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For Immediate Release**FCC PROPOSES \$5 MILLION ROBOCALLING FINE AGAINST
JACOB WOHL AND JOHN BURKMAN*****In First Case Under TRACED Act's TCPA Revisions, Parties Apparently Made
Unlawful Robocalls to Voters' Wireless Phones Without Prior Consent***

WASHINGTON, August 24, 2021—The Federal Communications Commission today proposed a \$5,134,500 fine against John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC for apparently making 1,141 unlawful robocalls to wireless phones without prior express consent in violation of the Telephone Consumer Protection Act. This is the largest TCPA robocall fine ever proposed by the Commission. It is also the first action where the FCC was not required to warn robocallers before robocall violations could be counted toward a proposed fine, per Congress's recent amendment of the TCPA.

The FCC's Enforcement Bureau investigation found that the calls in this case were apparently prerecorded and made to consumers' wireless phones without the required prior consent. Subject to narrow exceptions, the TCPA prohibits making prerecorded voice calls to wireless phones without the consent of those receiving the calls – regardless of the content of the calls. The robocalls in this case, made on August 26 and September 14, 2020, used messages telling potential voters that, if they vote by mail, their “personal information will be part of a public database that will be used by police departments to track down old warrants and be used by credit card companies to collect outstanding debts.” The Commission began its investigation following consumer complaints and concerns raised by a non-profit organization.

The Enforcement Bureau worked with the Ohio Attorney General's Office to identify two dialing service providers that provided subpoena responses confirming the robocall campaigns and identifying the clients who had hired them for this service. The Bureau used the subpoenaed call records and recordings of the calls to determine that the calls apparently went to wireless phones and the message was prerecorded. The consumers who agreed to speak with the Bureau about the calls confirmed they had not provided prior consent to the callers. The subpoenas also produced email exchanges between the dialing service vendors and Wohl and Burkman about the call campaigns – including choosing which zip codes to target and “the tape we want to go out.”

The calls themselves identified Wohl and Burkman by name and used Burkman's wireless phone number as the caller ID. Wohl and Burkman also both admitted under oath to their involvement in the creation and distribution of the robocalls, with Burkman stating in the U.S. District Court for the Southern District of New York, “That is our call, yes, yes” with confirmation from Wohl.

The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act of 2019 amended the TCPA so as to make inapplicable a provision of the law that previously had required the Commission to issue citations to non-FCC-regulated parties that apparently violated the TCPA. These citation requirements did not apply to the Truth in Caller ID Act, which established caller ID spoofing limits and under which the agency has issued numerous, large fines.

The proposed action, formally called a Notice of Apparent Liability for Forfeiture, or NAL, contains only allegations that advise a party on how it has apparently violated the law and may set forth a proposed monetary penalty. The Commission may not impose a greater monetary penalty in this case than the amount proposed in the NAL. Neither the allegations nor the proposed sanctions in the NAL are final Commission actions. The parties will be given an opportunity to respond and the Commission will consider the party's submission of evidence and legal arguments before acting further to resolve the matter.

The Notice of Apparent Liability for Forfeiture is available at:
<https://docs.fcc.gov/public/attachments/FCC-21-97A1.pdf>

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).