

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
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SAMHSA EMERGENCY REQUEST FOR)	CC Docket No. 95-155
THE PERMANENT REASSIGNMENT)	
OF FIVE TOLL-FREE SUICIDE)	
PREVENTION NUMBERS)	
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To: The Commission

COMMENTS OF THE KRISTIN BROOKS HOPE CENTER

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SUMMARY

Suffering from bipolar disorder, Kristin Brooks Butler took her own life in 1998. Determined to help prevent similar tragedies, and to create a legacy for his wife's life, Reese Butler took the proceeds of her life insurance policy and the sale of their home and founded the Kristin Brooks Hope Center. As he delved into the world of suicide prevention, Mr. Butler discovered that there were hundreds of local organizations sponsoring "hotlines" and other counseling services to those in need, but no national means to tie these groups together. The numbers were often difficult to remember and thinly publicized.

To mend this flaw in the American suicide prevention fabric, Mr. Butler started 888-SUICIDE to serve as a national hotline that same year. He organized the hundreds of small local organizations into a connected national group by routing calls received by the national number to the appropriate local counseling center based on the originating location of the inbound call. The following year, in 1999, KBHC and Mr. Butler expanded the service to the even more recognizable 800-SUICIDE. In the eight years since KBHC was founded, Mr. Butler has added 12 more help lines to this network, including 877-SUICIDA, 877-VET2VET, 800-GRADHLP, 800-PPDMOMS, the Hope Center's signature hotline 800-442-HOPE, and many more. Collectively, these help lines have handled more than two million calls.

Today, this life-saving edifice built by Mr. Butler is at risk. Ironically, the threat comes from two telecommunications carriers - Patriot Communications and McLeodUSA - that seek to seize the toll-free numbers KBHC uses to provide suicide prevention services. These carriers are motivated by profit. They seek to take KBHC's suicide prevention numbers and transfer them to a more lucrative customer. Which customer could inspire Patriot and McLeodUSA to threaten to shut down such an important and beneficent set of help lines?

Shockingly, it is a bureaucracy of the federal government, in the form of the Substance Abuse and Mental Health Services Administration. SAMHSA thinks it knows better how to run 800-SUICIDE and so wants to take over KBHC's toll-free numbers.

Having watched McLeodUSA seize KBHC's numbers, and Patriot threaten to turn them off on January 9, 2007 if KBHC does not acquiesce in transferring all its numbers to Patriot, SAMHSA has declared an "emergency" and asked the FCC to move five of the most important numbers to SAMHSA before Patriot makes good on its threat against KBHC. In making this request, SAMHSA did not tell the FCC that the numbers are operated by KBHC, or that KBHC has held them for 8 years, or that the "emergency" is totally a false contrivance of Patriot and McLeod. In fact, SAMHSA's request did not even acknowledge the existence of KBHC. Nor did SAMHSA tell KBHC about its request to the FCC. Instead, SAMHSA asked the FCC to waive its public notice requirements and transfer KBHC's numbers to SAMHSA privately, without any opportunity for KBHC or the public to explain the truth.

The FCC should decline SAMHSA's invitation to endorse and reward the unlawful actions of two regulated carriers that intentionally breached the FCC's rules for their own gain. Rather, the FCC should immediately direct the Resp Org who has seized KBHC's numbers, McLeodUSA, to release the numbers and allow KBHC to port them to the toll free service provider of its choice, as the FCC rules require. With that simple order, the "emergency" will be ended and KBHC and SAMHSA can work together to ensure that the crucial suicide prevention services that KBHC offers with the support of SAMHSA can continue uninterrupted and uncompromised. The FCC can then proceed to investigate and punish the unlawful acts of Patriot and McLeod, which led to the supposed "emergency" in the first place.

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COMMENTS OF THE KRISTIN BROOKS HOPE CENTER

The Kristin Brooks Hope Center (“KBHC”) has provided vital suicide prevention services over the last eight years by handling more than two million calls to the hotlines it operates, thereby saving hundreds of lives. KBHC is ready, willing, and able to continue offering its consistently high level of service to those in need of help and will do so if the FCC orders the Resp Org for KBHC’s numbers to comply with FCC rules and the SMS/800 Tariff by allowing KBHC to port its phone numbers to another Resp Org and toll free service provider. The vital services KBHC offers can be ensured without forcibly transferring KBHC’s numbers to SAMHSA, and therefore the FCC should reject SAMHSA’s emergency request.

BACKGROUND AND INTRODUCTION

The Kristin Brooks Hope Center

The Kristin Brooks Hope Center (“KBHC”) is a private, non-profit organization dedicated to suicide prevention. Since 1998, KBHC has operated toll-free help lines to provide critical counseling services to people in need. H. Reese Butler founded KBHC with the proceeds

from his wife's life insurance and the sale of his home shortly after his wife, Kristin Brooks, committed suicide in 1998. Included among the toll-free help lines KBHC now operates and holds as the subscriber of record are 800-SUICIDE, 888-SUICIDE, and 877-SUICIDA, each of which offers counseling to individuals in need of immediate mental health services.¹ KBHC obtained a trademark for 800-SUICIDE on September 9, 2003.

KBHC uses an automatic number identification system to immediately route callers -- who are depressed or suicidal, or who are concerned about someone who is depressed or suicidal -- to a trained crisis line worker who can make a lethality assessment and determine what steps to take, up to and including immediate intervention. The suicide hotlines are really routing mechanisms for hundreds of local suicide prevention organizations. While many of these local organizations maintain their own numbers, they also receive calls from individuals located near them who have called one of KBHC's SUICIDE hotlines.² For many of these local crisis centers, KBHC's services provide the majority of the incoming calls. Constant 24 hour staffing and the use of advanced routing technology ensures that a trained crisis counselor will be on the line within twenty to thirty seconds of an individual dialing the suicide prevention hotlines -- regardless of the time of day. Since KBHC began operating the 888-SUICIDE hotline eight years ago (and 800-SUICIDE seven years ago), the hotlines have received more than two million phone calls, or approximately six-hundred-fifty calls per day.

¹ The numbers currently operated by KBHC include: (800) 784-2433 [800.SUICIDE] ; (888) 784-2433 [888.SUICIDE]; (877)784-2432 [877.SUICIDA]; (877) 838-2838 [977.VET2VET]; (800) 442-4673 [800.442.HOPE]; (800) 722-9498; (800) 827-7571; (866) 771-1276; (866) 968-8454 [866.YOUTHLINE]; (877) 968-8454 [877.YOUTHLINE]; (888)861-8460; (877) 495-0009; (800) 472-3457 [800.GRADHLP]; (877) 472-3457 [800.GRADHLP]; (800)773-6667 [800.PPD.MOMS].

² The current proceeding involve the transfer of five numbers focused on suicide prevention. They are (800) 784-2433 [800.SUICIDE], (888) 784-2433 [888.SUICIDE], (877)784-2432 [877.SUICIDA], (800) 442-4673 [800.442.HOPE], and (800) 827-7571 (collectively the "SUICIDE hotlines").

KBHC has received numerous awards and accolades for the services it provides. Additionally, Mr. Butler has been called on repeatedly to address suicide prevention conferences, often as the keynote speaker or as conference Chairman. In 1999, the City of San Francisco honored KBHC for creating “Reason to Live Day.” In 2000, Governor Glendening of Maryland honored KBHC and Reese Butler for their efforts in preventing suicide by creating the SUICIDE hotlines. In 2001, Mr. Butler was the keynote speaker at the Contact USA 34th Annual Conference and the Tennessee Third Annual Suicide Prevention conference, and also co-chaired the Virginia Suicide Prevention Conference. Over the next two years, Mr. Butler gave the keynote address at the Tennessee Fifth Annual Suicide Prevention Conference and was honored by Governor Bush at the Florida State Capitol. In February 2004, he also received a personal letter of appreciation from Governor Jeb Bush’s wife, Columba Bush.

The Patriot-McLeodUSA Relationship

The Kristin Brooks Hope Center has been the sole operator of the SUICIDE hotlines since it first began offering service in 1998. When KBHC first began operating the 800-SUICIDE hotline in May 1999, it purchased toll-free service from PacWest for a brief period of time before porting all of its toll-free numbers to MCI. In June 2002, KBHC ported all 14 of its toll-free numbers, including the SUICIDE hotlines, to AT&T. Four years later, in April 2006, KBHC ported all of its numbers, including the SUICIDE hotlines, to Patriot, a Section 214 certificated common carrier that provides toll-free services. Since Patriot is not a Resp Org, Patriot recommends that its subscribers use another Section 214 certificated common carrier – McLeodUSA – as the Resp Org for the subscriber’s toll-free numbers. Following Patriot’s suggestion, KBHC authorized McLeodUSA to serve as its Resp Org for KBHC’s toll-free

numbers in April 2006.³ In total, the relationship between McLeodUSA, Patriot, and KBHC has existed only for nine months, while KBHC has operated the SUICIDE hotlines for many years.

ARGUMENT

I. PATRIOT AND MCLEODUSA, WITH THE TACIT CONSENT OF SAMHSA, HAVE CONSPIRED UNLAWFULLY TO WREST CONTROL OF THE SUICIDE AND CRISIS PREVENTION HOTLINES AWAY FROM KBHC.

Prior to December 2004, KBHC received a substantial portion of its funding for the operation of the SUICIDE hotlines and its other crisis prevention hotlines from a federal government mental health grant administered by the Substance Abuse and Mental Health Services Administration (“SAMHSA”), an agency under the Department of Health and Human Services. When its participation in that program ended, KBHC received support from the National Mental Health Association for two years. When that grant ended, KBHC continued to operate the toll-free suicide and crisis prevention hotlines with money generated from its fundraising efforts.

During the summer of 2006, KBHC fell behind in its payments to Patriot. This circumstance led to negotiations between KBHC, Patriot, and SAMHSA. As a result of those negotiations, SAMHSA agreed to pay the Patriot invoices on behalf of KBHC temporarily beginning August 26, 2006 so that the issues surrounding KBHC’s funding were resolved. In light of this arrangement, Patriot received full payment for the toll-free services on all of KBHC’s hotlines from August 26, 2006 until December 1, 2006. Patriot continues to receive payments for five of KBHC’s toll-free numbers (the SUICIDE hotlines). These payments are scheduled to continue indefinitely. As such, KBHC is currently covering its operating expenses,

³ Att. A – Patriot/McLeodUSA/KBHC Resp Org Form dated 3/24/2006.

but continues to owe Patriot a limited amount for services Patriot rendered before August 25, 2006.

During the course of the negotiations between KBHC, Patriot, and SAMHSA, KBHC agreed in August 2006 to permit the SUICIDE hotlines to be operated by SAMHSA. Initially, this agreement was to include the transfer of the numbers to SAMHSA. However, after consultation with counsel, KBHC learned that such direct transfers of toll-free numbers between end-users are unlawful. KBHC then sought to revise the arrangement to accomplish the objectives in a lawful manner. However, Patriot refused to cooperate. Rather, Patriot tried to take control of the numbers so it could transfer them to SAMHSA directly. In the course of this unlawful effort, Patriot took the legally indefensible position that, due to KBHC's temporary arrears in payments, *all* of KBHC's toll-free numbers, including the SUICIDE hotlines, were legally transferred from KBHC to Patriot.

Patriot claimed repeatedly in writing that Patriot, not KBHC, is now the subscriber of record for the SUICIDE hotlines as well as *all* the other toll-free crisis numbers.⁴ However, in obvious contradiction of this claim, Patriot *in the same letter* instructed KBHC to move all but five of the lines to a new Resp Org. Of course, the five lines that Patriot seeks to keep for its own are the five which SAMHSA has told Patriot SAMHSA would like to have for itself.⁵

Throughout the months of October, November, and December of this year, McLeodUSA repeatedly denied requests from KBHC to release its numbers to another Resp Org.

⁴ Att. B – Email from Doug Livingston, Patriot Communications to Reese Butler, Kristin Brooks Hope Center (Sep. 7, 2006); Att. C – Letter from Lee Hejmanowski, Counsel for Patriot, to Danny E. Adams, Counsel for KBHC, *et al.* (Nov. 28, 2006).

⁵ Att. D – Letter from Rina Hakimian, Counsel for SAMHSA, to Lee Hejmanowski, Counsel for Patriot (Nov. 29, 2006).

Each time the denial was based on some blatant and silly claim. For example, once the denial was based on KBHC's alleged misspelling of its own name; another time the denial was on the claim that the typeface was too light. Never did McLeodUSA deny the requests based on the claim that Patriot was the subscriber of record.

Despite that three month history, McLeodUSA only yesterday adopted the Patriot position – but only in part. Specifically, McLeodUSA stated in a filing in this docket, dated December 19, 2006, that Patriot is the “subscriber of record.” In making this false statement, McLeodUSA offered no explanation as to why or how McLeodUSA could, consistent with the FCC's rules, replace KBHC with Patriot as subscriber of record in the SMS/800 database without the knowledge or consent of KBHC, and without first disconnecting the number and returning it to the available pool so that the numbers could be offered on a first-come, first-served basis to all potential subscribers. But for McLeodUSA's claim to be true, that is what would have had to happen between March 24, 2006, when KBHC ported its numbers to McLeodUSA as Resp Org and December 19, 2006, when McLeodUSA claimed that three of KBHC's numbers now are assigned to Patriot.⁶

McLeodUSA's filing makes clear why it has been rejecting, on the flimsiest of pretexts, KBHC's repeated requests to switch Resp Orgs – McLeodUSA had already replaced KBHC with Patriot as the subscriber of record in the database. Interestingly, McLeodUSA never admitted that it had already transferred the subscriber of record for the disputed numbers to

⁶ Comments of McLeodUSA Telecommunications Services, Inc., CC Docket No. 95-155 (filed Dec. 19, 2006).

Patriot. Instead, McLeodUSA simply denied KBHC's request to transfer the toll-free numbers to another Resp Org on the silly pretexts and in violation of the SMS/800 Tariff.⁷

Between August 25, 2006 and the present, several meetings and numerous letters were exchanged in an attempt to resolve the situation.⁸ On November 28, 2006, Patriot's counsel, in a letter, asserted that "[a]bsent an agreement in writing from KBHC and SAMHSA by January 8, 2007, acknowledging Patriot may continue to support these toll-free telephone numbers, and that no claims will be made for Patriot's doing so or having done so in the past, Patriot will cease routing telephone calls to the toll-free numbers at 12:01 am on January 9, 2007."⁹ This threat essentially constitutes blackmail – Patriot asserts that unless KBHC relinquishes its claim to its phone numbers and gives them to Patriot so that it may, in turn, transfer them to SAMHSA, Patriot will ensure that the lines cease to function, potentially leading to the death of those seeking help. Given that Patriot and McLeodUSA have refused to transfer KBHC's numbers to another Resp Org and service provider, the two companies have essentially placed KBHC in a lose-lose situation – either surrender to Patriot's illegal tactics or risk the lives of those in need of help when Patriot shuts off service. However, without McLeodUSA's cooperation, Patriot's threat would be meaningless and KBHC could continue to operate with another Resp Org and service provider. As the Resp Org, McLeodUSA's participation in this unlawful scheme is necessary to make the threat real.

⁷ SMS/800 Tariff, § 2.3.1(C) ("When an 800 subscriber requests a change of Resp Org: (1) The current Resp Org *will release* the 800 subscriber's SMS/800 records to the receiving (new) Resp Org within two (2) days of the receipt of the request...") (emphasis added).

⁸ These issues and the relationship between KBHC, Patriot, and McLeodUSA are addressed more fully in KBHC's *Petition for Cease and Desist Order and Sanctions* filed December 15, 2006.

⁹ Att. C – Letter from Lee Hejmanowski, Counsel for Patriot, to Danny E. Adams, Counsel for KBHC, *et al.* (Nov. 28, 2006).

