

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

In the Matter of)	
)	File No. EB-04-SE-085
St. Louis Music, Inc.)	NAL/Acct. No. 200532100007
)	FRN # 0012456836

ORDER

Adopted: January 10, 2005**Released: January 12, 2005**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and St. Louis Music, Inc. ("SLM"). The Consent Decree terminates an investigation initiated by the Enforcement Bureau into whether SLM's manufacture, importation, marketing and sale of certain Class B digital audio devices violated Section 302(b) of the Communications Act of 1934, as amended, ("Act")¹ and Sections 2.803(a), 15.19 and 15.105(b) of the Commission's Rules ("Rules").²

2. The Enforcement Bureau and SLM have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, we conclude that no substantial or material questions of fact exist with respect to this matter as to whether SLM possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree and terminating the investigation.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act,³ and Sections 0.111 and 0.311 of the Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the Enforcement Bureau's investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that St. Louis Music, Inc. shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by credit card through the Commission's Debt and Credit Management Center at (202) 418-1995, or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.803(a), 15.19 and 15.105(b).

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

071000013, receiving bank Bank One, and account number 1165259. The payment should reference the NAL/Acct. No. and FRN number referenced above.

8. **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 Donald J. Collins, Vice President - Finance, St. Louis Music, Inc., 1400 Ferguson Avenue, St. Louis, MO 63133, and to Alan G. Fishel, Esq., Arent Fox PLLC, 1050 Connecticut Avenue, N.W., Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

CONSENT DECREE

The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) and St. Louis Music, Inc. (“SLM”) hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether SLM violated Section 302(b) of the Communications Act of 1934, as amended (the “Act”)⁵, and Section 2.803 of the Commission’s Rules (the “Rules”),⁶ regarding the manufacture, importation, marketing and sale of Class B digital audio products, as well as Sections 15.19 (labeling requirements) and 15.105(b) (user manual statements) of the Rules.⁷

Background

1. Pursuant to Section 302(b) of the Act and Sections 2.803(a)(2) and 15.101(a) of the Rules,⁸ Class B digital equipment must be authorized pursuant to the Commission’s verification procedures prior to, *inter alia*, the importation or initiation of marketing of such equipment. Such equipment is also subject to Commission rules requiring labeling (47 C.F.R. §15.19(a)) and user manual statements (47 C.F.R. §15.105(b)).

2. SLM manufactures Class B digital audio equipment, including guitar amplifiers and mixers. On May 21, 2004, after receiving information regarding potential violations, the Bureau initiated an investigation by issuing a Letter of Inquiry (“LOI”) directing SLM to provide information regarding, among other matters, its compliance with the Commission’s equipment authorization, labeling and user manual requirements. SLM submitted its initial response (“Response”) to the Bureau’s LOI on June 24, 2004, with respect to the devices identified by the Bureau in the LOI, as well as additional devices voluntarily disclosed by SLM. On September 2, 2004, SLM submitted its First Supplement to the Response. On September 23, 2004, representatives of SLM, along with counsel, met with Bureau and Office of Engineering and Technology staff to discuss issues relevant to the LOI. On November 8, 2004, SLM submitted its Second Supplement to the Response.

Definitions

3. For the purposes of this Consent Decree, the following definitions shall apply:

(a) “Commission” and “FCC” mean the Federal Communications Commission.

(b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.

(c) “SLM” means St. Louis Music, Inc., its subsidiaries, affiliates and any successors or assigns.

(d) “Parties” means SLM and the Bureau.

(e) “Adopting Order” means an order of the Bureau adopting the terms and conditions of this Consent Decree. (f) “Effective Date” means the date on which the Bureau releases the Adopting Order.

⁵ 47 U.S.C. § 302a(b).

⁶ 47 C.F.R. § 2.803.

⁷ 47 C.F.R. §§ 15.19, 15.105(b).

⁸ 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803(a)(2), 15.101(a).

(g) “Investigation” means the investigation commenced by the Bureau’s May 21, 2004 Letter of Inquiry⁹ regarding whether SLM violated Section 302(b) of the Act and/or Section 2.803 of the Rules, as well as Sections 15.19 and 15.105(b) of the Rules.

(h) “Rules” means the Commission’s Rules found in Title 47 of the Code of Federal Regulations.

(i) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §§151 *et seq.*

Terms of Agreement

4. 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.

5. The Parties 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 requirements of the Act or the Commission’s Rules and orders. The Parties further agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, SLM does not admit or deny liability for violating any statute, regulation, or administrative rule in connection with matters that are the subject of this Consent Decree.

6. The Parties agree that this Consent Decree shall become binding on the Parties on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other final order of the Commission and any violation of the terms or conditions of this Consent Decree shall constitute a violation of a Commission order.

7. The Parties acknowledge and agree that this Consent Decree shall constitute a final and binding settlement between SLM and the Bureau regarding possible violations of the Act and the Rules with respect to any Class B digital device manufactured, imported, marketed or sold by SLM prior to the Effective Date of this Consent Decree.

8. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of scarce public resources, the Bureau agrees to terminate its Investigation into whether SLM may have violated the Act or the Rules with respect to any Class B digital devices manufactured, imported, marketed or sold by SLM prior to the Effective Date of this Consent Decree.

9. In consideration for termination by the Bureau of the Investigation and in accordance with the terms of this Consent Decree, SLM agrees to the terms set forth herein.

10. SLM acknowledges that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

11. SLM will implement a Federal Communications Commission Regulatory Compliance Plan (“RCP”) related to SLM’s future compliance with the Act, the Commission’s Rules, and the Commission’s orders. The RCP will include, at a minimum, the following components:

(a) **FCC Compliance Procedures.** SLM shall develop and update as necessary appropriate FCC Compliance Procedures. Relevant SLM personnel shall be made aware of the FCC Compliance Procedures and are to follow them. The FCC Compliance Procedures will, among

⁹ See Letter from Joseph P. Casey, Chief, Spectrum Enforcement Division, Enforcement Bureau, FCC, to Eugene Kornblum, President, SLM (May 21, 2004).

other things, address the equipment authorization requirements of the Act and the Commission's Rules applicable to all Class B digital devices manufactured, imported, marketed and sold by SLM in the United States, as well as the Commission's Rules regarding labeling and user manual statements for such devices. The Compliance Engineer will be assigned ultimate responsibility within SLM for determining whether the manufacture, importation, marketing, sale, labeling and user manual statements for such devices are in compliance with the FCC Compliance Procedures.

(b) **Compliance Engineer.** SLM shall designate a Regulatory Compliance Engineer ("Compliance Engineer") who will administer the RCP, supervise SLM's compliance with the Act, the Commission's Rules and the Consent Decree, and serve as the SLM point of contact for all Commission-related compliance matters.

(c) **Review and Monitoring.** SLM will review the RCP annually to ensure that it is maintained in a proper manner and continues to address the objectives set forth therein.

12. The Bureau agrees that it will not entertain or institute, or use the facts developed in this Investigation or the existence of this Consent Decree to institute, on its own motion, any new proceeding, formal or informal, nor take any action on its own motion, or recommend to the full Commission any forfeiture or other sanction, against SLM for any alleged violation of the Act or the Rules with respect to any of the Class B digital devices manufactured, imported, marketed or sold by SLM prior to the Effective Date of this Consent Decree.

13. SLM agrees that every Class B digital device which is manufactured, imported, marketed or sold by SLM on or after the Effective Date of this Consent Decree shall be compliant with the Commission's technical and labeling Rules before importation and marketing by SLM, and that user manual statements compliant with the Commission's Rules will be implemented with respect to such devices.

14. The Parties agree that each is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that SLM fails to satisfy any condition, in the absence of Commission alteration of the condition, it will be deemed noncompliant and may be subject to possible future enforcement action with respect to such failure to satisfy the condition.

15. The Parties agree that SLM's obligations set forth in paragraphs 11 and 13 of this Consent Decree shall remain in effect for twenty-four (24) months from the Effective Date.

16. SLM agrees that it will make a voluntary contribution to the United States Treasury in the amount of Forty-Two Thousand Dollars (\$42,000) within 30 calendar days after the Effective Date. Such contribution shall be made, without further protest or recourse, by credit card through the Commission's Debt and Credit Management Center at (202) 418-1995, or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259. The payment should reference NAL/Acct. No. 200532100007 and FRN # 0012456836.

17. SLM's decision to enter into this Consent Decree is expressly contingent upon the Bureau's issuance of an Adopting Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, modification, or deletion.

18. The Parties waive any and all rights they 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 that the Adopting Order adopts the Consent Decree without change, addition, modification, or deletion.

19. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

20. 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 SLM nor the Commission shall contest the continuing validity of this Consent Decree or the Adopting Order. The Parties agree to comply with, defend and support the validity of this Consent Decree and the Adopting Order in any proceeding seeking to nullify, void, or otherwise modify the Consent Decree or the Adopting Order.

21. The Parties agree that any provision of this Consent Decree which conflicts with any subsequent rule, order of general applicability or other decision of general applicability adopted by the Commission will be superseded by such Commission rule, order or other decision.

22. SLM waives any rights it may have under any provision of the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

23. This Consent Decree cannot be modified without the advance written consent of both Parties.

24. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau:

David H. Solomon
Chief, Enforcement Bureau

Date

For St. Louis Music, Inc.:

Donald J. Collins
Vice President - Finance

Date