

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

In the Matter of)	File No.: EB-IHD-13-00011657 ¹
)	
RB Communications, Inc., d/b/a Starfone)	NAL/Acct. No.: 201232080018
)	
)	FRN: 0012951612

FORFEITURE ORDER

Adopted: May 23, 2014

Released: May 23, 2014

By the Commission:

I. INTRODUCTION

1. In this Forfeiture Order, we impose a penalty of \$408,668 against RB Communications, Inc., d/b/a Starfone (Starfone or the Company) for providing interstate and international telecommunications services over a four-year period without first meeting important regulatory obligations. Specifically, Starfone provided interstate telecommunications service without registering with the Commission and international telecommunications service without obtaining Commission authority. Starfone also failed to make timely contributions to the Interstate Telecommunications Relay Service (TRS) Fund and to timely pay the regulatory fees it owed the Commission. Each of these violations harmed the public. Starfone evaded Commission oversight for years by failing to register. Starfone subjected the nation to potential national security and law enforcement risks by not timely seeking or obtaining authority to provide international telecommunications service. Starfone's TRS violations harmed the critically important TRS program, which depends on timely contributions to provide persons with disabilities access to the same communications services enjoyed by others. By failing to pay its regulatory fees on time, Starfone unfairly shifted its share of regulatory costs to other providers. Finally, since the Commission issued the proposed forfeiture against the Company, Starfone has continued to default on its ongoing contribution obligations to the TRS Fund. The forfeiture we impose here reflects the seriousness, duration, and scope of Starfone's violations, and also takes into account the Company's ongoing record of noncompliance.

II. BACKGROUND

2. The factual background for this Forfeiture Order is set forth in detail in the *Notice of Apparent Liability* that the Commission previously issued against Starfone (*Starfone NAL*),² and will not be repeated here at length. RB Communications, Inc. is a California corporation that, through the trade name Starfone, resells interstate and international telecommunications services to end users.³ Starfone advertises itself as "a value added provider of Long Distance (International), prepaid and postpaid calling

¹ This investigation was formerly assigned File No. EB-08-IH-5303.

² See *RB Communications, Inc., d/b/a Starfone*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 4393 (2012). The *Starfone NAL* is incorporated by reference herein.

³ *Id.* at 4396, para. 8.

services based on an online pinless calling card system” that allows users global access to over 300 countries.⁴

3. On April 13, 2012, the Commission adopted the *Starfone NAL*, which found that Starfone had apparently violated: (1) Section 214 of the Communications Act of 1934, as amended (Act) and Section 63.18 of the Commission’s rules (Rules) by failing to obtain international Section 214 authority before providing international telecommunications service;⁵ (2) Section 64.1195(a) of the Rules by failing to register with the Commission from the time it began providing interstate telecommunications services until July 23, 2009;⁶ (3) Section 64.604(c)(5)(iii)(A) of the Rules by failing to timely make required TRS contributions for 2007, 2008, and 2009;⁷ and (4) Sections 1.1154 and 1.1157(b)(1) of the Rules by failing to pay regulatory fees due to the Commission for each year from 2007 to 2011.⁸ The Commission also found that each of these apparent violations had been willful or repeated and that, because Starfone’s TRS contributions and regulatory fees for the periods at issue remained unpaid, these failure-to-pay violations were continuing violations until cured by payment of all monies owed.⁹ The Commission proposed forfeiture penalties totaling \$408,668 for Starfone’s apparent violations.¹⁰

4. Starfone filed its response to the *Starfone NAL* on June 8, 2012.¹¹ Starfone does not dispute that it violated the Act and the Rules. Rather, Starfone contends that the forfeiture proposed for its TRS violations may be inequitable and should be reduced. The Company also argues for a reduced forfeiture on the grounds that it cooperated with Commission staff during the course of the investigation and that it has registered and obtained authority to provide international telecommunications service from the Commission. It claims that it “has corrected any deficiencies that come to its attention” and is “now maintaining a history of compliance.”¹² Starfone asserts that these factors support a reduction of the proposed forfeiture.¹³ Finally, Starfone argues that the imposition of the full forfeiture on the Company would cause it undue economic hardship and could cause it to go out of business.¹⁴

III. DISCUSSION

5. In the *Starfone NAL*, the Commission proposed a forfeiture penalty in accordance with Section 503(b)(1) of the Act, Section 1.80 of the Rules, and the forfeiture guidelines.¹⁵ Section 503(b)(1)(B) provides that any person who “willfully or repeatedly” violates the Act or the Rules “shall

⁴ *Id.* at 4396, para. 8 n.26 (quoting Starfone web site at <http://www.starfone.net/aboutus.aspx> (visited April 9, 2012)). Starfone’s current web site also recites this information. *See* Starfone “About Us” Page, <http://www.starfone.net/aboutus.aspx> (last visited May 22, 2014).

⁵ *Starfone NAL*, 27 FCC Rcd at 4397–98, para. 14 (citing 47 U.S.C. § 214; 47 C.F.R. § 63.18).

⁶ *Id.* at 4399, para. 17 (citing 47 C.F.R. § 64.1195(a)).

⁷ *Id.* at para. 18 (citing 47 C.F.R. § 64.604(c)(5)(iii)(A)).

⁸ *Id.* at 4399–4400, para. 19 (citing 47 C.F.R. § 1.1154, 1.1157(b)(1)).

⁹ *Id.* at 4397, 4402, paras. 13, 25, 27.

¹⁰ *See id.* at 4402, para. 28.

¹¹ *See* Response of RB Communications, Inc. to Notice of Apparently Liability Requesting Consent Decree Negotiations (filed June 8, 2012) (on file in EB-IHD-13-00011657) (NAL Response).

¹² *See id.* at 3–7.

¹³ *See id.*

¹⁴ *Id.* at 3, 7. At Starfone’s request, *id.*, Commission staff attempted to negotiate a consent decree with the Company. The parties were unable to reach an agreement to resolve this matter.

¹⁵ *See Starfone NAL*, 27 FCC Rcd at 4400, para. 20 (citing 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(b)(6) (2012), Note to paragraph (b)(6): Guidelines for Assessing Forfeitures); *id.* at 4400–02, paras. 21–28.

be liable . . . for a forfeiture penalty.”¹⁶ In assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we take into account “the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹⁷ Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.¹⁸ The legislative history to Section 312(f)(1) clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,¹⁹ and the Commission has so interpreted the term in the Section 503(b) context.²⁰

6. We have examined Starfone’s NAL Response in light of the aforementioned statutory factors, our Rules and precedent, and our forfeiture guidelines. After consideration of all relevant information, including the information in the NAL Response, we conclude that Starfone willfully violated the Act and the Rules, and that a forfeiture of \$408,668 properly reflects the seriousness, duration, and scope of Starfone’s violations and best serves the interest of justice. We therefore conclude that Starfone is liable for a forfeiture of \$408,668.

A. Starfone Willfully Violated the Communications Act and the Rules

7. Based on our review of the record, we find that Starfone violated the Act and the Rules as alleged in the *Starfone NAL*, and that each of Starfone’s violations was willful. Starfone does not dispute that it committed the violations identified in the *Starfone NAL*.²¹ Nor does Starfone dispute that its violations were willful or otherwise suggest that its actions or omissions underlying the violations were not “conscious and deliberate.”²²

8. Starfone violated Section 214 of the Act and Section 63.18 of the Rules by providing international telecommunications service for over six years before obtaining Section 214 authority from the Commission to provide such service.²³ Starfone continued to provide international telecommunications service between February 1, 2010, when it finally applied for international Section 214 authority, and March 5, 2010, when the Commission granted Starfone that authority, even though Starfone neither requested nor obtained special temporary authority (STA) to provide such service.²⁴ Starfone violated Section 64.1195 of the Rules by providing interstate telecommunications service for

¹⁶ 47 U.S.C. § 503(b)(1)(B).

¹⁷ *Id.* § 503(b)(2)(E).

¹⁸ *Id.* § 312(f)(1).

¹⁹ See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) (“This provision [inserted in Section 312] defines the terms ‘willful’ and ‘repeated’ for purposes of Section 312, and for any other relevant section of the act (e.g., Section 503) As defined . . . ‘willful’ means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. ‘Repeated’ means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be ‘continuous’ would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission’s application of those terms”).

²⁰ See, e.g., *So. Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

²¹ See NAL Response.

²² See *id.*

²³ *Starfone NAL*, 27 FCC Rcd at 4396, 4397–98, 4400, paras. 11, 14, 21.

²⁴ See *id.*, 27 FCC Rcd at 4398, para. 14; see also *Unipoint Technologies, Inc.*, File No. EB-IHD-13-00011665, Forfeiture Order, FCC 14-11, 2014 WL 554086, at *2, paras. 7 (Feb. 11, 2014) (*Unipoint Forfeiture Order*); *id.* at *7, para. 24 (citing *Teleplus, LLC*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 7666, 7669, para. 8 (Enf. Bur. 2009)).

over four years before registering with the Commission.²⁵ Starfone violated Section 64.604(c)(5)(iii)(A) of the Rules by failing to timely make contributions totaling \$257,336 to the TRS Fund for 2007, 2008, and 2009.²⁶ Finally, Starfone violated Sections 1.1154 and 1.1157(b)(1) of the Rules by failing to timely pay its regulatory fees for 2007 to 2011.²⁷ All of these violations were willful because they resulted from Starfone's conscious and deliberate actions or omissions.²⁸

B. A \$408,668 Forfeiture is Warranted

9. The Commission's *Forfeiture Policy Statement* specifies that the Commission shall impose a forfeiture based upon consideration of the factors enumerated in what is now Section 503(b)(2)(E) of the Act,²⁹ such as "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."³⁰ In this case, taking all of these factors into consideration, we find that Starfone is liable for a total forfeiture of \$408,668. This total forfeiture amount is broken down as follows: \$100,000 for providing international telecommunications service without Section 214 authority; \$100,000 for failing to register with the Commission prior to providing interstate telecommunications service; \$158,668 for failing to timely make required TRS contributions; and \$50,000 for failing to timely pay regulatory fees.

10. We reject Starfone's argument that the Commission did not properly consider the various mitigating factors set forth in Section 503(b)(2)(E) of the Act.³¹ The Commission carefully considered each of those factors in the *Starfone NAL*,³² and we do so again here. The proposed base forfeiture amounts and upward adjustments are consistent with our Rules and precedent. We find no basis to mitigate the forfeiture.

1. Starfone Has Provided No Basis to Reduce the \$158,668 Forfeiture for TRS Violations

11. The \$158,668 forfeiture the Commission proposed for Starfone's TRS violations includes an upward adjustment of \$128,668, which equals half of the \$257,336 that Starfone owed the TRS Fund for 2007 to 2009.³³ Starfone contends, in effect, that this upward adjustment is too high because its wholesale telecommunications services providers "may have . . . treated [Starfone] as an end-user customer" and therefore these wholesale providers may have made TRS contributions based on the revenue they received from Starfone.³⁴ Under Starfone's argument, such payments, if any, would reduce

²⁵ See *Starfone NAL*, 27 FCC Rcd at 4396, 4398, 4401, paras. 11, 15, 23.

²⁶ See *id.* at 4396, 4399, 4402, paras. 11, 18, 25–26.

²⁷ See *id.* at 4396–97, 4399–400, 4402, paras. 11, 19, 27.

²⁸ As stated above, willfulness in the context of Section 503(b) merely requires that an entity knows it is engaged in the conduct constituting the rule violations. See *supra* nn.18–19 and accompanying text; 47 U.S.C. §§ 312(f)(1); 503(b); see also *Unipoint Forfeiture Order*, 2014 WL 554086, at *3, para. 8.

²⁹ 47 U.S.C. § 503(b)(2)(E).

³⁰ See *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, 17100–01, para. 27 (1997) (*Forfeiture Policy Statement*), *recon. denied*, 15 FCC Rcd 303 (1999).

³¹ See *NAL Response*.

³² See *Starfone NAL*, 27 FCC Rcd at 4400–4402, paras. 20–28.

³³ *Id.* at 4402, para. 26.

³⁴ See *NAL Response* at 3–4.

its TRS liability and therefore should reduce the upward adjustment imposed in the NAL for Starfone's failure to timely make TRS contributions.³⁵

12. We reject this argument. As explained in the *Starfone NAL*, Section 64.1195(a) of the Commission's Rules requires that carriers that provide, or plan to provide, interstate telecommunications service register with the Commission by submitting specified information on Form 499-A.³⁶ The information reported on Form 499-A is used to determine the provider's payment obligations to the TRS Fund, as well as other regulatory programs. In the *Starfone NAL*, the Commission determined that, although Starfone began providing interstate service no later than 2004, it did not register with the Commission until July 2009.³⁷ As a consequence, no payments were made to the TRS Fund prior to 2010.

13. In its June 2012 NAL Response, Starfone recognizes that the end-user revenue it belatedly reported on Form 499-A was the basis for the TRS Fund Administrator's determination that the Company owed \$257,336 to the TRS Fund for 2007 to 2009.³⁸ Starfone also admits that its belated Form 499-A filing did not identify any credit or offset to which it might be entitled.³⁹ In its NAL Response, Starfone states that it was reviewing its billing records "to ascertain the validity of [the] possibility" that it had contributed to the TRS Fund through its wholesale providers.⁴⁰ Although it has been over 23 months since Starfone made that statement,⁴¹ Starfone has neither produced evidence to support an equitable adjustment nor offered legal support to justify such an adjustment. Accordingly, we find no basis to reduce the upward adjustment for Starfone's failure to timely make TRS contributions.

2. Starfone's Cooperation and Compliance Record Do Not Support a Reduced Forfeiture

14. Starfone also argues that the Commission should reduce the proposed forfeiture because it: (1) cooperated with the Commission during the course of the investigation; (2) ultimately registered with the Commission and obtained international Section 214 authority; and (3) "is now maintaining a history of compliance with the Commission, and has corrected any deficiencies that have come to its attention."⁴²

15. Starfone's willingness to cooperate with the Commission during the course of its investigation does not provide a basis to reduce the forfeiture. Full cooperation during the course of Commission investigations and proceedings is expected, and is not considered a mitigating factor warranting a reduced forfeiture.⁴³

³⁵ *See id.*

³⁶ *Starfone NAL*, 27 FCC Rcd at 4398, para. 15.

³⁷ *Id.*; *see also id.* at 4398, para. 15 n.48.

³⁸ *See* NAL Response at 4.

³⁹ *See id.* (stating that, in reporting revenue it gave "little to no account . . . of amounts" it had paid its wholesale carriers "as an end user").

⁴⁰ *See id.*

⁴¹ As noted, Starfone and Commission staff engaged in lengthy, unsuccessful, settlement negotiations to resolve the *Starfone NAL*. *See supra* n.14.

⁴² *See* NAL Response at 5-6.

⁴³ *See, e.g., Coleman Enter., Inc. d/b/a Local Long Distance, Inc., Apparent Liability for Forfeiture, Order of Reconsideration*, 16 FCC Rcd 10023, 10027-28, paras. 10-11 (2001) (*Coleman Reconsideration Order*); *So. Cal. Broad. Co., Licensee*, Memorandum Opinion and Order, 7 FCC Rcd 3454, 3455, para. 7 (1992); *4M of Richmond, Inc.*, Forfeiture Order, 19 FCC Rcd 15447, 15452, para. 15 (Enf. Bur. 2004); *Northwest Utilities*, Forfeiture Order, 17 FCC Rcd 4115, 4117, para. 13 (Enf. Bur. 2002).

16. Furthermore, even though Starfone became compliant during the course of the investigation, we will not reduce the forfeiture on that basis. Post-investigation corrective measures are not sufficient to avoid enforcement action and do not constitute mitigating factors supporting forfeiture reduction.⁴⁴ Moreover, it is clear from the record that Starfone's compliance efforts were anything but prompt. Although Starfone admitted in April 2009, in response to the Enforcement Bureau's March 9, 2009, Letter of Inquiry (LOI),⁴⁵ that it had not yet registered with the Commission or applied for international Section 214 authorization, it did not actually register for another three months.⁴⁶ Further, the Company waited nearly a year after receiving the LOI before it finally sought international Section 214 authority.⁴⁷ These remedial efforts were made years too late.⁴⁸ The Company compounded these errors by not quickly curing the noncompliance through the filing of an STA request seeking authorization to continue operating while its Section 214 application was pending. We emphasize that the Company should have requested an STA in these circumstances, and its failure to do so reinforces our conclusion that a downward adjustment is unwarranted.⁴⁹ The Commission has previously rejected downward adjustments where "lengthy delays" in attempting to cure a violation "evinced a lack of diligence."⁵⁰

17. Starfone's claimed compliance with the Commission's Rules also appears contrary to the facts. Although Starfone asserts that it "desire[s] to be compliant with the Commission's Rules," that it "has corrected any deficiencies that have come to its attention" and that it is "now maintaining a history of compliance,"⁵¹ the TRS Fund Administrator has informed the Commission that the Company did not timely make its TRS payments due in 2013, and that the debt has been referred to the United States Treasury for collection. This apparent significant compliance failure belies Starfone's claim that it has complied with its regulatory obligations.

3. A Reduction of the Proposed Forfeiture is Unwarranted Given Starfone's Ongoing Record of Noncompliance

18. Starfone seeks a reduction of the proposed forfeiture based on an asserted inability to pay.⁵² Starfone argues that the imposition of the full forfeiture would cause it undue economic hardship, force it to lay off employees, and possibly cause it to go out of business.⁵³ Starfone states that the proposed forfeiture constitutes "a significant amount of [Starfone's] net revenues in the preceding year,

⁴⁴ *Comm'cns Serv. Integrated, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 20 FCC Rcd 17251, 17257, para. 16 (2005); *AT&T Wireless Serv., Inc.*, Forfeiture Order, 17 FCC Rcd 21866, 21870-71, paras. 13-14 (2002); *America's Tele-Network Corp.*, Order of Forfeiture, 16 FCC Rcd 22350, 22355, para. 15 (2001); *Coleman Reconsideration Order*, 16 FCC Rcd at 10027-28, paras. 10-11.

⁴⁵ Letter from Trent B. Harkrader, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Mr. Lyle Watkins, General Manager, Starfone (Mar. 9, 2009) (LOI).

⁴⁶ See *Starfone NAL*, 27 FCC Rcd at 4396, paras. 9-11.

⁴⁷ See *id.*

⁴⁸ See *id.* at 4396, 4397, paras. 8, 14 (Starfone began offering telecommunications services in 2003).

⁴⁹ See *Unipoint Forfeiture Order*, 2014 WL 554086, at *7, para. 24 & n.70 (quoting *Teleplus. LLC*, 24 FCC Rcd at 7669, para. 8 (carrier's failure to seek STA while 214 application pending "further aggravate[ed] its apparent violation"))).

⁵⁰ See *id.* at *7, para. 24 & n.72 (quoting *Sutro Corp.*, Memorandum Opinion and Order, 19 FCC Rcd 15274, 15277, para. 10 (2004) (delayed remediation does not reflect "good faith efforts to comply ... entitl[ing] the company] to ... mitigation of the assessed forfeiture amount"))).

⁵¹ See NAL Response at 5-6.

⁵² See *id.* at 3.

⁵³ See *id.* at 3, 7.

exclusive of net revenues and venter liabilities, and will impose a substantial economic hardship.”⁵⁴ We decline to reduce the proposed forfeiture.

19. As discussed above, a violator’s “ability to pay” is only one of several factors the Commission must consider when determining an appropriate forfeiture under Section 503 of the Act and our forfeiture guidelines. It must also consider “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, . . . and such other matters as justice may require.”⁵⁵ Here, as we evaluate Starfone’s argument concerning its inability to pay, we also consider the Company’s compliance record after the Commission issued the *Starfone NAL*.⁵⁶ As discussed above, although the Commission issued the *Starfone NAL* in 2012, Starfone *again* failed to make required TRS Fund contributions in 2013. The TRS program depends on timely contributions so that persons with disabilities have access to the same communications services enjoyed by others. Starfone’s ongoing failure to make required contributions continues to harm the TRS Fund and those who rely upon TRS services. As stated in the *Starfone NAL*, “[w]here a provider fails to satisfy its TRS obligations for an extended period of time, it thwarts the purpose for which Congress established Section 225(b)(1) of the Act and its implementing regulations – to ensure that ‘telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.’”⁵⁷ Although forfeiture penalties are imposed to address past violations of the Act and the Rules, such penalties are also intended to deter future violations.⁵⁸ Indeed, in imposing the proposed forfeiture at issue here, the *Starfone NAL* sought to “effectively deter companies like Starfone from violating our rules governing payment into the TRS and other programs.”⁵⁹ Issuance of the *Starfone NAL* apparently did not have the intended deterrent effect. To discourage ongoing defaults on payment obligations to the TRS Fund and other regulatory programs, we decline to reduce a proposed forfeiture when, as here, after issuance of an NAL a company fails to meet its ongoing contribution responsibilities. Accordingly, we decline to downwardly adjust the proposed forfeiture notwithstanding Starfone’s inability to pay request.

20. Weighing the factors enumerated in the Act and our forfeiture guidelines, we conclude, based upon the evidence before us, that the proposed forfeiture of \$408,668 properly reflects the seriousness, duration, and scope of Starfone’s violations.

IV. CONCLUSION

21. In view of the seriousness, duration and scope of Starfone’s violations, we find that a forfeiture of in the amount of four hundred eight thousand, six hundred sixty-eight dollars (\$408,668) is warranted, including: (1) one hundred thousand dollars (\$100,000) for willfully providing international telecommunications service without Section 214 authority; (2) one hundred thousand dollars (\$100,000)

⁵⁴ See *id.* at 7. We note that gross, rather than net, revenue, is the relevant financial information under our inability to pay analysis. See *Unipoint Forfeiture Order*, 2014 WL 554086, at *8, para. 29 & n.83 (citing *PJB Comm’cns of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089, para. 8 (1992)).

⁵⁵ 47 U.S.C. § 503(b)(2)(E).

⁵⁶ We find that Starfone’s degree of culpability and history of prior offenses also militate against any reduction in the proposed forfeiture based upon an inability to pay. As discussed above, Starfone has a long history of violations and even its compliance efforts followed protracted delay. See *supra* paras. 3, 16; see also *Presidential Who’s Who, Inc.*, File No. EB-TCD-12-00000217, Forfeiture Order, FCC 14-34, 2014 WL 1273430, at *4, paras. 14–15 (rel. Mar. 28, 2014) (rejecting an ability to pay request given violator’s continuous and repeated violations).

⁵⁷ See *Starfone NAL*, 27 FCC Rcd at 4402, para. 25 (quoting 47 U.S.C. § 225(b)(1)).

⁵⁸ See *Forfeiture Policy Statement*, 12 FCC Rcd 17097, para. 19 (in enacting Section 503, “Congress recognized the need to authorize the Commission to impose forfeitures sufficiently high to deter violations and constitute a meaningful sanction when violations occur”).

⁵⁹ See *Starfone NAL*, 27 FCC Rcd at 4402, para. 25.

for willfully failing to timely register with the Commission; (3) one hundred fifty-eight thousand, six hundred sixty-eight dollars (\$158,668) for willfully failing to make required TRS contributions in 2007, 2008, and 2009; and (4) fifty thousand dollars (\$50,000) for willfully failing to timely make regulatory fee payments from 2007 to 2011. Given the Company's record of continued noncompliance, we decline to reduce the proposed forfeiture to reflect Starfone's alleged inability to pay.

V. ORDERING CLAUSES

22. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Communications Act of 1934, as amended,⁶⁰ and Section 1.80 of the Commission's Rules,⁶¹ RB Communications, Inc., d/b/a Starfone **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of four hundred eight thousand, six hundred sixty-eight dollars (\$408,668) for willfully violating Section 214 of the Communications Act of 1934, as amended, and Sections 1.1154, 1.1157(b)(1), 63.18, 64.604(c)(5)(iii)(A), and 64.1195 of the Commission's Rules.

23. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within fifteen (15) calendar days after the release of this Forfeiture Order.⁶² 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.⁶³ RB Communications, Inc., d/b/a Starfone shall send electronic notification payment to William A. Kehoe at William.Kehoe@fcc.gov and Margaret S. Dailey at Margaret.Dailey@fcc.gov on the date said payment is made.

24. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced in the caption to this Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁶⁴ When completing the Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with completed Form 159) must be mailed to the 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 insure 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 –

⁶⁰ 47 U.S.C. § 503(b).

⁶¹ 47 C.F.R. § 1.80.

⁶² *Id.*

⁶³ 47 U.S.C. § 504(a).

⁶⁴ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

25. Any request for full payment under an installment plan should be sent to Chief Financial Officer – Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.⁶⁵ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

26. **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: Jonathan S. Marshlian, Marshlian & Donahue, LLC, 1420 Spring Hill Road, Suite 401, McLean, VA 22102.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁶⁵ See 47 C.F.R. § 1.1914.