

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Travel Club Marketing, Inc.)	File No.: EB-TCD-12-00000265 ¹
dba Diamond Vacations)	NAL/Acct. No.: 201232170001
dba Great Vacations)	FRN: 0021255427
Travellink Corp.)	
Proven Results Direct Marketing Inc.)	
Direct Marketing Travel Services Incorporated)	
Olen Miller)	

FORFEITURE ORDER

Adopted: August 6, 2015

Released: August 11, 2015

By the Commission:

1. We impose a penalty of \$2,960,000 against Travel Club Marketing, Inc. (Travel Club) dba Diamond Vacations and Great Vacations, Travellink Corp., Proven Results Direct Marketing Inc., Direct Marketing Travel Services Incorporated, and Olen Miller (collectively, the Travel Club Parties) for violating the Telephone Consumer Protection Act (TCPA) by making or initiating 185 unsolicited, prerecorded advertising messages (a form of robocalls) to cell phones and residential telephone lines belonging to 142 consumers. These consumers never agreed to receive advertisements from the Travel Club Parties, never did any business with these entities, and, in fact, overwhelmingly sought to prevent such unwanted telephone solicitations by placing their telephone numbers on the National Do-Not-Call Registry. The Commission has adopted rules implementing the TCPA, and we hold the Travel Club Parties accountable for their violations of these rules.

2. On October 31, 2011, the Commission issued a Notice of Apparent Liability for Forfeiture (NAL) proposing a \$2,960,000 forfeiture against the Travel Club Parties² for willful and repeated violation of Sections 227(b)(1)(A)(iii) and 227(b)(1)(B) of the Communications Act of 1934, as amended (Act),³ and Sections 64.1200(a)(1)(iii) and 64.1200(a)(2) of the Commission’s rules (Rules) as those sections existed at the time of the violations,⁴ by making or initiating 185 prerecorded advertising

¹ The investigation began under EB-10-TC-428 and EB-10-TC-473 and was subsequently assigned File No. EB-TCD-12-00000265. Any future correspondence with the Commission concerning this matter should reflect the new case number.

² *Travel Club Marketing Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 15831 (2011) (NAL). The NAL noted that the proposed forfeiture penalty applied to the primary corporate entity, Travel Club Marketing, Inc., along with the other entities that are captioned above and in the NAL, as well as to “any other names used by Travel Club or its President Mr. Olen Miller.” NAL, 26 FCC Rcd at 15831, para. 1 n.1. Like the NAL, this forfeiture order applies to all named entities and to Olen Miller aka Okie Miller personally. All of the named businesses share the same address and/or telephone number, and Mr. Miller, as a matter of public record is the exclusive agent, and either the exclusive officer, or one of a pair of officers, of all. As explained in the NAL, Mr. Miller “appears to be engaged in creating and shutting down different business to conduct the same or similar unlawful activities that led to the issuance of this NAL.” Id. at 15836, para. 14.

³ 47 U.S.C. § 227(b)(1)(A)(iii), (b)(1)(B).

⁴ At the time of the violations and when the NAL was issued, the Commission’s rules governing prerecorded calls to cell phones and to residential lines were codified at 47 C.F.R. § 64.1200(a)(1)(iii) and § 64.1200(a)(2), respectively. Since then, the Commission has amended and renumbered the provisions contained therein at 47 C.F.R. § 64.1200(a)(1)–(3). *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report

calls to 142 consumers without either prior express consent or an established business relationship.⁵ None of the Travel Club Parties challenged the finding that they made or initiated the calls at issue, and, in fact, none even filed a timely response to the *NAL*.⁶ Based on the information before us, we affirm the forfeiture proposed in the *NAL*.

3. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended (Act)⁷ and Section 1.80 of the Commission's rules (Rules),⁸ Travel Club Marketing, Inc. dba Diamond Vacations and Great Vacations, Travellink Corp., Proven Results Direct Marketing Inc., Direct Marketing Travel Services Incorporated, and Olen Miller **ARE JOINTLY AND SEVERALLY LIABLE FOR A MONETARY FORFEITURE** in the amount of two million nine hundred sixty thousand dollars (\$2,960,000) for willfully and repeatedly violating Sections 227(b)(1)(A)(iii) and 227(b)(1)(B) of the Act,⁹ and Sections 64.1200(a)(1)(iii) and 64.1200(a)(2) of the Rules as those sections existed at the time of the violations.¹⁰

4. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.¹¹ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.¹²

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and Order, 27 FCC Rcd 1830 (2012) (amending rules governing prerecorded advertising calls to require that prior express consent to receive such calls must be in writing and to remove the exemption for calls to residential telephone lines made under an established business relationship).

⁵ The *NAL* includes a more complete discussion of the facts and history of this case and is incorporated herein by reference. *NAL*, 26 FCC Rcd at 15833–36, paras. 5–14.

⁶ The Travel Club Parties failed to file a timely response to the *NAL* or request an extension of time to respond to the *NAL*. It was not until December 5, 2011 (five days after the filing deadline) that the Commission received a letter from Travel Club requesting an extension until December 15, 2011, to either pay the forfeiture penalty or file a response to the *NAL*. Despite the Travel Club Parties' tardiness, the Enforcement Bureau staff granted the request. Nonetheless, the Travel Club Parties again missed the pertinent deadline. On December 21, 2011 (six days after the extended filing deadline), the Commission received a response from Travel Club "requesting a significant reduction of the proposed fine," which it claimed "would cause significant harms to our company including total corporate and financial dissolution [sic] . . ." Letter from Olen Miller, Travel Club Marketing Inc, to FCC Enforcement Bureau (received Dec.21, 2011) (on file in EB-TCD-12-00000265) (Miller Letter). Although the Miller Letter is dated December 14, 2011, within the extended filing time frame, it was both postmarked and received by the Commission after the extended deadline requested by Mr. Miller and granted by Commission staff. Accordingly, we reject the Miller Letter as untimely. Moreover, even if the Miller Letter had been timely, it is meritless—Mr. Miller fails to provide any information or make any arguments whatsoever to challenge the *NAL* findings regarding the Travel Club Parties' unlawful robocalling or include any explanation regarding the inability-to-pay claim, much less the type of detailed financial records specified in the *NAL* as necessary to support such a claim. In fact, Mr. Miller does not include any financial information whatsoever for two of the captioned corporate entities. Moreover, the Travel Club Parties have continued to make unlawful robocalls during the time that the *NAL* underlying this Forfeiture Order has been pending, the fact of which militates against a cancellation or reduction of the proposed forfeiture penalty. See *Whisler Fleurinor*, Forfeiture Order, 28 FCC Rcd 1087, 1090, para. 9 (Enf. Bur. 2013).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 227(b)(1)(A)(iii), (b)(1)(B).

¹⁰ 47 C.F.R. § 64.1200(a)(1)(iii), (a)(2) (2003).

¹¹ 47 C.F.R. § 1.80.

¹² 47 U.S.C. § 504(a).

5. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Travel Club Marketing, Inc., Travellink Corp., Proven Results Direct Marketing Inc., and/or Direct Marketing Travel Services Incorporated 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.¹³ When completing the Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with 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 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

6. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.¹⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

7. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Olen Miller, President, Travel Club Marketing, Inc., 5700 Memorial Highway, Suite 210, Tampa, FL 33615; Olen Miller, President, Travellink Corp., 5700 Memorial Highway, Suite 210, Tampa, FL 33615; Olen Miller, President, Proven Results Direct Marketing Inc., 5700 Memorial Highway, Suite 210, Tampa, FL 33615; Olen Miller, President, Direct Marketing Travel Services Incorporated 5700 Memorial Highway, Suite 210, Tampa, FL 33615; and Olen Miller, 3909 W. Cleveland St., #124, Tampa, FL 33609.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹⁴ See 47 C.F.R. § 1.1914.