

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

In the Matter of

**Klaus D. Kramer**

Oklahoma City, OK

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File No. EB-01-DL-0345

NAL/Acct.No. 200132500001

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: July 13, 2001**

By the Enforcement Bureau, Dallas Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture, we find that Klaus D. Kramer, violated Section 301 of the Communications Act of 1934 (“Act”), as amended,<sup>1</sup> by operating a radio station on Citizens Band frequencies without Commission authorization. We conclude that Klaus D. Kramer is apparently liable for a forfeiture in the amount of nine thousand five hundred dollars (\$9,500).

**II. BACKGROUND**

2. On January 20, 2001, the FCC’s Enforcement Bureau’s Communications and Crisis Management Center received a telephone call complaining about a Citizens Band operator in the Oklahoma City area operating with excessive power and using the pseudonym “Bamm Bamm”.

3. On February 21, 2001, two Commission agents in the Oklahoma City, Oklahoma area observed transmissions on Citizens Band channel 19 (27.185 MHz) with the operator using the pseudonym “Bamm Bamm”. Using an FCC radio direction-finding vehicle, the agents determined that the transmissions emanated from the residence of Klaus D. Kramer in Grady County, Oklahoma. An abrupt increase in signal strength was noted corresponding to the operator transmitting a statement that he was turning his “power back on.”

4. On February 23, 2001, two FCC agents in the Oklahoma City, Oklahoma area observed a series of transmissions on Citizens Band channel 19 (27.185 MHz) each with a male voice and repeating a message. A series of other transmissions were observed on the same channel (CB channel 19) each with a female voice repeating a different message. Using an FCC radio direction-finding vehicle, an FCC agent determined that one of the transmissions emanated from 1211 N. Shartel Avenue, Oklahoma City, Oklahoma. FCC agents using radio direction-finding vehicles

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<sup>1</sup> 47 U.S.C. § 301.

determined that the other transmissions emanated from Mike's Cycle Shop, a business owned by Klaus D. Kramer and located at 2212 SW 29<sup>th</sup> Street, Oklahoma City, Oklahoma. The Commission agents conducted an inspection at 2212 SW 29<sup>th</sup> Street, Oklahoma City, Oklahoma and determined that Klaus Kramer was using an uncertified Citizens Band transmitter installed inside the casing of an Industrial/Business UHF two-way transceiver. The output of the CB transmitter was connected to a model "Dixie Lander 3" external radio frequency power amplifier. This system was automatically activated upon reception of a tone coded signal on 469.575 MHz, an Industrial/Business Pool frequency authorized for other purposes to Klaus D. Kramer d.b.a. Mikes Cycle Shop under license WPHP749.

5. Immediately following the inspection at 2212 SW 29<sup>th</sup> Street, the agents conducted an inspection at 1211 N. Shartel Avenue and determined that Klaus D. Kramer was using a modified Realistic Navaho CB transmitter that was connected to a "DX-400" external radio frequency power amplifier. Installed internally to the CB transmitter was an integrated circuit chip with the male voice message digitally recorded and a UHF receiver that automatically activated the CB transmitter upon reception of a tone coded signal on 469.575 MHz, an Industrial/Business Pool frequency authorized for other purposes to Klaus D. Kramer d.b.a. Mikes Cycle Shop under WPHP749. The agents verbally warned Klaus D. Kramer that use of an external radio frequency power amplifier and/or a modified CB transmitter voided his authority to operate a CB station, that such operation violated Section 301 of the Act, and advised him of the penalties for unlicensed operation. Klaus D. Kramer admitted to making the transmissions on February 21, 2001 utilizing an "Afterburner" model external radio frequency power amplifier. Furthermore, Klaus D. Kramer admitted to making by remote control the transmissions on February 23, 2001 using external radio frequency power amplifiers connected to the non-certified transmitters which he admitted modifying. Klaus D. Kramer, as owner of the equipment, voluntarily relinquished the equipment to the FCC agents.

6. In March 1998 and October 1999, agents of the Commission's Dallas Office determined that Klaus D. Kramer had committed similar violations.

### III. DISCUSSION

7. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy of communications or signals by radio within the United States except under and in accordance with the Act and with a license<sup>2</sup>. Pursuant to Section 307(e) of the Act, Section 95.404 authorizes operation of a Citizens Band (CB) station without individual licenses in accordance with the rules in Part 95, Subpart D of the Commission's Rules. However, Section 95.409(b) of the Commission's Rules voids individual authority to operate a CB station under Section 95.404 if the operator utilizes a certificated CB transmitter with internal modifications. Moreover, Section 95.411 of the Commission's Rules voids individual authority to operate a CB station if the operator utilizes an external radio frequency power amplifier.

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<sup>2</sup> Id.

8. Based on the evidence before us, we find that on February 21 and 23, 2001, Klaus D. Kramer repeatedly<sup>3</sup> and willfully<sup>4</sup> violated Section 301 of the Act by operating radio transmitters without Commission authorization.

9. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"), the base forfeiture amount is \$10,000 for unlicensed operation. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violation(s), 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.<sup>5</sup> Klaus D. Kramer's violation was willful and repeated. However, a reduction in this forfeiture amount by \$500 is warranted based on Klaus D. Kramer's voluntary relinquishment of the offending non-certified transmitting equipment. Applying the *Forfeiture Policy Statement* and statutory factors to the instant case, a \$9,500 forfeiture is warranted.

#### IV. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>6</sup> and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,<sup>7</sup> Klaus D. Kramer, is hereby NOTIFIED of his APPARENT LIABILITY FOR A FORFEITURE in the amount of nine thousand five hundred dollars (\$9,500) for violating Section 301 of the Act<sup>8</sup>.

11. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,<sup>9</sup> within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Klaus D. Kramer, SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

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<sup>3</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies to Section 503(b) of the Act, 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.

<sup>4</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D). See also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01 (discussion of upward and downward adjustment factors).

<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

<sup>8</sup> 47 U.S.C. § 301

<sup>9</sup> 47 C.F.R. § 1.80.

12. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, IL 60673-7482. The payment should note the NAL/Acct. No. referenced in the letterhead above.

13. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, Attn: Enforcement Bureau – Technical and Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. reference in the letterhead above.

14. 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 (“GAAP”); 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.

15. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12<sup>th</sup> Street, SW, Washington, DC 20554.<sup>10</sup>

16. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Klaus D. Kramer at 2212 SW 29<sup>th</sup> Street, Oklahoma City, OK 73119-2118.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells  
District Director – Dallas Office

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<sup>10</sup> See 47 C.F.R. § 1.1914.