$400
800-725-2424	\$400
800-789-1313	\$400
800-821-1818	\$400
800-822-3838	\$400
800-883-8282	\$400
800-892-3030	\$400
800-924-2211	\$400
800-962-0303	\$400

## Toll Free Number Sold on October 3, 2013

Toll Free Number	Per Number Fee
888-CALL-4JIM (888-225-5454)	\$10,000

## Appendix B

## Toll Free Numbers IT Connect Offered for Sale

Toll Free Number	Per Number Fee	Date Offered
888-440-6611	\$575	4/8/2013
888-462-2323		
888-520-2244		
888-888-0850		
888-888-2735		
888-888-2759		
888-888-3174		
888-888-4812		
888-888-5368		
888-888-5782		
888-888-6836		
888-888-7069		
888-888-7609		
888-888-8490		
888-998-5151		
888-4-YASMIN (888-492-7646)	\$15,000	4/22/13
877-2-YASMIN (877-292-7646)	\$8,500	4/23/13
800-206-5151	\$650.00	4/27/13
800-207-1919		
800-207-5151		
800-208-1515		
800-217-0404		
800-217-4949		
800-251-0303		
800-261-0303		
800-261-0505		
800-270-1515		
800-270-1616		
800-270-4141		
800-280-1313		
800-281-0909		
800-281-4747		
800-301-4747		
800-305-1616		
800-306-1414		
800-308-1515		
800-310-4949		
800-317-0202		
800-351-0909		
800-361-0404		
800-361-0909		
800-361-4949		
800-380-1414		
800-381-0202		
800-381-0404		

800-381-0606		
800-403-1515		
800-407-1515		
800-417-0303		
800-418-0303		
800-419-0303		
800-460-1313		
800-471-0202		
800-471-3838		
800-481-0202		
800-481-0303		
800-481-0404		
800-481-0909		
800-491-0202		
800-491-0303		
800-491-0808		
800-503-1414		
800-503-1616		
800-508-1313		
800-513-0101		
800-513-0909		
800-541-0202		
800-560-3131		
800-561-0707		
800-561-1414		
800-570-3131		
800-571-0808		
800-581-0606		
800-590-1313		
800-590-1717		
800-591-0808		
800-601-4949		
800-604-1515		
800-607-1313		
800-607-4141		
800-608-1414		
800-610-4747		
800-613-0909		
800-618-0202		
800-618-0505		
800-619-0101		
800-620-3131		
800-630-1414		
800-630-4141		
800-650-1414		
800-651-4747		
800-680-3131		
800-702-5151		
800-705-1414		
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800-710-0202		
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800-714-0808		
800-716-0808		
800-720-1616		
800-730-1414		
800-741-0202		
800-760-5151		
800-761-1414		
800-761-4949		
800-781-0505		
800-790-3131		
800-801-4747		
800-803-1616		
800-803-4141		
800-804-1313		
800-804-1515		
800-805-1616		
800-805-4141		
800-806-1313		
800-806-3131		
800-814-0303		
800-814-0909		
800-814-3838		
800-817-3838		
800-820-1414		
800-820-1919		
800-830-1616		
800-831-0606		
800-831-4747		
800-831-4949		
800-850-1414		
800-860-1313		
800-860-1717		
800-861-0707		
800-861-4747		
800-870-1515		
800-891-4747		
800-901-3838		
800-903-1414		
800-906-3131		
800-906-4141		
800-913-0505		
800-913-0707		
800-913-0808		
800-913-4949		
800-918-0202		
800-918-0303		
800-918-0404		
800-918-0505		

800-918-0606 800-918-0707 800-918-4949 800-920-1414 800-920-3131 800-920-4949 800-931-0202 800-940-1616 800-940-3131 800-941-0707 800-954-0101 800-960-1313 800-961-0404 800-961-4949 800-980-1313 800-981-0202 800-981-3838		
800-MY-PILLS (800-697-4557) 888-MY-PILLS (888-697-4557)	\$100,000 (for both numbers in total)	5/1/13
855-CALL-JIM (855-225-5546)	\$60,000	5/7/13
800-347-3377 800-826-7878 800-523-1177 800-527-7755 800-877-8585 800-982-3377	\$400	5/24/13
855-ASK-4-JIM	\$5,000	8/21/13