

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

In the Matter of)
Sabrina Javani)
d/b/a EZ Business Loans) File No.: EB-TC-12-00000256
Steven Anthony Pashmfoush a/k/a Steven Pasha,) NAL/Acct. No.: 201232170008
Steven A. Pashmfouroush, Steven Anthony)
Pashfouroush) FRNs: 0021898572
Operating as EZ Business Loans) 0021898606
Anthony Galdieri) 0021898614
Operating as EZ Business Loans)
Apparent Liability for Forfeiture)

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 9, 2012

Released: July 10, 2012

By the Commission:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Sabrina Javani, Steven Anthony Pashmfoush (a/k/a Steven Pasha, Steven A. Pashmfouroush, Steven Anthony Pashfouroush), and Anthony Galdieri, all operating under the fictitious business name EZ Business Loans,1 apparently willfully and repeatedly violated Section 227(b)(1)(C) of the Communications Act of 1934, as amended (Communications Act or Act), and Section 64.1200(a)(3) of the Commission’s rules, by delivering 105 unsolicited advertisements, or “junk faxes,” to the telephone facsimile machines of 99 consumers.2 Based on the facts and circumstances surrounding these apparent violations, we find that

1 “EZ Business Loans” is a fictitious business name registered to Sabrina Javani at 3600 Wilshire Blvd., Suite 1510, Los Angeles, CA 90010 and 221 South Gale Drive, Unit 306, Beverly Hills, CA 90211. EZ Business Loans, Fictitious Business Name Record, ID No. 2011084263, filed Sep. 9, 2011, Westlaw FBN-CA database available at http://westlaw.com (last visited May 7, 2012) (EZ Business Loans September 2011 Fictitious Name Registration). As explained in detail below, our research further indicates that an individual or individuals named or known as Steven Anthony Pashmfoush (a/k/a Steven Pasha, Steven A. Pashmfouroush, Steven Anthony Pashfouroush) and Anthony Galdieri also have operated as EZ Business Loans in concert with Ms. Javani. See infra paras. 5–6. Accordingly, all references in this NAL to EZ Business Loans encompass Sabrina Javani, Steven Anthony Pashmfoush, and Anthony Galdieri.

2 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64.1200(a)(3). See also Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Junk Fax Prevention Act of 2005, Report and Order and Third Order on Reconsideration, 21 FCC Rcd 3787 (2006) (Junk Fax Prevention Act R&O), modified on other grounds, 23 FCC Rcd 15059 (2008).

Ms. Javani, Mr. Pashmfoush, and Mr. Galdieri are apparently jointly and severally liable for a forfeiture in the amount of \$1,680,000.

II. BACKGROUND

2. The Telephone Consumer Protection Act of 1991 was enacted by Congress to address problems of abusive telemarketing, including junk faxes.³ Unsolicited faxes often impose unwanted burdens on the called party, including costs of paper and ink, and making fax machines unavailable for legitimate business messages. Section 227(b)(1)(C) of the Act thus 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”⁴

3. On October 6, 2010, in response to 20 consumer complaints alleging that EZ Business Loans had faxed unsolicited advertisements, the Enforcement Bureau (Bureau) issued a citation to Anthony Galdieri, Steven Pasha, and EZ Business Loans, pursuant to Section 503(b)(5) of the Act.⁵ The Bureau cited EZ Business Loans for using a telephone facsimile machine, computer, or other device, to send unsolicited advertisements to facsimile machines, in violation of Section 227(b)(1)(C) of the Act and Section 64.1200(a)(3) of the Commission’s rules.⁶ The citation informed EZ Business Loans that within 30 days of the date of the citation, it could request an interview with Commission staff or provide a written statement responding to the citation. EZ Business Loans did not respond. Despite the citation’s warning that subsequent violations could result in the imposition of monetary forfeitures, we received over 200 additional consumer complaints indicating that EZ Business Loans was continuing to send unsolicited facsimile advertisements.⁷

III. DISCUSSION

A. Apparent Violations of Section 227(b)(1)(C) of the Act and the Commission’s Rules Restricting Unsolicited Facsimile Advertisements

4. We find that Sabrina Javani, Steven Anthony Pashmfoush (a/k/a Steven Pasha, Steven A. Pashmfouroush, Steven Anthony Pashfouroush), and Anthony Galdieri, all operating as EZ Business Loans, violated Section 227(b)(1)(C) of the Act and Section 64.1200(a)(3) of the Commission’s rules by sending 105 unsolicited advertisements to the telephone facsimile machines of 99 consumers, identified in

³ See Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (codified at 47 U.S.C. § 227); see also Junk Fax Prevention Act of 2005, Pub. L. No. 109-21, 119 Stat. 359 (2005) (Junk Fax Act).

⁴ 47 U.S.C. § 227(b)(1)(C). The prohibition is subject to certain exceptions, such as if the sender has an established business relationship (EBR) with the recipient, and the sender obtained the facsimile number from the recipient through voluntary communication in the context of an EBR, or from a directory, advertisement, or website through which the recipient voluntarily agreed to make its facsimile number available for public distribution. In addition, the unsolicited ad must notify the recipient of how to opt out of receiving future such ads, subject to certain requirements. The Commission has adopted implementing rules. See 47 C.F.R. § 64.1200(a)(3).

⁵ 47 U.S.C. § 503(b)(5).

⁶ Citation from Joshua P. Zeldis, Assistant Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to EZ Business Loans (Oct. 6, 2010) (on file in EB-TC-12-00000256) (EZ Business Loans Citation). The citation was addressed to “EZ Business Loans” and directed to the attention of Mr. Pasha and Mr. Galdieri, and expressly warned that future violations of the Act and the Commission’s rules governing telephone solicitations and unsolicited advertisements “may subject you and your company to monetary forfeitures.” *Id.*

⁷ See Appendix A for a listing of the actionable consumer complaints against EZ Business Loans requesting Commission action.

Appendix A.⁸ Each of these consumers has provided evidence that he or she received a junk fax or faxes from EZ Business Loans without having expressly authorized such faxes to be sent or having an established business relationship with EZ Business Loans.⁹ The facsimile transmissions qualified as prohibited “unsolicited advertisements,” as they promote business loans.¹⁰

5. The faxes at issue invite recipients to call 877-346-7770 or fax 877-395-9990 to obtain “a quick unsecured business loan.”¹¹ These contact numbers demonstrate a link between the fictitious business name established by Ms. Javani and the individual known as Anthony Galdieri.¹² As indicated above, Ms. Javani registered herself as owner of the fictitious business name EZ Business Loans under two California addresses: 3600 Wilshire Blvd, #1510, Los Angeles, CA 90010 as EZ Business Loans’s operating address and 221 S. Gale Dr., #306, Beverly Hills, CA 90211 as her own address.¹³ Billing records associated with both 877-346-7770 and 877-395-9990 trace to Anthony Galdieri at 221 South Gale Dr., Beverly Hills, CA 90211.¹⁴ In addition, these billing records list Mr. Galdieri’s contact number as 310-749-4882,¹⁵ a cell phone number that traces, in turn, to Ms. Javani at 221 S. Gale Dr., Unit 306, Beverly Hills, CA 90211.¹⁶ In sum, it appears that the telephone and fax numbers on the relevant faxes

⁸ The sender of a junk fax is “the person or entity on whose behalf a facsimile unsolicited advertisement is sent or whose goods or services are advertised or promoted in the unsolicited advertisement.” 47 C.F.R. § 64.1200(f)(8). The record shows that the faxes at issue here were sent by or on behalf of Ms. Javani, Mr. Pashmfoush, or Mr. Galdieri, operating as EZ Business Loans.

⁹ In filing complaints regarding the faxes listed in Appendix A, each consumer stated that he or she had not agreed to receive fax advertisements from EZ Business Loans and had not done any business with or made an inquiry or application to EZ Business Loans. *See also Junk Fax Prevention Act R&O*, 21 FCC Rcd at 3793-9, para. 12, 3812, para. 46 (concluding that if a complaint is filed, the burden of proof rests on the fax sender to demonstrate that there is a valid EBR with the recipient or that prior express consent to fax was given).

¹⁰ *See* 47 U.S.C. § 227(a)(5); 47 C.F.R. § 64.1200(f)(13). The term “unsolicited advertisement” means “any material advertising the commercial availability or quality of any property, goods, or services, which is transmitted to any person without that person’s prior express invitation or permission, in writing or otherwise.” *Id.*

¹¹ *See* sample faxes in Appendix B.

¹² *See infra* note 14.

¹³ *See supra* note 1, EZ Business Loans September 2011 Fictitious Business Name Registration. Public records indicate that Ms. Javani previously registered EZ Business Loans as a fictitious name using 3600 Wilshire Blvd, Suite #1510, Los Angeles, CA 90010 both as the business address and owner address. EZ Business Loans, Fictitious Business Name Record, ID No. 2011036092, filed June 21, 2011, Westlaw FBN-ALL database available at <http://westlaw.com>. (last visited May 7, 2012) (EZ Business Loans June 2011 Fictitious Business Name Registration). Ms. Javani later changed the owner address to 221 S. Gale Dr., #306, Beverly Hills, CA 90211 in the EZ Business Loans September 2011 Fictitious Business Name Registration.

¹⁴ E-mail from David Guerrero, Subpoena Processing, j2 Global Communications, Inc., to Kimberly Thorne, Telecommunications Consumers Division, FCC Enforcement Bureau (May 31, 2011, 12:13 PM); e-mail from Patricia Farris, Provisioning Manager, j2 Global Communications, Inc., to Kimberly Thorne, Telecommunications Consumers Division, FCC Enforcement Bureau (Jan. 10, 2011, 6:32 PM). These billing records show the accounts were established under the name “B.C.A.” with Anthony Galdieri listed as the contact. Although the billing records do not include the unit number at the South Gale Dr. address, other information described herein ties Mr. Galdieri to that specific unit.

¹⁵ *Id.*

¹⁶ E-mail from Bill Wallace, Verizon Wireless, to Al McCloud, Telecommunications Consumers Division, FCC Enforcement Bureau (May 9, 2012, 10:59 AM) (310-749-4882 Billing Name and Address Response). Ms. Javani did not register EZ Business Loans as a fictitious business name until June 2011, over one year after consumers first began reporting the entity’s unlawful fax advertising to the Commission, and 18 months after EZ Business Loans issued a company profile touting its loan program and listing a telephone number belonging to Ms. Javani as a contact number for supposed chief operating officer Steven Pasha. *See* EZ Business Loans June 2011 Fictitious

trace back to Mr. Galdieri, with the billing address being the same one used by Ms. Javani to register the EZ Business Loans fictitious business name.

6. Other information shows how Mr. Pashmfoush (a/k/a Steven Pasha) is associated with Ms. Javani and Mr. Galdieri in operating the fictitious business name EZ Business Loans. The faxes include EZ Business Loans's Internet address, www.ezbusinessloans.com,¹⁷ which includes numerous links to two press releases that tout EZ Business Loans and quote "Steven Pasha, COO of EZ Business Loans," listing 877-346-7770 as his contact number.¹⁸ A 2009 company profile for EZ Business Loans also identifies Steven Pasha as chief operating officer, providing 877-346-7770 as the "main telephone" for the business and 310-749-4882 as an individual contact number for Mr. Pasha and "Investor Relations."¹⁹ This latter number is the same cell phone number that has been assigned to Ms. Javani since September 2009 and separately listed as a contact number for Anthony Galdieri in billing records for EZ Business Loans's main telephone line, 877-346-7770. Court records also show that Steven Pashmfoush has used the South Gale Drive address that is contained in Ms. Javani's EZ Business Loans fictitious business name registration.²⁰ Our research further reveals that the social security number assigned to Steven Anthony Pashmfoush is also associated with the name Anthony Galdieri, again at the same South Gale Drive address.²¹ We find that these closely intertwined connections indicate that Sabrina Javani, Steven Anthony Pashmfoush, and Anthony Galdieri are apparently operating under the fictitious business name EZ Business Loans together, and are responsible for sending the faxes listed in Appendix A.

B. Proposed Forfeiture

7. After we have first issued a citation to a person under Section 503(b)(5) of the Act,²² as we have in this case, Section 503(b)(1) authorizes the Commission to propose a forfeiture for subsequent conduct of the type described in the citation that violates the Act, or any rule, regulation, or order issued by the Commission under the Act.²³ Section 503(b)(2)(E) mandates that, "[i]n determining the amount of

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Name Registration. *See also* "Company Profile for EZ Business Loans," Dec. 11, 2009, <http://www.businesswire.com/news/home/20091211005109/en/Company-Profile-EZ-Business-Loans> (EZ Business Loans 2009 Profile). The failure of the individuals operating as "EZ Business Loans" to file a fictitious business name statement within 40 days of beginning to transact business using that name appears to violate California registration requirements. Cal. Bus. & Prof. Code § 17910. These requirements are "designed to make available to the public the identities of persons doing business under the fictitious name." *Id.* § 17900(a)(1).

¹⁷ EZ Business Loans Home Page, <http://www.ezbusinessloans.com> (last visited May 9, 2012).

¹⁸ *See* EZ Business Loans "Press Room" Page, <http://www.ezbusinessloans.com/press-room/> (last visited May 9, 2012) (providing links to "Merchant Cash Advance: Business Owners Turn to EZ Business Loans When Banks Deny Business Loans," Dec. 11, 2009, <http://www.businesswire.com/news/home/20091211005104/en>, and "EZ Business Loans Launches Invoice Factoring Program Servicing Companies Who Collect 30 to 60 Days," July 28, 2009, <http://www.businesswire.com/news/home/20100728007130/en>).

¹⁹ EZ Business Loans 2009 Profile.

²⁰ *See* Steven Pashmfoush, Bankruptcy Filing Record, U.S. Bankruptcy Court, Central District of California (Los Angeles), 2:11-BK-49706, filed Sep. 20, 2011, Westlaw ADVERSE-CA database available at <http://westlaw.com> (listing 221 S. Gale Dr., Unit 306, Beverly Hills, CA 90211 as Mr. Pashmfoush's address).

²¹ LexisNexis Investigative Portal – Person Reports on SSN, Steven Anthony Pashmfoush available at www.lexisnexis.com (last viewed on May 8, 2012). It is unclear whether Steven Anthony Pashmfoush and Anthony Galdieri is the same person. LexisNexis records indicate that these names are associated with the same social security number. *Id.* These same records show different dates of birth for each name. *Id.*

²² 47 U.S.C. § 503(b)(5).

²³ *Id.* § 503(b)(1)(B), (b)(5).

such a forfeiture penalty, 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.”²⁴ Our forfeiture guidelines set forth the base amount for penalties for certain kinds of violations, and identify criteria, consistent with the Section 503(b)(2)(E) factors, that may influence whether we adjust the base amount downward or upward.²⁵ For example, we may adjust a penalty upward for “[e]gregious misconduct,” an “[i]ntentional violation,” or where the subject of an enforcement action has engaged in a “[r]epeated or continuous violation.”²⁶ Currently, the Commission may impose a maximum penalty of \$16,000 per violation against individuals or entities such as Ms. Javani, Mr. Pashmfoush, and Mr. Galdieri.²⁷

8. The Commission has generally considered a penalty of \$4,500 per unsolicited fax advertisement as an appropriate base forfeiture for violating the prohibition against sending them.²⁸ In addition, when the consumer has requested that a violator stop sending facsimile messages and the violator has continued to send them, the Commission has previously considered \$10,000 per unsolicited fax advertisement the appropriate forfeiture for such egregious violations.²⁹ It became apparent, however, that the amount of our proposed forfeitures for apparent violations of the junk fax prohibitions failed to deter the more persistent wrongdoers. Accordingly, the Commission has applied upward adjustments to multiple repeated violations of our junk fax rules.³⁰

²⁴ 47 U.S.C. § 503(b)(2)(E).

²⁵ 47 C.F.R. § 1.80(b)(6) note. The absence of a particular type of violation from the forfeiture guidelines must “not be taken to mean that the violation is unimportant or nonexistent,” and “the Commission retains discretion to impose forfeitures for other violations.” *Commission’s Forfeiture Policy Statement & Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report & Order, 12 FCC Rcd 17087, 17110, para. 53 (1997) (*Forfeiture Policy Statement*).

²⁶ 47 C.F.R. § 1.80(b)(6) note.

²⁷ 47 U.S.C. § 503(b)(2)(C). Section 503(b)(2)(C) provides for forfeitures of up to \$10,000 for each violation in cases, as in the instant case, where the violation does not involve a Commission licensee or common carriers, among others. See 47 U.S.C. § 503(b)(2)(C). In accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321, the Commission implemented an increase of the maximum statutory forfeiture under Section 503(b)(2)(C) to \$16,000. See 47 C.F.R. § 1.80(b)(7); see also *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, 23 FCC Rcd 9845 (2008) (amendment of Section 1.80(b) to reflect an increase in the maximum forfeiture for this type of violator to \$16,000).

²⁸ See *Get-Aways, Inc.*, Notice of Apparent Liability For Forfeiture, 15 FCC Rcd 1805, 1812, para. 16 (1999); *Get-Aways, Inc.*, Forfeiture Order, 15 FCC Rcd 4843 (2000); see also *US Notary, Inc.*, Notice of Apparent Liability for Forfeiture, 15 Rcd 16999, 17003, para. 13 (2000); *US Notary, Inc.*, Forfeiture Order, 16 FCC Rcd 18398 (2001); *Tri-Star Marketing, Inc.*, Notice of Apparent Liability For Forfeiture, 15 FCC Rcd 11295, 11300, para.12 (2000) (*Tri-Star NAL*); *Tri-Star Marketing, Inc.*, Forfeiture Order, 15 FCC Rcd 23198 (2000).

²⁹ See *Tri-Star NAL*, 15 FCC Rcd at 11300, para. 12; *Carolina Liquidators, Inc.*, Notice of Apparent Liability for Forfeiture, 15 FCC 16837, 16842, para. 12 (2000); *21st Century Fax(es) Ltd., AKA 20th Century Fax(es)*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 24406, 24411, para. 13 (2000).

³⁰ *National Employees Benefit Group*, File No. EB-10-TC-478, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 2734, 2737, para. 8 (2012) (applying a \$150,000 upward adjustment in proposing a forfeiture for 97 junk fax violations); *Laser Technologies*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 10792, 10795, para. 9 (2011) (applying a \$50,000 upward adjustment in proposing a forfeiture for 40 junk fax violations); *Presidential Who’s Who*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8989, 8993–95, paras. 11–13 (2011) (applying a \$150,000 upward adjustment in proposing a forfeiture for 31 junk fax violations, taking into account the violator’s 73 prior junk fax violations); *The Street Map Company*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd

9. As our recent upward adjustments indicate, we believe that different and more substantial penalties than those we have imposed in the past are appropriate for persons and entities who engage in a significant number of violations, such as Mr. Pashmfoush, Mr. Galdieri, and Ms. Javani.³¹ These individuals, operating together as EZ Business Loans, sent nearly 250 unlawful fax advertisements to over 200 consumers who complained to the Commission *after* the Bureau first warned EZ Business Loans that its conduct violated the law. Although Section 503(b)(6) of the Act³² does not permit the Commission to assess a forfeiture for any of these violations that occurred more than one year prior to the date of this NAL, the egregious nature of the apparent violations persuades us that we should impose the maximum penalty possible for the 105 violations that did occur with the past year.

10. In addition, the faxes at issue in this NAL violate not only the prohibition on sending junk faxes (discussed above) but other rules as well. Both the Act and the Commission's rules require that all fax advertisements—which are permissible under either an established business relationship or prior express invitation or permission—include a clear and conspicuous notice on the first page of the advertisement that the fax recipient is entitled to request that the sender not transmit any future fax advertisements.³³ This notice must include a domestic contact telephone number and a facsimile machine number for the recipient to transmit such an opt-out request to the sender 24 hours a day, 7 days a week,³⁴ if neither of these numbers is toll-free, a separate cost-free mechanism such as a website or e-mail address must be available for a fax recipient to transmit an opt-out request.³⁵ Finally, the opt-out notice must state that failure to honor a properly submitted opt-out request within 30 days is unlawful.³⁶

11. The EZ Business Loans faxes attached to the relevant complaints do not satisfy these requirements. While its faxes do include a toll-free number, and in some cases, a website address that fax recipients may contact “[i]f you received this fax in error, or if you want to be removed,” the notices do not include the required statement that failure to comply with a properly filed opt-out request within 30 days is unlawful.³⁷ In addition, EZ Business Loans's opt-out notice apparently was not clear and conspicuous in all cases; at least one consumer has complained that she could not read the opt-out

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8318, 8321–22, paras. 10–11 (2010) (applying a \$75,000 upward adjustment in proposing a forfeiture for 51 junk fax violations, taking into account the violator's prior 11 junk fax violations).

³¹ These upward adjustments are consistent with the action taken by the Commission with respect to Fax.com, Inc. where we imposed a harsher penalty for egregious violations. *Fax.com, Inc.*, Notice of Apparent Liability for Forfeiture, 17 FCC Rcd 15927 (2002) (applying an upward adjustment of the base forfeiture for each of 489 apparent junk fax violations, for a total proposed forfeiture of \$5,379,000).

³² 47 U.S.C. § 503(b)(6). Businesses and individuals that attempt to disguise their true identities complicate and prolong law enforcement investigation and action. As explained elsewhere in this NAL, there is evidence to suggest that the individuals operating as “EZ Business Loans” did just that. *See, e.g., infra* note 42. In order not to reward such businesses and individuals for the enforcement delays they cause, the Commission must take their earlier acts into account in determining the forfeiture to impose for their acts that occurred within one year prior to the issuance of the NAL.

³³ 47 U.S.C. § 227(b)(1)(C)(iii), 227(b)(2)(D)(i) and (ii); 47 C.F.R. § 64.1200(a)(3)(iii). For purposes of the opt-out notice, “clear and conspicuous” means a notice that would be apparent to a reasonable consumer, is separate from the advertising copy, and is placed either at the top of or bottom of the facsimile. *Junk Fax Prevention Act R&O*, 21 FCC Rcd at 3801, para. 26.

³⁴ 47 C.F.R. § 64.1200(a)(3)(iii)(D) and (E); *see also* 47 U.S.C. § 227(b)(2)(D)(iv)(I).

³⁵ 47 C.F.R. § 64.1200(a)(3)(iii)(D)(2); 47 U.S.C. § 227(b)(2)(D)(iv)(II).

³⁶ 47 C.F.R. § 64.1200(a)(3)(iii)(B); *see also* 47 U.S.C. § 227(b)(2)(D)(ii).

³⁷ *See* Appendix B.

telephone number.³⁸ Further, EZ Business Loans apparently did not provide opt-out opportunities 24 hours a day, 7 days a week, as several consumers report that they were unable make an opt-out request using either the telephone number or website address provided in the opt-out notice.³⁹ Finally, as indicated in Appendix A, some consumers report that they received an unsolicited facsimile advertisement from EZ Business Loans more than 30 days after making a do-not-fax request to the phone number or website provided in the opt-out notice. Each deficient opt-out notice and each instance when EZ Business Loans either failed to allow submission of an opt-out request or failed to honor a valid opt-out request within 30 days represents additional violations of the Commission's rules and the Junk Fax Act that could carry separate penalties of up to \$16,000 each. In this case, we consider these additional violations as aggravating factors that also warrant upward adjustments of our base forfeiture amounts.

12. Accordingly, weighing the facts before us, we propose the maximum penalty allowed under the Act and the Commission's rules, \$16,000, for each junk fax recorded in Appendix A, for a total penalty of \$1,680,000. This penalty takes into account, in the language of Section 503(b)(2)(E), the "degree of culpability" and "history of prior offenses,"⁴⁰ and in the language of our forfeiture guidelines, factors including the EZ Business Loans operators' apparent "intentional violation[s]" and "prior violations of . . . FCC requirements."⁴¹ We believe this upward adjustment and overall penalty against Ms. Javani, Mr. Pashmfoush, and Mr. Galdieri takes into account the number and scope of the apparent violations and the fact that these individuals apparently sought to disguise their true identities as senders of these faxes on behalf of the fictitious business name EZ Business Loans.⁴² These factors strongly indicate knowing and deliberate efforts to violate the junk fax rules and then to conceal and evade responsibility for such violations. Those who violate our junk fax rules are on notice that we intend to use the full range of our enforcement power to deter future noncompliance and protect consumers from

³⁸ FCC Form 1088 A – Junk Fax Complaint from A. Linnebur (July 28, 2011) ("could not read it [opt-out telephone number]").

³⁹ FCC Form 1088A – Junk Fax Complaint from A. Gniewek (Aug. 4, 2011) ("All removal contact information is fake."); FCC Form 1088A – Junk Fax Complaint from K. Brown (Aug. 1, 2011) ("Attempted to opt-out via phone and website. Phone number appears invalid, and could not access website."); FCC Form 1088A – Junk Fax Complaint from S. Poe (Aug. 1, 2011) ("website does not exist"); FCC Form 1088A – Junk Fax Complaint from P. Stankowski (July 27, 2011) ("I tried to be removed by calling the telephone number listed, could not get through."); FCC Form 1088A – Junk Fax Complaint from R. Mitchell (Aug. 9, 2011) ("phone rang without a response").

⁴⁰ 47 U.S.C. § 503(b)(2)(E).

⁴¹ 47 C.F.R. § 1.80(b)(5) note, sec. II (Adjustment Criteria for Section 503 Forfeitures).

⁴² As indicated above, the individual identified as "Steven Pashmfoush" not only appears to use somewhat different permutations of that name, such as "Steven Pasha," but also may use the entirely different name of "Anthony Galdieri," as evidenced by the fact that the same Social Security Number appears to be used by these names. *See supra* para. 6. In addition, "EZ Business Loans" appears to be linked to, or the same business as, "Merchants Quest," in that both business names appear to be affiliated with Sabrina Javani, "Steven Pasha," and "Anthony Galdieri," and both business names use the addresses that Ms. Javani provided for her fictitious business name statement for "EZ Business Loans." *See* http://who.godaddy.com/whois.aspx?domain=merchantsquest.com&prog_id=GoDaddy (connecting Javani to domain name "merchantsquest.com"); <http://www.manta.com/g/mt1jb60/steven-pasha> (connecting "Steven Pasha" to "Merchants Quest" at Wilshire Blvd address used by EZ Business Loans); http://who.godaddy.com/whois.aspx?domain=assetalliance.net&prog_id=GoDaddy (connecting Galdieri to domain name "assetalliance.net" and "Merchants Quest" at South Gale Drive address used by EZ Business Loans, and showing him using email "steven@merchantsquest.com"). Moreover, as explained above, *see supra* note 16, "EZ Business Loans" appears to have failed to comply with California's fictitious business name registration requirement—the purpose of which is "to make available to the public the identities of the persons doing business under the fictitious name," Cal. Bus. & Prof. Code § 17900(a)(1)—until months after it started transacting business by that name.

the annoyance and harms caused by such conduct, including assessing the statutory maximum forfeiture amount of \$16,000 per violation.⁴³

IV. CONCLUSION

13. We have determined that Sabrina Javani, Steven Anthony Pashmfoush (a/k/a Steven Pasha, Steven A. Pashmfouroush, Steven Anthony Pashfouroush), and Anthony Galdieri, operating as EZ Business Loans apparently violated Section 227(b)(1)(C) of the Act and Section 64.1200(a)(3) of the Commission's rules, by using a telephone facsimile machine, computer, or other device to send 105 unsolicited advertisements to the 99 consumers identified in Appendix A. We have further determined that Ms. Javani, Mr. Pashmfoush, and Mr. Galdieri are apparently jointly and severally liable for a forfeiture in the amount of \$1,680,000.

V. ORDERING CLAUSES

14. 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 Sabrina Javani, Steven Anthony Pashmfoush, and Anthony Galdieri, operating as EZ Business Loans, are hereby **NOTIFIED** of this **JOINT AND SEVERAL APPARENT LIABILITY FOR A FORFEITURE** in the amount of \$1,680,000 for willful and repeated violations of Section 227(b)(1)(C) of the Communications Act, 47 U.S.C. § 227(b)(1)(C), and Section 64.1200(a)(3) of the Commission's rules, 47 C.F.R. § 64.1200(a)(3).

15. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Commission's rules,⁴⁴ within thirty (30) calendar days after the release date of this Notice of Apparent Liability for Forfeiture, Sabrina Javani, Steven Anthony Pashmfoush, and Anthony Galdieri **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

16. Payment of the forfeiture must be made by check, credit card, or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN 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 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. Regardless of the form of payment, 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). Sabrina Javani, Steven Anthony Pashmfoush, and Anthony Galdieri shall also send electronic notification to 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 with any questions regarding payment procedures.

17. The response, if any, must be mailed both to: Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division; and to Richard A. Hindman, Chief,

⁴³ *Teresa Goldberg*, File No. EB-10-TC-487, Notice of Apparent Liability for Forfeiture, FCC 12-23, 2012 WL 600987 (Feb. 23, 2012).

⁴⁴ 47 C.F.R. § 1.80.

Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, and must include the NAL/Acct. No. referenced in the caption. Documents sent by overnight mail (*other than* United States Postal Service Express Mail) must be addressed to: Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary, 9300 East Hampton Drive, Capitol Heights, MD 20743. Hand or messenger-delivered mail should be directed, without envelopes, to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554 (deliveries accepted Monday through Friday 8:00 a.m. to 7:00 p.m. only). See www.fcc.gov/osec/guidelines.html for further instructions on FCC filing addresses.

18. 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 practices; 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.

19. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail Return Receipt Requested and First Class mail to Sabrina Javani, 3600 Wilshire Blvd., Suite 1510, Los Angeles, CA 90010-2619; Steven Anthony Pashmfoush, 3600 Wilshire Blvd., Suite 1510, Los Angeles, CA 90010-2619; Anthony Galdieri, 3600 Wilshire Blvd., Suite 1510, Los Angeles, CA 90010-2619; Sabrina Javani, 221 South Gale Drive, Unit 306, Beverly Hills, CA 90211; Steven Anthony Pashmfoush, 221 South Gale Drive, Unit 306, Beverly Hills, CA 90211, and Anthony Galdieri, 221 South Gale Drive, Unit 306, Beverly Hills, CA 90211.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A
Complainants and Apparent Violation Dates

Complainant received facsimile solicitations	Violation Date(s)
J. Hudkins	7/11/2011
J. McCurry	7/11/2011
H. Sondheim	7/11/2011
M. Watt, CALL Primrose	7/12/2011
N. Carr-Ruffino	7/12/2011
A. MacIntyre	7/12/2011
C. Banducci, APW Co.	7/13/2011
A. Pfund	7/13/2011
W. Davis, Davis Associates, Inc.	7/13/2011; 7/28/2011; 8/5/2011
L. Messier, B&S Realty	7/14/2011
S. Steinberg	7/14/2011
E. Simon, Holiday Manufacturing Inc.	7/14/2011
R. Sidman	7/14/2011
R. Rast, Ambank Services, Inc.	7/14/2011; 7/25/2011
C. Connors, Shapiro Haber & Urmy LLP	7/14/2011
J. Holochwost, Vision Forestry, LLC	7/15/2011
J. Dupont	7/15/2011
J. Gernert, Felicity Farm	7/15/2011
J. Beasley	7/15/2011
J. Blair	7/15/2011
D. Watkins III	7/15/2011
R. Soley, Tamalpais Advisors, Inc.	7/15/2011
S. Fisher	7/16/2011
P. Brady	7/18/2011
D. Won, Corner Deli	7/18/2011
G. Adelman	7/18/2011
C. Loo, Ameriprise Financial Services	7/18/2011
A. Gray	7/18/2011
A. DiMarco, Advantage Education	7/19/2011
G. Kissick, Nancy Kissick Nursing	7/19/2011
J. McCord, Jennifer McCord Associates LLC	7/19/2011
J. Lile, Shoults, Picard & Brooks, Attorneys at Law	7/19/2011
R. Hasselquist	7/19/2011
B. Barkey	7/19/2011
J. Baareman, Fleet Compliance Group Ltd.	7/19/2011
J. Sheaffer	7/20/2011
A. Medvitz	7/20/2011
A. Wilson, RVAP	7/20/2011
S. Myerson	7/20/2011
D. Lavelle, Benchmark Builders, Inc.	7/21/2011
C. Hubler, Sun Welding	7/25/2011
D. Faiia	7/25/2011
T. Bell, Fresh Fish Inc.	7/25/2011
D. Byrd, Piazza Trading & Co., Ltd.	7/25/2011
G. Gregorian	7/25/2011
M. Oberle, Curious Cargo	7/25/2011
P. Stankowski, Granite Gold	7/27/2011

D. Stiteler	7/27/2011
L. Gardner, Gardner's Commercial Cleaning	7/27/2011
B. Delaney, Parke-West Fine Art Appraisal Service	7/27/2011
R. Woodrow	7/27/2011
A. Hill, Active Plumbing Supply Com.	7/28/2011
T. Kilcrease, Hughes & Wright Funeral Home, Inc.	7/28/2011
B. Bratton, City of Houston/Houston First Corp.	7/28/2011
D. Rutherford, Knoxville Beverage Co.	7/28/2011
J. Sardo, Margaret Matthews CPA	7/28/2011
C. Goyda, Tapestry Solutions	7/28/2011; 8/5/2011; 8/19/2011
A. Linnebur, Linnebur Auctions, Inc.	7/28/2011
M. Robertson, Alpine Designs	7/28/2011
K. Brown, Motel 6	8/1/2011
S. Poe, Securitas Security Services USA, Inc.	8/1/2011
P. Moran, Aurelios Pizza	8/2/2011
K. Camp, All American Quality Foods, Inc.	8/2/2011; 8/19/2011
T. Thomas, BioSeal System	8/3/2011
T. Schieler, WirelessUSA, Inc.	8/3/2011
A. Gniewek, Baseline-MOCON, Inc.	8/4/2011
B. Eliason, B&M Siren Mfg. Co.	8/4/2011
E. Lofgren, Boyd Lofgren & Co.	8/5/2011
J. Schroeder, Seagate Control Systems	8/5/2011
M. Mathews, Copier Supply Company Inc.	8/5/2011
A. D'Alessandro, Air Quality Control Environmental, Inc.	8/8/2011
C. Kennedy	8/8/2011
K. Powell	8/8/2011
M. McQuire, Arthur Kowitz Realty	8/8/2011
R. Mitchell	8/9/2011
J. Terlizzi	8/9/2011
A. Snyder	8/9/2011
J. Finkel	8/9/2011
M. Kallay	8/9/2011
J. Rose	8/9/2011
C. Davidson	8/11/2011
F. Byron	8/11/2011
J. Armas, Colorado Concept Coatings LLC	8/11/2011
M. Borja	8/11/2011
S. Goba, Illinois Document Preparation Co.	8/11/2011
R. Lester, SEPTA	8/11/2011
A. Greene	8/12/2011
R. Warren, Warren Consulting Group, Inc.	8/12/2011
A. Chashin	8/17/2011
J. Thorne	8/17/2011
L. Connally	8/19/2011
R. Waller	8/19/2011
E. Palmer	8/25/2011
B. Burnham, Lexicomp	8/31/2011
I. Simpson	8/31/2011

Complainant received facsimile solicitations after requesting no more be sent	Violation Date(s)
W. Williams	7/12/2011
S. Cho	7/20/2011
T. Spandel, Bunn Packaging, Inc.	8/1/2011
J. Porter, Magnolia Clipping Service	8/4/2011

APPENDIX B

Examples of Faxes

0710-0011 11:00 AM 800 234 2344 Receiving fax number redacted by FCC 1/18

ezbusinessloans CALL: (877) 346-7770
 FAX : (877) 395-9990
 WEB : www.ezbusinessloans.com

ezbusinessloans	DATE: July, 2011
RE: OVERLOOKED BUSINESS PLAN FOR FINANCED	
Current Business Owner Funding in 48 hours	AMOUNT OF CHECK \$ 37,625
CERTIFICATE THIRTY SEVEN THOUSAND SIX HUNDRED TWENTY FIVE (100) DOLLARS	
EZ BUSINESS LOANS 10000 AMERICA 20117	
873580 *000000777* 07?0000771*	

* YOU ARE APPROVED & HAVE BEEN PRE-SELECTED FOR A QUICK UNSECURED BUSINESS LOAN
CALL (877) 346-7770 OR FAX TO (877) 395-9990



\$\$\$ PRE-APPROVED BUSINESS CASH ADVANCE \$\$\$
 6 MONTHS IN BUSINESS WITH A CREDIT CARD SALES VOLUME OF \$4,000 A MONTH IS AUTOMATICALLY APPROVED!



**FILL OUT THE FORM BELOW
 FAX TO (877) 395-9990**

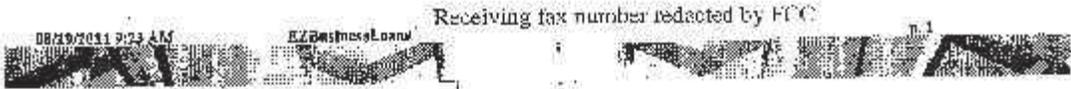
*7-18
 11:59*

CONTACT:	SECONDARY PHONE:
PRIMARY PHONE:	BEST TIME TO CALL:

- NO HASSLE BUSINESS LOAN
- BUSINESS CLASS SERVICE
- QUICK AND UNSECURED
- 3 MINUTE APPLICATION
- 2 DAY FUNDING PROCESS
- BAD CREDIT AND TAX LIENS OKAY
- NO FINANCIAL OR TAX RETURNS
- NO COLLATERAL REQUIRED
- NO PROOF OF HOW MONEY IS SPENT REQUIRED
- NOT REPORTED ON CREDIT
- 85% OF SUBMISSIONS APPROVED!
- WE FUND OVER 200 BUSINESS TYPES



** IF YOU RECEIVE THIS FAX IN ERROR OR IF YOU WANT TO BE REMOVED, PLEASE CALL (866) 435-1126 **

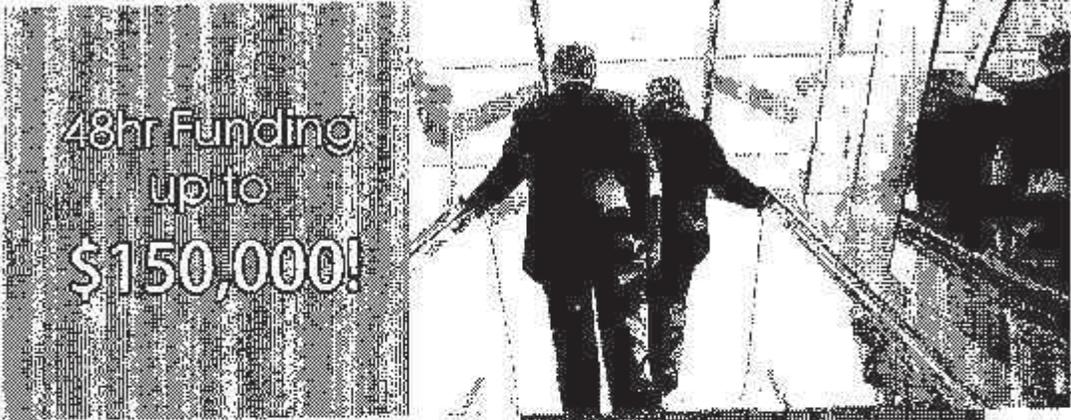


Let us get you to the next level

ezbusinessloans

CALL | 877.346.7770
FAX | 877.395.9990

WEB | WWW.EZBUSINESSLOANS.COM



Your company's future starts with one reply today. Fill out this form and fax to 877.395.9990



contact: _____
primary phone: _____
secondary phone: _____

Six months in business, with a credit card sales volume of \$4000/month is automatically APPROVED!

-  Two day funding process
-  Bad Credit and Tax Liens OK
-  Quick and Unsecured
-  No Financial or Tax Returns

FEATURED IN:



IF YOU RECEIVED THIS FAX IN ERROR, OR IF YOU WANT TO BE REMOVED, PLEASE CALL 866.485.1128

04/27/2011 7:33 AM

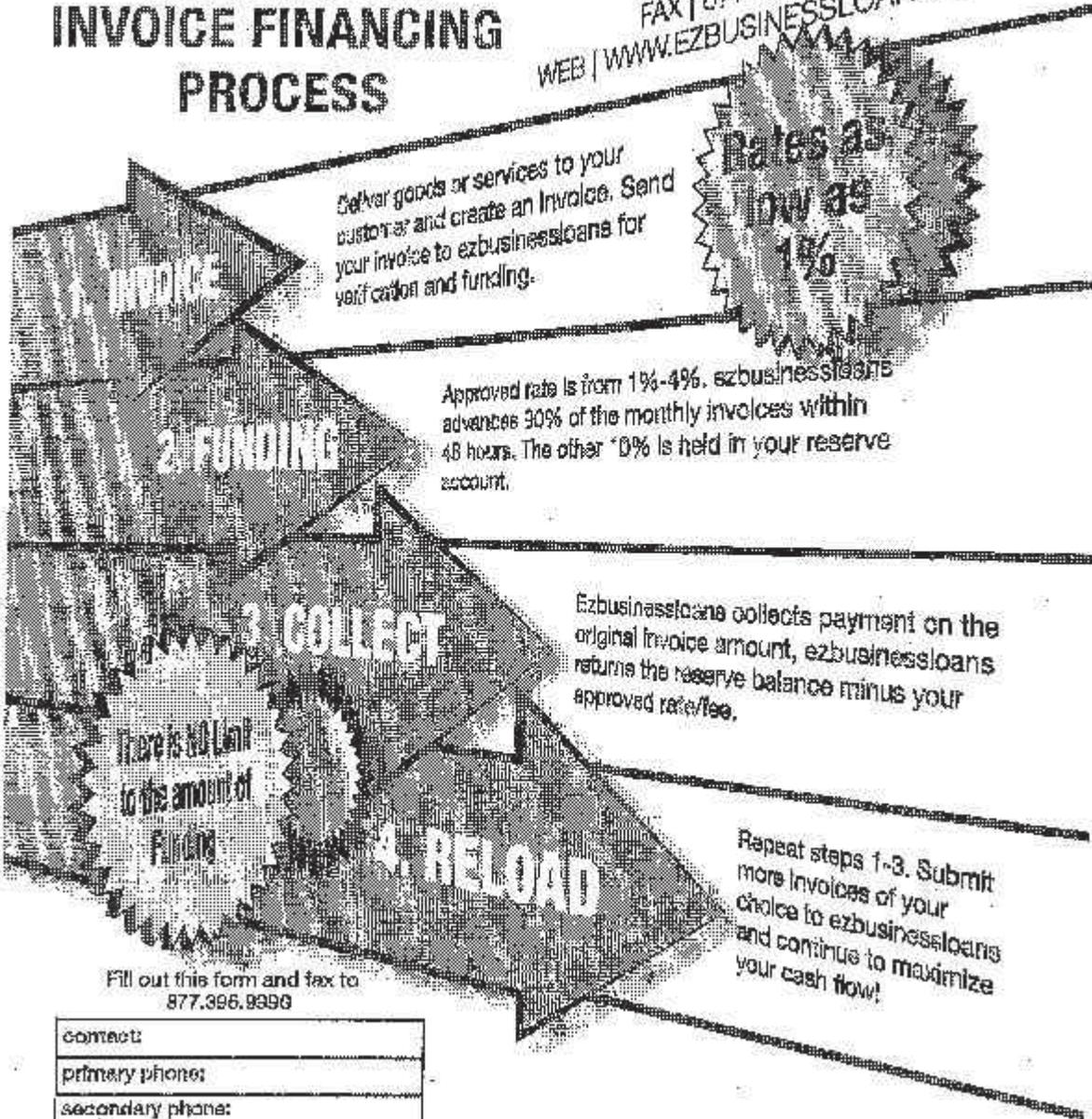
Ez Business Loans

Receiving fax number redacted by FCC

u. 1

THE ezbusinessloans INVOICE FINANCING PROCESS

CALL | 877.346.7770
FAX | 877.396.9990
WEB | WWW.EZBUSINESSLOANS.COM



Fill out this form and fax to 877.396.9990

contact:
primary phone:
secondary phone:

IF YOU RECEIVED THIS FAX IN ERROR, OR IF YOU WANT TO BE REMOVED, PLEASE CALL 866-483-1126