

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY
APPROVING IN PART, DISSENTING IN PART**

Re: *Adrian Abramovich, Marketing Leaders, Inc. and Marketing Leaders Inc., File No. EB-TCD-15-00020488, Forfeiture Order*

From a starting point, it should be noted that Mr. Abramovich does not contest that he was responsible for making the millions of calls that are the subject of this Forfeiture Order. What I believe is the central matter for debate is whether he “intended to defraud, cause harm, or wrongfully obtain anything of value” when he made the calls, as is the precise language of the statutory prohibition.

I fully agree that the facts support the conclusion that he intended to defraud consumers. The item and underlying Notice of Apparent Liability describe how Mr. Abramovich and his clients lied to consumers, falsely claiming to represent companies such as TripAdvisor, Marriott, and Expedia, in order to connect unwitting consumers to unaffiliated travel agents who worked with foreign call centers to sell timeshares and vacation packages. That’s pure fraud and there is plenty of data to meet the intent to defraud standard.

Where I part ways is the claim that he also intended to cause harm to various individuals or businesses. From what I can tell, his intent was to make a buck. More succinctly, he wanted to make as many bucks as possible. I don’t see in the item or have any evidence that he spent time thinking about what might happen to consumers or companies so long as enough calls went through to make his fraudulent venture profitable. I’m even more skeptical that he intended to harm consumers whose numbers were spoofed. He used local numbers to increase answer rates, not to damage the reputation of people associated with those numbers or the underlying businesses subject to fraud. And, I do not subscribe to the notion that “[h]arm has been done whether or not the consumer listens to the robocall message.” This whole theory is off the mark and completely unnecessary for our purposes, as the Commission can and should proceed on the intent to defraud basis alone to impose the full monetary penalty on Mr. Abramovich.

In short, I believe the Commission should impose the penalty on Mr. Abramovich, but we do not need to rely on a circumstantial intent to harm theory to get to that result. I approve in part and dissent in part.