

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

In the Matter of)	
)	
Ira Jones)	File Number: EB-10-SF-0187
)	NAL/Acct. No.: 201132960001
Merced, California)	FRN: 0020643425
)	

FORFEITURE ORDER

Adopted: July 26, 2012

Released: July 27, 2012

By the Regional Director, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of seven thousand dollars (\$7,000) to Ira Jones, owner and operator of a Citizens Band (CB) radio station in Merced, California, for willfully and repeatedly violating Section 303(n) of the Communications Act of 1934, as amended (Act),¹ and Section 95.426(a) of the Commission's rules (Rules),² by failing to permit an inspection of his CB radio station by an authorized FCC representative. The noted violations involved Mr. Jones' refusal to allow an inspection of his CB radio station despite multiple requests.

II. BACKGROUND

2. On March 19, 2010, agents from the Enforcement Bureau's San Francisco Office (San Francisco Office) responded to a complaint regarding radio frequency interference within the radio communication system equipment of the Merced County Fire Department.³ The agents then monitored the radio transmissions on frequency 27.165 MHz and used radio direction finding techniques to locate the source of the signal associated with the interference to a CB radio station operating from Mr. Jones' residence in Merced, California. The San Francisco agents monitored frequency 27.165 MHz again on March 26, 2010, and located the interference to a CB radio station operating from Mr. Jones' residence in Merced, California. Later the same day, the agents approached Mr. Jones' residence, knocked on his door, identified themselves as agents of the FCC and presented their official badges and credentials. The individual answering the door identified himself as Mr. Jones. The agents told him about the radio frequency interference complaint and asked him if he was the owner or operator of the CB radio station.

¹ 47 U.S.C. § 303(n).

² 47 C.F.R. § 95.426(a) (CB Rule 26).

³ The agents observed that transmissions on CB radio station frequency 27.165 MHz appeared to match the audio distortion received on frequency 154.4 MHz within the Merced County Fire Department's audio receiver and speaker system in what appeared to be audio rectification interference within the department's receiver and speaker system. *Audio rectification* interference occurs when an electronic circuit (usually an amplifier), which ideally should respond only to audio frequency signals, responds to external radio frequency (RF) signals. Typically, the circuit picks up signals from a nearby radio transmitter in addition to the sound the listener wants to hear. The unwanted signal may be constant or intermittent, faint or uncontrollably loud.

Mr. Jones acknowledged that he was the operator of the CB radio station but denied causing any interference to the Merced County Fire Department. The agents then requested that they be allowed to inspect the CB radio station to determine the cause of the interference. Mr. Jones denied the agents' request. The agents warned Mr. Jones that refusing to allow an inspection of a CB radio station is a violation of Section 95.426(a) of the Rules⁴ and Section 303(n) of the Act,⁵ explaining that these rules require CB operators to make their stations available to authorized FCC representatives for inspection. Mr. Jones again denied the request and asserted that the FCC must have a search warrant to inspect his CB station. The agents advised Mr. Jones that he was required to take necessary precautions to avoid causing radio interference by operating at power levels that do not exceed legal limits and by refraining from using a radio frequency power amplifier.

3. Prior to leaving the premises, the agents issued an on-scene Notice of Unlicensed Operation to Mr. Jones.⁶ The First Notice expressly warned that Mr. Jones's refusal to allow inspection of his radio equipment violated Section 303(n) of the Act and included the full text of Section 303(n). Mr. Jones refused to accept a copy of the First Notice and the agents left the document on a chair near the front door of the house. The agents then left the premises, but continued to monitor 27.165 MHz and heard Mr. Jones describe the agents' attempted inspection.⁷

4. On August 27, 2010, in response to a subsequent complaint from the Merced County Fire Department that the interference to its radio communication equipment had resumed, San Francisco agents again monitored frequency 27.165 MHz and located the source of the interfering signal to a CB radio station operating from Mr. Jones's residence in Merced, California. Later the same day, the agents, along with two Merced City police officers, approached Mr. Jones at his front yard, identified themselves as FCC agents, and presented their official badges and credentials. The two Merced City police officers identified the man as Mr. Jones. The agents told Mr. Jones about the radio frequency interference complaint and requested that they be allowed to inspect the CB radio station to determine the cause of the interference. Mr. Jones denied the request. Mr. Jones again admitted that he was the owner and operator of the CB radio station, but stated that he was not the owner of the house and that he had to refuse the inspection. The agents explained to Mr. Jones that refusal to allow an inspection could result in a \$7,000 forfeiture assessment, and Mr. Jones said that he understood. After further conversation with the agents and the police officers, Mr. Jones subsequently admitted to being the owner of the house. The agents again requested that they be allowed to inspect the CB radio station and reiterated that Mr. Jones's refusal to allow an inspection of a CB radio station was a violation of Section 95.426(a) of the Rules and Section 303(n) of the Act and subject to a forfeiture. Mr. Jones again denied the inspection request. The agents then gave Mr. Jones an oral warning and issued a second on-scene Notice of Unlicensed Operation to him.⁸ Mr. Jones again refused to accept a copy of the Second Notice and the agents left the document on a wooden yard border. The agents then left the premises.⁹

⁴ 47 C.F.R. § 95.426(a) (CB Rule 26).

⁵ 47 U.S.C. § 303(n).

⁶ *Ira Jones*, On-Scene Notice of Unlicensed Operation (Enf. Bur. San Francisco Office, issued on-scene March 26, 2010) (First Notice).

⁷ Later on March 26, 2010, the agents again monitored frequency 27.165 MHz and noted that Mr. Jones was operating his CB radio station without causing interference to the Merced County Fire Department radio communication equipment. Subsequently, the Merced County Fire Department reported that the interference ceased.

⁸ *Ira Jones*, On-Scene Notice of Unlicensed Operation (Enf. Bur. San Francisco Office, issued on-scene August 27, 2010) (Second Notice). The Second Notice also expressly warned that Mr. Jones's refusal to allow inspection of his radio equipment violated Section 303(n) of the Act and included the full text of Section 303(n).

⁹ On September 1, 2010, the San Francisco Office received another complaint from the Merced County Fire

5. On March 10, 2011, the San Francisco Office issued a Notice of Apparent Liability for Forfeiture (*NAL*) in the amount of \$7,000 to Mr. Jones for failing to allow authorized FCC personnel to inspect his CB radio station.¹⁰ Mr. Jones responded to the *NAL* on March 30, 2011.¹¹ In his *Response*, Mr. Jones argues that he has not seen the complaints that alleged the interference, that he did not receive the described warnings from the San Francisco agents, and that the agents did not produce valid identification cards.¹²

III. DISCUSSION

6. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),¹³ Section 1.80 of the Rules,¹⁴ and the Commission's *Forfeiture Policy Statement*.¹⁵ In examining Mr. Jones' response, Section 503(b) of the Act requires that the Commission 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 other such matters as justice may require.¹⁶ We consider Mr. Jones' response to the *NAL* in light of these statutory factors and find that no reduction of the forfeiture is warranted.

7. Section 303(n) of the Act states that the Commission has the "authority to inspect all radio installations associated with stations required to be licensed by any Act, or which the Commission by rule has authorized to operate without a license under section 307(e)(1)."¹⁷ Section 307(e)(1) expressly includes "the citizen band radio service."¹⁸ Additionally, Section 95.426(a) of the Rules (CB Rule 26) states "[i]f an authorized FCC representative requests to inspect your CB station, you must make your CB station and records available for inspection."¹⁹

8. On March 26, 2010 and August 27, 2010, San Francisco Office agents located the source of the signal on 27.165 MHz to Mr. Jones's residence in Merced, California. On both dates, in an effort to

Department stating that Mr. Jones had resumed CB radio station operation at approximately 5:30 p.m., and interference within the Merced County Fire Department radio communication system equipment had also resumed.

¹⁰ *Ira Jones*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 3698 (Enf. Bur. 2011) (*NAL*).

¹¹ See Response of Ira Jones (filed March 30, 2011) (*Response*) (on file in EB-10-SF-0187).

¹² See *id.* at 1–2.

¹³ 47 U.S.C. § 503(b).

¹⁴ 47 C.F.R. § 1.80.

¹⁵ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

¹⁶ 47 U.S.C. § 503(b)(2)(E).

¹⁷ 47 U.S.C. § 303(n) (The Commission shall "[h]ave authority to inspect all radio installations associated with stations required to be licensed by any Act, or which the Commission by rule has authorized to operate without a license under section 307(e)(1) of this title, or which are subject to the provisions of any Act, treaty, or convention binding on the United States, to ascertain whether in construction, installation, and operation they conform to the requirements of the rules and regulations of the Commission, the provisions of any Act, the terms of any treaty or convention binding on the United States and the conditions of the license or other instrument of authorization under which they are constructed, installed, or operated.").

¹⁸ 47 U.S.C. § 307(e)(1) ("[T]he Commission may by rule authorize the operation of radio stations without individual licenses in the . . . citizens band radio service. . . .").

¹⁹ 47 C.F.R. § 95.426(a).

determine the cause of and resolve the reported interference created to the Merced County Fire Department radio communication equipment, the agents requested an inspection of Mr. Jones's CB radio station. As described above, Mr. Jones denied both requests, despite the fact that at both inspections the San Francisco agents explained the relevant FCC requirements and provided him verbal and written on-scene warnings of the consequences of refusing to allow an inspection of a radio station.

9. Mr. Jones argues that he should not be subject to forfeiture because he has not seen a complaint from the Merced Fire department naming him as the source of the interference on frequency 27.165 MHz. This argument is irrelevant to the investigation of Mr. Jones' violation of the Commission's requirement that he make his CB station available to FCC representatives for inspection. Neither Section 303(n) of the Act nor Section 95.426(c) of the Rules requires that a complaint be filed as a prerequisite for FCC representatives to inspect a CB station. There is no question that Mr. Jones' CB equipment was the source of the complained-about interference. The agents used direction finding techniques to determine that the source of the signal associated with the interference to the Merced County Fire Department came from Mr. Jones' residence. Mr. Jones does not dispute that the San Francisco agents located the source of the interference to his house on three separate occasions.

10. Mr. Jones also alleges that the agents neither presented appropriate identification and nor gave him oral or written warnings. We find Mr. Jones' allegations unpersuasive. As discussed above, consistent with practice, the San Francisco agents approached Mr. Jones' house, presented their government-issued identification to him, and requested to conduct an inspection to determine if Mr. Jones' CB radio equipment was the source of the interference on frequency 27.165 MHz. With respect to whether Mr. Jones received any warnings, the *Response* itself includes copies of the two Notices left by the agents. Both Notices clearly state "agents of the Federal Communications Commission ("FCC") noted the following condition regarding the Citizen Band (CB) radio station located at [Mr. Jones' address]: Your refusal to allow a inspection of your radio equipment in violation of Section 303(n) of the Communications Act of 1934, as amended You are hereby warned that . . . refusal to allow inspection of your radio station constitutes violation of the Federal laws cited above and could subject the owner of this illegal operation to the severe penalties provide, including, but not limited to, substantial civil forfeitures, a maximum criminal fine of \$11,000 and/or one year imprisonment, or arrest of the equipment for the first offense."²⁰

11. Finally, Mr. Jones also appears to allege that when the San Francisco agents requested an inspection on August 27, 2010 with two Merced City police officers, one of the police officers suggested that a warrant may be necessary. Mr. Jones provides no information to support this claim and we reiterate what the San Francisco Office stated in the *NAL*: Commission agents are not required to obtain a warrant prior to conducting a radio station inspection.²¹ Accordingly, as a result of our review of Mr. Jones' *Response*, pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*, we conclude that he willfully and repeatedly violated Section 303(n) of the Act and Section 95.426(a) of the Rules, and we find that a forfeiture in the amount of \$7,000 is warranted.

²⁰ See First Notice at 1; Second Notice at 1.

²¹ See *Norfolk Southern Railway Company*, Memorandum Opinion and Order, 11 FCC Rcd 519 (CIB 1996) ("The right to inspect a station is one of the cornerstones of the FCC's ability to ensure compliance with the Communications Act and the FCC regulations."). See also *Randall R. Gaines*, Revocation Order, 72 FCC 2d 871, 878 ¶13 (Rev. Board 1979) (search warrant is not required for an inspection of a CB radio station). See also *NAL*, 26 FCC Rcd at 3700 & n.12.

IV. ORDERING CLAUSES

12. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's Rules, Ira Jones **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of seven thousand dollars (\$7,000) for willfully and repeatedly violating Section 303(n) of the Communications Act of 1934, as amended, and Section 95.426(a) of the Commission's rules.²²

13. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.²³ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.²⁴ Ira Jones shall send electronic notification of payment to WR-Response@fcc.gov on the date said payment is made.

14. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁵ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

15. Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²⁶ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

²² 47 U.S.C. §§ 303(n), 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 95.426(a).

²³ 47 C.F.R. § 1.80.

²⁴ 47 U.S.C. § 504(a).

²⁵ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁶ See 47 C.F.R. § 1.1914.

16. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested, to Ira Jones at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Rebecca L. Dorch
Regional Director, Western Region
Enforcement Bureau