

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
GPS, Inc.) File No.: EB-TCD-14-00016988
) NAL/Acct. No.: 201532170011
) FRN: 0022128334

FORFEITURE ORDER

Adopted: July 20, 2015

Released: July 23, 2015

By the Commission: Commissioner Pai issuing a statement.

1. We impose a penalty of \$9,065,000 against GPS, Inc. (GPS or Company) for changing the carriers of 65 consumers without their authorization in violation of our rules, a practice commonly known as "slamming," and placing unauthorized or "crammed" charges for its long distance service on 41 consumers' telephone bills. We also find that GPS relied on fabricated audio recordings as purported proof that consumers had authorized the Company to switch their long distance carriers and to charge them for service, and then provided those fabricated recordings to the Commission and state regulatory officials as "proof" that the consumers had authorized its service.

2. On February 27, 2015, the Commission issued a Notice of Apparent Liability for Forfeiture (NAL) proposing a \$9,065,000 forfeiture against GPS for its apparent willful and repeated violations of Sections 201(b) and 258 of the Communications Act of 1934, as amended (Act), and Section 64.1120 of the Commission's rules (Rules).1 The NAL also found that GPS apparently violated Section 1.17 of the Rules by providing false and misleading material information to the Commission and apparently violated a Commission order when it failed to respond fully to an Enforcement Bureau letter of inquiry.2 GPS has not filed a response to the NAL. Based on the information before us, we affirm the forfeiture proposed in the NAL.

3. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of the Act,3 and Section 1.80 of the Rules,4 GPS, Inc. IS LIABLE FOR A MONETARY FORFEITURE in the amount of nine million sixty five thousand dollars (\$9,065,000) for willfully and repeatedly violating Sections 201(b) and 258 of the Act5 and Sections 1.17 and 64.1120 of the Rules,6 as well as willfully violating a Commission order issued pursuant to delegated authority by the Enforcement Bureau to respond to a letter of inquiry.7

1 The NAL includes a more complete discussion of the facts and history of this case and is incorporated herein by reference. GPS, Inc., Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 2522 (2015) (NAL); 47 U.S.C. §§ 201(b), 258; 47 C.F.R. § 64.1120.

2 47 C.F.R. § 1.17(a)(2); 47 U.S.C. § 503(b)(1)(B).

3 47 U.S.C. § 503(b).

4 47 C.F.R. § 1.80.

5 47 U.S.C. §§ 201(b), 258.

6 47 C.F.R. §§ 1.17, 64.1120.

7 47 U.S.C. § 503(b)(1)(B).

4. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.⁸ 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.⁹

5. 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 FRN referenced above. GPSPS, Inc. shall send electronic notification of payment to Johnny Drake at 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.¹⁰ 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 that should be followed based on the form of payment selected:

- 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 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.

6. 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, SW, Room 1-A625, Washington, DC 20554.¹¹ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

⁸ 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 504(a).

¹⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹¹ See 47 C.F.R. § 1.1914.

7. **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 Clint R. Parry, President, GPSPS, Inc., 3355 Lenox Road, Suite 750, Atlanta, GA 30326, and to Michael S. Welsh, Esq., Welsh Law, LLC, 275 14th Street, NW, Suite 200, Atlanta, GA 30318.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

**STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *GPSPS, Inc.*, File No.: EB-TCD-14-00016988, NAL/Acct. No.: 201532170011, FRN: 0022128334.

Our slamming rules are intended to protect consumers from unauthorized changes to their telephone service provider.¹ So a long-distance reseller trying to get a new customer must, for example, receive authorization for each “type” of service (“local exchange, intraLATA toll, and interLATA toll”),² make sure authorization is “from the subscriber,”³ and verify that authorization using an “appropriately qualified independent third party” or another prescribed channel.⁴

But these rules weren’t enough to protect GPSPS’s victims. Consider Ms. Duenas, whom GPSPS told that her husband had authorized GPSPS’s long-distance service—even though he had been dead for seven years.⁵ Or consider Ms. Vega, who disputed GPSPS’s charges but was told that her father authorized them—even though he lives on another continent.⁶ Or consider the many consumers that explained to us how GPSPS had falsified and fabricated verification recordings to appear to comply with Commission rules.⁷

This isn’t the first time our rules have failed. We’ve seen a raft of consumer complaints about slamming in recent years, ranging from the egregious (“LDC staff did not return phone calls, hung up on callers, refused to take calls, and otherwise gave consumers the run-around.”⁸) to the outrageous (Advantage “coach[ed] [customers] on the third party verification . . . to just say ‘yes’ to everything that they said.”⁹) to the fraudulent (“USTLD’s sales representatives at times tricked consumers into believing that they were calling on behalf of the consumers’ existing providers.”¹⁰). Indeed, fly-by-night operators have figured out how to profit from skirting our rules rather than complying with them.

How can we protect consumers? Enforcement actions like this one are a good step, but more is needed. Our rules already offer one avenue for relief: the preferred carrier freeze, which lets consumers opt out of these deceptive marketing practices.¹¹ But consumers shouldn’t have to opt out of a market for fraud. My proposal: Let’s open a proceeding and change this rule to make consumer protection not an option, but the default.

¹ See 47 U.S.C. § 258; 47 C.F.R. Part 65, Subpart K.

² 47 C.F.R. § 64.1120(b).

³ 47 C.F.R. § 64.1120(a)(1)(i).

⁴ 47 C.F.R. § 64.1120(c)(3).

⁵ *GPSPS, Inc.*, File No.: EB-TCD-14-00016988, NAL/Acct. No.: 201532170011, FRN: 0022128334, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 2522, 2525, para. 9 (2015).

⁶ *Id.*

⁷ *Id.* at 2525, para. 10.

⁸ *LDC Telecommunications Inc.*, File No.: EB-TCD-12-00000420, NAL/Acct. No.: 201232170010, FRN: 0004337556, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 10789, 10798 (2012) (Statement of Commissioner Ajit Pai, Approving in Part and Dissenting in Part).

⁹ *Advantage Telecommunications Corp.*, File No.: EB-TCD-12-00004803, NAL/Acct. No.: 201332170013, FRN: 0005077730, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6843, 6848, para. 12 (2013).

¹⁰ *U.S. Telecom Long Distance, Inc.*, File No.: EB-TCD-13-00008959, NAL/Acct. No. 201432170002, FRN: 0004964417, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 823, 826, para. 8 (2014).

¹¹ 47 C.F.R. § 64.1190.