

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

In the Matter of)	File No.: EB-IHD-13-00012496 ¹
)	
Rubard, LLC d/b/a Centmobile)	Acct. No.: 201432080017
)	
)	FRN: 0021751052

ORDER

Adopted: January 17, 2014

Released: January 17, 2014

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and Rubard, LLC d/b/a Centmobile (Rubard). The Consent Decree resolves and terminates an investigation by the Commission against Rubard for possible violations of Sections 214, 222, and 254 of the Communications Act of 1934, as amended (Act),² and Sections 54.706, 54.711, 63.18, 64.1195, 64.2009(e), and 64.5001 of the Commission's rules (Rules),³ in connection with Rubard's alleged failure to obtain authorization to provide international telecommunications service, register its interstate telecommunications service with the Commission, make required regulatory filings, make required regulatory payments, comply with the rules applicable to prepaid calling card providers, and file certifications regarding protection of the confidentiality of subscribers' proprietary network information.⁴

2. A copy of the Consent Decree negotiated by the Bureau and Rubard is attached hereto and incorporated herein by reference.

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 investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Rubard possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Act,⁵ and Sections 0.111 and 0.311 of the Rules,⁶ the Consent Decree attached to this Order **IS ADOPTED**.

¹ This investigation, initiated under File No. EB-12-IH-0968, was subsequently assigned to File No. EB-IHD-13-00012496.

² 47 U.S.C. §§ 214, 222, 254.

³ 47 C.F.R. §§ 54.706, 54.711, 63.18, 64.1195, 64.2009(e), 64.5001.

⁴ The Bureau also investigated possible violations by Rubard of 47 C.F.R. §§ 1.17, 1.65, 1.1154, 1.1157, 43.61, 52.17, 52.32, 63.22, and 64.604.

⁵ 47 U.S.C. §§ 154(i), 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

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 counsel for Rubard, Patricia J. Paoletta, Esq., Wiltshire & Grannis LLP, 1200 18th Street, NW, Suite 1200, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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Rubard, LLC d/b/a Centmobile)	Acct. No.: 201432080017
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CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) and Rubard, LLC d/b/a Centmobile (Rubard) by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into possible violations by Rubard of Sections 214, 222, and 254 of the Communications Act of 1934, as amended (Act),² and Sections 54.706, 54.711, 63.18, 64.1195, 64.2009(e), and 64.5001 of the Commission’s rules (Rules),³ in connection with Rubard’s alleged failure to obtain authorization to provide international telecommunications service, register its interstate telecommunications service with the Commission, make required regulatory filings, make required regulatory payments, comply with the rules applicable to prepaid calling card providers, and file certifications regarding protection of the confidentiality of subscribers’ proprietary network information.⁴

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Rubard” or the “Company” means Rubard, LLC d/b/a Centmobile and its predecessors-in-interest and successors-in-interest.
 - (e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Rubard is subject by virtue of its business activities.

¹ This investigation, initiated under File No. EB-12-IH-0968, was subsequently assigned to File No. EB-IHD-13-00012496.

² 47 U.S.C. §§ 214, 222, 254.

³ 47 C.F.R. §§ 54.706, 54.711, 63.18, 64.1195, 64.2009(e), 64.5001.

⁴ The Bureau also investigated possible violations by Rubard of 47 C.F.R. §§ 1.17, 1.65, 1.1154, 1.1157, 43.61, 52.17, 52.32, 63.22, and 64.604.

- (g) “Compliance Plan” means the compliance obligations and program described in this Consent Decree at paragraph 17.
- (h) “Covered Employees” means all employees and agents of Rubard who perform, or supervise, oversee, or manage the performance of, duties that relate to Rubard’s responsibilities under the Communications Laws, including Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules.
- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “Federal Regulatory Reporting and Contribution Rules” means Sections 214, 222, and 254 of the Act,⁵ Sections 54.706, 54.711, 63.18, 64.1195, 64.2009(e), and 64.5001 of the Rules,⁶ and other provisions of the Act, the Rules, and Commission orders governing related federal regulatory reporting and contribution obligations.
- (k) “Investigation” means the investigation commenced by the Bureau’s December 19, 2012 Letter of Inquiry (*LOI*)⁷ regarding whether the Company may have violated the Rules that require entities that provide interstate Telecommunications Services to file registration information; to pay annual regulatory fees; to contribute to the Universal Service Fund (USF); to file information as set forth on the Telecommunications Reporting Worksheet; and to file certifications regarding protection of the confidentiality of subscribers’ proprietary network information and adherence to the Rules concerning contributions to the USF.
- (l) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Rubard to implement the Compliance Plan.
- (m) “Parties” means Rubard and the Bureau, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (o) “Telecommunications,” “Telecommunications Carrier,” or “Telecommunications Service” have the meanings set forth in Sections 3(50), 3(51) and 3(53) of the Act, 47 U.S.C. §§ 153(50), 153(51), 153(53).

II. BACKGROUND

3. Section 214(a) of the Act prohibits any carrier from constructing, extending, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate of authorization from the Commission.⁸ While the Commission has granted “blanket” Section 214 authority to carriers providing domestic service,⁹ meaning that such carriers need not apply to the

⁵ 47 U.S.C. §§ 214, 222, 254.

⁶ 47 C.F.R. §§ 54.706, 54.711, 63.18, 64.1195, 64.2009(e), 64.5001.

⁷ Letter from Theresa Z. Cavanaugh, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, to Patricia J. Paoletta, Esq., Counsel to Rubard d/b/a Centmobile, Law Offices of Wiltshire & Grannis LLP (Dec. 19, 2012) (on file in in EB-IHD-13-00012496) (*LOI*).

⁸ 47 U.S.C. § 214(a).

⁹ 47 C.F.R. § 63.01(a) (“Any party that would be a domestic interstate communications common carrier is authorized to provide domestic, interstate services to any domestic point and to construct or operate any domestic transmission line as long as it obtains all necessary authorizations from the Commission for use of radio frequencies.”).

Commission before providing domestic service, the Commission has not done the same for providers of international Telecommunications Services.¹⁰ Section 63.18 of the Rules requires any carrier that seeks Section 214 authority “for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point” to request such authority by application.¹¹ This application requirement applies to carriers that resell the international services of another authorized carrier, as well as to facilities-based international service providers.¹²

4. Pursuant to Section 64.1195 of the Rules, interstate Telecommunications Carriers are required to file registration information on FCC Form 499-A.¹³ Pursuant to Section 254(d) of the Act and Sections 54.706 and 54.711 of the Rules, Telecommunications Service providers that offer interstate Telecommunications Services are required to file annual and quarterly Telecommunications Reporting Worksheets (FCC Form 499-A and FCC Form 499-Q) and contribute to the federal USF.¹⁴

5. Section 64.5001(c)(3) of the Rules requires that an officer of a Telecommunications provider that furnishes a prepaid Telecommunications Service submit a quarterly certification to the Commission stating that the provider “is making the required Universal Service Fund contribution.”¹⁵ In 2013, the Commission reaffirmed the importance of this provision by rejecting a request for complete forbearance from this rule.¹⁶

6. Section 222 of the Act and Sections 64.2001–64.2011 of the Rules require Telecommunications Carriers to adhere to provisions concerning the protection of customer proprietary network information (CPNI).¹⁷ Pursuant to Section 64.2009(e) of the Rules, an officer of a Telecommunications Carrier, as an agent of that carrier, must sign and file annually on or before March 1 a certification with the Commission that (i) reflects that officer’s personal knowledge that the carrier has

¹⁰ See *Implementation of Section 402(b)(2)(A) of the Telecommc’s Act of 1996*, Report and Order in CC Docket No. 97-11, Second Memorandum Opinion and Order in AAD File No. 98-43, 14 FCC Rcd 11364, para. 2 & n.8 (1999) (grant of blanket authority is only for domestic service and does not extend to international service).

¹¹ 47 C.F.R. § 63.18.

¹² *Id.* § 63.18(e)(1)–(2).

¹³ *Id.* § 64.1195.

¹⁴ See 47 U.S.C. § 254(d); 47 C.F.R. §§ 54.706, 54.711. Form 499-A must be filed on or before April 1 for services offered in the prior calendar year; Form 499-Q must be filed quarterly by the first of February, May, August, and November. See, e.g., 2013 Instructions to the Telecommunications Reporting Worksheet (FCC Form 499-A) at 5, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-319222A1.pdf (last visited Jan. 7, 2014).

¹⁵ 47 C.F.R. § 64.5001(c)(3).

¹⁶ See *In the Matter of the Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627, 7709, para. 187 (2013).

¹⁷ See 47 U.S.C. § 222; 47 C.F.R. §§ 64.2001–64.2011. Section 222 of the Act provides: “Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunications carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.” See also *USA Teleport, Inc.*, Order on Review, 28 FCC Rcd 525 (2013) (Commission denied carrier’s application for review of the Enforcement Bureau’s Memorandum Opinion and Order in which the Bureau denied the carrier’s petition for reconsideration of a Forfeiture Order concerning the carrier’s violation of the CPNI certification filing requirements); *Think 12 Corp. d/b/a Hello Depot*, Order on Review, 27 FCC Rcd 16618 (2012) (same).

established operating procedures sufficient to ensure compliance with the Commission's CPNI rules; and (ii) provides information concerning any unauthorized release of CPNI.¹⁸

7. Rubard is a Delaware corporation¹⁹ that offers domestic and international voice calling Telecommunications Services through prepaid plans, the accounts for which are established by customers directly through Rubard's website.²⁰ The Company provides international service through its access numbers and by a call-forwarding feature that enables customers to dial a local phone number, which is then forwarded to an international destination.²¹ Customers can replenish accounts by adding money to their online accounts with a credit card or a debit card.²² Rubard is subject to the requirements discussed in paragraphs 3-6, above.

8. Rubard began offering commercial domestic and international Telecommunications Service to the public in April 2011.²³ On May 18, 2012, Rubard filed with the Commission an application for international Section 214 authority to provide global facilities-based and resale service.²⁴ On May 26, 2012, Rubard filed its 2012 Form 499-A with the Universal Service Administrative Company (USAC) for services offered in 2011.²⁵ This was the Company's first filing of a Form 499-A and thus constituted its registration with the Commission.²⁶

9. As a provider of prepaid calling Telecommunications Services, Rubard is required to make quarterly certifications to the Commission that it is in compliance with the Rules regarding contributions to the USF.²⁷ Each quarterly certification is due no later than the last day of the subsequent

¹⁸ 47 C.F.R. § 64.2009(e).

¹⁹ See State of Delaware, Official Website of the First State, Department of State, Division of Corporations, Entity Name: Rubard, LLC, File No. 4910195, available at <https://delecorp.delaware.gov/tin/controller> (last visited Dec. 27, 2013).

²⁰ See Letter from Patricia J. Paoletta, Counsel to Rubard, LLC d/b/a Centmobile, Law Offices of Wiltshire & Grannis LLP, to James Ball, Chief, Policy Division, FCC International Bureau (July 24, 2012), International Bureau Filing System (IBFS) File No.: ITC-STA-20120703-00168 (filed July 3, 2012), available at <http://licensing.fcc.gov/myibfs/> (last visited Dec. 27, 2013).

²¹ *Id.*

²² *Id.*

²³ See Letter from Patricia J. Paoletta, Counsel to Rubard, LLC d/b/a Centmobile, Law Offices of Wiltshire & Grannis LLP, to Marlene Dortch, FCC Secretary and James Ball, Chief, Policy Division, FCC International Bureau at 3, IBFS File No.: ITC-214-20120518-00134 (Apr. 30, 2013), available at <http://licensing.fcc.gov/myibfs/> (last visited Dec. 27, 2013).

²⁴ See Rubard, LLC d/b/a Centmobile, Application for Authority to Provide International Global Facilities-based and Resale Authority Pursuant to Section 214 of the Communications Act of 1934, as amended, IBFS File No.: ITC-214-20120518-00134 (filed May 18, 2012), available at <http://licensing.fcc.gov/myibfs/> (last visited Dec. 27, 2013).

²⁵ See Universal Service Administrative Co., Form 499 – Search Forms, available at <https://efile.universal-service.org/form499/sorce/search.asp> (last visited Dec. 31, 2013) (on file in EB-IHD-13-00012496). USAC, among other functions, serves as the recipient of and repository for Telecommunications Reporting Worksheets (annual Form 499-A and quarterly Form 499-Q).

²⁶ See 47 C.F.R. § 64.1195.

²⁷ See 47 C.F.R. § 64.5001(c)(3); *OMB Approves Prepaid Calling Card Order Reporting and Certification Rules; All Requirements Now Effective*, Public Notice, 22 FCC Rcd 2465 (Wireline Comp. Bur. 2007) (*OMB Approval PN*).

quarter.²⁸ Since commencement of its operations, Rubard has filed four of its quarterly certifications after the filing deadline.²⁹

10. As a provider of Telecommunications Services, Rubard is obligated to file annual CPNI certifications by March 1 of the year following the calendar year for which the certification applies.³⁰ Rubard filed its CPNI certification for calendar year 2011 on August 2, 2012.³¹

11. On July 18, 2012, the International Bureau referred this matter to the Bureau for enforcement action.³² On December 19, 2012, the Bureau issued the *LOI* to Rubard.³³ Rubard responded to separate portions of the Bureau's *LOI* on January 18, 2013 and February 1, 2013.³⁴

III. TERMS OF AGREEMENT

12. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

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

14. **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 Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

²⁸ See *OMB Approval PN*.

²⁹ Rubard's certification for the second quarter of 2011 was due on September 30, 2011, but was filed on August 15, 2012. The certification for the third quarter of 2011 was due on January 3, 2012, but was filed on August 15, 2012. Certification for the fourth quarter of 2011 was due on April 2, 2012, but was filed on August 15, 2012. Rubard's certification for the first quarter of 2012 was due on July 2, 2012, but was filed on August 15, 2012. See Rubard, LLC d/b/a Centmobile, Section 64.5001(c)(3) Filings (on file in in EB-IHD-13-00012496).

³⁰ 47 C.F.R. § 64.2009(e).

³¹ See CPNI Certification Home, Search for Certification Statements, *available at* <http://apps.fcc.gov/eb/CPNI/index.cfm> (last visited Jan. 2, 2014).

³² See E-mail from David Krech, Associate Div. Chief, Policy Division, FCC International Bureau to Theresa Z. Cavanaugh, Chief, Hearings and Investigations Division, FCC Enforcement Bureau (July 18, 2012, 12:49 EDT) (on file in EB-IHD-13-00012496).

³³ See *LOI*, *supra* note 7.

³⁴ On January 18, 2013, Rubard responded to a portion of the inquiries in the *LOI* and was granted a request for an extension to February 1, 2013 to respond to the remaining inquiries in the *LOI*. See Letter from Patricia J. Paoletta, Esq., Counsel to Rubard d/b/a Centmobile, Law Offices of Wiltshire & Grannis LLP to Marlene H. Dortch, FCC Secretary, ATTN: Theresa Z. Cavanaugh, Chief, Investigations & Hearings Division, FCC Enforcement Bureau and Mindy Little, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (Jan. 18, 2013) (on file in in EB-IHD-13-00012496); Letter from Patricia J. Paoletta, Esq., Counsel to Rubard d/b/a Centmobile, Law Offices of Wiltshire & Grannis LLP to Marlene H. Dortch, FCC Secretary, ATTN: Theresa Z. Cavanaugh, Chief, Investigations & Hearings Division, FCC Enforcement Bureau and Mindy Little, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (Feb. 1, 2013) (on file in in EB-IHD-13-00012496).

15. **Termination of Investigation.** 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 Investigation. In consideration for termination of the Investigation, Rubard agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Rubard concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Rubard with respect to Rubard's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission licenses or authorizations.

16. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, the Company shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Company 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/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules prior to assuming his/her duties.

17. **Compliance Plan.** For purposes of settling the matters set forth herein, the Company 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. With respect to the Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules, the Company shall implement the following procedures:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, the Company shall establish Operating Procedures that all Covered Employees must follow to help ensure the Company's compliance with Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules. The Company's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Company complies with Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules. The Company shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules, and set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's compliance with Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules. The Company shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Company shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

- (c) **Compliance Training Program.** The Company shall establish and implement a Compliance Training Program concerning compliance with Section 214 of the Act, the Rules that implement this provision, the Federal Regulatory Reporting and Contribution Rules, and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any noncompliance with Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules under paragraph 18 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date. Any person who becomes a Covered Employee at any time after the initial Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Company shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

18. **Reporting Noncompliance.** The Company shall report any noncompliance with Section 214 of the Act, the Rules that implement this provision, the Federal Regulatory Reporting and Contribution Rules, and the terms and conditions of this Consent Decree within fifteen (15) calendar days after Rubard's Compliance Officer or any Covered Employee becomes aware of the matter (whether from a report from an employee or otherwise). Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that the Company 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 the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Pamela S. Kane at Pamela.Kane@fcc.gov, William A. Kehoe at William.Kehoe@fcc.gov, and Robert B. Krinsky at Robert.Krinsky@fcc.gov.

19. **Compliance Reports.** The Company shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree, Section 214 of the Act, the Rules that implement this provision, and the Federal Regulatory Reporting and Contribution Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (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 18 of 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

³⁵ 47 C.F.R. § 1.16.

- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, 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 the Company 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 the Company 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) All Compliance Reports shall be submitted to the Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Pamela S. Kane at Pamela.Kane@fcc.gov, William A. Kehoe at William.Kehoe@fcc.gov, and Robert B. Krinsky at Robert.Krinsky@fcc.gov.

20. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 16 through 19 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

21. **Section 208 Complaints: Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act³⁶ against the Company or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Company with the Communications Laws.

22. **Voluntary Contribution.** The Company agrees that it will make a voluntary contribution to the United States Treasury in the amount of one hundred and eighty-five thousand dollars (\$185,000) (Voluntary Contribution). Such Voluntary Contribution shall be made in six quarterly installments (each an Installment Payment). The first Installment Payment in the amount of thirty thousand dollars (\$30,000) is due within thirty (30) calendar days after the Effective Date (Initial Installment Payment Deadline). The balance of the Voluntary Contribution will be made in four (4) consecutive payments of thirty thousand dollars (\$30,000) payable ninety (90) calendar days after the Initial Installment Payment Deadline, one hundred and eighty (180) calendar days after the Initial Installment Payment Deadline, two hundred and seventy (270) calendar days after the Initial Installment Payment Deadline, and three hundred and sixty (360) calendar days after the Initial Installment Payment Deadline. The sixth and final payment of thirty-five thousand dollars (\$35,000) is due four hundred and fifty (450) calendar days after the Initial Installment Payment Deadline (Maturity Date). The Company acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution and each Installment Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).³⁷ Upon an Event of Default, all procedures for collection permitted by law may, at the Commission's discretion, be initiated. In addition, the Company agrees that it will make the first and all subsequent Installment Payments in United States Dollars without further demand or notice by the dates specified above. The Company shall also send electronic notification of payment to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Pamela S. Kane at Pamela.Kane@fcc.gov, William A. Kehoe at William.Kehoe@fcc.gov, and Robert B. Krinsky at Robert.Krinsky@fcc.gov on the dates said Installment

³⁶ 47 U.S.C. § 208.

³⁷ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

Payments are made. Installment Payments must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³⁸ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions regarding the form of payment:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

23. **Event of Default.** The Company agrees that an Event of Default shall occur upon the failure by the Company to pay the full amount of any Installment Payment on or before the due date specified in this Consent Decree.

24. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Voluntary Contribution shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75 percent, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Voluntary Contribution, together with interest, as aforesaid, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charge(s), plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by the Company.

25. **Waivers.** The Company 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, provided the Bureau issues an Adopting Order as defined in this Consent Decree. The Company 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 Adopting Order, neither the Company

³⁸ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Company shall waive any statutory right to a trial *de novo*. The Company 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.

26. **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.

27. **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 Commission rule or order.

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

29. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

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

31. **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.

32. **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.

³⁹ See 5 U.S.C. § 504; 47 C.F.R. Part 1, Subpart K.

33. **Counterparts.** This Consent Decree may be signed in counterpart (including 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.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Arthur Zaytsev
Manager
Rubard, LLC d/b/a Centmobile

Date