

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

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| In the Matter of |) | File No. EB-03-DT-120 |
| |) | |
| Paladen Communications, Inc. |) | NAL/Acct. No. 200432360003 |
| a/k/a CB Shop |) | |
| |) | FRN: 0010680940 |
| North Jackson, Ohio |) | |

MEMORANDUM OPINION AND ORDER

Adopted: August 23, 2006

Released: August 25, 2006

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this *Memorandum Opinion and Order*, we dismiss as untimely a November 26, 2004 Petition for Reconsideration filed by Paladen Communications, Inc., a/k/a CB Shop (“Paladen”) of the Enforcement Bureau’s (“Bureau”) *Forfeiture Order*,¹ released October 21, 2004, assessing a forfeiture in the amount of seven thousand dollars (\$7,000) for willful and repeated violation of Section 302(b) of the Communications Act of 1934, as amended (“Act”),² and Sections 2.815(b) and 2.815(c) of the Commission’s Rules (“Rules”).³ The noted violations involve Paladen’s illegal marketing of external radio frequency power amplifiers (“linear amplifiers”) capable of operating in the Citizens Band (“CB”) Radio Service.

II. BACKGROUND

2. Field agents from the Commission’s Detroit, Michigan, Field Office (“Detroit Office”) conducted an investigation on July 24, 2003, and found that Paladen was offering for sale in violation of the Commission’s marketing Rules an unauthorized CB linear amplifier.⁴ On October 31, 2003, the District Director of the Detroit Office issued a *Citation*⁵ to Paladen specifying violations of Section 302(b) of the Act and Sections 2.815(b) and 2.815(c) of the Rules for Paladen’s illegal marketing of the unauthorized CB linear amplifiers, explaining the possible penalties for subsequent rule violations

¹ *Paladen Communications, Inc.*, 19 FCC Rcd 20865 (Enf. Bur. 2004) (“*Forfeiture Order*”).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. §§ 2.815(b) and (c).

⁴ Palomar Delux Modulator DX-55V.

⁵ *Citation*, Citation No. C20043236002 (Enf. Bur. Detroit Office, rel. Oct. 31, 2003).

(including monetary forfeitures) and directing Paladen to discontinue such sales immediately. Thereafter, the Detroit Office determined that Paladen continued to illegally market unauthorized CB linear amplifiers and on May 27, 2004, issued a *Notice of Apparent Liability for Forfeiture* (“NAL”)⁶ to Paladen, proposing a forfeiture in the amount of seven thousand dollars (\$7,000) for apparent willful and repeated violations of Section 302(b) of the Act and Sections 2.815(b) and 2.815(c) of the Rules. Subsequently, the Bureau released the *Forfeiture Order* referenced above, finding Paladen liable for the subject forfeiture and the subject violations to be willful and repeated. Paladen filed a Petition for Reconsideration of the *Forfeiture Order*, claiming – without submitting substantiating documents – an inability to pay the forfeiture amount.

III. DISCUSSION

3. Section 405(a) of the Act⁷ and Section 1.106(f) of the Rules⁸ provide that a Petition for Reconsideration must be filed within thirty days from the date of public notice of the final action. In this case, public notice of the *Forfeiture Order* occurred upon its release, October 21, 2004. The thirtieth day after October 21, 2004, was November 20, 2004 (a Saturday). When the computation of the filing date indicates that a document is due to be filed on a Saturday, the document is due on the next business day.⁹ Thus, to have been timely, Paladen’s request for reconsideration had to be filed with the Commission no later than the following Monday, November 22. Paladen’s submission was filed on Friday, November 26, 2004.¹⁰ Paladen, therefore, did not timely file the Petition for Reconsideration. Accordingly, we are unable to consider Paladen’s Petition for Reconsideration and it is dismissed as untimely.¹¹

IV. ORDERING CLAUSES

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 405(a) of the Act and Section 1.106(f) of the Rules, the Petition for Reconsideration filed by Paladen Communications, Inc., a/k/a CB Shop, **IS DISMISSED** as untimely.

⁶ *Notice of Apparent Liability*, NAL/Acct. No. 200432360003 (Enf. Bur., Detroit Office, rel. May 27, 2004) (“NAL”).

⁷ 47 U.S.C. § 405(a).

⁸ 47 C.F.R. § 1.106(f).

⁹ 47 C.F.R. § 1.4(j) provides that when the calculated filing date falls on a “holiday,” the document is due to be filed on the next business day. 47 C.F.R. § 1.4(e)(2) defines the term “holiday” as “Saturday, Sunday, officially recognized Federal legal holidays and any other day on which the Commission’s offices are closed and not reopened before 5:30 p.m.”

¹⁰ The Petition for Reconsideration was received at the Commission on November 26, 2004. Documents are considered to be filed on the date of receipt at the location designated by the Commission. 47 C.F.R. § 1.7.

¹¹ See *Reuters Ltd. v. FCC*, 781 F. 2d 946, 951 (D.C. Cir. 1986); *National Black Media Coalition v. FCC*, 760 F. 2d 1297, 1299-1300 (D.C. Cir. 1985) (Court of Appeals has no jurisdiction to consider an appeal from an FCC decision filed more than 30 days after the date of public notice, distinguishing *Gardner v. FCC*, 530 F. 2d 1086 (D.C. Cir. 1976); *Washington Broadcast Management Co., Inc.* 15 FCC Rcd 6607 (2000); *Panola Broadcasting Co.*, 68 FCC2d 533 (1978); and *Bay Broadcasting Corporation*, 15 FCC Rcd 23449 (Enf. Bur. 2000); and *Media Broadcasting Corporation*, 19 FCC Rcd 1028 (Enf. Bur. 2004).

5. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Act¹² and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,¹³ Paladen Communications, Inc., a/k/a CB Shop, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$7,000 for willfully and repeatedly violating Section 302(b) of the Act and Sections 2.815(b) and 2.815(c) of the Rules.

6. 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.¹⁴ Payment of the forfeiture must be made by check, money order 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 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. 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. 20554.¹⁵

7. **IT IS FURTHER ORDERED** that copies of this Order shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Paladen Communication Inc., 12274 Mahoning Ave., North Jackson, Ohio 44451 and to CB Shop, 1 Petro Place, Suite 8, Girard, Ohio, 44420.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

¹² 47 U.S.C. § 503(b).

¹³ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

¹⁴ 47 U.S.C. § 504(a).

¹⁵ See 47 C.F.R. § 1.1914.