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

In the Matter of	)	File No.: EB-SED-14-00014850[1]
J.J. MacKay Canada Ltd.	)	Acct. No.: 201432100019
	)	FRN: 0020988572

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 12, 2014 **Released: May 12, 2014**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of $11,000 against J.J. MacKay Canada Ltd. (MacKay) for its apparently unlawful marketing of a parking meter that contains a radio frequency device that had not been properly authorized and the user manual for which failed to disclose certain required information to consumers. We take this action as part of our duty to ensure that radio frequency devices marketed in the United States comply with the Commission's technical standards and other requirements so that they do not cause harmful interference to authorized radio communications.

2. As discussed below, MacKay's marketing of the Guardian SOLO single-space parking meter (Guardian SOLO) in the United States apparently violated Section 302(b) of Communications Act of 1934, as amended (Act);[2] former Section 2.803(a) of the Commission's Rules (Rules); and current Sections 15.201(b) and 15.105(b) of the Rules.[3]

II. BACKGROUND

3. MacKay designs, develops, and manufactures parking control products, including the Guardian SOLO.[4] On August 23, 2013, the Enforcement Bureau (Bureau) received a complaint alleging that MacKay's Guardian SOLO was not properly authorized and that the device also did not comply with consumer disclosure requirements. In response to the complaint, the Bureau's Spectrum Enforcement

[1] The investigation initiated under File No. EB-SED-13-00011206 was subsequently assigned File No. EB-SED-14-00014850. Any future correspondence with the FCC concerning this matter should reflect the new case number, File No. EB-SED-14-00014850.

[2] 47 U.S.C. § 302a(b).

[3] 47 C.F.R. §§ 2.803(a) (2012), 15.201(b), 15.105(b). On January 31, 2013, the Commission, among other things, amended and reorganized Section 2.803 of the Rules. *See Promoting Expanded Opportunities for Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules 2006 Biennial Review of Telecommunications Regulations – Part 2 Administered by the Office of Engineering and Technology*, Report and Order, 28 FCC Rcd 758, 803-804 (2013) (*Streamlining Order*). *See* 47 C.F.R. § 2.803(b)(1) (eff. May 29, 2013). The Commission did not alter the substance of Section 2.803, but instead clarified the rule. *See Streamlining Order,* 28 FCC Rcd at 803-804, paras. 123–124.

[4] *See infra* note 6.

Division (Division) issued a Letter of Inquiry (LOI) to MacKay on January 8, 2014, directing the company to submit a sworn written response to a series of questions relating to its marketing of the Guardian SOLO.[5]

4. On March 10, 2014, MacKay responded to the LOI.[6] According to MacKay, the Guardian SOLO is a "smart" parking meter that accepts electronic payments made with credit cards, smart cards, or Near Field Communications-enabled mobile device applications.[7] In addition, the Guardian SOLO enables municipalities and other parking space operators to manage their parking resources by providing up-to-date electronic information about meter use and payments.[8] MacKay explains that it obtained FCC certification in 2011 for the Guardian SOLO and that it continually refined the device's design; MacKay had assumed that the refinements, once implemented, would be considered "permissive changes" under the Rules.[9] MacKay acknowledges, however, that one modification made in July 2012—i.e., the relocation of the antenna to improve the performance of the device's contactless reader—increased the field strength rating previously authorized in the device's 2011 certification and, thereby, necessitated a new FCC certification for the device, which it received on April 5, 2013.[10]

5. MacKay admits that it began marketing the modified device in the United States *before* it received the new FCC certification, but it asserts that none of the devices were actually sold.[11] In addition, MacKay admits that the user manual accompanying the Guardian SOLO did not include the consumer disclosure language required by Section 15.105(b) of the Rules[12]—warning, among other things, that improper use of the device could cause potential harmful interference to radio communications—until sometime in February 2014.[13] MacKay claims, however, that its error was unintentional and that it was moving quickly to fix the error by adding appropriate text to the next version of its user manual and destroying all copies of the non-compliant manuals in its possession.[14]

---

[5] *See* Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Greg Chauvin, Director of Engineering, J.J. MacKay Canada Ltd. (Jan. 8, 2014) (on file in EB-SED-13-00011206) (LOI).

[6] *See* Letter from Patrick P. O'Donnell *et al.*, Counsel for J.J. MacKay Canada Ltd., to Jennifer Burton, Spectrum Enforcement Division, FCC Enforcement Bureau (Mar. 10, 2014) (on file in EB-SED-14-00014850) (LOI Response).

[7] *See id.* at 3.

[8] *Id*.

[9] *Id*. at 1 (citing 47 C.F.R. § 2.1043).

[10] *See* LOI Response at 1, 6. In response to a subsequent inquiry from the Division, MacKay reported to Commission staff in a phone conversation on April 1, 2014, that the modification to the device was made in July 2012.

[11] *Id.* at 1-2. MacKay also states that it "distributed" the Guardian Solo in the United States "for pilot trials" or as "samples" prior the device's authorization. *Id.* at 2.

[12] 47 C.F.R. § 15.105(b).

[13] LOI Response at 8, Attachment at 155.

[14] LOI Response at 8. On April 3, 2014, the Bureau and MacKay executed a Tolling Agreement to toll the statute of limitations while it discussed the possibility of resolving the case through settlement. *See* Tolling Agreement, File No. EB-SED-14-00014850, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Patrick P. O'Donnell, Wiltshire & Grannis LLP, Counsel to J.J. MacKay Canada Ltd. (April 3, 2014). We are taking this enforcement action because the parties were unable to agree on the terms of a settlement.

III. DISCUSSION

A. Marketing of Unauthorized Equipment

6. Pursuant to Section 302(b) of the Act, "[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."[15] Former Section 2.803(a)(1) of the Rules—which was effective during the relevant period here—prohibited the marketing of radio frequency devices unless, in the case of a device subject to certification, the device has first been properly authorized, identified, and labeled in accordance with the Rules.[16] Former Section 2.803(e)(4) of the Rules defined "marketing" as the "sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment or distribution for the purpose of selling or leasing or offering for sale or lease."[17] Furthermore, because the Guardian SOLO can be configured to use a variety of components that intentionally emit radio frequency energy, the device is classified as an intentional radiator.[18] Pursuant to Section 15.201(b) of the Rules,[19] an intentional radiator must be authorized in accordance with the Commission's certification procedures described in Sections 2.1031–2.1060 of the Rules prior to marketing.[20]

7. The record in this case establishes that MacKay marketed the modified Guardian SOLO in the United States by offering the device for sale, distributing what it describes as "marketing materials" for the device, and shipping dozens of the modified devices to potential customers before obtaining FCC certification. Accordingly, we find that MacKay apparently willfully and repeatedly violated Section 302(b) of the Act,[21] former Section 2.803(a)(1) of the Rules,[22] and Section 15.201(b) of the Rules.[23]

B. Marketing of Radio Frequency Devices Without the Required Consumer Disclosure

8. The Guardian SOLO is classified as a Class B digital device.[24] Pursuant to Section 15.105(b) of the Rules, the user manual for a Class B digital device must include a warning to consumers of the device's potential for causing interference to other radio communications and also provide a list of steps that could possibly eliminate the interference.[25] Specifically, Section 15.105(b) of the Rules states that the user manual for Class B digital devices must include the following consumer disclosure language:

---

[15] 47 U.S.C. § 302a(b).

[16] 47 C.F.R. § 2.803(a)(1) (2012).

[17] *Id.* § 2.803(e)(4) (2012). This same definition of "marketing" now appears in Section 2.803(a) of the Rules. 47 C.F.R. § 2.803(a).

[18] Section 15.3(o) of the Rules defines an intentional radiator as a "device that intentionally generates and emits radio frequency energy by radiation or induction." *Id.* § 15.3(o).

[19] *Id*. § 15.201(b).

[20] *Id.* §§ 2.1031-2.1060.

[21] 47 U.S.C. § 302a(b).

[22] 47 C.F.R. § 2.803(a)(1) (2012).

[23] *Id.* § 15.201(b).

[24] *Id.* § 15.3(i) (a Class B digital device is "marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments"). MacKay has also determined that the Guardian SOLO is a Class B digital device. *See* LOI Response at 6-7.

[25] 47 C.F.R. § 15.105(b).

> Note: This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference in a residential installation. This equipment generates, uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:
>
> —Reorient or relocate the receiving antenna.
>
> —Increase the separation between the equipment and receiver.
>
> —Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
>
> —Consult the dealer or an experienced radio/TV technician for help.

9. It is undisputed that MacKay failed to provide the foregoing disclosure in the user manuals while it was actively marketing the Guardian SOLO. Indeed, in its LOI Response, MacKay admits that after it received the new certification for the Guardian SOLO, the user manual for the device did not include the consumer disclosure required by Section 15.105(b) of the Rules.[26] Accordingly, we find that MacKay apparently willfully and repeatedly violated Section 302(b) of the Act,[27] former Section 2.803(a)(1) of the Rules,[28] and Section 15.105(b) of the Rules.[29]

C. Proposed Forfeiture

10. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation, or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.[30] Section 312(f)(1) of the Act defines "willful" as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent

[26] LOI Response at 8, Attachment at 155. MacKay contends that "the Guardian SOLO differs in significant ways from traditional Class B digital devices marketed to consumers, thereby limiting the applicability of the Section 15.105(b) instructions to Guardian SOLO deployments and the impact of not previously including these instructions with meters that already have shipped for pilot programs." *Id*. at 8. It states that, in particular, "(1) the 'user' for purposes of this information-to-user requirement is a municipality . . . rather than a residential occupant . . . ; (2) the Guardian SOLO does not have a power switch accessible to an end-user; (3) once deployed, the Guardian SOLO is secured in a parking meter housing and cannot be relocated or reoriented; and (4) the Guardian SOLO is battery powered and will never be plugged into a residential power outlet." *Id*. We disagree with MacKay's contention. The language of the rule does not carve out an exception based on MacKay's description of the differences between the Guardian SOLO and a traditional Class B device, and MacKay provides no case precedent to support its view. In any event, it appears that MacKay ultimately concedes the applicability of the rule by stating: "MacKay expressly recognizes that, while these factors may mitigate the impact of not providing the information contained in Section 15.105 to a parking meter operator conducting a pilot program, they would not excuse any future non-compliance with this rule." *Id.* However, we disagree that the enumerated factors serve to mitigate the impact and import of the disclosure. The disclosure serves to prevent the potential for harmful interference to radio communications, which could include communications used to ensure public safety.

[27] 47 U.S.C. § 302a(b).

[28] 47 C.F.R § 2.803(a)(1) (2012).

[29] *Id.* § 15.105(b).

[30] 47 U.S.C. § 503(b).

to violate" the law.[31] The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,[32] and the Commission has so interpreted the term in the Section 503(b) context.[33] The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.[34] The term "repeated" means the commission or omission of an act more than once or for more than one day.[35] Based on the record before us, we conclude that MacKay is apparently liable for a forfeiture for its apparent willful and repeated violations of Section 302(b) of the Act, former Section 2.803(a)(1) of the Rules,[36] and Sections 15.201(b) and 15.105(b) of the Rules.

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 offenses, ability to pay, and such other matters as justice may require."[37] Section 1.80(b) of the Rules sets a base forfeiture amount of $7,000 for the marketing of unauthorized equipment.[38] The Commission typically imposes a $7,000 base forfeiture for marketing devices that do not comply with applicable technical requirements of the Rules or that are not authorized by an equipment authorization, as in this case.[39] In addition, the Commission has

[31] *Id.* 47 § 312(f)(1).

[32] H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms 'willful' and 'repeated' for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) . . . . As defined[,] . . . 'willful' means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. 'Repeated' means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be 'continuous' would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms . . . .").

[33] *See, e.g.*, *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991) (*Southern California*), *recons. denied*, 7 FCC Rcd 3454 (1992).

[34] *See, e.g.*, *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator's repeated signal leakage).

[35] Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), provides that "[t]he term 'repeated,' when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." *See Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, para. 9.

[36] 47 C.F.R. § 2.803(a)(1) (2012).

[37] 47 U.S.C. § 503(b)(2)(E); *see also* 47 C.F.R. § 1.80(b)(8); *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, 17100, para. 27 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

[38] 47 C.F.R. § 1.80(b)(8); *see also Behringer USA, Inc.,* Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 1820, 1827, para. 21 (2006) (proposing a $7,000 base forfeiture for each of the unauthorized models marketed), *forfeiture ordered,* Forfeiture Order, 22 FCC Rcd 10451 (2007) (forfeiture paid); *Samson Technologies, Inc*., Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 4221, 4224–25, para. 9 (2004) (proposing a $7,000 base forfeiture for the marketing of equipment not compliant with the Commission's radiated emissions requirements in Section 15.109(a) of the Rules), *consent decree ordered*, Order and Consent Decree, 19 FCC Rcd 24542 (2004).

[39] *See supra* note 37. We note that, under Section 1.80(b)(9) of the Rules, we may assess an entity that is not a common carrier, broadcast licensee, or cable operator a forfeiture of up to $16,000 for each violation or each day of a continuing violation, up to a statutory maximum forfeiture of $122,500 for any single continuing violation. 47 C.F.R. § 15.109(a). We will consider imposing a forfeiture above the usual base amount as circumstances warrant.

determined that a base forfeiture of $4,000 is warranted for marketing devices that have been authorized, but have been marketed without the required consumer disclosures.[40]

12. In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture. Here, we find none. We decline to downwardly adjust the forfeiture on the grounds that MacKay's marketing efforts during the relevant period did not result in any actual sales of the Guardian SOLO.[41] The fact that its marketing efforts did not result in the sale of the devices does not mitigate the violation because the term "marketing" expressly includes MacKay's activities: advertising, offers for sale, and shipment and distribution of the devices.[42] Even if the majority of its marketing efforts occurred after the Guardian SOLO was properly authorized, as MacKay asserts,[43] that does not excuse or mitigate any illegal marketing that took place before receiving FCC authorization. In addition, the fact that MacKay may have come into compliance with the consumer disclosure requirements approximately one month after the company received the LOI also does not warrant a reduction of the proposed forfeiture amount. As we have repeatedly stated, corrective measures implemented after the Commission has initiated an investigation or taken enforcement action do not nullify or mitigate past violations.[44] Similarly, MacKay's assertion that the failure to include the required consumer language was "unintentional" does not justify a downward adjustment.[45] As the Commission has held, violations resulting from inadvertent error are willful violations that generally do not warrant a downward adjustment of a proposed forfeiture.[46]

13. Therefore, after applying the factors set forth in Section 503(b)(2)(E) of the Act, Section 1.80 of the Rules, and the *Forfeiture Policy Statement* to the instant case, we conclude that MacKay is apparently liable for a forfeiture in the amount of $11,000.

---

[40] *See, e.g., Multi-Tech Systems, Inc*., Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 17824, 17827, para. 8 (Enf. Bur. 2008); *Cellphone-Mate, Inc*., Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 8988, 8990, para. 5 (Enf. Bur. 2010); *Wireless Extenders, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 8983, 8985, para. 5 (Enf. Bur. 2010); *Proxim Wireless Corporation*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 1145, 1149, para. 12 (Enf. Bur. 2009)..

[41] *See* LOI Response at 2, 8.

[42] *See* 47 C.F.R. § 2.803(e)(4) (2012).

[43] *See* LOI Response at 2.

[44] *See, e.g.*, *Behringer USA, Inc.*, *Forfeiture Order*, 22 FCC Rcd 10451, 10459, para. 19 (2007) ("[T]he Commission has repeatedly found that corrective measures implemented after [the] Commission has initiated an investigation or taken enforcement action do not nullify or mitigate past violations."); *Seawest Yacht Brokers*, Notice of Forfeiture, 9 FCC Rcd 6099, 6099, para. 7 (1994) (finding that corrective action taken to comply with the Rules is expected and does not mitigate any prior forfeitures or violations). *See also BASF Corp.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 17300, 17303, para. 10 (Enf. Bur. 2010) (declining to reduce forfeiture based on post-investigation remedial efforts).

[45] *See* LOI Response at 8.

[46] *See Southern California Broadcasting,* 6 FCC Rcd at 4387, para. 3 (1991) (stating that "inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance."); *Cascade Access, LLC,* Forfeiture Order, 28 FCC Rcd 141, 145, para. 9 (Enf. Bur. 2013) (rejecting argument that forfeiture should be reduced because the violation was unintentional). As previously discussed, we reject MacKay's contention that the differences (it asserts) between the Guardian SOLO and a traditional Class B digital device serves to mitigate the violation. *See supra* note 25.

IV. ORDERING CLAUSES

14. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act[47] and Sections 0.111, 0.311 and 1.80 of the Rules,[48] J.J. MacKay Canada Ltd. **IS** hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eleven thousand dollars ($11,000) for willful and repeated violations of Section 302(b) of the Communications Act of 1934, as amended, former Section 2.803(a) of the Commission's rules,[49] and Sections 15.201(b) and 15.105(b) of the Commission's rules.

15. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules,[50] within thirty (30) calendar days of the release date of this *Notice of Apparent Liability for Forfeiture*, J.J. MacKay Canada Ltd. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 18 below.

16. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. J.J. MacKay Canada Ltd. shall send electronic notification of payment to Jennifer Burton at Jennifer.Burton@fcc.gov and JoAnn Lucanik at JoAnn.Lucanik@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.[51] 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 that J.J. MacKay Canada Ltd. should follow based on the form of payment it selects:

- 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.

17. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554. If J.J. MacKay Canada Ltd. has any questions

[47] 47 U.S.C. § 503(b).

[48] 47 C.F.R. §§ 0.111, 0.311, 1.80.

[49] *Id.* § 2.803(a) (2012).

[50] *Id.* § 1.80.

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

regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

18. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Rules.[52] The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Jennifer Burton at Jennifer.Burton@fcc.gov and JoAnn Lucanik at JoAnn.Lucanik@fcc.gov. 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.

19. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to George MacKay, President, J.J. MacKay Canada Ltd., 1342 Abercrombie Road, New Glasgow, Nova Scotia, Canada B2H 5C6, and to Patrick O'Donnell, Esquire, Wiltshire & Grannis, LLP, Counsel for J.J. MacKay Canada Ltd., 1200 18th Street, N.W., 12th Floor, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

John D. Poutasse
Chief, Spectrum Enforcement Division
Enforcement Bureau

[52] 47 C.F.R. §§ 1.16, 1.80(f)(3).