

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

In the Matter of)	
)	File No. EB-04-SE-235
American Medical Alert Corporation)	NAL/Acct. No. 200632100016
)	FRN # 0015256365

ORDER

Adopted: July 7, 2006

Released: July 11, 2006

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and American Medical Alert Corporation (“AMAC”). The Consent Decree terminates an investigation initiated by the Enforcement Bureau into whether certain personal emergency response equipment manufactured, imported, and/or distributed by AMAC violated Section 302(b) of the Communications Act of 1934, as amended, (“Act”)¹ and the Commission’s Rules (“Rules”) pertaining to the manufacture, importation, marketing, lease, sale and labeling of RF devices and terminal equipment.²

2. The Enforcement Bureau and AMAC 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 AMAC 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 AMAC 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

¹ 47 U.S.C. § 302a(b).

² See, e.g., 47 C.F.R. §§ 2.803, 2.925, 15.19, 15.101, 15.105(b), 15.107, 15.109, 15.201, 15.207, 15.231, 68.201, and 68.354.

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

the order of the Federal Communications Commission, to the 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.

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 Howard M. Siegel, Chairman and Chief Executive Officer, American Medical Alert Corporation, 3265 Lawson Blvd., Oceanside, NY 11572, and to David E. Hilliard, Esq., Wiley Rein & Fielding LLP, 1776 K Street, NW, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

CONSENT DECREE

The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) and American Medical Alert Corporation (“AMAC”) hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether AMAC violated Section 302(b) of the Communications Act of 1934, as amended (the “Act”)¹, and certain of the Commission’s Rules regarding the manufacture, importation, marketing, lease and sale of personal emergency response equipment; the identification, labeling and notice requirements for such equipment; and the connection of such equipment to the public switched telephone network.²

Background

1. AMAC manufactures, imports and/or distributes personal emergency response equipment, including the VoiceCare® Personal Emergency Response System (“PERS”). The VoiceCare System is advertised as a system that offers quick access to medical and personal assistance for individuals who want to remain independent at home. The VoiceCare system consists of a lightweight personal activator device, or “pendant,” and a separate console unit. The pendant is worn or carried by the user, and the console unit, which has a speakerphone, is connected to a regular telephone line. The VoiceCare pendant communicates with the console unit receiver using unlicensed frequencies. Accordingly, the devices are subject to the Part 15 Rules. Also, because the console unit directly connects to the Public Switched Telephone Network (“PSTN”), it is subject to the Part 68 Rules.

2. Aside from the VoiceCare System, AMAC manufactures, imports, and/or distributes several other related products: (1) a personal activator device dubbed the “Sip-n-Puff” because it allows quadriplegic users to send a signal to the VoiceCare console unit by blowing a puff of air into a tube; (2) a repeater that relays the personal activator signal in order to extend the in-residence range of a VoiceCare system; (3) two smoke detector models that are linked to the VoiceCare call center to provide remote notification of possible fires; (4) two similar digital devices that are used in the call centers; (5) a PERS Buddy home health monitoring system that provides an interactive display to enable patients to receive and respond to disease specific health questions and reminders focused on signs and symptoms, behavior and wellness – detailed medical information that is transmitted to the emergency response call centers; (6) two Medtime device models that remind the patient to take medications – one model has the ability to communicate with the VoiceCare console unit and the other does not; and (7) a system consisting of equipment similar to the VoiceCare patient devices, but which is used to assist in the operation of surveillance cameras in retail establishments. These devices are subject to the Part 15 Rules. The devices that connect to the PSTN also are subject to the Part 68 Rules. AMAC has reported that some of the devices appear to emit signals in excess of the Part 15 limits.

3. On November 17, 2004, after receiving information regarding potential violations by AMAC, the Bureau initiated an investigation by issuing a Letter of Inquiry (“LOI”) directing AMAC to provide information relating to its compliance with the Commission’s equipment authorization and identification requirements for AMAC’s VoiceCare system. AMAC submitted its initial response (“Response”) to the Bureau’s LOI on December 7, 2004, with respect to the VoiceCare system. On January 13, 2005, AMAC met with Bureau staff to discuss its Response. At the January 13 meeting, AMAC voluntarily disclosed additional devices with which there were potential compliance issues. In response to the Bureau’s request, AMAC supplemented its Response on March 4, 2005, and provided information on each of the additional devices.

¹ 47 U.S.C. § 302a(b).

² See, e.g., 47 C.F.R. Parts 2, 15, and 68.

4. Pursuant to Section 302(b) of the Act³ and Parts 2, 15 and 68 of the Rules, AMAC's personal emergency response equipment, which includes the VoiceCare system and the related devices set forth in paragraph 2, must be authorized and labeled in accordance with the Commission's regulations prior to, *inter alia*, the importation or initiation of marketing of such equipment.

Definitions

5. 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) "AMAC" means American Medical Alert Corporation, its subsidiaries, affiliates and any successors or assigns.
 - (d) "PERS" means Personal Emergency Response System.
 - (e) "Parties" means AMAC and the Bureau.
 - (f) "Adopting Order" means an order of the Bureau adopting the terms and conditions of this Consent Decree.
 - (g) "Effective Date" means the date on which the Bureau releases the Adopting Order.
 - (h) "Investigation" means the investigation commenced by the Bureau's November 17, 2004 Letter of Inquiry⁴ regarding whether AMAC violated Section 302(b) of the Act and/or Sections 2.803 and 2.925 of the Rules.
 - (i) "Rules" means the Commission's Rules found in Title 47 of the Code of Federal Regulations.
 - (j) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §§151 *et seq.*

Terms of Agreement

6. 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.

7. 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, AMAC does not admit nor deny liability for violating any statute, regulation, or administrative rule in connection with matters that are the subject of this Consent Decree.

³ 47 U.S.C. § 302a(b).

⁴ See Letter from Kathryn S. Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, FCC, to Howard M. Siegel, President, AMAC (Nov. 17, 2004).

8. 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.

9. The Parties acknowledge and agree that this Consent Decree shall constitute a final and binding settlement between AMAC and the Bureau regarding possible violations of the Act and the Rules with respect to the manufacture, importation, marketing, lease, or sale by AMAC of any of the equipment listed in the attached appendix prior to the Effective Date of this Consent Decree.

10. 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 AMAC may have violated the Act or the Commission's Rules with respect to the manufacture, importation, marketing, lease, use or sale by AMAC of any of the equipment listed in the attached appendix prior to the Effective Date of this Consent Decree.

11. In consideration for termination by the Bureau of the investigation and in accordance with the terms of this Consent Decree, AMAC agrees to the terms set forth herein.

12. AMAC 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.

13. The Bureau will allow AMAC forty-eight (48) months to replace potentially non-compliant equipment that is currently deployed. AMAC will implement a Federal Communications Commission Regulatory Compliance Plan ("RCP") related to AMAC's future compliance with the Act, the Commission's Rules, and the Commission's orders. AMAC will file the RCP with the Enforcement Bureau within ninety (90) days of the effective date of this Consent Decree. The entire RCP will include the following components:

(a) **FCC Compliance Procedures.** AMAC shall develop and update, as necessary and in association with legal counsel, appropriate FCC Compliance Procedures. Such procedures will be developed within sixty (60) days of the Effective Date of this Consent Decree. Relevant AMAC personnel shall be made aware of the FCC Compliance Procedures and be required to follow them. The FCC Compliance Procedures will, among other things, address the equipment authorization and marketing requirements of the Act and the Commission's Rules in Parts 2, 15 and 68 which are applicable to the devices manufactured, imported, marketed, leased and sold by AMAC in the United States and shall also include procedures to remedy promptly any radio interference caused by AMAC equipment covered by this Consent Decree.

(b) **Compliance Engineer.** AMAC shall designate a Regulatory Compliance Engineer ("Compliance Engineer") who will administer the RCP, supervise AMAC's compliance with the Act, the Commission's Rules and this Consent Decree, and serve as the AMAC point of contact for all Commission-related compliance matters. The Compliance Engineer will report to the Chief Operating Officer of AMAC, who will retain ultimate responsibility within AMAC for determining whether the manufacture, importation, marketing, sale, lease, labeling and notice requirements for such devices are in compliance with the FCC Compliance Procedures.

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

(d) **Replacement Program.** AMAC will replace currently deployed equipment that may not fully comply with the Commission's Part 15 and Part 68 Rules within forty-eight (48) months of the Effective Date of this Consent Decree.

(e) **Reports.** AMAC will provide annual reports to the Commission detailing the company's progress in replacing currently deployed equipment with potential compliance issues.

14. 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 AMAC for any alleged violation of the Act or the Rules with respect to any of the Part 15 RF equipment and/or Part 68 terminal equipment that is listed in the attached appendix and that was manufactured, imported, marketed, leased, or sold by AMAC prior to the Effective Date of this Consent Decree.

15. AMAC agrees that each model of Part 15 RF equipment and/or Part 68 terminal equipment that is manufactured, imported, marketed, leased, or sold by AMAC on or after the Effective Date of this Consent Decree shall be compliant with the Commission's Rules.

16. Each Party agrees that it 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 AMAC 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.

17. The Parties agree that the requirements of the Consent Decree shall expire forty-eight (48) months after the Effective Date of this Consent Decree.

18. AMAC agrees that it will make a voluntary contribution to the United States Treasury in the amount of Seventy-five Thousand Dollars (\$75,000) within 30 calendar days after the Effective Date. 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. The payment should include the NAL/Acct. No. and FCC Registration Number (FRN) referenced above.

19. AMAC'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.

20. 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.

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

22. 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 AMAC 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.

23. 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.

24. AMAC 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.

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

26. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau:

Kris Anne Monteith
Chief, Enforcement Bureau

Date

For American Medical Alert Corporation

Howard M. Siegel
Chairman and CEO

Date

APPENDIX

AMAC EQUIPMENT

Voice Care Console Units: Model Nos. 500, 700, 800, 833, 1000 and SP 2000.

Personal Activator Pendants: Model Nos. 200, 250, 260, 285, 270, 300, 400, 410, 433, 450, 450B, and 485.

Other Devices: Model 202-1 Sip & Puff; Model 200-00 Repeater; Model 923 Receiver; Model 924 Receiver; Model PB 5000 PERS Buddy; Model 650 Medtime with RF Transmitter; Medtime; Model 200-10 HW Smoke Detector; and Model 200-14 RF Smoke Detector.