This week the Federal Communications Commission (FCC) proposed its highest financial penalty against lobbyist and political consultant group, John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC (the Group), for allegedly making over 1,000 robocalls to voters without obtaining prior express consent as required by the Telephone Consumer Protection Act (TCPA). The FCC has suggested a $5,134,500 penalty for these calls.

The FCC was first made aware of these robocalls in September 2020. According to the FCC, the Group made these calls in August and September of last year explaining to voters that if they vote by mail their “personal information will be part of a public database that will be used by police departments to track down old warrants and be used by credit card companies to collect outstanding debts.”. The FCC also said that the messages did identify Burkman and Wohl by name and listed Burkman’s personal cellphone number as the calling party on the recipients’ caller ID.

In 2019, the TCPA was amended by the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act to not require the FCC to warn
robocallers before violations could be counted toward a proposed fine. The action against this Group is the first one that the FCC has taken against an entity in line with that amendment.

The FCC said that by making these pre-recorded calls to voters without the consent of the individuals receiving the call is a TCPA violation regardless of the content of the calls. The Group also faces pending litigation related to the same claims.

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