

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	File No.: EB-TCD-14-00016988
	)	
GPSPS, Inc.	)	NAL/Acct. No.: 201532170011
	)	
Apparent Liability for Forfeiture	)	FRN: 0022128334

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: February 26, 2015**

**Released: February 27, 2015**

By the Commission:

**I. INTRODUCTION**

1. We propose a penalty of \$9,065,000 against GPSPS, Inc., (GPSPS or Company) for switching consumers' preferred long distance carriers without their authorization (commonly known as "slamming") and placing unauthorized or "crammed" charges for its long distance service on consumers' telephone bills. Consumers insist that GPSPS's charges were unauthorized because they had no contact with GPSPS before the Company changed their long distance service provider and began charging them for its service. Instead, GPSPS relied on fabricated audio recordings as purported proof that consumers had authorized the Company to switch their long distance carriers, and then provided those fabricated recordings to the Federal Communications Commission (Commission) and state regulatory officials as proof that the consumers had authorized its service. In addition, we find that GPSPS violated a Commission order to produce certain information and documents in response to an Enforcement Bureau (Bureau) letter of inquiry related to its investigation of GPSPS.

2. Slamming and cramming are deceptive business practices. Companies that engage in these practices prey on consumers who fail to notice unauthorized charges on their multi-page telephone bills. Here, the harm GPSPS caused was even more egregious because the Company used apparently falsified evidence of consumers' authorizations for a carrier change and caused consumers to expend significant time and effort to attempt to return to their preferred carriers, to get the charges removed from their bills, and to file complaints with law enforcement agencies. The Commission is committed to protecting consumers against slamming and cramming and will take aggressive action against carriers that perpetrate such unjust, unreasonable, and deceptive acts. Based on the evidence before us, including more than 150 consumer complaints that demonstrate that GPSPS's misconduct was widespread and intentional, we propose a \$9,065,000 forfeiture.

**II. BACKGROUND**

3. GPSPS<sup>1</sup> is an interexchange carrier that is authorized to provide domestic and international long distance telecommunications service.<sup>2</sup> The Bureau reviewed over 150 complaints against GPSPS that consumers filed with the Commission, the Federal Trade Commission (FTC), the

<sup>1</sup> GPSPS, Inc.'s offices are located at 3355 Lenox Road, Suite 750, Atlanta, GA 30326. GPSPS's President is Clint R. Parry.

<sup>2</sup> See *International Authorizations Granted, Section 214 Applications (47 CFR § 63.18); Section 310(b)(4) Requests*, ITC-214-20121031-00283, Public Notice, 27 FCC Rcd 14886 (Nov. 29, 2012).

Public Utility Commission of Texas (Texas PUC), and the Better Business Bureau (BBB).<sup>3</sup> All complainants contend that GPSPS switched their preferred long distance service provider without their authorization.<sup>4</sup> No complainant indicated that he or she had contact with GPSPS or a Company agent before being charged for GPSPS's service. Most complainants affirmatively assert that they had never heard of or spoken to the Company before discovering GPSPS's charges on their telephone bills.<sup>5</sup> Many complainants also state that GPSPS agreed to refund only a portion of the fees it had charged them. Still others claim that when they contacted GPSPS, they were told that they or someone in their household had authorized GPSPS's service, and that GPSPS possessed an audio recording evidencing the authorization. Complainants who heard these recordings contend that they were fabricated.

4. Based on complaints from consumers alleging that GPSPS had fraudulently charged them for long distance service, the Bureau initiated an investigation of GPSPS and issued a letter of inquiry (LOI) to the Company on August 29, 2014.<sup>6</sup> The LOI sought information about GPSPS's practices and instructed the Company to produce various documents and records, including evidence that it had complied with the Commission's verification procedures prior to switching consumers' long distance service providers. GPSPS's response to the LOI was late and incomplete.<sup>7</sup> In particular, GPSPS failed to provide the Bureau with any consumer complaints and third party verification (TPV) recordings or any other proof that consumers authorized GPSPS to switch their long distance service. As a result, the Bureau obtained from the Texas PUC consumer complaints and TPV recordings that GPSPS had submitted to the Texas PUC.<sup>8</sup>

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<sup>3</sup> See consumer complaints on file in EB-TCD-14-00016988.

<sup>4</sup> GPSPS contracts with Nexophone, Inc., (Nexophone) to market the Company's services and with All Verified to verify and record a consumer's authorization to switch telephone service providers to GPSPS. See Letter from Michael S. Welsh, Counsel for GPSPS, Inc., to Erica H. McMahon, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau at 4 (Oct. 1, 2014) (on file in EB-TCD-14-16988) (LOI Response). The Commission recently issued an NAL against another interexchange carrier, Optic Internet Protocol, Inc. (Optic), for apparent slamming and cramming violations. Optic also contracts with Nexophone and All Verified and shares the same Customer Service and Regulatory Management staff with GPSPS. See *Optic Internet Protocol, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 9056 (2014) (*Optic NAL*) (finding the carrier in apparent violation of Sections 201(b) and 258 of the Act for slamming, cramming, and fabricating third party verification recordings).

<sup>5</sup> GPSPS contracts with a billing aggregator, ILD Teleservices, Inc. (ILD), to bill consumers through their local exchange carriers. See telephone bills from consumers on file in EB-TCD-14-00016988. ILD's name generally appears on the bills, along with GPSPS.

<sup>6</sup> See Letter from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to GPSPS, Inc., Attn: Clint Parry, President (Aug. 29, 2014) (on file in EB-TCD-14-00016988) (LOI).

<sup>7</sup> GPSPS's attorney e-mailed the Bureau seeking an extension of time to file GPSPS's LOI Response. See E-mail from Michael S. Welsh, Counsel for GPSPS, Inc., to Erica H. McMahon, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (Sept. 11, 2014, 5:52 PM) (on file in EB-TCD-14-00016988). The Bureau responded and requested that GPSPS identify the particular LOI questions for which GPSPS needed additional time. See E-Mail from Erica H. McMahon, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau, to Michael S. Welsh, Counsel for GPSPS, Inc. (Sept. 12, 2014; 9:13 AM). GPSPS did not respond to the e-mail and did not obtain an extension of time.

<sup>8</sup> GPSPS, however, had provided a few TPVs to the Commission's Consumer & Governmental Affairs Bureau (CGB) in response to slamming complaints CGB had forwarded to the Company. Under the Commission's rules CGB, or any state commission that opts to administer the unauthorized carrier change rules, such as the Texas PUC, may adjudicate individual slamming complaints and may order financial restitution for consumers who have been slammed. See 47 C.F.R. §§ 64.1150–1170. The Enforcement Bureau may take separate enforcement action under Section 503(b) of the Act for a carrier's willful or repeated violations of Section 258 of the Act and Section 64.1120 of the Commission's rules.

### III. DISCUSSION

5. We find that GPSPS apparently willfully and repeatedly violated Sections 201(b) and 258 of the Communications Act of 1934, as amended (Communications Act or Act), and Sections 1.17 and 64.1120 of the Commission's rules. Specifically, as discussed more fully below, we charge GPSPS with apparently violating (1) Section 201(b) of the Act for submitting fabricated audio "verification" recordings to the Commission and state regulatory authorities as purported proof of consumers' authorization to switch their carriers and to be charged for service when, in fact, consumers had never spoken to GPSPS or its third party verifiers; (2) Section 1.17 of the Commission's rules for providing to the Commission during the course of its adjudication of slamming complaints, misleading material information without a reasonable basis for believing the information was truthful; (3) Section 258 of the Act and Section 64.1120 of the Commission's rules for submitting requests to switch consumers' preferred long distance carriers without authorization verified in compliance with the Commission's verification procedures; (4) Section 201(b) of the Act for placing unauthorized charges on consumers' local telephone bills; and (5) a Commission order to produce certain information and documents related to GPSPS's business practices. Accordingly, we propose a forfeiture of \$9,065,000 for the apparent violations that occurred within the 12 months prior to the release date of this Notice of Apparent Liability for Forfeiture (GPSPS NAL or NAL).<sup>9</sup>

#### A. GPSPS Provided Fabricated Audio Recordings to the Commission and State Regulatory Authorities in Apparent Violation of Section 201(b)

6. We find that GPSPS apparently violated Section 201(b) of the Act when enrolling and charging consumers for its service. Section 201(b) prohibits carriers from engaging in unjust and unreasonable practices, and the Commission has found that deceptive, fraudulent practices, including fabricating TPV recordings, are such unlawful practices.<sup>10</sup>

7. Many consumers who filed slamming complaints with the Texas PUC, which then shared these complaints with the Bureau, told the PUC that the voice on the recording was not theirs, and that they did not otherwise have any conversation with GPSPS, its telemarketer, or its third-party verifier. Other consumers said that when they asked GPSPS to hear the recordings purporting to evidence their authorization, they were told that the Company would "investigate" and that such investigation would take seven to 10 business days. GPSPS, however, never provided the recordings or followed up with these complainants.<sup>11</sup>

8. For example, after GPSPS switched her carrier, Complainant McFall called the Company to complain. "They told me we signed up via telemarketer. I know that's a lie because I never deal with telemarketers, i[n] fact I don't answer the phone when they call and I put us on the do not call list."<sup>12</sup> Complaint Moreno similarly called GPSPS to complain about unauthorized charges on his telephone bill:

They told me their "Verification Dept." has a recording of me requesting the change and will be calling me in 7-10 business days to play it. When they did not call me I

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<sup>9</sup> The Appendix identifies the 106 complaints, evidencing 106 apparent slamming and cramming violations and five 1.17 rule violations occurring in the last 12 months that underlie the proposed forfeiture.

<sup>10</sup> See *Optic NAL*, 29 FCC Rcd at 9061, para. 14 (finding a carrier in apparent violation of Section 201(b) for relying on fabricated TPV recordings); *United Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 16499, 16503, para. 11 (2012) (*United NAL*) (same).

<sup>11</sup> See, e.g., Complaint from F. Petraglia (explaining that the GPSPS customer service representative "said she would contact her 'Investigation Department' to look into this matter. She concluded by saying that I should expect to hear from someone in 7 to 10 business days regarding this matter."); Complaint from D. De La Fuente ("I was told [by GPSPS that] they would investigate and get back to me in 7-10 business days. I need to get this resolved as they charged me over \$500 for long distance charges.").

<sup>12</sup> Complaint from K. McFall.

called them again (3 more times) and was again told I would receive a call in 7-10 business days. They keep telling me I missed their call, but of course they haven't called because there is no recording of me authorizing the switch.<sup>13</sup>

9. After GPSPS switched her long distance carrier, Complainant Vega said that a GPSPS representative told her that “a J[] Vega made the change. . . . I told her that J[] Vega does not live in this country. He is my father and he lives in another continent. . . . I have a cellular phone and I do not need nor do I want [a] long distance provider for my land line.” The representative said that she could provide Ms. Vega with the recording, but “I have yet to hear back from her.”<sup>14</sup> Complainant Salinas also attempted to obtain information from GPSPS about how the Company changed her long distance service provider. “They are very vague when asked who authorized the change and only give you the name of the person who is listed in the phone directory. I certainly did not authorize any change and my 6-month old certainly didn't either.”<sup>15</sup> Complainant Duenas also stated that she did not authorize GPSPS's service. She wrote:

I called the number listed on my bill . . . to find out why they were billing me. I was told my husband M[] Duenas authorized the phone service. My husband has been dead for seven years and I didn't sign up or authorize [ILD] or GPSPS for any phone service . . . I am on a fixed income and can't afford to pay this phone bill.<sup>16</sup>

10. After reviewing numerous consumer complaints, Bureau staff contacted 10 additional complainants about the recordings GPSPS had provided to the Texas PUC.<sup>17</sup> Each complainant listened to the recordings, and *each one adamantly denied* that the voice on the recording was theirs or anyone else in his or her household. In fact, none of the complainants even recognized the voice on the recording or indicated that he or she had authorized any other person to switch his or her long distance carrier. Instead, the complainants insisted that GPSPS's recordings had been falsified, and that they had never spoken with GPSPS or its third-party verifier. They also stated that the birth date or maiden name supplied by the person on the recording was neither theirs nor, in some cases, their spouse's.<sup>18</sup> Given the assertions from these ten complainants that the verification recordings were fabricated, coupled with claims from numerous other complainants that they had neither heard of GPSPS nor spoken to a

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<sup>13</sup> Complaint from E. Moreno. Mr. Moreno further explained that he received a partial refund of the unauthorized charges, but that GPSPS told him they could not issue a full refund.

<sup>14</sup> Complaint from S. Vega. *See also* Complaint from R. Rodriguez (explaining that the GPSPS representative told him a “Robert Garcia” had authorized the change. “I told [the representative] there is no Robert Garcia in this house, just me (R[] Rodriguez) and my wife (L[] Rodriguez).”); Complaint from J. Pena (stating that he was advised that J. L. Pena, Mr. Pena's former wife, had provided the authorization over the telephone, but that he was divorced and J. L. Pena has not lived at Mr. Pena's residence since 2010); Complaint from M. Delgado (After contacting ILD about the GPSPS charges on her bill, Ms. Delgado wrote, “[ILD] tried to tell me that H[] Delgado (phone number in directory) authorized the charges. I informed them that I am the account holder and they did not have my authorization and that H[] Delgado does not even live in this household . . . I wonder if ILD is just going down the phone book and slamming phone numbers.”).

<sup>15</sup> Complaint from V. Salinas.

<sup>16</sup> Complaint from M. Duenas. On the recording GPSPS provided to the Texas PUC, the person answering the verifier's questions identified himself as “M[] Duenas,” the name of the Complainant's deceased husband.

<sup>17</sup> Due to GPSPS's failure to provide consumer complaints in response to the Bureau's LOI, the Bureau obtained consumer complaints and TPVs from the Texas PUC.

<sup>18</sup> *See, e.g.*, Complaint from R. Casas; Complaint from A. Barrera (explaining that she does not know any person named “Karina Barrera,” the person identified on the recording, and the mother's maiden name provided on the recording was incorrect). Some complainants also noted that the recording was in Spanish, even though they do not speak Spanish on the phone and therefore would not have completed any such verification in Spanish. *See, e.g.*, Complaint from D. Nino.

Company representative, we find it credible that the other TPV recordings GPSPS relied on to show that consumers authorized its service were fabricated as well. The fact that GPSPS repeatedly failed to provide the recordings to consumers who contacted the Company to dispute the charges is further evidence that GPSPS was engaged in conduct designed to deceive consumers and regulatory officials. The evidence shows that these were not mere errors by GPSPS, whereby the Company mistakenly verified the carrier switch with someone who was not authorized to make the switch, but intentional misconduct. Here, there is simply no evidence that GPSPS ever contacted complainants or anyone else in the complainants' households and recorded their authorizations to switch the complainants' carriers.<sup>19</sup> Nevertheless, GPSPS presented these fabricated audio recordings to the FCC<sup>20</sup> and Texas PUC as a defense to charges that the Company violated Section 258 of the Act.<sup>21</sup>

11. Accordingly, we find GPSPS in apparent violation of Section 201(b) of the Act for engaging in deceptive and fraudulent practices by using false audio "verification" recordings that were apparently designed to mislead (i) consumers in an effort to convince them that they had authorized services that they had not; and (ii) the Commission and the Texas PUC in the course of official investigations.<sup>22</sup>

**B. GPSPS Provided False and Misleading Material Information to the Commission in Apparent Violation of Section 1.17 of the Commission's Rules**

12. Based on the evidence discussed above, we find that GPSPS also apparently violated Section 1.17 of the Commission's rules when it submitted fabricated TPVs to the Commission. Section 1.17(a)(2) of the Rules provides that no person may provide to the Commission, in any written statement of fact, "material factual information that is incorrect or omit material information . . . without a reasonable basis for believing that any such material factual statement is correct and not misleading."<sup>23</sup> This requirement is intended in part to enhance the effectiveness of the Commission's enforcement efforts.<sup>24</sup> Thus, even absent an intent to deceive, a false statement may constitute a violation of Section

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<sup>19</sup> See, e.g., Complaint from R. Lynch (stating, "[R]egarding 'the switch.' I live alone. I am a retired (65) senior vice president of a bank. I am not confused, disoriented, or senile. Nor, as one rep suggested, did I have a guest in my home who changed the service . . . how absurd. This comment actually made me wonder if Verizon was in on the deal. I hope you can put a stop to this to protect thousands from experiencing this theft and aggravation.").

<sup>20</sup> As noted above, GPSPS provided some TPVs to the Commission's CGB in response to slamming complaints CGB had forwarded to the Company. See *supra* note 8.

<sup>21</sup> GPSPS stated that it uses an independent third party verification company, All Verified, to verify and record each customer's authorization. LOI Response at 4. While it is unclear whether All Verified or GPSPS itself falsified the audio recordings, GPSPS affirmatively relied on these recordings to show that it had authorization to charge consumers for service. GPSPS continued to do so even after it had received numerous complaints for more than a year from consumers who alleged they had had no contact with GPSPS, had never heard of GPSPS, and had not authorized the Company's service. GPSPS was therefore on notice that an ongoing problem existed, yet it took no action to correct the fraudulent behavior or terminate its relationship with its third-party verifier. See, e.g., *Silv Comm'n Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 5178, 5181-5182, paras. 6-7 (*Silv NAL*) (finding that the carrier was on notice of a problem with its third-party telemarketers based on complaints it received from consumers). Instead, GPSPS continued to rely on fabricated recordings and provided them to both CGB and the Texas PUC as evidence of authorization.

<sup>22</sup> As discussed *infra* paras. 21-24 and note 70, under the circumstances here we do not propose a separate forfeiture for GPSPS's fabricated recordings. Rather, the proposed forfeiture is based on the slams and crams.

<sup>23</sup> 47 C.F.R. § 1.17(a)(2).

<sup>24</sup> See *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4016-17, paras. 1-2, 4021, para. 12 (2003), *recon. denied*, Memorandum Opinion and Order, 19 FCC Rcd 5790, *further recon. denied*, Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004) (*Amendment of Section 1.17*).

1.17 if provided without a reasonable basis for believing that the information is truthful and not misleading.<sup>25</sup> In response to slamming complaints CGB forwarded to GPSPS, GPSPS repeatedly submitted fabricated TPV recordings to the Commission, despite receiving numerous complaints from consumers who said they had never heard of GPSPS and did not authorize GPSPS's service.<sup>26</sup> As we have previously stated, parties must "use due diligence in providing information that is correct and not misleading to the Commission."<sup>27</sup> This includes taking appropriate steps to determine the truthfulness of what is being submitted. GPSPS failed to do so. Accordingly, we find that GPSPS lacked a reasonable basis for believing that the TPVs were authentic, and that in providing them to the Commission, GPSPS apparently violated Section 1.17 (a)(2) of the rules.<sup>28</sup>

**C. GPSPS Switched Consumers' Long Distance Carriers Unlawfully in Apparent Violation of Section 258 of the Act and Section 64.1120 of the Commission's Rules (Slamming)**

13. GPSPS apparently violated Section 258 of the Act and Section 64.1120 of the Commission's rules by submitting requests to change consumers' long distance carriers without authorization. Section 258 of the Act makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe."<sup>29</sup> Section 64.1120 of the Commission's rules prohibits carriers from submitting a request to change a consumer's preferred provider of telecommunications services before obtaining authorization from the consumer; carriers can verify that authorization in one of three specified ways, including TPV.<sup>30</sup> If a carrier relies on TPV, as GPSPS does, the independent verifiers must, among other things, confirm that the consumers with whom they are speaking: (i) have the authority to change the carrier associated with their telephone number; (ii) in fact wish to change carriers; and (iii) understand that they are authorizing a carrier change.<sup>31</sup>

14. The Bureau's LOI directed GPSPS to provide the TPV recordings the Company used to submit the requests to switch the long distance carriers of certain identified consumers who had filed complaints with the Commission.<sup>32</sup> GPSPS failed to provide any such proof. Under Section 64.1150 of the Commission's rules, once the Commission notifies a carrier of an unauthorized carrier change complaint, "[f]ailure by the carrier to respond or provide proof of verification will be presumed to be clear and convincing evidence of a violation."<sup>33</sup> In the absence of any form of verified authorization and for

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<sup>25</sup> See *id.* at 4017, para. 2 (stating that the revision to Section 1.17 is intended to "prohibit incorrect statements or omissions that are the result of negligence, as well as an intent to deceive.").

<sup>26</sup> We consider the TPV recordings to be "written statements" as they were submitted as part of written responses to CGB's Notices of Informal Complaints.

<sup>27</sup> *Amendment of Section 1.17*, 18 FCC Rcd at 4021, para. 12.

<sup>28</sup> The five complaints to which GPSPS responded to the Commission with false material information within the last 12 months are Lakes Auto Parts, F. Lopez, M. Betancourt, F. Galletta and E. Alonso.

<sup>29</sup> 47 U.S.C. § 258(a).

<sup>30</sup> 47 C.F.R. § 64.1120(c)(1)–(3). A carrier may also verify authorization by obtaining the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130 or by obtaining confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically. *Id.*

<sup>31</sup> 47 C.F.R. § 64.1120(c)(3)(iii).

<sup>32</sup> See LOI at 3.

<sup>33</sup> 47 C.F.R. § 64.1150(d).

this reason alone,<sup>34</sup> we find that GPSPS apparently violated Section 258 and Section 64.1120 with respect to 17 complainants.<sup>35</sup> The LOI also directed GPSPS to provide all consumer complaints and inquiries the Company received since September 1, 2013, whether submitted directly to the Company, the Company's billing aggregator, state commissions, the FCC, the Better Business Bureau, state attorneys general offices, courts of law, or any other source,<sup>36</sup> and to provide any TPV recordings pertaining to each complaint or inquiry.<sup>37</sup> GPSPS provided no such complaints or any TPV recordings to the Bureau to show that it had verified the complainants' authorization to switch their long distance carriers.

15. As noted above, however, GPSPS did submit TPV recordings to the Texas PUC and a few TPV recordings to CGB in response to CGB's notification to the Company of consumer complaints.<sup>38</sup> As discussed in detail above,<sup>39</sup> the record shows that these TPV recordings were fabricated to apparently mislead regulatory officials into believing that GPSPS had verified the consumers' authorization, when in fact it had not followed any of the Commission's verification procedures set forth in Section 64.1120(c).<sup>40</sup> Put simply, GPSPS has failed to produce any proof in some cases—or any clear and convincing evidence in other cases<sup>41</sup>—that it complied with the Commission's verification procedures prior to submitting or executing a carrier change to switch the Complainants' long distance carriers.<sup>42</sup> Based on the evidence in the record, including evidence that GPSPS fabricated recordings to make it appear that it had verified consumers' authorizations in compliance with Section 64.1120(c) when it did not, we find that GPSPS apparently violated Section 258 of the Act and Section 64.1120 of the rules when it submitted requests to switch the preferred carriers of 65 consumers without proper authorization verified in accordance with the Commission's rules.<sup>43</sup>

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<sup>34</sup> See *United NAL*, 27 FCC Rcd at 16504, para. 13, n.33.

<sup>35</sup> The complainants the Bureau identified in the LOI and who are included in the Appendix are N. Silva, F. Petraglia, J. Oines, R. Martin, J. Fernandez, M. Duenas, A. Diaz, D. De La Fuente, S. Contreras, V. Castro, L. Anton, D. Moseley, N. Santoro, M. Milian, G. Bellino, Lakes Auto Parts, and F. Lopez.

<sup>36</sup> LOI at 4. The record shows that GPSPS received numerous complaints that consumers had filed with the Better Business Bureau and the Texas PUC since September 1, 2013, but the Company failed to provide them to the Commission.

<sup>37</sup> *Id.* The Commission's rules require carriers to maintain audio verification records of consumer authorization for a minimum of two years from the time of the verification. See 47 C.F.R. § 64.1120(c)(iv).

<sup>38</sup> See *supra* para. 4 and note 8.

<sup>39</sup> See *supra* paras. 7–11.

<sup>40</sup> See 47 C.F.R. § 64.1120(c).

<sup>41</sup> The Commission's rules require that any proof of verification of a carrier change must contain clear and convincing evidence of a valid authorized carrier change and that the Commission or state commission will determine whether an unauthorized change has occurred using such proof and any evidence supplied by the subscriber. See 47 C.F.R. § 64.1150(d).

<sup>42</sup> See *United American Techs.*, Order, 23 FCC Rcd 6631 (CGB 2008) (finding that because the TPV submitted by the carrier had been altered, the carrier failed to produce clear and convincing evidence that the complainant authorized a carrier change).

<sup>43</sup> As discussed below (*infra* paras. 16–17), GPSPS also placed unauthorized charges on these consumers' telephone bills, in apparent violation of Section 201(b). Although the Commission could exercise its authority to assess a forfeiture against GPSPS for both the Section 258 and Section 201(b) violations, we decline to do so for these consumers and instead propose a forfeiture only for GPSPS's unlawful request to change the consumer's preferred carrier. See *infra* para. 22. See also *Central Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5517, 5529, para. 25, n.83 (2014) (*Central NAL*) (stating that the Commission can charge the carrier with violations for slamming and cramming); *U.S. Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 823, para. 24, n.93 (2014) (*USTLD NAL*) (same); *Consumer Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 17196, 17208, para. 26, n.78 (2013) (*CTI NAL*) (same). As  
(continued...)

**D. GPSPS Placed Unauthorized Charges on Consumers' Telephone Bills in Apparent Violation of Section 201(b) (Cramming)**

16. Section 201(b) of the Act makes it unlawful for a carrier such as GPSPS to engage in any practice in connection with its provision of a telecommunications service that is unjust and unreasonable.<sup>44</sup> The Commission has found that the inclusion of unauthorized charges and fees on consumers' telephone bills—known as “cramming”—is an “unjust and unreasonable” practice under Section 201(b).<sup>45</sup> Cramming can occur either when third parties place unauthorized charges on consumers' local telephone bills or when carriers place unauthorized charges on the telephone bills of their own customers. In either case, any assessment of an unauthorized charge on a telephone bill or for a telecommunications service is an “unjust and unreasonable” practice under Section 201(b) of the Act.<sup>46</sup>

17. As a result of GPSPS's apparent slamming of consumers, discussed above, the charges it caused to be placed on consumers' telephone bills were unauthorized in apparent violation of Section 201(b) of the Act. All of the complainants maintain that they neither requested nor agreed to GPSPS's service.<sup>47</sup> As we have said on several occasions in prior cases, a carrier that engages in an initial slam that leads to a subsequent cram violates both Sections 258 and 201(b) of the Act for slamming and cramming.<sup>48</sup> In such cases we can exercise our authority to assess forfeitures for both types of violations.<sup>49</sup> Accordingly, we find that GPSPS apparently violated Section 201(b) for the unauthorized charges it placed on 41 consumers' telephone bills after it switched their long distance carriers without authorization verified in compliance with the Commission's rules.<sup>50</sup>

**E. GPSPS Violated a Commission Order to Respond Timely and Fully to a Bureau LOI**

18. Sections 4(i), 218, and 403 of the Act give the Commission broad power to compel carriers such as GPSPS to provide the information and documents sought by the Bureau's LOI.<sup>51</sup> It is

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explained below (*see infra* paras.16–17), however, for those consumers whose slams took place outside the statute of limitations, we are proposing a forfeiture based on the unlawful cramming that took place within the last 12 months.

<sup>44</sup> 47 U.S.C. § 201(b).

<sup>45</sup> *See, e.g., Central NAL*, 29 FCC Rcd at 5523, para. 14; *USTLD NAL*, 29 FCC Rcd at 829–30, para. 14; *CTI NAL*, 28 FCC Rcd at 17292, para. 15; *Advantage Telecomms., Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6843, 6850, para. 17 (2013) (*Advantage NAL*); *see also Long Distance Direct, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 3297, 3302, para. 14 (2000) (*LDDI MO&O*) (finding that the company's practice of cramming membership and other unauthorized fees on consumer telephone bills was an unjust and unreasonable practice in connection with communication services).

<sup>46</sup> *See, e.g., Central NAL*, 29 FCC Rcd at 5523, para. 14.

<sup>47</sup> *See, e.g.,* Complaints from L. Sanchez; J. Alvarez; M. Valasquez; E. Ricardez; J. Cavazos.

<sup>48</sup> *See Optic NAL*, 29 FCC Rcd at 9063, para. 19; *Advantage NAL*, 28 FCC Rcd at 6850, para. 18 n.48. *See also supra* note 43.

<sup>49</sup> *See Central NAL*, 29 FCC Rcd at 5529, para. 25 n.83; *USTLD NAL*, 29 FCC Rcd at 835–836, para. 24, n.93; *CTI NAL*, 28 FCC Rcd at 17208, para. 26, n.78. As discussed in more detail below, under the circumstances here we believe assessing a forfeiture for each slamming violation that occurred within the last 12 months is sufficient to protect consumers and deter future violations of the Act and does not necessitate our assessing an additional forfeiture for the subsequent cram. *See infra* para. 22.

<sup>50</sup> *See supra* paras. 13–15.

<sup>51</sup> 47 U.S.C. §§ 154(i), 218, 155(c)(3). “Any order . . . or action made or taken pursuant to any [ ] delegation . . . shall have the same force and effect . . . and [be] enforced in the same manner, as orders . . . of the Commission”. 47 U.S.C. § 155(c)(3).

well established that a failure to respond to a letter of inquiry from the Bureau constitutes a violation of a Commission order.<sup>52</sup>

19. The LOI directed GPSPS to provide certain information related to its compliance with Sections 201(b) and 258 of the Act and the Commission's anti-slamming rules. This information is necessary to enable the Bureau to perform its investigatory function. GPSPS did not respond to the LOI until October 1, 2014, after the September 18, 2014 due date.<sup>53</sup> Even then, GPSPS failed to answer all of the LOI's questions. Specifically, GPSPS failed to provide the Bureau any consumer complaints or inquiries as required by the LOI. Further, it failed to provide the Bureau any third party verification recordings GPSPS used to submit requests to switch consumers' long distance service providers.<sup>54</sup>

20. Accordingly, in light of well-established Commission precedent, we find that GPSPS's failure to provide the information and documents required by the Bureau's LOI constitutes an apparent willful violation of a Commission order.

#### **F. Proposed Forfeiture**

21. Section 503(b)(1) of the Act states that any person who willfully or repeatedly fails to comply with any provision of the Act or any rule, regulation, or order issued by the Commission, shall be liable to the United States for a forfeiture penalty.<sup>55</sup> Section 503(b)(2)(B) of the Act empowers the Commission to assess a forfeiture of up to \$160,000 for any violations occurring on or after September 13, 2013.<sup>56</sup> In exercising our forfeiture authority, we are required to 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>57</sup> In addition, the Commission has established forfeiture guidelines, which set forth base penalties for certain violations and identify criteria that we consider in exercising our discretion in determining the

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<sup>52</sup> 47 U.S.C. § 503(b)(1)(B). See *Net One Int'l, Net One, LLC, Farrahtel Int'l, LLC*, Order of Forfeiture, 29 FCC Rcd 264 (Enf. Bur. 2014) (*Net One Forfeiture Order*); *Conexions, LLC d/b/a Conexion Wireless*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15318 (2013); *Technical Commc'n Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018 (Enf. Bur. 2013) (*Technical NAL*); *Google, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 4012 (Enf. Bur. 2012) (*Google NAL*); *SBC Commc'ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002).

<sup>53</sup> See *supra* note 7.

<sup>54</sup> GPSPS also failed to provide the Bureau other certain required information such as its FCC Form 499 Filer Identification Number and its annual Customer Proprietary Network Information (CPNI) certification filing for 2013. GPSPS stated it was "searching for this information," but still has not provided the information. See LOI Response at 2. If GPSPS has failed to make any required Universal Service Fund payments and regulatory fees or failed to file its annual CPNI certifications, we will pursue such violations separately.

<sup>55</sup> See 47 U.S.C. § 503(b)(1).

<sup>56</sup> 47 U.S.C. § 503(b)(2)(B); see also 47 C.F.R. § 1.80(b)(2). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) of the Act (\$100,000 per violation or per day of a continuing violation and \$1,000,000 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. 49370-01 (2013) (setting Sept. 13, 2013, as the effective date for the increases). All of the apparent violations for which we assess a forfeiture in this NAL occurred after September 13, 2013.

<sup>57</sup> See 47 U.S.C. § 503(b)(2)(E); see also *The 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) *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

penalties to apply in any given case.<sup>58</sup> Under the guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.<sup>59</sup>

22. The Commission's forfeiture guidelines currently establish a base forfeiture amount of \$40,000 for violations of our slamming rules and orders.<sup>60</sup> Although the guidelines provide no base forfeiture for cramming, the Commission has established through case law a base forfeiture of \$40,000 for cramming violations.<sup>61</sup> As discussed above, the Commission can assess separate forfeitures for a slam and for any unauthorized charges that result from the unlawful carrier switch.<sup>62</sup> Under the circumstances here, we believe assessing a forfeiture for each slamming violation that occurred within the last 12 months is sufficient to protect consumers and deter future violations of the Act and does not necessitate our assessing an additional forfeiture for the subsequent cram. In those cases, however, where GPSPS submitted the unlawful carrier change request more than a year prior to the date of this NAL, we assess a forfeiture not for the slam, but for the unauthorized charges GPSPS placed on the consumers' telephone bills after the Company slammed them.<sup>63</sup> Applying the \$40,000 base forfeiture to each of the 65 slamming violations<sup>64</sup> and each of the 41 cramming violations<sup>65</sup> that occurred within one year of the release date of this NAL results in a forfeiture of \$4,240,000.

23. GPSPS engaged in slamming and cramming repeatedly. We have reviewed more than 150 complaints, including the 106 identified in the Appendix, by consumers alleging that GPSPS charged them for its service without authorization, and in many cases did so over several months.<sup>66</sup> Moreover, the record shows that GPSPS's conduct was egregious. The evidence shows that the Company routinely submitted a carrier change request without any authorization from consumers and then provided fabricated verification recordings to the Commission and the Texas PUC in response to complaints from consumers alleging that GPSPS had either slammed or crammed them. Complainant Milian, whose 90-year old mother was fraudulently charged for service by GPSPS, expressed the egregiousness of GPSPS's actions:

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<sup>58</sup> 47 C.F.R. § 1.80(b)(8), Note to paragraph (b)(8).

<sup>59</sup> *Id.*

<sup>60</sup> See 47 C.F.R. § 1.80, Appendix A, Section I.

<sup>61</sup> See *LDDI MO&O*, 15 FCC Rcd at 3304, para. 19 (affirming the \$40,000 penalty for each cramming violation imposed by the Commission in the forfeiture order).

<sup>62</sup> See *supra* para. 17.

<sup>63</sup> The consumers whom GPSPS crammed after it initially slammed them are identified in the Appendix.

<sup>64</sup> A slamming violation occurs whenever a carrier submits an unlawful request to change service providers regardless of whether the change actually takes place. See 47 U.S.C. § 258(a) (“[n]o telecommunications carrier shall submit or execute a change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service except in accordance with [the Commission’s] verification procedures. . . .”) (emphasis added).

<sup>65</sup> The Commission has made clear that each unauthorized charge a carrier places on a consumer’s bill—or “cram”—constitutes a separate and distinct violation of Section 201(b). See *CTI NAL*, 28 FCC Rcd at 17208, para. 26 (citing *NOS Commc’ns, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 1833 (2001)). Based on the record in the instant case, we decline to exercise our discretion in that way at this time, but we caution other carriers that the Commission is committed to aggressive enforcement of its rules, especially in addressing the protections afforded consumers.

<sup>66</sup> Although the Bureau’s investigation uncovered no direct evidence that GPSPS targeted any particular group of consumers, we note that the overwhelming majority of the complainants have Spanish surnames and all of the apparently fabricated consumer authorizations the Bureau reviewed were in Spanish.

I believe this is a serious transgression against consumer trust in an industry that a senior citizen relies upon for safety and communication, not only with loved ones, but with health care professionals, and therefore, of serious concern for the social wellbeing of a country.<sup>67</sup>

24. Indeed, there is no evidence in the record to show that GPSPS completed a single authentic verification recording for any of the complainants. GPSPS also caused substantial and continuing harm to consumers. In some cases, for example, GPSPS's misconduct cost consumers hundreds of dollars in charges and fees.<sup>68</sup> Further, GPSPS was on notice that the Commission takes the specific issue of fabricated TPVs seriously. In 2012, the Commission released a Notice of Apparent Liability against another toll reseller for fabricating TPVs in order to show that it had consumer authorization for carrier changes.<sup>69</sup> Notwithstanding the release of the *United NAL*, GPSPS has disregarded the Commission's rules and the Communications Act by submitting unauthorized carrier change requests using fabricated TPVs.<sup>70</sup>

25. Under Section 503 and our forfeiture guidelines, we must take into account the egregious and repeated nature of GPSPS's actions, as well as the substantial harm that the Company caused consumers. Given the circumstances here and the extent of GPSPS's improper conduct, all in the face of the repeated warnings of the Commission that slamming and cramming would not be tolerated,<sup>71</sup> an additional upward adjustment of \$4,000,000 is appropriate.<sup>72</sup>

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<sup>67</sup> Complaint from A. Milian. See also Complaint from G. Sepulveda (stating "I am in my 80's and do not appreciate companies that fraudulently try to take advantage of people who they think will not complain.").

<sup>68</sup> See Complaint from C. Raldiris ("GPSPS Incorporated, without my permission, replaced AT&T as my long distance carrier . . . This caused my nationwide and international calling costs to nearly triple . . . I was informed that GPSPS would only issue a credit for the current month's service. I have calculated the cost of the fraud to be \$495.13."); Complaint from P. Pradilla (After GPSPS switched her fax line from AT&T to GPSPS, "This morning the line was cut off . . . I NEVER REQUESTED THIS SERVICE OR SUBSCRIBED TO IT! Now my account is on hold due to \$1300 past due. I tried speaking with a supervisor and was put on hold 4 separate times at GPSPS, Inc. and the call was cut off . . . I have to wait 7-10 days for an investigation into charges I never approved. UNACCEPTABLE."); Complaint from M. Purtee ("[GPSPS] without any permission [] illegally took over my long distance services from AT&T. This has cost me so far several hundred dollars in additional monies . . . I contacted [GPSPS] and asked for proof that I authorized this change, which I knew they would not be able to provide and to date have not heard back from them."); Complaint from S. Contreras (explaining that she called GPSPS and the representative "said she was issuing me a credit for \$239.48, but could not issue me a credit for the full amount as I had 'used the service.' The only reason this service was used was because they changed my original services to their own, without my permission, to benefit them.").

<sup>69</sup> *United NAL*, 27 FCC Rcd at 16503, paras. 10–11. The Commission also recently took action against Optic Internet Protocol, Inc. (which uses the same telemarketer, third party verifier, and customer service staff as GPSPS) for relying on fabricated TPVs. See *Optic NAL*, 29 FCC Rcd at 9061–63, paras. 14–17. See also *Central NAL*, 29 FCC Rcd at 5530, para. 26 (observing that the apparently fabricated TPV was a factor to consider in proposing a significant upward adjustment of the forfeiture amount); *USTLD NAL*, 29 FCC Rcd at 836, para. 25 (same).

<sup>70</sup> In prior slamming and cramming NALs that involved evidence of deceptive marketing or fabricated audio recordings, we upwardly adjusted the penalty for each slamming and cramming violation that was coupled with direct evidence of such misconduct. See *Central NAL*, 29 FCC Rcd at 5530, para. 26 (proposing an additional \$80,000 penalty for violations that involved deceptive marketing); *USTLD NAL*, 29 FCC Rcd at 836, para. 25 (same); *United NAL*, 27 FCC Rcd at 16506, para. 18 (proposing an additional \$80,000 penalty for violations that involved fabricated authorization recordings). Here, we decline to upwardly adjust the penalty for individual violations and instead upwardly adjust the overall base forfeiture.

<sup>71</sup> See, e.g., *Central NAL*, 29 FCC Rcd at 5531, para. 28; *USTLD NAL*, 29 FCC Rcd at 837, para. 27; *Advantage NAL*, 28 FCC Rcd at 6855–56, para. 30; *Main Street Telephone Co.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8853, 8861, para. 24 (2011) (stating "we may propose more significant forfeitures in the future as high as

(continued....)

26. The Commission's forfeiture guidelines provide that the base forfeiture amount for misrepresentation or lack of candor is the statutory maximum,<sup>73</sup> or, in this case, \$160,000.<sup>74</sup> Considering the circumstances of this case, we find that the base forfeiture is warranted for GPSPS's willful violations of Section 1.17. The Commission has stated that it relies heavily on the truthfulness and accuracy of the information provided to it. "If information submitted to us is incorrect, we cannot properly carry out our statutory responsibilities."<sup>75</sup> Here, GPSPS repeatedly provided to the Commission TPV recordings that were apparently fabricated, thus hampering our ability to properly enforce the carrier change rules. Therefore, applying the base forfeiture of \$160,000 to the five instances when GPSPS provided false material information to the Commission within the last 12 months results in a proposed forfeiture of \$800,000.<sup>76</sup>

27. Pursuant to Section 1.80 of the Commission's rules and the Commission's *Forfeiture Policy Statement*, the base forfeiture amount for failure to respond to Commission communications is \$4,000.<sup>77</sup> However, we have issued penalties for failure to respond that far exceeded the \$4,000 base forfeiture, including cases in which the targets answered some of the LOI questions, but failed to answer them completely or provide all of the required information.

28. Consistent with prior cases involving carriers that failed to comply fully with Bureau LOIs, we find that GPSPS's failure to respond completely to all of the questions in the Bureau's LOI in the circumstances presented here warrants a forfeiture of \$25,000.<sup>78</sup> This forfeiture is appropriate given the extent and willfulness of the violation, and the insufficiency of the LOI Response.<sup>79</sup>

29. We thus propose a total forfeiture of \$9,065,000.

(Continued from previous page) \_\_\_\_\_

is necessary, within the range of our statutory authority, to ensure that such companies do not charge consumers for unauthorized services.").

<sup>72</sup> The Commission has proposed similar upward adjustments for egregious behavior in recent slamming and cramming cases. *See Optic NAL*, 29 FCC Rcd at 9065, paras. 23–24 (proposing an upward adjustment of \$3,500,000 to the base forfeiture of \$4,120,000); *Central NAL*, 29 FCC Rcd at 5531, para. 28 (proposing an upward adjustment of \$1,500,000 to the base forfeiture of \$1,960,000); *USTLD NAL*, 29 FCC Rcd at 837, para. 27 (proposing an upward adjustment of \$2,000,000 to the base forfeiture of \$2,480,000); *CTI NAL*, 28 FCC Rcd at 17209, para. 29 (proposing an upward adjustment of \$1,500,000 to the base forfeiture of \$1,560,000). The *Central NAL*, *USTLD NAL*, and *CTI NAL* also included additional upward adjustments of \$500,000 or \$750,000 for targeting elderly consumers.

<sup>73</sup> *Forfeiture Policy Statement*, 12 FCC Rcd at 17113; 47 C.F.R. § 1.80(b)(4), Note to Paragraph (b)(4); Section I. *Base Amounts for Section 503 Forfeitures*.

<sup>74</sup> *See supra* para. 21 and note 56.

<sup>75</sup> *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Notice of Proposed Rulemaking, 17 FCC Rcd 3296, 3297, para. 3 (2002).

<sup>76</sup> The five instances of apparent violations of Section 1.17 are identified in the Appendix.

<sup>77</sup> 47 C.F.R. § 1.80; *Forfeiture Policy Statement*, 12 FCC Rcd at 17114, Appendix A, Section I.

<sup>78</sup> *See Net One Forfeiture Order*, 29 FCC Rcd at 267, para. 9; *Technical NAL*, 28 FCC Rcd at 1018. *See also Message Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 29 FCC Rcd 8214 (EB 2014) (proposing a \$25,000 forfeiture against the company for failing to respond fully to an LOI); *Google NAL*, 27 FCC Rcd 4012 (assessing a \$25,000 forfeiture for failing to answer all of the Bureau's questions and failing to produce required documents); *Fox Television Stations*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7074, 7081, para. 15 (2010) (proposing a \$25,000 forfeiture for submitting an incomplete response to a Bureau LOI).

<sup>79</sup> *See* 47 U.S.C. § 503(b)(2)(E); 47 C.F.R. § 1.80(b)(8) & note.

#### IV. CONCLUSION

30. Based on the facts and record before us, we find that GPSPS, Inc., has apparently willfully and repeatedly violated Sections 201(b) and 258 of the Act and Sections 1.17 and 64.1120 of the Commission's rules and apparently willfully violated a Commission Order to respond to a Bureau letter of inquiry.<sup>80</sup>

#### V. ORDERING CLAUSES

31. 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 GPSPS, Inc., is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR 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 Communications Act of 1934, as amended,<sup>81</sup> and Sections 1.17 and 64.1120 of the Commission's rules,<sup>82</sup> as well as willfully violating a Commission order issued pursuant to delegated authority by the Enforcement Bureau to respond to a letter of inquiry.

32. **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, GPSPS, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

33. 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 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.<sup>83</sup> When completing the FCC Form 159, GPSPS must 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 GPSPS should follow based on the form of payment it selects:

- 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 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

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<sup>80</sup> See 47 U.S.C. § 155(c)(3).

<sup>81</sup> 47 U.S.C. §§ 201(b), 258.

<sup>82</sup> 47 C.F.R. §§ 1.17, 64.1120.

<sup>83</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

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 12<sup>th</sup> Street, SW, Room 1-A625, Washington, DC 20554.<sup>84</sup> If GPSPS, Inc., has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

34. The response, if any, must be mailed both to the Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau–Telecommunications Consumers Division, and to Richard A. Hindman, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, and must include the NAL/Acct. No. referenced in the caption.

35. 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.

36. **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 Clint R. Parry, GPSPS, Inc., 3355 Lenox Road, Suite 750, Atlanta, GA 30326, and to Michael S. Welsh, Esquire, 3212 Northlake Parkway, P.O. Box 450586, Atlanta, GA 31145.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>84</sup> See 47 C.F.R. § 1.1914.

## APPENDIX

Apparent Violations of Sections 258 and 201(b) of the Act			
	Complainant	Date of Carrier Switch and/or Date Charge Placed on Consumer's Bill	Violation(s)
1.	M. Milian	3/2/14	Section 258 slam
2.	R. Cano	3/9/14	Section 201(b) cram
3.	E. Ricardez	3/9/14	Section 201(b) cram
4.	B. Cunningham	3/10/14	Section 201(b) cram
5.	L. Medina	3/10/14	Section 201(b) cram
6.	P. Canalichio	3/13/14	Section 201(b) cram
7.	E. Moreno	3/13/14	Section 201(b) cram
8.	M. Sanchez	3/15/14	Section 201(b) cram
9.	S. Reyes	3/17/14	Section 201(b) cram
10.	R. Bunnell	3/18/14	Section 258 slam
11.	A. Perez	3/18/14	Section 258 slam
12.	R. Lynch	3/18/14	Section 258 slam
13.	J. Cavazos	3/18/14	Section 258 slam
14.	J. Fernandez	3/19/14	Section 258 slam
15.	L. Anton	3/19/14	Section 258 slam
16.	Bayside Community Hospital	3/28/14	Section 201(b) cram
17.	M. Luna	3/29/14	Section 201(b) cram
18.	Animal Crossing Vet	4/1/14	Section 201(b) cram
19.	Calvert Collision Center	4/1/14	Section 201(b) cram
20.	M. Stanfield	4/7/14	Section 201(b) cram
21.	S. Vega	4/13/14	Section 201(b) cram
22.	C. Raldiris	4/19/14	Section 201(b) cram
23.	G. Bellino	4/21/14	Section 258 slam
24.	D. Moseley	4/21/14	Section 258 slam
25.	J. Monrroy	4/22/14	Section 258 slam
26.	K. Bitter	4/22/14	Section 258 slam
27.	R. Guerrero	4/22/14	Section 258 slam
28.	M. Robledo	4/22/14	Section 258 slam
29.	M. Jaso	4/22/14	Section 258 slam
30.	A. Acosta	4/22/14	Section 258 slam
31.	M. Garcia	4/22/14	Section 258 slam
32.	M. Chavarria	4/22/14	Section 258 slam
33.	G. Cuellar	4/22/14	Section 258 slam
34.	V. Castro	4/22/14	Section 258 slam
35.	A. Casares	4/22/14	Section 258 slam
36.	D. Martinez	5/5/14	Section 201(b) cram
37.	A. Olivares	5/7/14	Section 258 slam
38.	R. Rodriguez	5/7/14	Section 258 slam
39.	P. Olguin	5/7/14	Section 258 slam
40.	S. Estraca	5/7/14	Section 258 slam
41.	R. Cantu	5/7/14	Section 258 slam
42.	J. Oines	5/7/14	Section 258 slam

43.	N. Silva	5/7/14	Section 258 slam
44.	N. Santoro	5/7/14	Section 258 slam
45.	Lakes Auto Parts	5/7/14	Section 258 slam
46.	F. Lopez	5/7/14	Section 258 slam
47.	F. Petraglia	5/7/14	Section 258 slam
48.	J. Pena	5/7/14	Section 258 slam
49.	M. Delgado	5/7/14	Section 258 slam
50.	N. Lopez	5/7/14	Section 201(b) cram
51.	G. Garcia	5/7/14	Section 258 slam
52.	J. Soto	5/7/14	Section 258 slam
53.	G. Sepulveda	5/7/14	Section 258 slam
54.	C. Mijares	5/7/14	Section 258 slam
55.	M. Sierra	5/7/14	Section 258 slam
56.	A. Barrera	5/7/14	Section 258 slam
57.	M. Purtee	5/7/14	Section 258 slam
58.	R. Romero	5/9/14	Section 201(b) cram
59.	V. Salinas	5/15/14	Section 201(b) cram
60.	H. Rosales	5/19/14	Section 201(b) cram
61.	M. Betancourt	5/22/14	Section 201(b) cram
62.	J. Herrera	6/1/14	Section 201(b) cram
63.	Fig-Co Steel Buildings	6/7/14	Section 201(b) cram
64.	R. Tovar	6/9/14	Section 258 slam
65.	G. Saxon	6/9/14	Section 258 slam
66.	S. Contreras	6/9/14	Section 258 slam
67.	M. Rodriguez	6/9/14	Section 258 slam
68.	A. Potter	6/9/14	Section 258 slam
69.	M. Saenz	6/9/14	Section 258 slam
70.	D. Nino	6/9/14	Section 258 slam
71.	V. Salazar	6/9/14	Section 258 slam
72.	D. De La Fuente	6/9/14	Section 258 slam
73.	R. Martin	6/9/14	Section 258 slam
74.	A. Diaz	6/9/14	Section 258 slam
75.	M. Duenas	6/9/14	Section 258 slam
76.	S. Amyett	6/9/14	Section 258 slam
77.	E. Cano	6/9/14	Section 258 slam
78.	American Cotton Growers	6/9/14	Section 258 slam
79.	R. Casas	6/9/14	Section 258 slam
80.	N. Lozano	6/9/14	Section 258 slam
81.	T. Ramirez	6/9/14	Section 258 slam
82.	P. Pradilla	6/9/14	Section 258 slam
83.	L. Lopez	6/9/14	Section 258 slam
84.	S. Burma	6/9/14	Section 258 slam
85.	I. Campesi	6/9/14	Section 258 slam
86.	C. Rubin	6/9/14	Section 258 slam
87.	J. Marina	6/13/14	Section 201(b) cram
88.	R. Bermea	6/14/14	Section 258 slam
89.	C. Rodriguez	6/21/14	Section 201(b) cram
90.	E. Madrid	6/23/14	Section 201(b) cram
91.	S. Martinez	6/28/14	Section 201(b) cram
92.	L. Cordoba	7/1/14	Section 201(b) cram

93.	A. Perez	7/1/14	Section 201(b) cram
94.	F. Galletta	7/14/14	Section 201(b) cram
95.	Kantack Alcantara Law Office	8/3/14	Section 201(b) cram
96.	Heartland Funeral Home	8/10/14	Section 201(b) cram
97.	V. Gil	8/11/14	Section 201(b) cram
98.	A. Quinones	8/15/14	Section 201(b) cram
99.	A. Garcia	8/16/14	Section 201(b) cram
100.	B. Rojas	8/22/14	Section 201(b) cram
101.	C. Cook	8/23/14	Section 201(b) cram
102.	K. McFall	8/25/14	Section 258 slam
103.	J. Gutierrez	8/29/14	Section 201(b) cram
104.	E. Alonso	9/23/14	Section 201(b) cram
105.	A. Alvarez	10/15/14	Section 201(b) cram
106.	H. Collins	10/19/14	Section 201(b) cram
Apparent Violations of Section 1.17 of the Rules			
	Complainant	Date GPSPS provided TPV to the Commission	Violation
1.	M. Betancourt	7/3/14	Section 1.17
2.	Lake Auto Parts	7/15/14	Section 1.17
3.	F. Lopez	8/19/14	Section 1.17
4.	F. Galletta	9/4/14	Section 1.17
5.	E. Alonso	12/16/14	Section 1.17