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

In the Matter of	)	
	)	File No. EB-04-SE-250
Bureau D'Electronique Appliquee, Inc.	)	NAL/Acct. No. 200532100009
	)	FRN # 0009800848

FORFEITURE ORDER

Adopted: November 4, 2005 **Released: November 8, 2005**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. By this Forfeiture Order ("Order"), we find that Bureau D'Electronique Appliquee, Inc. ("B.E.A.") marketed and imported unauthorized intentional radiating equipment,[1] in willful and repeated violation of Section 302(b) of the Communications Act of 1934, as amended ("Act")[2] and Section 2.803(a) of the Commission's Rules ("Rules").[3] For these violations, we impose a monetary forfeiture in the amount of seventeen thousand dollars ($17,000).

II. BACKGROUND

2. Section 302(b) of the Act provides that "[n]o person shall manufacture, import, sell, offer for sale, or ship devices of home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section." Section 2.803(a) of the Commission's implementing regulations prohibits the selling, leasing, or offering for sale or lease (including advertising for sale or lease) radio frequency devices subject to certification,[4] unless the Commission certificates that such devices are compliant with applicable equipment technical standards.[5] Additionally, Sections 15.201(b) and 2.1204(a)(1) of the Commission's implementing regulations, respectively, require that

[1]Section 15.3(o) of the Rules, 47 C.F.R. § 15.3(o), defines an intentional radiator as a "device that intentionally generates and emits radio frequency energy by radiation or induction." The subject unauthorized devices were marketed and sold to the U.S. for over 5 years.

[2]47 U.S.C. § 302a(b).

[3]47 C.F.R. § 2.803(a).

[4]Certification is an equipment authorization issued by the Commission or one of its designated Telecommunications Certification Bodies, based on representations and test data submitted by the applicant. *See* 47 C.F.R. § 2.907(a).

[5]Specifically, Section 2.803(a) provides, in pertinent part:

> Except as provided elsewhere in this section, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless … [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

intentional radiating devices be certificated prior to importation into and marketing within the United States.[6] B.E.A., as the manufacturer and the importer of intentional radiating equipment, is responsible for ensuring that its equipment complies with the Commission's technical standards and is certificated.[7]

3. The Notice of Apparent Liability for Forfeiture ("NAL")[8] proposed a $20,000 forfeiture against B.E.A., for its apparent willful and repeated violations of Section 302(b) of the Act and Section 2.803(a) of the Rules.[9] Specifically, the NAL found that B.E.A. marketed, imported and distributed for sale intentional radiating equipment, namely its Wizard and Falcon microwave motion sensors, without obtaining FCC certification.[10]

4. The NAL found, and B.E.A. admitted, that the company continuously marketed, imported and distributed a substantial volume of units of Wizards over a five-year period and Falcons over a three-year period.[11] The NAL noted, and B.E.A. admitted, that the company "created FCC Identifier 'G9BFALCON" for the Falcon, believing that it "was covered by its Eagle's FCC Identifier," a model for which the company previously had obtained certification.[12] The NAL further noted that, as a subsidiary of an international corporation, B.E.A. appeared to have a relative disincentive to comply with the Commission's equipment certification and related requirements (i.e., the ability to pay an upwardly adjusted forfeiture).[13] The NAL also recognized and credited B.E.A.'s good faith efforts to comply with the Commission's equipment certification requirements, before the Enforcement Bureau launched its investigation.[14] On October 25, 2004, 13 days after the Enforcement Bureau ("Bureau") issued a Letter of Inquiry ("LOI"), the Commission's Office of Engineering and Technology granted B.E.A. certification for the transmitter and antenna utilized in the Wizard and Falcon models.[15]

5. In its response to the NAL,[16] B.E.A does not dispute the NAL findings. Rather, B.E.A. seeks a cancellation or significant reduction of the proposed forfeiture, claiming that it is excessive and unwarranted. B.E.A. claims that its violations were not repeated and willful[17] within the meaning of Section 503(b)(1) of the Act,[18] and were "not at all grave."[19] B.E.A. also claims that its violations were

[6] 47 C.F.R. §§ 15.201(b), 2.1204(a)(1).

[7] *See* 47 C.F.R. §§ 2.909(a), 2.1203(a).

[8] *Bureau D'Electronique Appliquee, Inc*., 20 FCC Rcd 3445 (Enf. Bur. 2005) ("NAL").

[9] *See infra* note 14 and accompanying text.

[10] *See* NAL, 20 FCC Rcd at 3447 ¶ 6.

[11] *Id.* at 3446 ¶ 3, 3448 ¶ 9.

[12] *Id.* at 3446 ¶ 3.

[13] *Id.* at 3448 ¶ 9 n. 23.

[14] *See* NAL, 20 FCC Rcd at 3448 ¶ 10; *see also infra* notes 60-61 and accompanying text.

[15] *See* FCC Identifier G9B-305015 (granted October 25, 2004) (granting B.E.A. certification for the transmitter and antenna utilized by the Wizard and Falcon models, requiring B.E.A., as the grantee, to retain control and be responsible for the integration of the units); *see also* NAL, 20 FCC Rcd at 3446 ¶ 3 and note 11 (noting the October 25, 2004 grant of certification).

[16] *See* Letter from Thomas P. Schluep, Vice President, Engineering, B.E.A., Inc., to Yasin Ozer, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (Oct. 26, 2004) ("Response").

[17] *Id.* at 3.

[18] 47 U.S.C. § 503(b)(1).

inadvertent and that it "lacked actual knowledge of the need" to certify the Wizard and Falcon models.[20] B.E.A. further notes that it cooperated with the Commission, and "sought on it own initiative" to comply with the equipment authorization requirements.[21] Additionally, B.E.A. claims an inability to pay the proposed forfeiture, and a record of overall compliance with the Commission's equipment requirements.[22]

III. DISCUSSION

6. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act, Section 1.80 of the Rules, and the Commission's *Forfeiture Policy Statement*.[23] In assessing forfeitures, Section 503(b)(2)(D) of the Act requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.[24]

7. We find, as the underlying NAL found, that B.E.A. unlawfully marketed, imported and distributed the Wizard and Falcon microwave motion sensors prior to obtaining Commission certification, in willful and repeated violation of Section 302(b) of the Act and Section 2.803(a) of the Rules. We have considered B.E.A.'s claims in light of the factors delineated in Section 503(b)(2)(D) of the Act, and as discussed below, find that the proposed forfeiture should be reduced on the basis of the company's overall history of compliance.

8. In its response, B.E.A. claims that its violations were neither "willful" nor "repeated," and that the assessment of monetary liability was "improper."[25] B.E.A. concedes that Section 312(f)(1) and (2) of the Act[26] define the terms willful and repeated, but contends that the definitions are "explicitly limited by the Code to that section alone."[27] B.E.A. further contends that Section 503(b)(1) of the Act[28] references, but does not define, the terms willful and repeated. B.E.A. thus maintains that the NAL erred by applying the Section 312(f)(1) and (2) definitions and thus finding that the company's violations were both willful and repeated. B.E.A. contends that the NAL should have applied the terms' "commonly understood meanings." According to B.E.A., under a commonly understood meaning approach, its actions or omissions could not be held to be willful and repeated absent findings that the company "intentionally" engaged in "separate violations."[29] In support of a commonly understood meaning approach, B.E.A. cites *United States v. WIYN Radio, Inc.,*[30] *United States v. Summa Corp.,*[31] and *United States v. Daniels*.[32]

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[19] *Id.* at 2.

[20] Response at 1.

[21] *Id.* at 2-3.

[22] *Id.* at 2.

[23] 12 FCC Rcd 17087, *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*").

[24] 47 U.S.C. § 503(b)(2)(D).

[25] Response at 3.

[26] 47 U.S.C. §§ 312(f)(1) and (2).

[27] Response at 3.

[28] 47 U.S.C. § 503(b)(1).

[29] Response at 3.

[30] 614 F.2d 495 (5th Cir. 1980).

9. Under Section 503(b)(1)(B) of the Act, "any person who is determined by the Commission" to have "willfully or repeatedly failed to comply with any of the provisions of this Act or any rule, regulation or order issued by the Commission under this Act …" shall be liable for a forfeiture penalty.[33] Section 503(b)(1), as noted by B.E.A., does not define willful and repeated. The terms willful and repeated, however, are defined in Section 312(f)(1), (2) of the Act. Section 312(f)(1) defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. Section 312(f)(2) defines repeated as "the commission or omission of such more than once or, if such commission or omission is continuous, for more than one day."

10. In its 1982 amendments to the Act, Congress added the definitions of willful and repeated in Section 312.[34] According to the legislative history, Congress intended that Section 312 definitions would apply in Section 503(b) forfeiture proceedings.[35] Consistent with congressional intent, after the 1982 amendments, the Commission has applied,[36] and courts have upheld,[37] the Section 312(f)(1) and (2) willful and repeated definitions in forfeiture proceedings. We thus find that the NAL properly applied the definitions set forth in Section 312(f)(1) and (2) in this proceeding, properly found that the company consciously and deliberately imported, marketed and distributed unauthorized equipment for more than one day, and thus properly concluded that the company's apparent violations of Section 302(b) of the Act and Section 2.803(c) of the Rules were willful and repeated. The decisions cited by B.E.A., which grappled with the meaning of willful and repeated, all preceded the 1982 amendments of the Act and thus are not controlling.[38]

11. Alternatively, B.E.A. claims the proposed forfeiture amount is excessive.[39] B.E.A. characterizes its violations as "good faith inadvertent mistakes" and claims that it lacked "actual knowledge of the need to test and certify" its equipment "which had in another [prior] form been tested and certified."[40] Conceding that inadvertence and "lack of actual knowledge" may not negate a finding of willfulness under Section 503(b)(1)(B) of the Act, B.E.A. contends that such factors are "relevant to

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[31]447 F. Supp. 923 (D.N. 1978).

[32]418 F. Supp. 1074 (D.S.D. 1976).

[33]47 U.S.C. § 503(b)(1)(B).

[34]*See* Pub. L. No. 92-225, Title § 103(a)(2)(A) (86 Stat. 4) (1982).

[35]*See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 at 2294-95 (1982) (stating that "[t]his provision defines the terms 'willful' and 'repeated' for purposes of Section 312, and for any other relevant section of the Act (e.g., Section 503)").

[36]*See Southern California Broadcasting,* 6 FCC Rcd 4387, 4388 ¶ 5 (1991); *see also Telecom House, Inc.,* FCC 05-168 ¶ 14 (September 13, 2005); *Infinity Broadcasting Operations, Inc.*, 18 FCC Rcd 19954, 19959 note 28 (2003), *order rescinded and consent decree ordered,* 19 FCC Rcd 23100 (2004).

[37]*See, e.g., SBC Communications, Inc. v. FCC,* 373 F.3d 140 (D.C.Cir. 2004); *AT&T Corp. v. FCC*, 323 F.3d 1081 (D.C. Cir. 2003); *Grid Radio v. FCC,* 278 F.3d 1314 (D.C.Cir. 2002).

[38]*See supra* 30-32 notes and accompanying text.

[39]Response at 4.

[40]*Id.*

determining the amount of forfeiture," and merit a downward adjustment.[41] In support, B.E.A. cites *United States v. Daniels*.[42]

12. It is the Commission's long-standing and well-established policy that a subject's inadvertent mistake regarding and/or ignorance of the Act or Rule requirements does not exonerate, excuse or mitigate its violations.[43] Consistent with Commission policy and precedent, we find that B.E.A.'s alleged inadvertent mistakes and lack of actual knowledge of the Commission's equipment certification requirements and related marketing and importation restrictions do not warrant a downward adjustment of the proposed forfeiture amount.

13. Additionally, we find B.E.A.'s reliance upon *United States v. Daniels* unavailing. In *Daniels,* the broadcaster was operating its station in accordance with the terms of its license, but was found in violation of the Commission's requirements because of a recent intervening amendment to the Rules. The district court found that a downward adjustment of the forfeiture amount was warranted, because the broadcaster lacked knowledge of the recent Rule amendment, merely acted in accordance with its license, and ceased operating in contravention of the new requirements "immediately upon being informed of the violation."[44] In contrast, the Commission's certification requirement and related marketing restrictions at issue here have been in effect since 1974,[45] and have not been amended.[46] Also, B.E.A., in contrast to the broadcaster in *Daniels,* cannot claim that it ceased its activities immediately upon becoming aware of its violations. B.E.A. arguably had "actual knowledge" in early 2004, and certainly by July 2004 when it filed its application for certification, but nevertheless continued to market, import and distribute its unauthorized equipment until certification was granted on October 25, 2004.[47]

14. B.E.A. also claims that the NAL did not properly consider and that the proposed forfeiture amount did not reflect the nature of its violations. According to B.E.A., the Wizard and Falcon

[41] *Id.*

[42] *See supra* note 32.

[43] *See Profit Enterprises, Inc.*, 8 FCC Rcd 2846, 2846 ¶ 5 (1993), *cancelled on other grounds*, 12 FCC Rcd 14999 (1997) (finding that a manufacturer's/distributor's lack of knowledge regarding the application of equipment certification and marketing requirements did not warrant a downward adjustment in the forfeiture amount because "prior knowledge or understanding of the law is unnecessary to a determination of whether a violation existed" and "ignorance of the law is [not] a mitigating factor"); *see also Emery Telephone*, 13 FCC Rcd 23854, 23859 ¶ 12 (1998), *recon. dismissed in part and den'd in part,* 15 FCC Rcd 7181 (1999); *Southern California Broadcasting Co.,* 6 FCC Rcd at ¶¶ 3-4; *Lakewood Broadcasting Service, Inc.,* 37 FCC 2d 437 ¶ 6 (1972).

[44] 418 F. Supp at 1081. As the Commission subsequently recognized, *Daniels* presented an unusual case, where the licensee was operating as authorized, but that "the rule had been modified recently, and the licensee lacked actual knowledge of the rule change." *Southern California Broadcasting Co.,* 6 FCC Rcd at ¶ 4.

[45] *See Amendment of Part 0 and 2 of the Rules Relating to Equipment Authorization of RF Devices*, 45 FCC 2d 52 (1974), *recon. granted,* 47 FCC 2d 1192 (1974).

[46] In this connection, it should be noted that the Commission's most recent amendments to the equipment authorization and related marketing requirements occurred *before* B.E.A. introduced the Wizard and Falcon models, and those amendments did not modify or alter the requirement that intentional radiating devices be certificated prior to being marketed, imported and/or distributed for sale and thus are not relevant here. *See Matter of Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices,* 12 FCC Rcd 4533, 4533 (1996), *recon. granted,* 13 FCC Rcd 12928 (1998).

[47] *See supra* note 15 and accompanying text.

models merely represent its "second generation" microwave sensors, and are just reconfigured elements of its previously certificated first generation Eagle model. [48]

15. We find that the NAL properly took into account the nature and extent of B.E.A.'s violations. As noted in the NAL,[49] the reconfigurations B.E.A. made to the Wizard and Falcon models were not minor and did not qualify as a permissive changes under Section 2.1043(b) of the Rules.[50] Because B.E.A.'s changes were not permissive, B.E.A. was required to file a new application for, and obtain certification of, the Wizard and Falcon models.[51] Specifically, under Section 2.1043(c) of the Rules, B.E.A. was required to file an application on FCC Form 731, with "a description of the change(s) to be made" and "statement indicating whether the change(s) will be made in all units (including previous production) or will be made only in those units produced after the change is authorized."[52] Without ever filing the FCC Form 731 and obtaining Commission certification, B.E.A. marketed, imported and distributed a substantial volume of the unauthorized equipment over a five year period.[53]

16. B.E.A. also claims that the NAL did not properly consider, and the proposed forfeiture amount did not reflect, the fact that the Wizard and Falcon did not cause any "technical interference with the products of any other company."[54] We find B.E.A.'s "no harm, no foul" claim unpersuasive. It is well established that the absence of public harm (i.e., the lack of interference caused by operation of Wizard and Falcon units) is not considered a mitigating factor and thus does not warrant a downward adjustment of an assessed forfeiture.[55]

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[48]Response at 2.

[49]*See* NAL, 20 FCC RCd at 3447 ¶5.

[50]47 C.F.R. § 2.1043(b)(1)-(3) (providing that grantee may make changes to its certificated equipment without "a new application for and grant of certification," if the changes fall within the three classes of delineated "permissive changes"). B.E.A.'s reconfiguration of its previously certificated microwave motion sensor's elements did not come within any of the classes of changes delineated as permissive. *Id.*

[51]*See ACR Electronics, Inc.*, 19 FCC Rcd 22293, 22300 ¶ 16 (2004), *response pending* (rejecting an equipment manufacturer's claim it was merely marketing its second generation equipment model, which incorporated the technology of its previously certificated model); *Highway Information Systems*, 17 FCC Rcd 4027, 4029 ¶ 9 (2002), *aff'd, sub nom., Transportation Intelligence, Inc. v. FCC,* 336 F.3d 1058 (D.C. Cir. 2003) (rejecting an equipment manufacturer's claims that the changes it made to previously certificated equipment were permissive, but noting that certification has since been granted and that liability could not be imposed for violations that occurred beyond the applicable statute of limitations).

[52]47 C.F.R. § 2.1043(c).

[53]As the NAL correctly noted, Section 503(b)(6)(B) of the Act, 47 U.S.C. § 503(b)(6)(B), prohibits us from proposing a forfeiture for violations occurring more than a year prior to issuance of the NAL, but does not bar us from taking into account the fact that the violations continued inside as well as outside the one-year period in determining the appropriate forfeiture amount. *See* NAL at 3448 ¶¶ 8-9.

[54]Response at 2.

[55]*Cf. Liberty Cable Co.,* 16 FCC Rcd 16105, 16113 ¶ 25 (2001) (rejecting a cable system's claim that the forfeiture should be downwardly adjusted because its unauthorized operations did not cause interference, public harm); *Pacific Western Broadcasters, Inc.,* 50 FCC 2d 819 ¶ 4 (1975) (rejecting a broadcaster's claim that the forfeiture should be downawardly adjusted because its operations at excessive power levels did not cause public harm or complaint, stating that "[t]he Commission not only is concerned with actual interference, but is concerned with the potential for interference"); *AGM-Nevada, LLC,* 18 FCC Rcd 1476, 1478 ¶ 8 (Enf. Bur. 2003) (rejecting a licensee's claim that the forfeiture should be downwardly adjusted because even though it operated booster stations at unauthorized sites with excessive power levels, its operations did not result in interference).

17. B.E.A. seeks a further reduction in the forfeiture amount on the basis of its good faith effort to comply with the Rules.[56] According to B.E.A., it is "patently unjust" to "impose a $20,000 forfeiture upon a company that has at all times been cooperative with the Commission and sought on its own initiative to remedy a potential problem when it arose."[57]

18. B.E.A.'s claims notwithstanding, the NAL took into account the fact that B.E.A., in good faith and on its own accord, sought to bring the Wizard and Falcon Bureau into compliance.[58] Specifically, the NAL noted that, *prior* to the Bureau's issuance of the Letter of Inquiry, B.E.A. identified the need to obtain certification for, and sought final testing of its equipment.[59] Based on B.E.A.'s good faith efforts, the NAL downwardly adjusted the $25,000 proposed forfeiture to $20,000.[60] The NAL's downward adjustment was appropriate and consistent with precedent, which awards good faith credit to subjects who undertake corrective action(s) *before* the Commission launches an investigation.[61] B.E.A., however, is not entitled to a further reduction in the proposed forfeiture amount based on its cooperation during the investigation. Full cooperation and complete "candor" during the course of Commission investigations and proceedings are expected, and are not considered mitigating circumstances warranting downward forfeiture adjustments.[62]

19. Additionally, B.E.A. claims an inability to pay the proposed forfeiture amount. According to B.E.A., payment of the proposed forfeiture "will cause grave consequences to the company," and will impact the 70 people it employs in the United States who "rely upon the company's fortunes for their livelihood."[63] As the NAL correctly noted, in the absence of supporting financial documentation (i.e., claimant's federal tax returns, GAPP standard accounting statements, or other reliable, objective information reflecting financial status), the Commission will not consider reductions or cancellations of forfeitures on the basis of inability to pay.[64] Moreover, in analyzing inability to pay claims, the Commission considers the totality of circumstances, including the financial resources of both the subject and its parent corporation.[65] B.E.A did not provide any financial documentation for itself or

[56] *See* Response at 2.

[57] *Id.*

[58] *See* NAL at 3448 ¶ 10.

[59] *Id.*

[60] *See* NAL at 3448 ¶ 10.

[61] *See, e.g., SpectrasSite Communications, Inc.,* 18 FCC Rcd 17673, 17676 ¶¶ 10-11 (2004); *Radio One Licenses, Inc.,* 18 FCC Rcd 15964, 15965 ¶ 4 (2003), *recon. denied,* 18 FCC Rcd 25481 (2003); *Petracom of Texarkana, LLC,* 19 FCC Rcd 8096, 8097-98 (Enf. Bur. 2004).

[62] *See, e.g., Coleman Enterprises, Inc. d/b/a Local Long Distance, Inc.*, 16 FCC Rcd 10016, 10028 ¶ 11 (2001); *Southern California Broadcasting Co.,* 6 FCC Rcd at 4388 ¶ 5, *recon. denied,* 7 FCC Rcd at 3455 ¶ 7; *4M of Richmond, Inc.*, 19 FCC Rcd 15447, 15452 ¶ 15 (Enf. Bur. 2004); *Northwest Utilities,* 17 FCC Rcd 4115, 4117 ¶¶ 12-13 (Enf. Bur. 2002); *Delta Radio, Inc.*, 13 FCC Rcd 21708 ¶ 10 (MMB 1998).

[63] Response at 2.

[64] *See* NAL at 3449 ¶ 15.

[65] *See Forfeiture Policy Statement,* 12 FCC Rcd at 17158 ¶¶ 112-113*; see, e.g., Long Distance Direct, Inc.,* 15 FCC Rcd 3297, 3305 ¶ 22 (2000); *Alpha Broadcasting Corp.,* 102 FCC 2d 18 ¶ 6 (1984); *Pearson Broadcasting of Mena, Inc.,* 19 FCC Rcd 14599, 14601 ¶ 9 (Enf. Bur. 2004); *Petracom of Joplin, LLC,* 19 FCC Rcd 6248, 6250-51 ¶ 9 (Enf. Bur. 2004).

for its parent corporation, the international Halma Group.[66] In the absence of supporting financial documentation, we simply have no basis by which to evaluate B.E.A.'s inability to pay claim.[67]

20. Finally, B.E.A. claims, and a search of Commission records confirms, that the company holds other equipment authorizations and has no "prior offenses."[68] In view of B.E.A.'s overall history of compliance with the Commission's equipment authorization and related requirements, we find that a reduction of the proposed forfeiture to $17,000 is warranted. [69]

IV. ORDERING CLAUSES

21. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,[70] Bureau D'Electronique Appliquee, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of seventeen thousand dollars ($17,000) for willfully and repeatedly violating Section 302(b) of the Communications Act and Section 2.803(a) of the Commission's Rules.

22. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.71 Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under an installment plan should be sent to: Associate Managing Director – Financial Operations, 445 12th Street, S.W., Room 1A625, Washington, D.C. 20554.[72]

[66] *See* http://www.beainc.com.

[67] *See supra* note 65 and accompanying text.

[68] Response at 2.

[69] *See, e.g., Dial-A-Page, Inc.,* 8 FCC Rcd 2767, 2769 ¶ 12 (1993), *recon. deinied,* 10 FCC Rcd 8825 (Enf. Div. 1995); *Johannus Orgelbow B.V. The Netherlands,* 19 FCC Rcd 7196, 7199 ¶ 10 (Enf. Bur. 2004); *Animation Technologies, Inc.*, 9 FCC Rcd 2059, 2059 ¶ 3 (F.O.B. 1994).

[70] 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

[71] 47 U.S.C. § 504(a).

[72] *See* 47 C.F.R. § 1.1914.

23. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by first class mail and certified mail return receipt requested to Thomas P. Schluep, Vice President, Engineering, B.E.A., Inc., 100 Enterprise Drive – RIDC Park West, Pittsburgh, Pennsylvania 15275.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Spectrum Enforcement Division
Enforcement Bureau