

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

In the Matter of)
Sorenson Communications, LLC) File No.: EB-TCD-17-00024119
CaptionCall, LLC) CD Acct. No.: 202232170001
) FRN: 0015648942
) FRN: 0022575187
)
Sorenson Communications, LLC) File No.: EB-TCD-19-00030262
CaptionCall, LLC) CD Acct. No.: 202232170002
) FRN: 0015648942
) FRN: 0022575187
)
Sorenson Communications, LLC) File No. EB-TCD-21-00032604
CaptionCall, LLC) CD Acct. No.: 202232170003
) FRN: 0015648942
) FRN: 0022575187

ORDER

Adopted: December 3, 2021

Released: December 3, 2021

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree with Sorenson Communications, LLC and its wholly-owned subsidiary, CaptionCall, LLC (collectively, CaptionCall or Company), to resolve the Bureau’s investigation into whether CaptionCall violated the Commission’s Telecommunications Relay Services (TRS) rules by providing incentives to hearing health professionals (Hearing Health Professionals) to refer users for service, reporting ineligible costs associated with these unlawful practices to the TRS Fund Administrator (Administrator) as reasonable costs of providing relay service, and failing to collect, from each user, documentation required to validate identity and attest to the user’s eligibility to use Internet Protocol Captioned Telephone Service (IP CTS). These rules ensure that individuals with hearing, speech, and/or vision disabilities have access to the telephone system to enable communications in a manner functionally equivalent to the provision of voice communications services used by persons without disabilities.

2. To settle this matter, CaptionCall admits that its actions violated the prohibition on incentives for use of IP CTS to health hearing professionals, the IP CTS registration and certification requirements, and the data collection and audits requirement, and agrees to implement a comprehensive Compliance Plan, reimburse \$28,000,000 to the TRS Fund, and pay a \$12,500,000 civil penalty.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced Investigations.

4. In the absence of material new evidence relating to this matter, we do not set for hearing the question of CaptionCall's basic qualifications to hold or obtain any Commission license or authorization.¹

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act² and the authority delegated by sections 0.111 and 0.311 of the Commission's rules,³ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

6. **IT IS FURTHER ORDERED** that the above-captioned matters **ARE TERMINATED** in accordance with the terms of the attached Consent Decree.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Cynthia Williams, General Counsel, CaptionCall, LLC and Sorenson Communications, LLC, 4192 South Riverboat Road Salt Lake City, UT 84123, and to John T. Nakahata, Harris, Wiltshire & Grannis LLP, 1919 M Street, NW Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold
Chief
Enforcement Bureau

¹ See 47 CFR § 1.93(b).

² 47 U.S.C. § 154(i).

³ 47 CFR §§ 0.111, 0.311.

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CaptionCall, LLC)	CD Acct. No.: 202232170003
)	FRN: 0015648942
)	FRN: 0022575187

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission (FCC or Commission) and Sorenson Communications, LLC and its wholly-owned subsidiary, CaptionCall, LLC (collectively, CaptionCall or Company), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigations into CaptionCall’s violations of sections 64.604(c)(5)(iii)(D)(I) and (7), 64.604(c)(8)(ii), 64.604(c)(13)(i)(C)-(D), and 64.611(j)(1) of the Commission’s rules (Rules). CaptionCall engaged in practices such as providing incentives to hearing health professionals (Hearing Health Professionals) to refer users for service, reporting ineligible costs associated with these wasteful practices to the TRS Fund Administrator (Administrator) as reasonable costs of providing relay service, and failing to collect, from each user, documentation required to validate identity and attest to the users’ eligibility to use Internet Protocol Captioned Telephone Service (IP CTS). The Commission has found that such practices may lead to waste of the Telecommunications Relay Services Fund (TRS Fund or Fund). To resolve this matter, CaptionCall agrees to implement a comprehensive Compliance Plan, reimburse \$28,000,000 to the TRS Fund, and pay \$12,500,000 in civil penalties.

2. Telecommunications Relay Services (TRS) provide persons who are deaf, hard of hearing, deafblind or have speech disabilities access to the telephone system at no cost, enabling communications with telephone users in a manner similar to other telephone users. Waste, fraud, and abuse of the TRS Fund by TRS Providers threaten the viability of relay services. This Consent Decree represents the Commission’s continued effort to prevent waste, fraud, and abuse of the TRS Fund and to aggressively address practices that jeopardize the availability of TRS for persons who need these services.

I. DEFINITIONS

3. For the purposes of this Consent Decree, the following definitions shall apply:

- (a) “Act” means the Communications Act of 1934, as amended.¹

¹ 47 U.S.C. § 151 *et seq.*

- (b) “Administrator” or “TRS Fund Administrator” means the entity designated by the Commission to administer the TRS Fund.²
- (c) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (d) “Agreement” means any arrangement between CaptionCall and any Person that includes negotiated terms and conditions and results in an IP CTS expense(s) based on Customer Relationship Management and the expense is included in its Annual Cost Submission filed with the TRS Fund Administrator. Such arrangements include, but are not limited to, contracts, verbal agreements, amendments, addendums, exhibits, appendices, schedules, side letters, and any other document establishing or memorializing the terms of any such arrangement. An Agreement may be oral, written, or based on Company procedures and practices.
- (e) “Alternative Identification Documents Investigation” means the investigation commenced by the Bureau in File No. EB-TCD-21-00032604.
- (f) “Annual Cost Submission” or “RSDR” shall refer to the annual relay service data request form Providers submit to the TRS Fund Administrator to reflect the Providers' reasonable costs of providing service.
- (g) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (h) “CD Acct No.” means account number 202232170001 or 202232170002 or 202232170003 associated with payment obligations described in paragraph 28 of this Consent Decree.
- (i) “CaptionCall” and “Company” shall refer to CaptionCall, LLC, a wholly-owned subsidiary of Sorenson Communications, LLC, which as of December 1, 2020, became the holder of the conditional certification to provide Internet Protocol Captioned Telephone Service (IP CTS) and prior to that date provided IP CTS under Sorenson Communications, LLC’s conditional certification, to Sorenson Communications, LLC, in its former capacity as holder of a Federal Communications Commission conditional certification to provide IP CTS, and to any predecessors-in-interest and successors-in-interest,
- (j) “Certifications Investigation” means the investigation commenced by the Bureau in File No. EB-TCD-19-00030262.
- (k) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (l) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which CaptionCall is subject by virtue of its business activities, including but not limited to the TRS Rules.

² See 47 CFR § 64.604(c)(5).

- (m) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 23.
- (n) “Covered Personnel” means all CaptionCall employees, contractors, and agents who perform duties related to CaptionCall’s filings to the Administrator, perform Customer Relationship Management functions, or directly supervise, oversee, or manage the performance of duties required for CaptionCall’s compliance with this Consent Decree and/or the TRS Rules. With respect to contractors and agents, only those receiving benefits, financial or otherwise, for work done on behalf of CaptionCall are considered Covered Personnel.
- (o) “Customer Relationship Management” or “CRM” shall mean any duties related to securing new CaptionCall IP CTS customers, retaining CaptionCall IP CTS customers, and educating CaptionCall customers on Caption Call IP CTS. CRM includes all marketing, sales, outreach, and customer education functions.
- (p) “Document” means the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, electronically stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.
- (q) “Effective Date” means the date by which both the Bureau and CaptionCall have signed the Consent Decree and the Bureau has released an Adopting Order.
- (r) “Hearing Health Professional” shall have the same meaning as the term is defined in 47 CFR § 64.604(c)(8)(iv).
- (s) “Identifier” means any unique numbers, letters, or symbols or combinations thereof assigned to a person, entity, or event by CaptionCall that is used by CaptionCall to track information associated with potential users and Registered Users, individually or collectively.
- (t) “Incentives Investigation” means the investigation commenced by the Bureau in File No. EB-TCD-17-00024119.
- (u) “Internet Protocol Captioned Telephone Service” or “IP CTS” shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(19).
- (v) “Investigations” means Incentives Investigation, Certifications Investigation, and Alternative Identification Documents Investigation, collectively.
- (w) “Lead” shall refer to a potential CaptionCall Registered User(s), regardless of how CaptionCall became or becomes aware of the Person(s).
- (x) “Lead Form” shall refer to any form, written or electronic, that CaptionCall makes available to any Person for the purpose of providing a Lead. “Marketing” shall refer to activities implemented by CaptionCall, or by an agent acting on behalf of or

under the direction of CaptionCall, to promote use of the Company's IP CTS products and service.³

- (y) "Operating Procedures" means the standard internal operating procedures and compliance policies established by CaptionCall to implement the Compliance Plan.
- (z) "Outreach" shall refer to activities implemented to educate the public or create an awareness of the availability of IP CTS, how the service is used, and what qualifies a person to use IP CTS. Outreach does not include activities promoting branded products and services.⁴
- (aa) "Parties" means CaptionCall and the Bureau, each of which is a "Party."
- (bb) "Person" shall have the meaning as the term is defined in 47 USC §153(39).
- (cc) "Professional Caregiver" means an individual, such as a health care provider, licensed or hired to provide nursing or other life care to a person for pay.
- (dd) "Provider" means an entity certified by the Commission that is eligible to receive compensation from the TRS Fund for providing a form of TRS to eligible users in compliance with the Rules.
- (ee) "Registered User" shall mean an individual who has registered with an IP CTS provider as described in 47 CFR § 64.611.
- (ff) "Requests for Reimbursement" shall mean CaptionCall's monthly submissions made to the TRS Fund Administrator for the purpose of determining reimbursements for TRS minutes CaptionCall handled in compliance with the TRS Rules.⁵
- (gg) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.
- (hh) "Telecommunications Relay Services" or "TRS" shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(39).

³ See also RolkaLoubé, Interstate TRS Fund 2018 Annual TRS Provider Data Request Filing Instructions 10-11 (2018) (*RSDR Filing Instructions*) (describing "Marketing" as "the wide range of activities involved in making sure that you're continuing to meet the needs of your customers and getting value in return" including (1) "inbound marketing such as market research to find out, for example, what groups of potential customers exist, what are their needs, which of those needs can be met, how they should be met, etc.," as well as "analyzing the competition, positioning your new product or service (finding your market niche), and pricing your products and services," and (2) "[o]utbound marketing," which "includes promoting a product through continued advertising, promotions, public relations and sales."). The *RSDR Filing Instructions* are used to complete the Annual Relay Service Data Request Form submitted to the TRS Fund Administrator. See generally 47 CFR § 64.604(c)(5)(iii)(D)(7) (describing the annual relay service data request form).

⁴ See also *RSDR Filing Instructions* at 11 (describing "Outreach" as "an effort by individuals in an organization or group to connect their ideas or practices to the efforts of other organizations, groups, specific audiences or the general public. Unlike marketing, outreach does not inherently revolve around a product or strategies to increase market share.").

⁵ See 47 CFR § 64.604(c)(5)(iii)(D)(1) (explaining the data required to receive compensation from the Fund).

- (ii) “TRS Fund” or “Fund” shall refer to the term as described in 47 CFR § 64.604(c)(5)(iii).
- (jj) “TRS Rules” means the regulations set forth at 47 CFR §§ 64.5101 through 64.5111 and §§ 64.601 through 64.636, Commission orders related to 47 U.S.C. § 225 of the Act, and any other applicable Rules and orders related to TRS.

II. BACKGROUND

4. Telephones are an integral part of daily life, but people with hearing loss often face challenges communicating by telephone. Congress and the Commission have taken steps to mitigate those challenges. Section 225 of the Communications Act of 1934, as amended (Act) requires the Commission to ensure the provision of Telecommunications Relay Services (TRS) for people with hearing and speech disabilities “to the extent possible and in the most efficient manner[.]”⁶ These services must be “functionally equivalent” to the provision of voice communications services used by persons without disabilities.⁷ Internet Protocol Captioned Telephone Service (IP CTS), an internet-based form of TRS, allows a person with hearing loss to read the other party’s words during a telephone call via real-time captions using an Internet-enabled device.

5. IP CTS is funded through mandatory contributions to the TRS Fund by telecommunications and VoIP service providers, who typically pass these costs on to their customers.⁸ Annually, Providers file data with the Administrator identifying the reasonable costs incurred in providing IP CTS to the public, as defined by the Commission.

6. To be eligible to use IP CTS, users must register with a certified Provider, provide documentation validating their identity, and execute a self-certification attesting to their need for the service to communicate effectively using the phone. Providers can seek reimbursement from the TRS Fund for minutes they handled that are associated with consumers who have met the registration requirements.⁹ The Administrator reimburses Providers for each eligible minute based on the per-minute rates established by the Commission. Monthly requests that Providers submit to the Administrator identify those minutes the Provider is claiming as eligible for reimbursement.¹⁰

7. The Commission has adopted numerous rules to reduce waste, fraud, and abuse associated

⁶ 47 U.S.C. § 225(b)(1).

⁷ 47 U.S.C. § 225(a)(3).

⁸ See generally *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24, 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, 13423, para. 7 (2013) (*2013 IP CTS Reform Order*); see also 47 CFR § 64.604(c)(5)(iii); *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 35 FCC Rcd 10866, 10867, para. 3 (2020) (*IP CTS Compensation Order*). In 2019, the Commission amended its rules to expand the TRS Fund contribution base for IP CTS to include intrastate as well as interstate end-user revenues. *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order, 34 FCC Rcd 11265, 11268-70, paras. 9, 12 (2019).

⁹ 47 CFR § 64.604(c)(5)(iii)(E)(4); 47 CFR §§ 64.611(j)(1)(i), (iv)-(v). See also *2013 IP CTS Reform Order*, 28 FCC Rcd at 13449, para. 64.

¹⁰ 47 CFR § 64.604(c)(5)(iii)(E)(1).

with the TRS Fund. Section 64.604(c)(13)(i)(C)-(D) prohibits Providers from engaging in any practice that the Provider knows, or has reason to know, will cause or encourage unnecessary use of IP CTS.¹¹ Unnecessary use of IP CTS includes: (1) the making of IP CTS calls that would not otherwise be made, and (2) any use of IP CTS by people who do not need the service to communicate effectively on the phone.¹² Section 64.604(c)(8)(ii) prohibits Providers from offering or providing a Hearing Health Professional any direct or indirect incentive, financial or otherwise, that is tied to a consumer's decision to register for or use IP CTS.¹³ Section 64.604(c)(5)(iii)(D)(I) requires Providers that seek compensation from the TRS Fund to provide true and adequate data and other information requested to determine the TRS Fund revenue requirements and payments.¹⁴ Service cost data may not include the costs associated with end-user equipment, including IP CTS phones, nor the marketing of such equipment.¹⁵ Section 64.604(c)(5)(iii)(D)(7) requires Providers to retain the data records that support their claims for payment from the TRS Fund. The records must be retained, in an easily retrievable format, for a minimum of five years. Section 64.611(j)(1)(xii) mandates that Providers “maintain records of any registration and certification information for a period of at least five years after the consumer ceases to obtain service from the provider[.]” Such data allows the Administrator and Commission to assess the accuracy of reimbursement filings TRS Providers submit to the Administrator.¹⁶

8. On April 24, 2014, the Commission granted Sorenson Communications, LLC, a conditional certification to provide IP CTS, which it offered to the public through its wholly owned subsidiary, CaptionCall, LLC.¹⁷ As of December 1, 2020, Sorenson Communications, LLC assigned its conditional certification to CaptionCall, LLC.¹⁸

¹¹ 47 CFR §§ 64.604(c)(13)(i)(C)-(D); *see also* *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, 33 FCC Rcd 5800, 5825-27, paras. 44-47 (2018) (*IP CTS Modernization Order*).

¹² 47 CFR §§ 64.604(c)(13)(i)(C)-(D).

¹³ 47 CFR § 64.604(c)(8)(ii); *see also* *2013 IP CTS Reform Order*, 28 FCC Rcd at 13428-32, paras. 16-23.

¹⁴ 47 CFR § 64.604(c)(5)(iii)(D)(I).

¹⁵ *See, e.g.*, RolkaLoube, Interstate TRS Fund 2018 Annual TRS Provider Data Request Filing Instructions at 2-3 and 18-20. These filing instructions cite *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20168-71, paras. 73-82 (2007) (*2007 TRS Rate Methodology Order*). These filing instructions are used to complete the Annual Relay Service Data Request Form that IP CTS Providers submit to the TRS Fund Administrator. *See also* 47 CFR § 64.604(c)(5)(iii)(D)(7) (describing the annual relay service data request form).

¹⁶ 47 CFR § 64.604(c)(5)(iii)(D)(7)

¹⁷ *Notice of Grant of Conditional Certification for Sorenson Communications, Inc., as Reorganized Pursuant to Chapter 11, to Provide Internet-Based Telecommunications Relay Services Pending Commission Action on Sorenson's Application for Certification*, CG Docket Nos. 03-123, 10-51, & 13-24, Public Notice, 29 FCC Rcd 4111 (CGB 2014).

¹⁸ Letter from John T. Nakahata, Counsel for Sorenson Communications, LLC., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-51 and 03-123 (filed Nov. 19, 2020). *See also*, Letter from Diane Burstein, FCC Consumer and Governmental Affairs Bureau, Deputy Chief, to John T. Nakahata, Counsel for Sorenson Communications, LLC, Harris, Wiltshire & Grannis LLP (Dec. 11, 2020) (letter filed in CG Docket Nos. 10-51 & 03-123 regarding notice of non-substantial assignment of IP CTS conditional certification from Sorenson Communications, LLC to its wholly-owned subsidiary CaptionCall, LLC effective Dec. 1, 2020).

9. The FCC's Enforcement Bureau (Bureau) initiated an investigation into CaptionCall's marketing practices following a referral from the FCC's Consumer and Governmental Affairs Bureau. Through the Incentive Investigation,¹⁹ Bureau staff determined that CaptionCall implemented programs that involved a significant number of Hearing Health Professionals and a wide range of CaptionCall representatives, e.g., account managers to the Vice President of Marketing. CaptionCall at times encouraged Hearing Health Professionals to refer all patients to CaptionCall and offered and provided incentives to Hearing Health Professionals for submitting referrals. Evidence shows that CaptionCall provided Hearing Health Professionals with free meals, gift baskets, gift cards, and monetary contest awards, much of which were explicitly offered to reward past referrals or encourage future referrals.²⁰

10. CaptionCall also entered into a written agreement with a third-party marketer to distribute advertisements featuring CaptionCall. That agreement is not the subject of this settlement and did not raise any legal concerns. In addition to the written agreement, CaptionCall had an unwritten agreement pursuant to which it paid the third-party marketer for referrals submitted to CaptionCall, up to certain limits. In some instances, senior CaptionCall managers were aware of and approved these payment arrangements. Evidence shows that the monies the third-party marketer received from CaptionCall were shared with Hearing Health Professionals through a revenue sharing arrangement.²¹ CaptionCall disputes that any CaptionCall personnel was aware of or approved any plan to distribute payments to Hearing Health Professionals that the third-party advertiser may have operated and disputes that any evidence establishes that the agreement with this third-party advertiser created a direct or indirect incentive that was "tied to a consumer's decision to register for or use IP CTS."

11. CaptionCall's Annual Cost Submissions filed in 2018 and 2019 show that the Company included the costs of the gift items and meals provided to encourage and reward Hearing Health Professionals for referrals and all costs associated with the third-party marketer.²² CaptionCall also

¹⁹ Letter of Inquiry from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Scott Sorensen, Chief Financial Officer, Sorenson Communications, LLC (Apr. 14, 2017) (on file in EB-TCD-17-00024119) (Letter of Inquiry); Subpoena from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to John Nakahata, Harris, Wiltshire & Grannis LLP, Counsel for Sorenson Communications, LLC and CaptionCall, LLC (June 12, 2018) (on file in EB-TCD-17-00024119) (June 2018 Subpoena); Subpoena from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Samuel Feder, Jenner & Block, Counsel for CaptionCall, LLC (Oct. 10, 2018) (on file in EB-TCD-17-00024119) (Oct. 2018 Subpoena).

²⁰ See e.g., Supplemental Response to Oct. 2018 Subpoena, from Sorenson Communications, Inc. and CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at CaptionCall-05-0027898 - CaptionCall-05-0027900, Response to Document Request 5 (July 8, 2019) (July 2019 Supplemental Response) (on file in EB-TCD-17-00024119); Supplemental Response to Oct. 2018 Subpoena, from Sorenson Communications, Inc. and CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at CaptionCall-05-0065418 - CaptionCall-05-0065419, Response to Document Request 5 (August 2, 2019) (on file in EB-TCD-17-00024119) (Aug. 2, 2019 Supplemental Response).

²¹ Letter from Samuel Feder, Jenner & Block, Counsel for CaptionCall, LLC, to Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 1 (Nov. 26, 2019) (on file in EB-TCD-19-00030262) (Disclosure Letter); see also E-mail from Emily Savner, Jenner & Block, Counsel for CaptionCall, LLC, et al to Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau et al at CaptionCall-04-0023044 - CaptionCall-04-0023060 (Nov. 22, 2019) (on file in EB-TCD-17-00024119) (Nov. 22, 2019 E-mail) (providing documents disclosed during a meeting on November 21, 2019).

²² See Supplemental Response to Oct. 2018 Subpoena, from Sorenson Communications, Inc. and CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at CaptionCall-05-2014971, Response to Document Request 5 (May 6, 2019) (on file in EB-TCD-17-00024119) (May 2019

(continued....)

included all costs associated with marketing its IP CTS phones as a part of the reasonable costs of providing IP CTS in its Annual Cost Submissions.²³ CaptionCall does not dispute that the costs of marketing the equipment were included in its Annual Cost Submissions. The Company claims that it never marketed phones as a separate product from IP CTS; as a result, these costs did not have to be allocated between IP CTS service and equipment. Under Commission decisions, such phone costs are not incurred in the direct provision of IP CTS and therefore should not be included as service costs in Annual Cost Submissions to the Administrator.

12. In November 2019, CaptionCall voluntarily disclosed to the Bureau a self-certification issue the Company identified in July 2018. CaptionCall is required to obtain a written self-certification from all users attesting to their eligibility to use IP CTS prior to seeking compensation from the TRS Fund for minutes associated with the user.²⁴ CaptionCall determined that a “loophole” existed in its registration process with respect to obtaining written self-certifications from some users.²⁵ As a result, CaptionCall could not verify that it collected valid self-certifications from a subset of users.²⁶ Since February 2015, some of these users generated IP CTS minutes that were subsequently submitted to the Administrator for compensation in CaptionCall’s Requests for Reimbursement.²⁷ Although CaptionCall stopped billing minutes associated with the then-identified affected users in May 2019, the Company is not entitled to reimbursements from the TRS Fund for minutes associated with any users for which the Company did not have a self-certification from at the time CaptionCall submitted the Requests for Reimbursement to the

Supplemental Response) (In response to a question about each expense for gifts included in Marketing and Advertising and Outreach on its Annual Cost Submission to the TRS Fund Administrator, CaptionCall provided Account Manager expense reports, receipts, and Hearing Health Professional visit notes from January 2018 to March 2019, including a spreadsheet listing all of the gifts and amounts for each given to Hearing Health Professionals on the visits). Supplemental Response to Oct. 2018 Subpoena, from Sorenson Communications, Inc. and CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, Response to Document Request 3, (Jan. 30, 2019) (on file in EB-TCD-17-00024119) (Jan. 30, 2019 Supplemental Response) (In response to a document request regarding agreements with any entity CaptionCall has or had associated with a line item expense included in its Annual Cost Submission under “Advertising & Promotion” and “Sponsorships,” CaptionCall indicated it had such an agreement with {{ }}); *see also* Annual Relay Service Data Request Forms, April 9, 2018 and Feb. 20, 2019 (submitted to the TRS Fund Administrator indicating money paid to {{ }}). Material set off by double brackets {{ }} is confidential and is redacted from the public version of this document.

²³ Response to Oct. 2018 Subpoena, from Sorenson Communications, Inc. and CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 2, Response to Question 1 (Oct. 24, 2018) (on file in EB-TCD-17-00024119).

²⁴ *See* 47 CFR § 64.611(j)(1)(v).

²⁵ Disclosure Letter, at 1 (“In July 2018, CaptionCall Customer Support staff identified a loophole in the Company’s self-certification processes, the result being that for a small subset of customer accounts, the Company cannot now verify whether the Company obtained a self-certification signed by the customer, as required by 47 C.F.R. § 64.611(j)(1).”). CaptionCall initially disclosed the matter during a meeting with Commission staff on November 1, 2019.

²⁶ Supplemental Response to Letter of Inquiry (May 28, 2020); CC-SC-00000558.3.

²⁷ Letter from Samuel Feder, Jenner & Block, Counsel for CaptionCall, LLC, to Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 2 (Jan. 7, 2020) (on file in EB-TCD-19-00030262) (Jan 7, 2020 Letter) (providing documents and responses to information requests made during and after a meeting held on December 13, 2019); *see also* Jan. 7, 2020 Letter at CC-SC-00003001 (identifying records of billed calls for CaptionCall IP CTS users for whom CaptionCall lacks self-certifications).

Administrator that included the minutes.²⁸ The Bureau subsequently initiated the Certification Investigation on February 10, 2020.²⁹

13. In December 2020, CaptionCall notified the Bureau that during its registration process, the Company failed to collect from some users, the last four-digits of their Social Security number or for those who did not have a Social Security number, approved identity validation documentation. CaptionCall also acknowledged that it failed to notify its personnel of the requirement to collect alternative identity documentation only when a user lacked a Social Security number.³⁰ As an IP CTS provider, CaptionCall is entitled to compensation for minutes associated with users for whom it has collected the required registration documentation from prior to submitting minutes for compensation from the TRS Fund.³¹ The Bureau subsequently initiated the Alternative Identification Documents Investigation of this matter to collect additional information associated with the disclosure.³²

14. CaptionCall and the Bureau engaged in settlement negotiations. To settle this matter, CaptionCall and the Bureau enter into this Consent Decree and agree to the following terms and conditions.

III. TERMS OF AGREEMENT

15. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

16. **Jurisdiction.** CaptionCall agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

17. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

18. **Termination of Investigations.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigations. In consideration for the termination of the Investigations, CaptionCall agrees to the terms, conditions, and procedures contained herein. The Parties, by and through their counsel, have agreed that this Consent Decree fully and finally resolves all issues between them arising from the Investigations and matters addressed in this Consent Decree and precludes further investigations, administrative proceedings, litigation, or enforcement action between the Bureau and the Company on the resolved issues except for purposes of enforcing this Consent Decree.³³

19. **Representations; Warranties.** CaptionCall represents and warrants that it will treat the Civil Penalty set forth herein as a penalty within the meaning of Section 162(f) of the Internal Revenue

²⁸ Feb. 2020 LOI Response at 6.

²⁹ Letter of Inquiry from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to CaptionCall, LLC (Feb. 10, 2020) (on file in EB-TCD-19-00030262).

³⁰ The requirement to obtain the last four digits of the user's Social Security number adopted in the *IP CTS Reform Order* became effective on August 28, 2014. See 79 Fed. Reg. 51445 (Aug. 28, 2014); see also *IP CTS Social Security Waiver Order*, 30 FCC Rcd at 1100, para. 19 (The *IP CTS Social Security Waiver Order* become effective upon release of the Order on Feb. 6, 2015).

³¹ See 47 CFR § 64.611(j)(1).

³² Letter of Inquiry from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to CaptionCall, LLC (Aug. 20, 2021) (on file in EB-TCD-21-00032604).

³³ See 47 CFR § 1.93(b).

Code.³⁴ The Company also agrees that it will not treat any payment of the Civil Penalty described below in paragraph 28 as tax deductible for purposes of federal, state, or local law or include the expense as a business cost in its Annual Cost Submission to the TRS Fund Administrator.

20. CaptionCall warrants that its cost allocation system will track the direct costs of providing IP CTS separately from any costs ancillary to providing IP CTS. CaptionCall further warrants that all costs associated with marketing equipment used for IP CTS, including marketing phones, are ancillary to providing IP CTS and shall be tracked and reported as equipment costs.

21. **Admission of Liability.** For the purpose of this Consent Decree and for Commission civil enforcement purposes, CaptionCall admits that its actions as described in paragraphs 9, 12, and 13 herein violated the TRS Rules.

22. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, CaptionCall shall designate a senior corporate representative with the requisite corporate and organizational authority to serve as the Compliance Officer for CaptionCall, LLC. The Compliance Officer shall discharge the duties set forth below for IP CTS and any other form of TRS that CaptionCall, LLC offers during the period covered by this Consent Decree. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan; overseeing all compliance activities; and ensuring that CaptionCall complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the TRS Rules prior to assuming his or her duties. In addition, the Compliance Officer shall maintain an understanding of the TRS Rules and take proactive measures to ensure CaptionCall, LLC's compliance with such rules.

23. **Compliance Plan.** For purposes of settling the matters set forth herein, CaptionCall agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. CaptionCall will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within forty-five (45) calendar days after the Effective Date, CaptionCall shall establish and use Operating Procedures that all Covered Personnel must follow to help ensure CaptionCall's compliance with the applicable TRS Rules. CaptionCall's Operating Procedures shall include internal procedures and policies specifically designed to ensure that:
 - i. CaptionCall's methods and procedures and other forms of staff guidance are consistent with the TRS Rules and do not encourage or support practices that result in waste, fraud, or abuse of the TRS Fund or unnecessary use of IP CTS;
 - ii. CaptionCall can assess whether the work Covered Personnel perform on behalf of CaptionCall complies with the TRS Rules;
 - iii. the Compliance Officer can assess whether work to be done pursuant to an Agreement complies with this Consent Decree and the TRS Rules;

³⁴ See 26 U.S.C. § 162(f).

- iv. all Customer Relationship Management (CRM) activities are reviewed for compliance with this Consent Decree and the TRS Rules prior to implementation; and
- v. a cost accounting system and management controls are utilized to guarantee that CaptionCall's Annual Cost Submissions only include allowable expenses that represent the reasonable costs of providing IP CTS and are supported by Documents which can be made available upon a request by the Commission or Administrator.

(b) **Compliance Manual.**

- i. Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Personnel. The Compliance Manual shall explain:
 - 1. CaptionCall's responsibilities as a certified entity and the potential consequences for non-compliance with the TRS Rules and this Consent Decree;
 - 2. acceptable practices when Covered Personnel interact with potential CaptionCall IP CTS users, IP CTS users, and Persons that generate Leads; and
 - 3. the steps Covered Personnel may follow to disclose noncompliance to the Commission.
- ii. CaptionCall shall update the Compliance Manual and make such changes available to applicable Covered Personnel within thirty (30) calendar days of a TRS Rule's effective date.
- iii. CaptionCall shall review the Compliance Manual annually, but no later than November 1 each year, to ensure that the information set forth therein remains accurate. If necessary, a revised Compliance Manual must be disseminated to Covered Personnel no later than February 1 each year.

(c) **Compliance Training Program.**

- i. Within sixty (60) calendar days after the Effective Date, CaptionCall shall establish and implement a Compliance Training Program for all Covered Personnel to ensure compliance with the TRS Rules and this Consent Decree. The Compliance Training Program shall include:
 - 1. an overview of the TRS Rules applicable to Covered Personnel;
 - 2. an overview of acceptable practices when Covered Personnel and agents interact with potential CaptionCall IP CTS users, Registered Users, persons and entities that generate Leads;
 - 3. case studies based on practices that led to this Consent Decree and repayments to the TRS Fund;

4. a detailed description of the measures that CaptionCall has implemented or is implementing to prevent non-compliance pursuant to or consistent with this Consent Decree and the TRS Rules;
 5. CaptionCall's obligation to report any noncompliance with the TRS Rules and this Consent Decree pursuant to paragraph 24 of this Consent Decree; and
 6. instructions to Covered Personnel on how to disclose noncompliance to the Commission and to the Compliance Officer or Company pursuant to its whistleblower policies.
- ii. The Compliance Training Program shall be tailored to the duties and responsibilities of specific Covered Personnel or groups of Covered Personnel, including (1) all levels of Customer Relationship Management staff, including but not limited to Vice Presidents, directors, managers, and all other related staff that have oversight of any plan or relationship that could result in Leads, and (2) Covered Personnel responsible for obtaining, reviewing, and verifying the collection and retention of all required Documents from Registered Users.
 - iii. CaptionCall shall ensure that any Covered Personnel that are either unable to complete the initial Compliance Training Program because they are not in a working status or who were not Covered Personnel at the time of the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person returns to a working status or become Covered Personnel.
 - iv. CaptionCall shall distribute compliance training updates on an annual basis and shall review and revise the Compliance Training Program, as necessary, to ensure that it remains current.

(d) **Notifications.**

- i. Within three (3) business days after the Effective Date and continuing for one month following the Effective Date, CaptionCall shall prominently display on its website a headline linked to a printable document that (1) states that persons who register to use IP CTS must attest to their need for the service to communicate using a phone and submit a signed self-certification; and (2) explains the prohibition against incentives and rewards.
- ii. Within ten (10) business days after the date a new Commission orders, rules, or guidance that require changes in CaptionCall's processes and/or methods and procedures becomes effective, CaptionCall shall notify affected Covered Personnel of any applicable changes in CaptionCall's requirements, processes, and/or methods and procedures.

(e) **Agreements.**

- i. Within thirty (30) calendar days after the Effective Date, CaptionCall shall ensure that all new Agreements, which result in a cost that will be included

in the Marketing/Advertising or Outreach sections of the Company's Annual Cost Submission to the Administrator:

1. be executed in writing;
 2. provide detailed information about the goods and/or services to be provided by the party or parties to the Agreement; and
 3. not preclude CaptionCall or the other party to the Agreement from providing a copy of the Agreement and other relevant information to the Commission or Administrator upon request and without prior approval of the other party/parties to the Agreement.
- ii. Within one hundred twenty (120) calendar days after the Effective Date, CaptionCall shall ensure that all Agreements in existence as of the Effective Date which will result in a cost attributed to Marketing/Advertising or Outreach in the Company's Annual Cost Submission to the Administrator are consistent with the requirements of paragraph 23(e)(i)1-3 herein or terminated.
 - iii. CaptionCall shall terminate any Agreement or sponsorship within three (3) business days of obtaining information indicating that funds the Company committed to provide are being used or will be used in contradiction of the Commission's TRS Rules or the terms of this Consent Decree.
- (f) **Covered Personnel.** Within thirty (30) calendar days after the Effective Date, CaptionCall shall implement processes to ensure that:
- i. all compensation plans, including bonus and other award plans, for Covered Personnel, shall be documented and maintained for at least five (5) years;
 - ii. all payments made to Covered Personnel based on Leads, new Registered Users, IP CTS Phones installed, or IP CTS minutes generated shall be documented and all associated records shall be maintained by CaptionCall for at least five (5) years; and
 - iii. all compensation plans and records maintained pursuant to paragraphs 23(f)(i) and (ii) of this Consent Decree shall be made available to the Commission and the Administrator upon request.
- (g) **Customer Relationship Management (CRM).**
- i. Within thirty (30) calendar days after the Effective Date, CaptionCall shall develop and implement:
 1. a Compliance Checklist that describes the steps that Covered Personnel must follow to ensure compliance with the TRS Rules when planning, approving, and implementing CRM efforts.
 2. measures to ensure and confirm that Covered Personnel and external personnel engaged to assist with CRM efforts are complying with the TRS Rules.

- ii. CaptionCall shall not provide to any Person that is not Covered Personnel an incentive or reward based on the Person supplying a Lead(s) to CaptionCall conditioned upon the Lead(s) becoming a CaptionCall Registered User. Such incentives or rewards include financial and non-financial benefits.
 - iii. CaptionCall shall maintain a record of all approved sponsorships funded by the Company where:
 - 1. the recipient of the funding is a Person that has generated or that may generate Leads; and
 - 2. CaptionCall documents the Leads in its systems and/or reports to CaptionCall decision makers.
 - iv. CaptionCall shall document, maintain a record all CRM efforts that the Company implements, sponsors, or at which Covered Personnel present information on CaptionCall's products and services.
 - v. To the extent not memorialized in an Agreement, CaptionCall shall document all CRM expenses, including those incurred by Covered Personnel. Applicable Documents shall clearly identify who incurred the expense, what the expense covered, the CRM effort(s) the expense was associated with, and the date the expense was incurred.
- (h) **TRS-User Registration Database (TRS-URD) Submissions.** CaptionCall shall implement new or modified procedures and ensure that TRS-URD compliance training is conducted for applicable Covered Personnel within sixty (60) days of CaptionCall being required to submit IP CTS user information to the TRS-URD.
- (i) **Internal Reviews.** Within two (2) years after the Effective Date, under the direction of the Compliance Officer, CaptionCall shall conduct internal compliance review of the prior year to examine whether the actions of Covered Personnel involved in the Marketing, registration, or installation of IP CTS, IP CTS phones, and IP CTS apps complied with the TRS Rules applicable to IP CTS and this Consent Decree. A written copy of the final report submitted to the Compliance Officer must be maintained for five (5) years and made available to the Administrator, Commission, and any relevant governmental entity upon request.
- (j) **Notification to Persons that Provided Leads.** Within thirty (30) days of the Effective Date, CaptionCall will communicate in writing to: (1) all Hearing Health Professionals who, as of October 1, 2019 were listed in CaptionCall's database with an Identifier and utilized the Clear Digital Media Network; and (2) any Person that is not a CaptionCall employee who provided more than ten (10) Leads to CaptionCall since January 1, 2020. The notification should:
- i. Inform Persons that CaptionCall has entered into a Consent Decree that resulted from an investigation of the conduct of CaptionCall with respect to Leads;
 - ii. Remind Persons that they should only refer consumers for IP CTS that need captions to communicate effectively on the telephone;
 - iii. Explain that a consumer who could benefit from an amplified phone may not be a consumer who needs IP CTS to communicate effectively on the

- telephone; and
- iv. Remind Persons that IP CTS is a service supported through a government-administered program and funded by telephone consumers, and that to ensure the sustainability of this program, it is important that the service be provided only to those who need it.
- (k) **Lead Forms.** Within thirty (30) calendar days after the Effective Date, CaptionCall shall ensure that any Lead Form provided to a Hearing Health Professional or Professional Caregiver includes:
- i. a statement that the form is not required by the FCC or any other government entity, used to provide CaptionCall a Lead(s);
 - ii. a statement that only consumers that need captions to communicate effectively on the telephone are eligible to use IP CTS.
- (l) **Lead Tracking.**
- i. CaptionCall shall document and maintain a record of the following information associated with each Lead:
 1. The name and contact information of the Lead;
 2. The date the Lead was generated or identified;
 3. The date that the Lead became a CaptionCall IP CTS Registered User, if applicable;
 4. The date a CaptionCall IP CTS phone was installed for the Registered User;
 5. The source, i.e., the name of the Covered Personnel that secured the Lead, or if applicable, the Event where the Lead was identified, or, the name of the Person that generated the Lead, etc; and
 6. Any Identifier that CaptionCall associates with the source of the Lead.
 - ii. Upon a request by the Commission, CaptionCall shall provide the Lead Tracking records referenced in paragraph 23(l)(i).

24. **Reporting Noncompliance.** CaptionCall shall report any noncompliance with the TRS Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance, regardless of whether CaptionCall knows full details of the noncompliance. To the extent known, such reports shall include a detailed explanation of: (i) each instance of noncompliance, (ii) the steps that CaptionCall has taken or will take to remedy such noncompliance, (iii) the schedule on which such remedial actions will be taken, and (iv) the steps that CaptionCall has taken or will take to prevent the recurrence of any such noncompliance. If the Company is still investigating the noncompliance, CaptionCall shall provide a timeline for when it will provide further information to the Commission. All reports of noncompliance shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, N.E. Washington, D.C. 20554, with a copy submitted electronically to the Deputy Chief (TRS), Telecommunications Consumers Division, Enforcement Bureau via e-mail to fccebaaccess@fcc.gov. All reports of noncompliance shall also be submitted to the Deputy Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau via e-mail to TRSreports@fcc.gov,

and to the Office of The Managing Director, at OMDTRSReports@fcc.gov.

25. **Compliance Reports.** CaptionCall shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, six (6) months after the Effective Date, twelve (12) months after the Effective Date, eighteen (18) months after the Effective Date twenty-four (24) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed and up-to-date description of CaptionCall's efforts to comply with the terms and conditions of this Consent Decree and the TRS Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of CaptionCall, stating that the Compliance Officer has personal knowledge that CaptionCall: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 24 of this Consent Decree; and (iv) has trained Covered Personnel as required by this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.³⁵
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that CaptionCall has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that CaptionCall has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) Each Compliance Report shall include a detailed description of CaptionCall's efforts to comply with any new TRS Rules adopted by the Commission after the Effective Date, or during the duration of this Consent Decree including (i) the steps that CaptionCall has taken or will take to comply with the new Rules; (ii) the steps CaptionCall has taken to train Covered Personnel on the new Rules, including Covered Personnel in management positions; (iii) the schedule on which such actions will be taken; and (iv) the steps that CaptionCall has taken or will take to prevent noncompliance.
- (e) All Compliance Reports shall be submitted electronically to the Deputy Chief, Telecommunications Consumer Division, Enforcement Bureau, Federal Communications Commission, via e-mail to fccebaaccess@fcc.gov.

26. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 23 through 25 of this Consent Decree shall expire twenty four (24) months after the Effective Date.

³⁵ 47 CFR § 1.16.

27. **TRS Fund Reimbursement.** Sorenson Communications, LLC and CaptionCall, LLC shall reimburse the TRS Fund the amount of twenty-eight million dollars (\$28,000,000), for which they are jointly and severally liable. Sorenson Communications, LLC and CaptionCall, LLC acknowledge and agree that upon execution of this Consent Decree, the amount of the reimbursement shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1). Sorenson Communications, LLC and CaptionCall, LLC further agree that the Debt shall, to the maximum extent possible, be satisfied by administrative offset from funds held by the TRS Fund Administrator according to the following schedule:

- Twenty million dollars (\$20,000,000) shall be offset from the TRS Fund disbursement(s) made to Sorenson Communications, LLC in December 2021; and
- Eight million dollars (\$8,000,000) shall be offset from the TRS Fund disbursement(s) made to Sorenson Communications, LLC in January 2022.

28. **Civil Penalty.** Sorenson Communications, LLC and CaptionCall, LLC will pay a civil penalty to the United States Treasury, for which they are jointly and severally liable, in the amount of twelve million, five hundred thousand dollars (\$12,500,000). Sorenson Communications, LLC and CaptionCall, LLC acknowledge and agree that upon execution of this Consent Decree, the Civil Penalty and each Installment Payment shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).³⁶ Upon an Event of Default (as defined below), all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. Sorenson Communications, LLC and CaptionCall, LLC further agree that the Debt shall be paid in monthly installments by the 20th day of the month, to begin in July 2022 and conclude no later than December 2023. At a minimum, from July 2022 through December 2022, the companies shall pay a minimum of \$200,000 per monthly installment (a minimum total of \$1,200,000) towards the civil penalty; the balance of the civil penalty shall be paid in equal monthly installments in 2023. CaptionCall shall send electronic notification of payment to the Deputy Chief, Telecommunications Consumers Division (TRS), and to fcebaaccess@fcc.gov on the date said payments are made. The payments must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission’s Fee Filer (the Commission’s online payment system),³⁷ or by wire transfer. 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.³⁸

- 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. 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). For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

³⁶ *Id.*

³⁷ Payments made using the Commission’s Fee Filer system do not require the submission of an FCC Form 159.

³⁸ 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.

- Payment by credit card must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded – and then choose the “Pay by Credit Card” option. IMPORTANT NOTE: there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select 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., NAL 1912345678 = FCC bill Number 12345678) – and 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.

29. **Event of Default.** The Parties agree that an Event of Default shall occur either upon failure by the Company to: (a) reimburse the TRS Fund under the terms of the Consent Decree; (b) pay the full amount of the Civil Penalty or pay any Installment Payment on or before the due date specified in this Consent Decree; or (c) substantially comply with the terms of this Consent Decree.

30. **Occurrence of an Event of Default.** Immediately upon the occurrence of an Event of Default under this Consent Decree, and without further notice, presentment, demand, protest, or notice of protest of any kind, all of which is waived by Sorenson Communications and CaptionCall, LLC, (i) the remaining balance of the Civil Penalty shall be due and payable; (ii) the Civil Penalty balance, together with any penalties and charges permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall accrue interest computed using the U.S. Prime Rate in effect on the date of the Event of Default, plus 4.75% until paid in full; (iii) and the Commission will collect the foregoing amounts under applicable debt collection laws (except that all notice and demand otherwise required by law is waived by CaptionCall, LLC and Sorenson Communications, LLC), including but not limited to by offset and/or recoupment against monies owed to Sorenson Communications, LLC and/or CaptionCall, LLC by the TRS Fund.

31. **Waivers.** As of the Effective Date, CaptionCall waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. CaptionCall shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither CaptionCall nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and CaptionCall shall waive any statutory right to a trial *de novo*. CaptionCall, LLC and Sorenson Communications, LLC hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act³⁹ relating to the matters addressed in this Consent Decree.

³⁹ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

32. **Severability**. The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

33. **Invalidity**. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

34. **Subsequent Rule or Order**. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which the Company does not expressly consent) that provision will be superseded by such Rule or order.

35. **Successors and Assigns**. CaptionCall agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

36. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigations.

37. **Modifications**. This Consent Decree cannot be modified without the advance written consent of both Parties.

38. **Paragraph Headings**. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

39. **Authorized Representative**. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

40. **Counterparts**. This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Rosemary C. Harold
Chief
Enforcement Bureau

Date

Cynthia Williams
General Counsel
CaptionCall, LLC
Sorenson Communications, LLC

Date