

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

In the Matter of)	
)	File No. EB-06-SE-388
Richard Mann d/b/a)	NAL/Acct. No. 200732100016
The Antique Radio Collector)	FRN # 0016215626
Toledo, OH		

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: March 13, 2007

Released: March 15, 2007

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Richard Mann d/b/a The Antique Radio Collector apparently liable for 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”),¹ and Section 2.803(a)(1) of the Commission’s Rules (“Rules”).² The noted apparent violations involve marketing of uncertified AM radio transmitters.

II. BACKGROUND

2. On November 15, 2006, the Spectrum Enforcement Division of the Enforcement Bureau issued a Letter of Inquiry (“LOI”) to The Antique Radio Collector in response to a complaint alleging that The Antique Radio Collector was marketing in the United States fully-assembled AM transmitters; specifically, the SSTRAN model AMT3000 AM transmitter.³ In its LOI response dated November 25, 2006,⁴ The Antique Radio Collector indicated that it was not aware of a certification authorizing a fully assembled AMT3000 transmitter. The response indicated that Mr. Mann purchased the transmitters in kit form from a third party and assembled the transmitters in his residence. Mr. Mann advertised the assembled transmitters for sale online at www.oldtimeradio.com. Mr. Mann has sold a number of completed units to end users since December 2003.

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. § 2.803(a)(1).

³ Letter from Kathy Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, to Richard Mann, Antique Radio Collector (November 15, 2006).

⁴ Letter from Richard Mann d/b/a The Antique Radio Collector, to Neal McNeil, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (November 25, 2006).

III. DISCUSSION

3. Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Commission’s implementing regulations provides in pertinent part that:

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 radiofrequency device⁵ 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.

4. Pursuant to Section 15.201(b) of the Rules,⁶ intentional radiators operating under the provisions of Part 15 of the Rules must be certified by the Commission prior to marketing. We note that “kits,” as defined in Section 15.3(p) of the Rules,⁷ generally are not subject to the equipment authorization requirements.⁸ By contrast, fully assembled transmitters, such as the SSTRAN AMT3000 transmitters marketed by The Antique Radio Collector, are intentional radiators subject to the certification requirement. Mr. Mann concedes that he assembled SSTRAN AMT3000 transmitters and advertised and sold the devices. As the assembler of the device, Mr. Mann was responsible for obtaining an equipment certification prior to marketing. Mr. Mann admits, however, that there is no certification for these devices. Therefore, we find that The Antique Radio Collector apparently willfully⁹ and repeatedly¹⁰ violated Section 302(b) of the Act and Section 2.803(a)(1) of the Rules by marketing an intentional radiator prior to obtaining Commission equipment certification.

5. Section 503(b)(1) of the Act and Section 1.80(a)(1) of the Rules authorize the Commission to assess a forfeiture for each willful or repeated violation of the Act or of any rule, regulation, or order issued by the Commission under the Act.¹¹ In determining the appropriate forfeiture amount, Section 503(b)(2)(E) of the Act directs us to consider factors, such as “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior

⁵ 47 C.F.R. § 2.801 defines a radiofrequency device as “any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction, or other means.”

⁶ 47 C.F.R. § 15.201(b).

⁷ The term “kit” is defined in Section 15.3(p) as “[a]ny number of electronic parts, usually provided with a schematic diagram or printed circuit board, which, when assembled in accordance with instructions, results in a device subject to the regulations in this Part, even if additional parts of any type are required to complete assembly.” 47 C.F.R. § 15.3(p).

⁸ *But see* 47 C.F.R. §15.25 (specifying equipment authorization requirements for TV interface devices marketed as kits).

⁹ The term “willful,” as used in Section 503(b) of the Act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate the Commission’s Rules. 47 U.S.C. § 312(f)(1).

¹⁰ A violation is “repeated” within the meaning of Section 503(b) of the Act if it occurs more than once or continues for more than one day. 47 U.S.C. § 312(f)(2).

¹¹ 47 U.S.C. § 503(b)(1); 47 C.F.R. § 1.80(a)(1).

offenses, ability to pay, and such other matters as justice may require.”¹²

6. Under Section 1.80 of the Rules, the Commission has established a base forfeiture amount of \$7,000 for the marketing of unauthorized equipment. In this case, we note that The Antique Radio Collector marketed one model of an unauthorized intentional radiator. Accordingly, we find that The Antique Radio Collector is apparently liable for a \$7,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act¹³ and Sections 0.111, 0.311 and 1.80 of the Rules,¹⁴ Richard Mann d/b/a The Antique Radio Collector **IS** hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of seven thousand dollars (\$7,000) for willfully and repeatedly violating Section 302(b) of the Act and Section 2.803(a)(1) of the Rules.

8. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *Notice of Apparent Liability for Forfeiture*, Richard Mann d/b/a The Antique Radio Collector **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. 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/LB358340, 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.

10. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Associate Managing Director—Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁵

13. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for*

¹² 47 U.S.C. § 503(b)(2)(E).

¹³ 47 U.S.C. § 503(b).

¹⁴ 47 C.F.R. §§ 0.111, 0.311 and 1.80.

¹⁵ See 47 C.F.R. § 1.1914.

Forfeiture shall be sent by first class mail and certified mail return receipt requested to Richard Mann d/b/a The Antique Radio Collector, 4231 Willys Parkway, Toledo, OH 43612.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau