

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

In the Matter of)
)
) File No.: EB-TCD-21-00032187
) NAL/Acct. No.: 202232170007
Thomas Dorsher)
)
ChariTel Inc) FRN: 0029846979
)
OnTel Inc) FRN: 0029796505
)
ScammerBlaster Inc) FRN: 0032657736

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 14, 2022

Released: July 14, 2022

By the Commission: Chairwoman Rosenworcel and Commissioner Starks issuing separate statements:

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I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (Notice), we propose a penalty of \$116,156,250 against Thomas Dorsher (Dorsher), ChariTel Inc (ChariTel or Company), Ontel Inc (OnTel), and ScammerBlaster Inc (collectively, the Dorsher Entities) for apparently willfully and

repeatedly engaging in conduct that apparently violated the Telephone Consumer Protection Act (TCPA) and the Federal Communications Commission's (Commission's or FCC's) rules prohibiting prerecorded voice message calls made without consent or an emergency purpose.¹

2. Between January 1, 2021, and March 2, 2021, Dorsher, using ChariTel, apparently made 9,763,599 prerecorded voice message calls (i.e., robocalls) to toll free numbers without first obtaining the called party's consent, and without an emergency purpose. The prerecorded voice message calls proclaimed to be a "Public Service Announcement" warning toll free customers about the dangers of illegal robocalls and directing recipients to report robocalls to the FCC, phone companies, and the Dorsher Entities' website. ChariTel generated income for each robocall that it placed to a toll free number as part of a revenue sharing arrangement with its voice service provider—a practice often associated with access stimulation or traffic pumping. Dorsher apparently used the revenue from ChariTel's toll free robocalls to fund the operations of OnTel, which launched telephone denial of service (TDoS) attacks against other companies.² TDoS attacks are highly dangerous as they disable telephone networks and can disrupt critical emergency services. Dorsher branded his toll free robocalling and TDoS schemes as "ScammerBlaster," which he advertised to the public on his website. This Notice proposes a forfeiture for apparent violations of the TCPA that occurred because of the Dorsher Entities' "Public Service Announcement" robocalls to toll free numbers.

II. BACKGROUND

A. Legal Framework

3. The TCPA and the Commission's implementing rules prohibit making prerecorded voice message calls to any telephone number assigned to "any service for which the called party is charged for the call" absent prior express consent or an emergency purpose.³ These prohibitions apply to any type of call, including informational or non-commercial calls.⁴

4. Toll free calling is a service for which the called party pays the charges to complete the call. When a caller makes a toll free call, the toll free service provider—typically a long distance carrier—pays the caller's local exchange carrier for originating the call and for performing the toll free database query.⁵ The toll free service provider also pays intermediate providers in the call path.⁶ The

¹ 47 U.S.C. § 227(b); 47 CFR 64.1200(a)(1)(iii). The TCPA is codified in the Communications Act of 1934, as amended (Act).

² *Cyber Risks to 911: Telephony Denial of Service*, Cybersecurity & Infrastructure Security Agency at 1, https://www.cisa.gov/sites/default/files/publications/Cyber%20Risks%20to%20911%20TDoS_6.4.2020%20-%20%28508c%29_1.pdf.

³ 47 U.S.C. § 227(b)(1)(A)(iii); 47 CFR § 64.1200(a)(1)(iii). *See also Barr v. Am. Ass'n of Political Consultants*, 140 S. Ct. 2335 (2020) (invalidating the debt collection exception in 47 U.S.C. § 227(b)(1)(A)(iii)). The Commission has granted exemptions to the prior-express-consent requirement, relying on the exemption authority Congress provided in 47 U.S.C. § 227(b)(2)(C). *See, e.g.*, 47 U.S.C. § 227(b)(2)(C); 47 CFR § 64.1200(a)(9). None of those narrow exemptions is applicable to the apparent facts set forth in this Notice.

⁴ Telemarketing autodialed or prerecorded voice message calls to numbers for which the called party is charged for the call require prior express written consent. 47 CFR § 64.1200(a)(2).

⁵ *8YY Access Charge Reform*, WC Docket No. 18-156, Report and Order, 35 FCC Rcd 11594, 11598, para. 10 (2020) (*8YY Access Charge Reform Order*). The toll free database is an industrywide database that facilitates the routing and assignment of toll free calls. *800 Data Base Access Tariffs and the 800 Service Management System Tariff: Provision of 800 Services*, CC Docket Nos. 93-129 and 86-10, Report and Order, 11 FCC Rcd 15227, 15233, para. 10 (1996).

⁶ *Id.*

called party—the customer who is assigned the toll free number (i.e., the toll free subscriber)—compensates the toll free service provider for completing the call.⁷

5. Congress enacted the Telephone Robocall Abuse Criminal Enforcement and Deterrent (TRACED) Act in 2019 to enhance the Commission’s enforcement tools to combat illegal robocalls.⁸ The TRACED Act permits the FCC to issue a Notice of Apparent Liability for violations of Section 227(b) of the Act without first issuing a citation.⁹ The TRACED Act also increases the penalties for intentional violations of section 227(b), and provides a four-year statute of limitations for such intentional violations.¹⁰ In the accompanying Senate Report, the Senate Committee on Commerce, Science, and Transportation stated that, to show intent, “the calling party must knowingly use an automatic telephone dialing system to intentionally place calls to covered numbers without a reasonable basis for believing it had the necessary consent to call.”¹¹ “Without a reasonable basis to conclude that the intended recipient had consented to receive such call, that action would constitute the intent to cause a violation.”¹²

B. Relevant Entities

6. ChariTel Inc. ChariTel is a nonprofit corporation that Dorsher formed on June 22, 2020, in North Dakota.¹³ It shares the same address as ScammerBlaster Inc.¹⁴ The articles of incorporation list Thomas Dorsher, Lacey Dorsher,¹⁵ and Aaron Dunbar as company directors.¹⁶ ChariTel describes its business purpose as “deliver[ing] free marketing campaigns to charities and other Non Profit organizations.”¹⁷ In actuality, ChariTel apparently makes prerecorded voice message calls to toll free numbers as part of a traffic pumping scheme; the phone company pays ChariTel for each call that ChariTel places to a toll-free number, and Dorsher apparently uses these revenues to offset the costs of his TDoS attacks.¹⁸ The ChariTel messages also direct called parties to visit the Dorsher Entity website and report information about suspected robocallers. Dorsher apparently uses the information to identify targets for the TDoS attacks.¹⁹

⁷ *Id.*

⁸ Pallone-Thune Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, 133 Stat. 3274, Sec. 3(a) (2019) (TRACED Act).

⁹ *Id.*; 47 U.S.C. § 227(b)(4).

¹⁰ 47 U.S.C. §§ 227(b)(4)(B), (E). The statute of limitations for unintentional TCPA violations is one year.

¹¹ S. Rep. No. 116-41, at 12 (2019). The provisions for intentional violations apply to artificial or prerecorded voice messages as well as to autodialed calls. *See* 47 U.S.C. § 227(b)(4)(B) (applying the intent standard to any violation of section 227(b)); S. Rep. No. 116-41, at 13 (2019) (“The Act would not apply the heightened intent standard to violations other than violations of 47 U.S.C. § 227(b)”).

¹² S. Rep. No. 116-41, at 12 (2019).

¹³ ChariTel Inc, Nonprofit Corporation Articles of Incorporation, North Dakota Secretary of State (June 22, 2020) (ChariTel Incorporation Filing).

¹⁴ *Id.*; ScammerBlaster Inc, Corporation Articles of Incorporation, North Dakota Secretary of State (Jan. 31, 2019) (ScammerBlaster Incorporation Filing).

¹⁵ Lacey Dorsher is the wife of Thomas Dorsher, which Bureau staff confirmed using a commercially available public record search tool.

¹⁶ ChariTel Incorporation Filing.

¹⁷ ChariTel Inc, Nonprofit Corporation Annual Report, North Dakota Secretary of State (Mar. 11, 2021) (2021 ChariTel 2021 Annual Report).

¹⁸ Dorsher’s company OnTel makes the TDoS attack calls.

¹⁹ *See* Affidavit of David Frankel, Chief Executive Officer, ZipDX LLC at 5 (Oct. 25, 2021) (ZipDX Aff.) (describing Dorsher’s motive).

7. Ontel Inc. Dorsher incorporated OnTel on December 30, 2019, in North Dakota.²⁰ OnTel describes its business purpose as “Telecommunications provider, SIP services, VOIP software and integration, telecom consulting services, agent referrals, telecom and server provisioning, server rental, internet portal, digital file storage and distribut [sic].”²¹ OnTel has an FCC registration number that lists Dorsher as the chief executive officer.²² Dorsher apparently uses OnTel to launch TDoS attacks against what Dorsher characterizes as “verified scammers.”²³ The purpose of OnTel’s TDoS attacks is to overwhelm a phone system with too many incoming calls for the phone system to process, thereby making the phone system unable to make or receive any calls.²⁴ Dorsher claims that his operation can “attack a phone system with as much as 3,600 phone calls per second.”²⁵ Dorsher also advertises that these TDoS attacks, when directed at toll free numbers, cost the “scammer” approximately \$4 million a day.²⁶

8. ScammerBlaster Inc. ScammerBlaster Inc is a North Dakota business that Dorsher apparently controls. Dorsher files ScammerBlaster Inc’s annual report with the North Dakota Secretary of State, and Dorsher attested to the truthfulness of ScammerBlaster Inc’s 2021 annual report.²⁷ ScammerBlaster Inc was registered by Sonia Becerra on February 12, 2019, and shares the same North Dakota address as Dorsher’s other company, ChariTel.²⁸ ScammerBlaster Inc states that its purpose is to provide “[t]echnology development and task-force arrangement for disrupting the activities of individuals who employ deceitful practices for the purpose of misleading individuals and businesses into paying for a product or service that does not actually exist.”²⁹ A website with the domain name,

²⁰ OnTel Inc, Business Corporation Articles of Incorporation, North Dakota Secretary of State (Dec. 30, 2019) (OnTel Incorporation Filing).

²¹ Ontel Incorporation Filing. SIP is an acronym for Session Initiation Protocol.

²² OnTel Inc, FRN No. 002979605, FCC (July 23, 2020).

²³ ZipDX Aff. at 6; ScammerBlaster Traceback Findings & Interaction, ITG at 2 (Oct. 29, 2021) (ScammerBlaster Referral); *About Us*, ScammerBlaster, <https://scammerblaster.com/about-us/> (last visited Oct. 25, 2021). The Dorsher Entities do not describe how they “verify” scammers, but their website includes a form where visitors can “Report a Scammer.” *Report a Scammer*, ScammerBlaster, <https://scammerblaster.com/report-a-scammer/> (last visited Dec. 1, 2021). ScammerBlaster Inc’s methodology for identifying illegal robocallers appears flawed. The Dorsher Entities launched a TDoS attack against an ITG consultant believing that the consultant was associated with a tech support scam. ITG Referral at 1-2; ZipDX Aff. at 2-3. Dorsher or someone affiliated with the Dorsher Entities threatened the consultant and said “how about if I break your phone system?” ZipDX Aff. at 2. Subsequently, the consultant received more than 100 phone calls in a matter of minutes. *Id.* at 3. Shortly thereafter, the ITG traced several of the TDoS calls to OnTel. ITG Referral at 2. After discovering the error, Dorsher called the consultant, apologized for the error, and then proceeded to explain the Dorsher Entities’ operations. ZipDX Aff. at 3.

²⁴ *Telephony Denial of Service Attacks Can Disrupt Emergency Call Center Operations*, Public Service Announcement, Federal Bureau of Investigation (Feb. 17, 2021), <https://www.ic3.gov/Media/Y2021/PSA210217>. Dorsher advertises this “service” on the Dorsher Entities’ website: “We are a group of volunteers from around the world who break scammer’s [sic] phone systems” by flooding a targeted person’s or entity’s phone system with calls. *About Us*, ScammerBlaster, <https://scammerblaster.com/about-us/> (last visited Jan. 19, 2022).

²⁵ *Home*, ScammerBlaster, <https://scammerblaster.com/> (last visited Dec. 17, 2021).

²⁶ *About Us*, ScammerBlaster, <https://scammerblaster.com/about-us/> (last visited Jan. 19, 2022).

²⁷ ScammerBlaster Inc, Business Corporation Annual Report, North Dakota Secretary of State (Apr. 12, 2021) (ScammerBlaster 2021 Annual Report).

²⁸ ScammerBlaster Incorporation Filing.

²⁹ *Id.*

www.scammerblaster.com, describes the same types of activities, including “call-flooding” to disable phone networks and public service announcements.³⁰

C. Investigation of the Robocalls and Access-Stimulation/Traffic-Pumping Scheme

9. On October 29, 2020, the Industry Traceback Group (ITG)³¹ informed the Enforcement Bureau (Bureau) that a caller was apparently targeting toll free services, also known as 8YY services, with prerecorded voice message calls.³² The messages referenced an entity called “ScammerBlaster.”³³ The ITG traced the calls to Integrated Path Communications, LLC (Integrated Path Communications), a competitive local exchange carrier (CLEC) located in New York,³⁴ which identified the sources of the calls as OnTel Inc and ChariTel Inc—two companies associated with Thomas Dorsher.³⁵ Dorsher apparently uses these companies, along with ScammerBlaster Inc, to make robocalls to toll free numbers and launch TDoS attacks.³⁶

10. On April 14, 2021, the Bureau issued a subpoena to Integrated Path Communications. On May 14, 2021, Integrated Path Communications provided call detail records and information related to Dorsher and the Dorsher Entities. Records produced in response to the subpoena showed that Dorsher, using the company name, ChariTel Inc, signed a service agreement with Integrated Path Communications on July 13, 2020, for several thousand direct inward dial (DID) telephone numbers and Voice over Internet Protocol (VoIP) service.³⁷ ChariTel participated in Integrated Path Communications’ “port recovery credits,”³⁸ the mechanism by which Integrated Path Communications pays its clients for each minute of outbound calls that the client makes to a toll free number.³⁹ ChariTel received \$0.001 per

³⁰ See *About Us*, ScammerBlaster, <https://scammerblaster.com/about-us/> (last visited Jan. 19, 2022) (describing efforts to disrupt robocallers).

³¹ The ITG is the registered consortium selected by the Bureau to lead industry efforts to trace back illegal robocalls to determine their origination. *Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, DA 21-1047 (EB Aug. 25, 2021).

³² ScammerBlaster Referral at 1.

³³ *Id.*

³⁴ *Company*, Integrated Path Communications LLC, <http://www.ipc-llc.com/index-1> (last visited Mar. 21, 2022).

³⁵ *Id.* at 1. See also OnTel Inc, Business Corporation Articles of Incorporation, North Dakota Secretary of State (Dec. 30, 2019) (OnTel Incorporation Filing); OnTel Inc, FRN No. 002979605, Federal Communications Commission (July 23, 2020).

³⁶ Some of the recipients of Dorsher’s TDoS calls are innocent victims. See ScammerBlaster Referral at 1-2 (describing an erroneous TDoS attack from the Dorsher Entities).

³⁷ Integrated Path Communications Narrative Response; ChariTel Inc and Integrated Path Communications, LLC, Master Service Agreement (July 13, 2021) (ChariTel Service Agreement). “Direct Inward Dialing” is a telephone service that allows a specific phone in a multi-line entity to receive calls directly instead of the caller having to go through an operator or needing to dial an extension. *Direct Inward Dialing (DID)*, Twilio, <https://www.twilio.com/docs/glossary/what-direct-inward-dialing-did> (last visited Dec. 17, 2021).

³⁸ Integrated Path Communications Narrative Response.

³⁹ Email from Harold Barr, Vice President, Integrated Path Communications, LLC to Daniel Stepanicich, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (July 28, 2021, 18:09 EDT) (on file in EB-TCD-21-00031748).

minute for each call that it placed to a toll free number, which more than covered all of its costs to make its calls.⁴⁰

11. Generating toll free traffic to boost a local exchange carrier's revenue is known as toll free traffic pumping or access stimulation.⁴¹ A local exchange carrier receives financial compensation from the toll free provider for every call that the local exchange carrier routes to a toll free number.⁴² In many instances, the local exchange carrier will share the revenue with its caller customers that "pump" traffic to toll free numbers.⁴³ The toll free provider passes the incurred cost on to the toll free subscriber.⁴⁴ Traffic pumping is costly to industry and consumers. The Communications Fraud Control Association (CFCA) estimated \$4.54 billion in fraud losses related to traffic pumping in 2021.⁴⁵ In this case, Integrated Path Communications is the local exchange carrier, and it shared revenue with ChariTel, the caller for pumping traffic to toll free numbers.⁴⁶

12. Dorsher apparently uses ChariTel to transmit what Dorsher calls "Public Service Announcements" to entities that have been assigned a toll free telephone number (toll free customers), to inform the toll free customers about the prevalence of illegal robocalls, and to encourage them to report illegal robocallers to the FCC and the ScammerBlaster website.⁴⁷ All of the prerecorded messages and complaints that Bureau staff reviewed referenced the following statement:

This is an important public service announcement. There is a rise in scam calls impacting people around the world. Many of these scammers are directly funding terrorist organizations, and in 2017, 16 billion dollars was scammed from Americans. Much of this money is used to fund terrorist organizations such as the Al-Qaeda and ISIS to further hurt our neighbors around the world. It is critical that you report any phone calls from these scammers to the FCC or to the phone company of the scammer. You can use free carrier look up tools to identify the carrier and then call or email the carrier so that the scammer's phone system is shut down. Most importantly, if someone with a foreign accent claims to be the IRS, Social Security Administration Office, Microsoft, Amazon, Cash App, or any other questionable source that generally doesn't call you, immediately hang up the call and report it on our website, scammerblaster.com. Again that's scammerblaster.com. Knowledge is power. If everyone refuses to fall victim to these scams, then the scammer's

⁴⁰ Integrated Path Communications Narrative Response. The evidence indicates that ChariTel never received a bill for the calls Integrated Path Communications transmitted on its behalf, and Integrated Path Communications ultimately paid ChariTel for the calls. Although parties making toll free calls do not pay toll charges because the charges are paid for by the toll free subscriber, when callers receive compensation from carriers for making large numbers of toll free calls, that is indicative of toll free traffic pumping. *8YY Access Charge Reform Order*, 35 FCC Rcd at 11602-03, para. 17.

⁴¹ *8YY Access Charge Reform Order*, 35 FCC Rcd at 11602-03, para. 17.

⁴² *See id.* (describing toll free traffic pumping).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Fraud Loss Survey Report 2021*, Communications Fraud Control Association at 56 (2021), available at <https://cfca.org/wp-content/uploads/2021/12/CFCA-Fraud-Loss-Survey-2021-2.pdf>.

⁴⁶ Affidavit of Adam Panagia, Director, Global Fraud Management, AT&T Services, Inc. at Attach. (Sept. 21, 2021) (AT&T Aff.) (showing revenue share money and call flow). Integrated Path Communications paid \$0.0001 to ChariTel for each minute placed to a toll free number. Email from Harold Barr, Vice President, Integrated Path Communications, LLC to Daniel Stepanicich, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (July 28, 2021, 18:09 EDT) (on file in EB-TCD-21-00031748).

⁴⁷ ScammerBlaster Referral at 2; ZipDX Aff. at 4-5.

revenue source will dry up and together we can get this problem significantly reduced.
[Repeats].⁴⁸

It appears that ChariTel's robocalls would play continuously for up to ten hours if the called party did not terminate the call.⁴⁹

13. Between January 1, 2021, and March 2, 2021, ChariTel apparently made 9,763,599 prerecorded voice message calls to toll free numbers.⁵⁰ Bureau staff verified 20,650 of these calls for violations of the TCPA.⁵¹ ChariTel also made two calls to AT&T Service, Inc.'s (AT&T) toll free fraud protection hotline.⁵² AT&T attested that it never consented to those calls.⁵³ Additionally, several consumers complained to the Commission about the Dorsher Entities' toll free robocalls.⁵⁴ None of these complainants said that they gave consent to Dorsher, ChariTel, OnTel, or ScammerBlaster Inc.⁵⁵ When one complainant confronted the Dorsher Entities about the calls, the Dorsher Entities allegedly responded, "if you think the FCC will do anything, you are very much mistaken."⁵⁶

III. DISCUSSION

14. We find that the Dorsher Entities apparently willfully and repeatedly violated the TCPA, section 227(b)(1)(A)(iii) of the Act, and section 64.1200(a)(1)(iii) of our rules by making 9,763,599 prerecorded voice message calls between January 1, 2021, and March 2, 2021, to toll free numbers without prior express consent. We also find that the Dorsher Entities apparently intentionally violated the law when making the apparently illegal robocalls as part of its toll free traffic-pumping scheme.

A. The Dorsher Entities Made Prerecorded Voice Message Calls in Apparent Violation of the TCPA and Commission Rules

15. The TCPA and our rules prohibit prerecorded voice message calls without prior express consent, absent an emergency purpose to numbers for which the called party is charged for the call—this includes toll free numbers.⁵⁷ Between January 1, 2021, and March 2, 2021, ChariTel and Dorsher

⁴⁸ ScammerBlaster Public Service Announcement Recording (Jan. 31, 2021 09:24 EST) (on file in EB-TCD-21-00031748) (ScammerBlaster Recording).

⁴⁹ See Call Detail Records (showing the maximum call length of 36,000 seconds or 10 hours).

⁵⁰ Integrated Path Communications Subpoena Response (May 14, 2021) (on file in EB-TCD-21-00031748) (Call Detail Records).

⁵¹ Verified Call Detail Records.

⁵² Affidavit of Adam Panagia, Director, Global Fraud Management, AT&T Services, Inc. at 1 (Sept. 21, 2021) (AT&T Aff.); Call Detail Records.

⁵³ AT&T Aff. at 1.

⁵⁴ FCC Consumer Complaint 4715208 (Feb. 9, 2021); FCC Consumer Complaint 4528459 (Feb. 1, 2021); FCC Consumer Complaint 4520483 (Jan. 28, 2021); FCC Consumer Complaint 4480335 (Jan. 11, 2021); FCC Consumer Complaint 4478654 (Jan. 10, 2021).

⁵⁵ FCC Consumer Complaint 4715208 (Feb. 9, 2021); FCC Consumer Complaint 4528459 (Feb. 1, 2021); FCC Consumer Complaint 4520483 (Jan. 28, 2021); FCC Consumer Complaint 4480335 (Jan. 11, 2021); FCC Consumer Complaint 4478654 (Jan. 10, 2021).

⁵⁶ See Email from {{ }} to Daniel Stepanicich, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (Sept. 15, 2021, 15:39 EDT) (on file in EB-TCD-21-00031748) (containing a chat log of correspondence between PhoneFusion and the Dorsher Entities). Material set off by double brackets {{ }} is confidential and is redacted from the public version of this document.

⁵⁷ 47 U.S.C. § 227(b)(1)(A)(iii); 47 CFR § 64.1200(a)(1)(iii); see *supra* para. 3.

apparently made 9,763,599 prerecorded voice message calls to toll free numbers.⁵⁸ The evidence shows that the Dorsher Entities apparently had neither valid consent nor an emergency purpose for the robocalls. For example, ChariTel and Dorsher made at least two calls without consent to AT&T's fraud protection hotline during the period reviewed by the Bureau.⁵⁹ Other toll free subscribers also complained about receiving calls from the Dorsher Entities and attested that they did not give consent.⁶⁰ The Dorsher Entities' message does not appear to constitute a call made for an emergency purpose,⁶¹ and the Dorsher Entities had no reasonable basis to believe that the toll free recipients would have consented to receive the robocalls.

B. The Dorsher Entities Apparently Engaged in an Access-Stimulation/Traffic-Pumping Scheme and Apparently Violated the TCPA with Intent

16. The Dorsher Entities apparently made prerecorded message calls with intent to violate the TCPA. First, the Dorsher Entities apparently intended to target toll free numbers with prerecorded messages. Placing such calls to toll free numbers was financially lucrative for the Dorsher Entities. Integrated Path Communications compensated ChariTel for calls that Dorsher made via ChariTel to toll free numbers.⁶² Every call that the Bureau reviewed was made to a toll free number.⁶³ Moreover, in his correspondence and discussions with the ITG consultant, Dorsher admitted that the Dorsher Entities knowingly engaged in toll free traffic pumping by making robocalls to toll free numbers. According to the ITG consultant, Dorsher said that the toll free calls helped offset the costs of the Dorsher Entities' other calls (i.e. TDoS attacks).⁶⁴ This supports our finding that the calls to toll free subscribers apparently were intentional, and not merely incidental.

17. Second, the Dorsher Entities had no reasonable basis to believe that they had consent for the calls. There is no evidence that the Dorsher Entities had any prior contact with the toll free subscribers, let alone prior express consent, before they transmitted the robocalls. It is unlikely that toll free subscribers would have consented to such calls, had they been asked, because they must pay for each such call. In particular, the toll free subscribers would have been unlikely to consent to pre-recorded message robocalls in these circumstances. Specifically, these calls were not made by existing or would-

⁵⁸ As described above, all 9,763,599 prerecorded message calls were apparently made by ChariTel. As explained in section IV.C, however, we find that Dorsher, ChariTel, OnTel, and ScammerBlaster are apparently jointly and severally liable for these calls, and hence we refer to "the Dorsher Entities" here and elsewhere in section IV.

⁵⁹ AT&T Aff. at 1.

⁶⁰ See, e.g., ZipDX Aff. at 1; FCC Consumer Complaint 4715208 (Feb. 9, 2021); FCC Consumer Complaint 4528459 (Feb. 1, 2021); FCC Consumer Complaint 4520483 (Jan. 28, 2021); FCC Consumer Complaint 4480335 (Jan. 11, 2021); FCC Consumer Complaint 4478654 (Jan. 10, 2021). Additionally, we received several complaints from businesses about prerecorded voice message calls from "ScammerBlaster." The Commission, however, was unable to match those complaints to specific call detail records.

⁶¹ The Commission's rules define "emergency purposes" to mean "calls made necessary in any situation affecting the health and safety of consumers." 47 C.F.R. § 64.1200(f)(4). See also S. Rep. No. 102-178, at 10 (1991) ("In general, any threat to health or safety of the persons in a residence should be considered an emergency."); *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No 02-278, Declaratory Ruling, 31 FCC Rcd 9054, 9061, para. 18 (2016) (declining to broadly extend the scope of the "emergency purpose" exception).

⁶² Integrated Path Communications Narrative Response. ChariTel received \$0.001 per minute for calls placed to toll free numbers. Email from Harold Barr, Vice President, Integrated Path Communications, LLC to Daniel Stepanicich, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (July 28, 2021, 18:09 EDT) (on file in EB-TCD-21-00031748). Dorsher then apparently used this revenue to offset the costs of his TDoS attacks. ZipDX Aff. at 5.

⁶³ Call Detail Records.

⁶⁴ ZipDX Aff. at 5.

be customers of the subscribers or by an entity with any business relationship with the subscribers, and these calls transmitted a prerecorded message that played indefinitely. The Dorsher Entities were aware of these costs and would have no reason to believe that the recipients would accept the costs. The Dorsher Entities knew that they received financial compensation for placing calls to toll free numbers, and they advertised on their website that such calls—when made in large volumes—could result in financial damage to toll free subscribers.⁶⁵ The robocalls also could monopolize the toll free subscriber's telephone lines and prevent potential customers from reaching the toll free subscribers.⁶⁶ The Dorsher Entities apparently transmitted a recording that would repeat itself for the express purpose of monopolizing the toll free line for as long as possible.⁶⁷ The Dorsher Entities' prerecorded message robocalls monopolized a toll free number for up to ten hours.⁶⁸ Toll free subscribers would have no reason to accept these types of calls, given the costs and lack of any legitimate business purpose. Moreover, each of the call recipients whose complaints were reviewed by the Bureau stated that they did not give consent to the Dorsher Entities to receive prerecorded voice message calls.⁶⁹ We thus conclude that the Dorsher Entities apparently violated the TCPA with intent.

IV. PROPOSED FORFEITURE

18. We propose a forfeiture in the amount of \$116,156,250. We calculate the proposed forfeiture by assessing a base forfeiture of \$4,500 per each apparently unlawful robocall that we verified was made without the requisite prior express consent. The Commission verified 20,650 apparently unlawful prerecorded voice message calls to toll free numbers. We also find the Dorsher Entities' violations to be egregious and propose to adjust upwardly the base forfeiture to \$5,625 per violation.

19. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that “willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission[.]”⁷⁰ Section 503(b)(2)(D) of the Act and section 1.80(b)(9) of the rules authorize us to assess a forfeiture against the Dorsher Entities of up to \$22,021 for each violation.⁷¹ For each intentional violation of section 227(b), section 227(b)(4)(B) of the Act and

⁶⁵ See Email from Harold Barr, Vice President, Integrated Path Communications, LLC to Daniel Stepanicich, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (July 28, 2021, 18:09 EDT) (on file in EB-TCD-21-00031748) (showing that ChariTel received compensation for making calls to toll free numbers. Additionally, the Dorsher Entities estimate that their denial of service calls to toll free numbers could cost approximately \$4,000,000 a day, indicating it is aware of the toll that even smaller mass calling campaigns can have on subscribers. See *About Us*, ScammerBlaster, <https://scammerblaster.com/about-us/> (last visited Jan. 19, 2022).

⁶⁶ See AT&T Aff. at 1 (describing how the Dorsher Entities' calls interfered with AT&T customers calling with valid fraud issues).

⁶⁷ ScammerBlaster Recording. The Dorsher Entities were aware that telephone calls could be used to disrupt a recipient's phone service. ScammerBlaster website, <https://scammerblaster.com/>; *About Us*, ScammerBlaster, <https://scammerblaster.com/about-us/> (last visited Mar. 15, 2022).

⁶⁸ See Call Detail Records.

⁶⁹ FCC Consumer Complaint 4715208 (Feb. 9, 2021); FCC Consumer Complaint 4528459 (Feb. 1, 2021); FCC Consumer Complaint 4520483 (Jan. 28, 2021); FCC Consumer Complaint 4480335 (Jan. 11, 2021); FCC Consumer Complaint 4478654 (Jan. 10, 2021).

⁷⁰ 47 U.S.C. § 503(b).

⁷¹ 47 U.S.C. § 227(b)(4); § 503(b)(2)(D); 47 CFR § 1.80(b)(9); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 21-1631 (EB Dec. 22, 2021); see also *Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 87 Fed. Reg. 396 (Jan. 5, 2022) (setting January 5, 2022, as the effective date for the increases).

section 1.80(b)(5) of the rules authorize an additional penalty not to exceed \$10,748.⁷² Section 227(b) of the Act and section 1.80 of the Commission's rules authorize the Commission to impose a forfeiture against any person that uses an automatic telephone dialing system or an artificial or prerecorded voice to call any telephone number assigned to any service for which the called party is charged for the call.⁷³

20. In assessing the amount of a forfeiture penalty, section 503 of the Act requires the Commission 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."⁷⁴ Further, under the Commission's forfeiture 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.⁷⁵

A. We Propose a Base Forfeiture of \$4,500 for Each Verified Apparently Unlawful Call

21. In determining the proposed forfeiture amount, we consider prior decisions involving unlawful, unsolicited prerecorded voice message calls. As we noted in our most recent TCPA forfeiture proceedings, *John M. Burkman et al.* and *Interstate Brokers of America*, the Commission has on multiple occasions used a base forfeiture of \$4,500 for violations of section 227(b).⁷⁶ We find those cases analogous and propose to follow that same approach here with respect to the base forfeiture.

22. Because the Dorsher Entities made a large number of apparently unlawful calls, we propose to base the fine on the 20,650 calls that Bureau staff verified.⁷⁷ In cases that involved a high volume of unlawful calls, particularly in cases involving the Truth in Caller ID Act,⁷⁸ we verified a

⁷² 47 U.S.C. § 227(b)(4)(B); §503(b)(2); 47 CFR § 1.80(b)(5). Section 227(b) contains a one-year statute of limitations for general violations and a four-year statute of limitations for violations with intent. 47 U.S.C. § 227(b)(4).

⁷³ 47 U.S.C. § 227(b)(1)(A), (b)(4); 47 CFR § 1.80(a)(4).

⁷⁴ 47 U.S.C. § 503(b)(2)(E).

⁷⁵ 47 CFR § 1.80(b)(10), Note to paragraph (b)(10).

⁷⁶ *Gregory Robbins, Interstate Brokers of America LLC, and National Health Agents LLC*, Notice of Apparent Liability, FCC 22-16, para. 33 (2022) (*Interstate Brokers Notice of Apparent Liability*); *John M. Burkman, Jacob Alexander Wohl, J.M. Burkman & Assocs. LLC*, No. EB-TCD-21-00032652, 2021 WL 3776700, at *1 (OHMSV Aug. 24, 2021) (*Burkman Notice of Apparent Liability*) (citing, *In the Matter of 1 Home Lending Corp.*, Notice of Apparently Liability, 21 FCC Rcd 11852 (2006) (proposing a forfeiture of \$18,000 for four apparent violations of the TCPA (\$4,500 per call)); *1 Home Lending Corp.*, Forfeiture Order, 24 FCC Rcd 2888 (2009) (imposing proposed forfeiture); *Security First of Alabama*, Notice of Apparently Liability, 26 FCC Rcd 6490 (2011) (proposing a range of \$4500 to \$10,000 per unlawful call, depending on the egregiousness, for a total of \$342,000 for a total of 43 unlawful calls); *Security First of Alabama*, Forfeiture Order, 30 FCC Rcd 2377 (2015) (imposing proposed forfeiture); *Warrior Custom Golf, Inc.*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd. 23648, 23652 (2004); *Warrior Custom Golf, Inc.*, Order Adopting Consent Decree, 21 FCC Rcd 6461 (2006) (company paid proposed forfeiture). See also *Travel Club Marketing, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 15831, 15835-36 (2011), (recognizing that the Commission had historically imposed a \$4,500 base forfeiture per violation, and proposing an upward adjustment to impose the statutory maximum of \$16,000 per call, for a total forfeiture of \$2,960,000); *Travel Club Marketing, Inc.*, Forfeiture Order, 30 FCC Rcd 8861 (2015) (imposing proposed forfeiture).

⁷⁷ Bureau staff verified that the calls that had indicia typically associated with illegal prerecorded voice message calls. Here, Dorsher and ChariTel made thousands of calls within minutes of each other. Call Detail Records.

⁷⁸ The Truth in Caller ID Act prohibits the altering of caller ID information (a practice known as spoofing) with the intent to defraud, cause harm, or wrongfully obtain anything of value. 47 U.S.C. § 227(e); 47 CFR § 64.1604. Illegal spoofing is often used in conjunction with illegal robocalling. *John C. Spiller; Jakob A. Mears; Rising Eagle Capital Group LLC; JSquared Telecom LLC; Only Web Leads LLC; Rising Phoenix Group; Rising Phoenix Holdings; PRG Leads; and Rising Eagle Capital Group—Cayman*; Forfeiture Order, 36 FCC Rcd 6225, 6226, para. 4 (2021) (*Rising Eagle Forfeiture Order*).

sample of the calls and based our fine only on those verified calls.⁷⁹ We adopted that same approach in a recent case involving a large number of apparently unlawful robocalls, *Interstate Brokers of America Notice of Apparent Liability*.⁸⁰ We found in *Interstate Brokers of America*, and we find in this case, that it is appropriate in large-scale robocall cases to verify a sample of the total calls and base the forfeiture on the verified sample. There may be practical limitations to the Commission’s ability to fully evaluate each call when the call volume is in the tens of thousands or higher. There is also often diminishing value in verifying each violation in a large-scale robocalling operation, in terms of imposing a penalty and establishing a deterrent against future violations. We find that our approach properly balances precedent with pragmatic factors.

B. The Dorsher Entities’ Egregious Apparent Actions Directing Intentional Robocalls to Toll Free Lines and the Proliferation and Reckless Use of TDoS Attacks Warrant an Upward Adjustment to the Base Penalty

23. We conclude that the totality of the circumstances warrants an upward adjustment. We may upwardly adjust proposed forfeitures to account for the degree of culpability and the egregiousness of the violation as we have done in spoofing cases.⁸¹ The Dorsher Entities are highly culpable for their conduct. In fact, Dorsher apparently admitted to an ITG consultant that the Dorsher Entities intentionally made robocalls to toll free numbers.⁸²

24. Moreover, the Dorsher Entities’ conduct was egregious. *First*, the Dorsher Entities apparently used revenue generated from the robocalls to toll free numbers to fund their TDoS attacks.⁸³ Some of these TDoS attacks targeted innocent parties.⁸⁴ TDoS attacks are dangerous, can be weaponized to threaten public safety, health, and life, and have been criminally prosecuted.⁸⁵ The lack of any serious

⁷⁹ See, e.g., *Kenneth Moser dba Marketing Support Systems*, Forfeiture Order, 35 FCC Rcd 13415, 13432, para.13 (2020) (*Moser Notice of Apparent Liability*) (verifying a sample of 5,713 of the 47,610 apparently unlawful calls); *Affordable Enterprises of Arizona, LLC*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 9233, 9242-43, para. 33 (2018) (*Affordable Notice of Apparent Liability*) (verifying a sample of 37,525 of the 2,341,125 apparently unlawful calls).

⁸⁰ *Interstate Brokers Notice of Apparent Liability* at para. 33.

⁸¹ See 47 CFR § 1.80(b)(10), Note to paragraph (b)(10); *Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17101, para. 27 (1997) (“[A]lthough the base amount is the starting point in assessing a forfeiture, the forfeiture may be decreased below the base amount or increased to the statutory maximum when the adjustment criteria are considered based on the facts of the case.”); see, e.g., *Rising Eagle Forfeiture Order*, 36 FCC at 6257-58, paras. 60-63; *Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek*, Forfeiture Order, 36 FCC Rcd 705, 729, para. 55 (2021) (*Scott Rhodes Forfeiture Order*); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4671, para. 25 (2018) (*Adrian Abramovich Forfeiture Order*).

⁸² ZipDX Aff. at 5. As noted above, we found that the Dorsher Entities apparently intentionally violated the statute; we did not, however, propose to increase the base forfeiture amount to account for that intentionality. We instead take it into account by proposing an upward adjustment. This approach emphasizes the egregiousness of the conduct at issue here.

⁸³ ZipDX Aff. at 5.

⁸⁴ ScammerBlaster Referral at 1.

⁸⁵ *Cyber Risks to 911: Telephony Denial of Service*, Cybersecurity & Infrastructure Security Agency at 1, https://www.cisa.gov/sites/default/files/publications/Cyber%20Risks%20to%20911%20TDoS_6.4.2020%20-%20%28508c%29_1.pdf. The Dorsher Entities falsely claim that TDoS attacks are not illegal: “There is no law that is on the books for either type of [TDoS] attack.” *Destroying Scammer Call Centers with Call Flooding*, ScammerBlaster, <https://scammerblaster.com/destroying-scammer-call-centers-with-call-flooding/> (last visited Apr. 19, 2022). In fact, TDoS attacks can result in criminal prosecution. See *Arizona v. Meetkumar Hiteshbhai Desai*, CR2016-150675 (Ariz. Super. Ct. Oct. 9, 2017); Press Release, Arizona Attorney General Mark Brnovich, Teen

(continued....)

vetting process and the indiscriminate provision of TDoS attack capabilities based on anonymous tips rendered the Dorsher Entities' conduct as extremely reckless and dangerous.⁸⁶ *Second*, each call costs the toll free customer money, and the amounts are significant when aggregated across thousands of calls.⁸⁷ *Third*, each robocall imposes an opportunity cost on the toll free subscriber. Potential clients or customers cannot reach the toll free subscriber while the line is tied up by the robocall.⁸⁸ For example, in at least two instances, Dorsher and ChariTel made prerecorded voice message calls to AT&T's fraud protection hotline, tied up the toll free line, and made it impossible for consumers to reach AT&T's hotline to complain about fraud issues.⁸⁹ In some instances, a single robocall from the Dorsher Entities generated revenue by seizing toll free lines for up to ten hours.⁹⁰ This can have a crippling effect on toll free businesses and customers seeking support for legitimate purposes such as AT&T's fraud assistance services. *Fourth*, the Commission has observed that access-stimulation/traffic-pumping schemes impose undue costs on consumers and harm competition.⁹¹ The Dorsher Entities apparently knew that their calls would have this deleterious effect.⁹²

25. The egregiousness of these violations warrants an upward adjustment. We propose a 25 percent upward adjustment to the base forfeiture for each violation, for a total of \$5,625 per violation. We apply this amount to each of the verified 20,650 calls. Therefore, we propose a total forfeiture of \$116,156,250 for which the Dorsher Entities are apparently liable.

26. In the TRACED Act, Congress gave the Commission discretion to increase the maximum monetary penalty for intentional violations of the TCPA.⁹³ That authorization demonstrates Congress's intent to address robocalls decisively, and its commitment to provide sufficient monetary disincentives particularly against volitional conduct and intentional violations in this area. Although we find that the Dorsher Entities apparently violated the TCPA with intent, we conclude that the \$4,500 base forfeiture and \$1,125 upward adjustment satisfy the purposes of monetary penalties: penalizing the Dorsher Entities for their apparently unlawful actions and serving as a deterrent to the Dorsher Entities and others from future violations.

(Continued from previous page) _____
Sentenced After 911 Call System Computer Tampering (Oct. 10, 2017), <https://www.azag.gov/press-release/teen-sentenced-after-911-call-system-computer-tampering>.

⁸⁶ See *supra* note 23.

⁸⁷ See Email from Harold Barr, Vice President, Integrated Path Communications, LLC to Daniel Stepanicich, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (July 28, 2021, 18:09 EDT) (on file in EB-TCD-21-00031748) (stating per minute charges for calls to toll free numbers); Letter from Matt Nodine, AT&T Services, Inc., to Marlene H. Dortch, WC Docket No. 18-156, et al., at Attach. 6 (filed Jan. 13, 2020) (AT&T Letter) (outlining costs of toll free traffic pumping).

⁸⁸ See AT&T Letter at 3.

⁸⁹ AT&T Aff. at 1.

⁹⁰ Call Detail Records.

⁹¹ See *Connect America Fund et al.*, CC Docket No. 01-92, 26 FCC Rcd 17663, 17875-76, paras. 663 and 665 (2011) (*2011 ICC Transformation Order*). The CFCA has quantified the annual loss from traffic pumping at \$4.54 billion. *Fraud Loss Survey Report 2021*, Communications Fraud Control Association at 56 (2021), available at <https://cfca.org/wp-content/uploads/2021/12/CFCA-Fraud-Loss-Survey-2021-2.pdf>.

⁹² The Dorsher Entities used the same tools (calls to toll free numbers), albeit on a larger scale, in their TDoS attacks to disrupt alleged scammers. *About Us*, ScammerBlaster, <https://scammerblaster.com/about-us/> (last visited Jan. 19, 2022).

⁹³ See TRACED Act, section 3(a).

C. We Propose to Hold ChariTel Inc, OnTel Inc, ScammerBlaster Inc, and Thomas Dorsher Jointly and Severally Liable

1. ChariTel and Dorsher Are Directly Liable for the Apparent Violations

27. We propose to hold ChariTel and Dorsher jointly and severally liable for apparently orchestrating the unlawful robocalling scheme described in this Notice. The Bureau traced the calls to ChariTel. Meanwhile, the evidence shows that Dorsher had a direct role in overseeing or initiating the calls. Individuals acting on behalf of a corporation may be held personally liable under the TCPA when they “had direct, personal participation in or personally authorized the conduct found to have violated the statute.”⁹⁴ Personal liability attaches even when the officer committed the TCPA violation on behalf of the corporation.⁹⁵ This helps ensure that the TCPA does not lose much of its force because an individual acting on behalf of a corporation cannot avoid individual liability and continue to violate the TCPA.⁹⁶

28. Dorsher had direct, personal participation in actions on behalf of ChariTel and his other companies. He was the initial incorporator for the Company and is one of three listed corporate officers.⁹⁷ On July 23, 2020, Dorsher signed an agreement for two services with Integrated Path Communications LLC under the name ChariTel Inc.⁹⁸ This included the purchase of approximately 15,000 direct inward dialing (DID) numbers and VoIP service.⁹⁹ Email and phone call exchanges with an ITG consultant further reflect that Dorsher had a key role in making these calls and knew that they were taking place.¹⁰⁰ Dorsher personally reached out to the ITG consultant to apologize for the Dorsher Entities’ role in a TDoS attack against the consultant.¹⁰¹ Dorsher also provided a ScammerBlaster administrator account ({{ [redacted] }}) as the primary means to contact him.¹⁰² Thus, the evidence shows that Dorsher apparently had direct participation in ChariTel’s robocall campaigns such that we can hold him personally liable for ChariTel’s apparent violations of the TCPA and our rules.

29. We also find evidence that supports piercing the corporate veil, to the extent it is necessary to find Dorsher personally liable. Under federal common law, and similarly North Dakota

⁹⁴ *Bais Yaakov of Spring Valley v. Graduation Source, LLC*, 2016 WL 1271693, at *5 (S.D.N.Y. 2016). See also *Scott Malcom DSM Supply, LLC Somaticare, LLC*, Notice of Apparent Liability, 29 FCC Rcd 2476, 2484, para. 19 (2014), *aff’d Scott Malcom DSM Supply, LLC Somaticare, LLC*, Forfeiture Order, 31 FCC Rcd 1652, 1653, para. 5 (2016) (noting that the term “person” in section 227(b)(1) includes the individual orchestrating the unlawful transmissions as well as the corporate entity on whose behalf he or she is acting); *Golan v. FreeEats.com, Inc.*, 930 F.3d 950, 960 (8th Cir. 2019) (“In the analogous context [to the TCPA] of tort law, individuals are generally liable for any torts they commit, even those committed in the scope of their employment or in their role as corporate officers.”); *Texas v. Am. Blastfax, Inc.*, 164 F.Supp.2d 892, 898 (W.D. Tex. 2001) (“[A]n officer may be personally liable under the TCPA if he had direct, personal participation in or personally authorized the conduct found to have violated the statute, and was not merely tangentially involved. Individuals who directly (and here, knowingly and wilfully [sic]) violate the TCPA should not escape liability solely because they are corporate officers.”).

⁹⁵ See *Maryland v. Universal Elections*, 787 F. Supp. 2d 408, 416 (D. Md. 2011); *Am. Blastfax, Inc.*, 164 F.Supp.2d at 898. See also *Rising Eagle Forfeiture Order*, 36 FCC Rcd at para. 50 (noting that the Commission and the majority of courts have determined that individual officers may be liable for violations of the TCPA).

⁹⁶ See *Am. Blastfax, Inc.*, 164 F.Supp.2d at 898 (noting that any other result would allow individual defendants to dissolve their companies, set-up a new shell corporation, and repeat their TCPA violative conduct).

⁹⁷ ChariTel Incorporation Filing. Dorsher’s wife is also a corporate officer. Bureau staff confirmed that Lacey Dorsher is Thomas Dorsher’s wife using a commercially available public record search tool.

⁹⁸ Integrated Path Communications Narrative Response; ChariTel Service Agreement

⁹⁹ ChariTel Service Agreement.

¹⁰⁰ ZipDX Aff. at 4-6.

¹⁰¹ *Id.* at 3.

¹⁰² *Id.* at 4.

common law, piercing the corporate veil is appropriate under an alter-ego theory where, as here, (1) there is a unity of interest and ownership such that “the personalities and assets of the corporation and the individuals are indistinct”; and (2) “adherence to the corporate form would sanction a fraud, promote injustice, or lead to an evasion of legal obligations.”¹⁰³ To decide whether an individual can be held personally liable for a corporation, federal courts have looked to “[t]he total dealings of the corporation and the individual.”¹⁰⁴ The Commission has found that “personal liability is appropriate (and the Commission will pierce the corporate veil) where the individual . . . is an officer of a closely held corporation and directly participates in, oversees, authorizes or otherwise directs the commission of the wrongful act.”¹⁰⁵

30. Both federal and North Dakota courts have explained that courts may pierce the corporate veil and find the corporation’s officers to be alter egos of the corporate entity when there is a unity of ownership and interest.¹⁰⁶ “Unity of interest and ownership can . . . be demonstrated by showing domination and control of a corporation.”¹⁰⁷ A court may consider the following factors:

1) the nature of the corporate ownership and control; 2) failure to maintain corporate minutes; 3) substantial disregard of the formalities of the corporate form; 4) commingling of funds and other assets of the corporation; 5) diversion of the corporation’s funds and other assets to noncorporate uses such as the personal use of the corporation’s [sic] shareholders; and 6) use of the same office or business location by the corporation and its individual shareholders.”¹⁰⁸

We find evidence of a sufficient number of these factors to warrant holding Dorsher personally liable.

31. Dorsher exercised sufficient control over ChariTel to treat it as an alter ego. ChariTel’s headquarters are the same as a residential address associated with Dorsher.¹⁰⁹ Dorsher is the incorporator of ChariTel, and is one of three corporate directors.¹¹⁰ Furthermore, Dorsher appears to exercise control

¹⁰³ *N.L.R.B. v. West Dixie Enterprises, Inc.*, 190 F.3d 1191, 1194 (11th Cir. 1999) (quoting *White Oak Coal Co.*, 318 N.L.R.B. 732, 735 (1995), enforced, 81 F.3d 150 (4th Cir. 1996)). Federal common law rather than state law applies when a federal statutory scheme is at issue. See *id.* (applying federal common law in a case arising in Florida involving violations of federal labor statutes); see also *N.L.R.B. v. Bolivar-Tees, Inc.*, 551 F.3d 722, 728 (8th Cir. 2008) (“federal courts have pierced the corporate veil to hold shareholders liable for violations of federal statutes”); *Bais Yaakov*, 2016 WL 1271693, at *5 (finding personal liability for TCPA violations). The test for piercing the corporate veil in North Dakota is similar to the federal standard. See *Taszarek v. Lakeview Excavating, Inc.*, 883 N.W.2d 880, 884 (N.D. 2016) (quoting *Red River Wings, Inc. v. Hoot, Inc.*, 751 N.W.2d 206, 221 (N.D. 2008) (“To apply the alter ego doctrine, there must be such a unity of interest and ownership between the corporation and its equitable owner that the separate personalities of the corporation and the shareholder do not in reality exist, and there must be an inequitable result if the acts in question are treated as those of the corporation alone.”)).

¹⁰⁴ *Chao v. Occupational Safety and Health Review Com’n*, 401 F.3d 355, 380 (5th Cir. 2005).

¹⁰⁵ *Roesel Forfeiture Order*, 33 FCC Rcd at 9221, paras. 45-46.

¹⁰⁶ See *Labadie Coal Co. v. Black*, 672 F.2d 92, 97 (D.C. Cir. 1982); *Taszarek*, 883 N.W.2d at 884; *Red River Wings*, 751 N.W.2d at 221.

¹⁰⁷ *Shapiro, Lifschitz & Schram, P.C. v. Hazard*, 90 F. Supp. 2d 15, 23 (D.D.C. 2000) (citing *Vuitch v. Furr*, 482 A.2d 811, 815–16 (D.C. 1984)).

¹⁰⁸ *Labadie Coal Co.*, 672 F.2d at 97-99. North Dakota courts apply similar factors. See *Hilzendager v. Skwarok*, 335 N.W.2d 768, 774 (N.D. 1983) (looking to “insufficient capitalization for the purposes of the corporate undertaking, failure to observe corporate formalities, nonpayment of dividends, insolvency of the debtor corporation at the time of the transaction in question, siphoning of funds by the dominant shareholder, nonfunctioning of other officers and directors, absence of corporate records, and the existence of the corporation as merely a facade for individual dealings.”).

¹⁰⁹ ChariTel Incorporation Filing.

¹¹⁰ *Id.*

over ChariTel's robocalling operations, as discussed above. He also took personal responsibility for the Dorsher Entities' actions when it targeted the ITG consultant with a TDoS attack.¹¹¹ In addition, Dorsher stated that he used the compensation that ChariTel received for making the calls to toll free subscribers to "offset" the costs of the TDoS attacks on suspected robocallers.¹¹² This indicates that Dorsher controlled how ChariTel's money was spent, and that Dorsher treated ChariTel's assets as assets of other companies that Dorsher controlled. In fact, according to ChariTel's platform provider, Integrated Path Communications, the revenue that ChariTel received from the calls to toll free subscribers covered all ChariTel's outbound calling costs.¹¹³

32. Additionally, treating ChariTel and Dorsher as separate entities would sanction an apparent fraud, promote injustice, or lead to an evasion of legal obligations.¹¹⁴ The Commission has found in past cases that robocallers often create and terminate numerous corporate entities to evade liability.¹¹⁵ On at least one occasion, the Dorsher Entities allegedly threatened consumers that it was beyond the reach of law enforcement.¹¹⁶ Failing to hold Dorsher liable would enable him to continue to harass and harm toll free subscribers. Given Dorsher's control over ChariTel and his role in the robocall campaign at issue in this case, we find that allowing Dorsher to use ChariTel as a shield from liability would promote injustice and allow him to evade his legal obligations.¹¹⁷ Therefore, we propose to pierce the corporate veil and hold Dorsher jointly and severally liable with ChariTel for the apparent violations of the TCPA.

2. OnTel Inc and ScammerBlaster Inc Are Jointly and Severally Liable for the Apparent Violations as a Single Business Entity with ChariTel

33. We propose to hold OnTel Inc and ScammerBlaster Inc jointly and severally liable along with ChariTel and Dorsher for the apparent violations. Related companies operating in a common enterprise or as a single business entity may be held jointly liable for the wrongful conduct.¹¹⁸ This is

¹¹¹ ZipDX Aff. at 3 ("Holy buckets, do I owe you an apology.").

¹¹² *Id.* at 5.

¹¹³ Email from Harold Barr, Vice President, Integrated Path Communications, LLC to Daniel Stepanicich, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (July 28, 2021, 18:09 EDT) (on file in EB-TCD-21-00031748).

¹¹⁴ See *Bolivar-Tees*, 551 F.3d at 728-29, *NLRB v. West Dixie Enters.*, 190 F.3d 1191, 1194 (11th Cir. 1999); *Jablonsky v. Klemm*, 377 N.W.2d 560, 564 (N.D. 1985) ("We believe that an element of injustice, inequity or fundamental unfairness must be present before a court may properly pierce the corporate veil").

¹¹⁵ *Rising Eagle Forfeiture Order*, 36 FCC Rcd at 6255-56, para. 57; *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Notice of Apparent Liability, 32 FCC Rcd at 5419, para. 2, n.2 (2017), *aff'd.*, *Adrian Abramovich Forfeiture Order*, 33 FCC Rcd at 4663, para. 3.

¹¹⁶ Email from {{ }} to Daniel Stepanicich, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (Sept. 15, 2021, 15:39 EDT) (on file in EB-TCD-21-00031748).

¹¹⁷ *Telseven, LCC, Patrick Hines*, Forfeiture Order, 31 FCC Rcd 1629, 1635 (2016); see also *United States Through Small Business Admin. v. Pena*, 731 F.2d 8, 12 (D.C. Cir. 1984) ("Where the statutory purpose could be easily frustrated through the use of separate corporate entities a regulatory commission is entitled to look through corporate entities and treat the separate entities as one for purposes of regulation.") (*quoting Capital Tel. Co., Inc. v. FCC*, 498 F.2d 734, 738 & n.10 (D.C. Cir. 1974)); *General Tel. Co. of Southwest v. United States*, 449 F.2d 846, 855 (5th Cir. 1971).

¹¹⁸ *Continental Cas. Co. v. Symons*, 817 F.3d 979, 993-94 (7th Cir. 2016); *Sunshine Art Studios, Inc. v. FTC*, 481 F.2d 1171, 1175 (1st Cir. 1973); *Delaware Watch Co. v. FTC*, 332 F.2d 745, 746-47 (2d Cir. 1964); *F.T.C. v. PayDay Financial LLC*, 989 F.Supp.2d 799, 809 (D.S.D. 2013).

particularly true when enforcing a statute that regulates interstate commerce.¹¹⁹ The TCPA is a statute that regulates interstate commerce.¹²⁰ Courts have identified several factors to determine the existence of a single business entity or a common enterprise: (1) similar corporate names, (2) shared corporate offices, directors, and employees, (3) similar business purposes; and (4) shared office space and resources.¹²¹ “[T]he pattern and framework of the whole enterprise must be taken into consideration.”¹²² The Commission has taken a similar approach when enforcing the Truth in Caller ID Act against a web of interconnected companies.¹²³ For example, in *Rising Eagle*, the Commission found that the individuals operated several companies that were all part of Rising Eagle’s robocalling scheme.¹²⁴ The Commission held each related horizontal company liable even though some did not have a direct role in the spoofing of caller ID information.¹²⁵

34. Here, ChariTel, OnTel, and ScammerBlaster Inc are, for all intents and purposes, a single business entity. ScammerBlaster Inc, ChariTel, and Dorsher share the same address in North Dakota.¹²⁶ Dorsher is the incorporator and director of ChariTel and OnTel.¹²⁷ Dorsher also attested to the truthfulness of each company’s corporate filings with the North Dakota Secretary of State, further indicating common control.¹²⁸ Each company contributes to the same purpose: making robocalls to toll free numbers and disrupting “scammers.” ScammerBlaster Inc’s stated corporate purpose is to “disrupt [] the activities of individuals who employ deceitful practices for the purpose of misleading individuals and business [sic] into paying for a product or service that does not actually exist.”¹²⁹ This matches the mission statement found on the Dorsher Entities’ website.¹³⁰ ChariTel and OnTel are the tools that

¹¹⁹ See *Goodman v. F.T.C.*, 244 F.2d 584, 590 (9th Cir. 1957) (“[W]hen interpreting a statute the aim of which is to regulate interstate commerce and to control and outroot some evil practices in it, the courts are not concerned with the refinements of common-law definitions, when they endeavor to ascertain the power of any agency to which the Congress has entrusted the regulation of the business activity or the enforcement of standards it has established.”); see also *Pena*, 731 F.2d at 12 (“Where the statutory purpose could be easily frustrated through the use of separate corporate entities a regulatory commission is entitled to look through corporate entities and treat the separate entities as one for purposes of regulation.”).

¹²⁰ See S.Rep. No. 102-178 at 1 (1991) (“The purposes of the [TCPA] are to protect the privacy interests of residential telephone subscribers by placing restrictions on unsolicited, automated telephone calls to the home and to facilitate interstate commerce by restricting certain uses of facsimile (fax) [sic] machines and automatic dialers.”).

¹²¹ *Continental Cas. Co.*, 817 F.3d at 994; *F.T.C. v. E.M.A. Nationwide, Inc.*, 767 F.3d 611, 637 (6th Cir. 2014); *F.T.C. v. On Point Capital Partners LLC*, 17 F.4th 1066, 1081-82 (11th Cir. 2021) (citing *F.T.C. v. Lanier Law, LLC*, Fed. Appx. 970. 979-80 (11th Cir. 2017)); *PayDay Financial*, 989 F.Supp.2d at 809.

¹²² *Delaware Watch*, 332 F.2d at 746.

¹²³ See *Rising Eagle Forfeiture Order*, 36 FCC Rcd at 6254, para. 55 (holding related companies liable due to the misconduct of their common directors).

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ ChariTel Incorporating Filing, ScammerBlaster Incorporation Filing. OnTel has its principal office in the same small town in North Dakota. OnTel Incorporation Filing.

¹²⁷ See OnTel Incorporation Filing (listing Dorsher as an incorporator); OnTel Inc, FRN No. 002979605, Federal Communications Commission (July 23, 2020) (listing Dorsher as chief executive officer). ChariTel Incorporation Filing (listing Dorsher as incorporator); ChariTel 2021 Annual Report (listing Dorsher as a director).

¹²⁸ ChariTel Incorporation Filing; ChariTel 2021 Annual Report; OnTel Incorporation Filing, OnTel 2021 Annual Report; ScammerBlaster Inc 2021 Annual Report.

¹²⁹ ScammerBlaster Incorporation Filing.

¹³⁰ See *Home*, ScammerBlaster, <https://scammerblaster.com> (last visited Feb. 7, 2022) (“We are a group of volunteers from around the world who break scammer’s phone systems. By sending a high volume of calls to their

(continued....)

Dorsher uses to carry out this business purpose. ChariTel apparently makes millions of prerecorded voice message calls to toll free numbers, which generates revenue to fund the Dorsher Entities' operations. In fact, ChariTel's revenues appear to be used directly and seamlessly to fund the Dorsher Entities' operations.¹³¹ Meanwhile, Dorsher appears to use OnTel to launch TDoS attacks on behalf of the Dorsher Entities.¹³² Failing to hold ScammerBlaster Inc and OnTel liable would allow core components of Dorsher's organization to remain operational, undermining our enforcement of the TCPA.¹³³ Thus, we find ChariTel Inc, OnTel Inc, and ScammerBlaster Inc to be functionally a single business entity and propose to hold them jointly and severally liable along with Dorsher.¹³⁴

V. CONCLUSION

35. We find that the Dorsher Entities apparently willfully and intentionally violated section 227(b) of the Act and section 64.1200(a) of the Commission's rules. We further find that Thomas Dorsher, ChariTel Inc, OnTel Inc, and ScammerBlaster Inc are apparently jointly and severally liable for a forfeiture in the amount of \$116,156,250.

VI. ORDERING CLAUSES

36. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act¹³⁵ and section 1.80 of the Commission's rules,¹³⁶ ChariTel Inc, OnTel Inc, ScammerBlaster Inc and Thomas Dorsher are hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of one hundred, sixteen million, one hundred fifty-six thousand, two hundred fifty dollars (\$116,156,250) for willful, repeated, and intentional violations of section 227(b) of the Act¹³⁷ and section 64.1200(a) of the Commission's rules.¹³⁸

37. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules,¹³⁹ within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, ChariTel Inc, OnTel Inc, ScammerBlaster Inc and Thomas Dorsher **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 40 below.

38. ChariTel Inc, OnTel Inc, ScammerBlaster Inc and Thomas Dorsher shall send electronic notification of payment to Lisa Ford, Enforcement Bureau, Federal Communications Commission, at lisa.ford@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit

(Continued from previous page) _____

call centers the scammer cannot make or receive any more phone calls. This completely stops their operation dead in their tracks and runs up their phone bill hundreds of dollars per minute.”).

¹³¹ See *supra* para. 31 (discussing Dorsher's seamless control of ChariTel and OnTel).

¹³² See ScammerBlaster Referral at 2 (tracing TDoS calls to OnTel). The ITG also traced some of the “public service announcement” type calls to OnTel. *Id.* at 1; see also *supra* para. 9.

¹³³ See *Capital Tel. Co.*, 498 F.2d at 738-39 (permitting an agency to find horizontally related business entities liable in order to enforce a statute regulating interstate commerce); *Delaware Watch*, 332 F.2d at 746 (finding that defendants conducted business through “a maze of interrelated companies” and held the horizontal entities liable).

¹³⁴ Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

¹³⁵ 47 U.S.C. § 503(b).

¹³⁶ 47 CFR § 1.80.

¹³⁷ 47 U.S.C. § 227(b).

¹³⁸ 47 CFR § 64.1200(a).

¹³⁹ 47 CFR § 1.80.

card, ACH (Automated Clearing House) debit from a bank account, or by wire transfer using the Commission's Registration System (the Commission's FRN Management and Financial system)¹⁴⁰. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:¹⁴¹

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated.¹⁴² Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹⁴³ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/paymentFrnLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

39. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(g)(3) of the Commission's rules.¹⁴⁴ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division and must include the

¹⁴⁰ Payments made using CORES do not require the submission of an FCC Form 159.

¹⁴¹ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

¹⁴² FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

¹⁴³ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹⁴⁴ 47 CFR §§ 1.16, 1.80(g)(3).

NAL/Account Number referenced in the caption. The statement must also be e-mailed to Daniel Stepanicich at daniel.stepanicich@fcc.gov.

40. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.¹⁴⁵ Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.¹⁴⁶

41. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and a copy of the Verified Call Detail Records shall be sent by first class mail and certified mail, return receipt requested, to Thomas Dorsher, ChariTel Inc, 9017 Highway 1, Oakes, ND 58474; OnTel Inc, 611 Main Ave., Unit 112, Oakes, ND 58474; and ScammerBlaster Inc, 9017 Highway 1, Oaks, ND 58474.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁴⁵ 47 U.S.C. § 503(b)(2)(E).

¹⁴⁶ See, e.g., *Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18–21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860–62, paras. 21–25 (2018); *Adrian Abramovich Forfeiture Order*, 33 FCC Rcd at 4678-79, paras. 44-45; *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-904, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

**STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *In the Matter of Thomas Dorsher; ChariTel Inc; OnTel Inc; and ScammerBlaster Inc*, Notice of Apparent Liability for Forfeiture, File No. EB-TCD-21-00032187

I detest robocalls and I believe that if we want to stop them we need both defense and offense.

In the defensive zone, two weeks ago we required small carriers to implement STIR/SHAKEN technology. This call authentication system that helps catch junk calls is already in place in our largest carriers. But we now require it in the networks of smaller providers—and specifically those that we believe may be turning a blind eye to these calling scams.

In the offensive zone, last week we started an enforcement action to go after the scammers behind billions of auto warranty calls. This began with eight cease-and-desist letters to carriers responsible for these calls, directing them to knock it off in 48 hours or we will tell every other carrier to not carry their traffic. At the same time, we are working with the Attorney General of Ohio in our ongoing investigation to hold those behind this fraud accountable.

It is worth noting that our offensive game has a bigger team than ever before. In fact, as of today, we have State Attorneys General in 41 states plus the District of Columbia and Guam working with us through a Memorandum of Understanding to share resources to fight illegal robocalls. Our work with the Attorney General of Ohio is already evidence that this approach is making a difference.

Today's enforcement action is also part of our offensive effort. We propose a \$116 million fine for a scammer responsible for a traffic pumping scheme built on robocalls. This fine is big. But it also calls attention to the fact we need new rules of the game. We have issued many fines just like this one. But after we do, we have to hand them over to our colleagues at the Department and Justice and hope for further action. I like hope. But instead of wishing for the best, I would like the certainty of this agency being able to go to court directly and collect fines against these bad actors—each and every one of them. This will take a change in the law and we need Congress to fix that. But I think this is robocall change worth fighting for.

Thank you to the staff responsible for this enforcement action, including Loyaan Egal, Lisa Gelb, Jermaine Haynes, Balki Macauley, Daniel Stepanicich, Kristi Thompson, Ashley Tyson, and Lisa Zaina from the Enforcement Bureau; Eduard Bartholme, Mark Stone, and Kristi Thornton from the Consumer and Governmental Affairs Bureau; Mark Montano and Michelle Schaefer from the Office of Economics and Analytics; Valerie Hill, Richard Mallen, Wisam Naoum, and William Richardson from the Office of General Counsel; and Pamela Arluk, Matthew Collins, Lynne Engledow, Heather Hendrickson, Zachary Ross, Michelle Sclater, Gil Strobel, and David Zesiger from the Wireline Competition Bureau.

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *In the Matter of Thomas Dorsher; ChariTel Inc; OnTel Inc; and ScammerBlaster Inc*, Notice of Apparent Liability for Forfeiture, File No. EB-TCD-21-00032187

We continue to be faced with egregious actions by bad actors using illegal robocalls. And, this one is particularly striking. Here, Thomas Dorsher and his companies engaged in willful and repeated conduct that violated federal law and the Commission's rules. In less than three months, Dorsher placed more than nine million robocalls to toll free numbers. Each of these calls generated income for Dorsher through an access stimulation agreement at the expense of toll free subscribers, which he used to fund dangerous telephone denial of service attacks. These types of attacks are highly hazardous as they disable telephone networks and can disrupt critical emergency services.¹

Dorsher has not only acknowledged that he made these robocalls to fund his other illegal behavior, but, when confronted by those affected by these robocalls, Dorsher threatened them, reasoning that he was beyond the reach of the law. His blatant disregard for the welfare of consumers on top of his illegal activities justifies the significant fine we adopt today.

I therefore support this item. Stopping illegal robocalls is the Commission's top consumer protection priority, and we must remain aggressive in the fight to bring consumers relief from these harmful intrusions. Additionally, we closely monitor 911 outages of all types, including for cyberattacks on our telephone networks. We must remain diligent and send a message that these denial of service attacks cannot occur.

As I have said repeatedly, there are numerous hurdles to finding these bad actors, and bringing them to account for violations of our rules. That we continue to pursue these cases demonstrates the Commission's resolve to protecting consumers, and should drive deterrence – a hallmark of any justified enforcement action.

¹ Cybersecurity and Infrastructure Security Agency, Cyber Risks to 911, Telephony Denial of Service, https://www.cisa.gov/sites/default/files/publications/Cyber%20Risks%20to%20911%20TDoS_6.4.2020%20-%20%28508c%29_1.pdf (last visited July 13, 2022).