

Federal Communications Commission

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

In the Matter of)	File No. EB-02-PA-105
)	
Amethyst's International Inc.)	NAL/Acct. No. 200232400002
Point Pleasant Beach, New Jersey 08742)	
)	FRN #. 0006-8162-01

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 5, 2002

By the District Director, Philadelphia Office, Enforcement Bureau:

I. Introduction

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Amethyst's International Inc. ("Amethyst") has apparently violated Section 301 of the Communications Act of 1934, as amended,¹ ("the Act") by operating an unlicensed Marine Coast station on VHF Marine Channel 16 (156.8 MHz) at the Beach Motel, 202 Arnold Avenue, Point Pleasant Beach, New Jersey. We conclude that Amethyst's is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. Background

2. On or about February 25, 2002, at approximately 6:45 p.m., agent Trenton Williams of the Enforcement Bureau's Philadelphia Office received a telephone call at his residence from the United States Coast Guard, Atlantic City New Jersey Group, advising that a constant signal was being transmitted on VHF Marine Channel 16 (156.8 MHz). The signal, which had been on the air since about 4:45 p.m., was causing harmful interference, affecting the ability of Coast Guard Stations Manasquan and Barnegat Light, New Jersey to monitor channel 16 for transmissions from vessels in distress.

3. Agents Trenton Williams and Frank Cranmer of the Philadelphia Office were assigned to investigate the interference. At about 8:45 p.m., using direction finding techniques, agent Williams determined that the signal on 156.8 MHz was emanating from the Beach Motel, 202 Arnold Avenue, Point Pleasant Beach, New Jersey. Inside, the FCC agents located a Realistic MTX-100 marine radio in the motel lobby and noted that it was transmitting on Marine Channel 16 (156.8 MHz). At about 9:00 p.m., John Fernicola, representing Amethyst, arrived on scene. Mr. Fernicola disconnected and removed the radio. Mr. Fernicola acknowledged that neither he nor Amethyst had a license to operate a coast station in the Marine Coast radio service.

¹ 47 U.S.C. § 301.

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4. On February 26, 2002, the Philadelphia Office sent Amethyst a letter warning that operation of the unlicensed Coast Station on the frequency 156.8 MHz at the Beach Motel violated Section 301 of the Act. The letter outlined the potential penalties for operating the unlicensed station, which included seizure of the equipment, fines and imprisonment. The Philadelphia Office requested that Amethyst submit a written response within 10 days of receipt of the letter.

5. By letter dated March 4, 2002, John Fernicola, the President of Amethyst's International Inc., submitted a response to the Philadelphia Office acknowledging the unlicensed operation and apologizing for the inconvenience associated with the event.

6. Section 301 of the Act prohibits radio operation "except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act." The FCC rules require that any land station operating in the Marine Coast radio service be licensed. As explained above, Amethyst, which was operating on channel 16 (156.8 MHz) on February 25, 2002 at 8:45 p.m., did not have a license for the Marine Coast station at the Beach Motel, 202 Arnold Avenue, Point Pleasant Beach, New Jersey.

III. Discussion

7. Based on the evidence before us, we find that Amethyst has willfully² violated Section 301 of the Act, as amended. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*")³, sets the base forfeiture amount at ten thousand dollars (\$10,000) for the operation of an unlicensed station. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act,⁴ which include 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. Applying the Policy Statement and the statutory factors to the instant case and applying the inflation adjustments, we believe that a ten thousand dollar (\$10,000) monetary forfeiture is warranted.

² 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).

³ 47 C.F.R. § 1.80.

⁴ 47 U.S.C. § 503(b).

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IV. Ordering Clauses

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80 of the Rules,⁵ Amethyst's International Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willfully violating Section 301 of the Act.

9. 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, Amethyst's International Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. 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, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200232400002 and FRN # 0006-8162-01.

11. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200232400002.

12. 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.

13. 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 12th Street, S.W., Washington, D.C. 20554.⁶

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

⁶ See 47 C.F.R. § 1.1914.

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14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Amethyst's International Inc. 202 Arnold Avenue, Point Pleasant Beach, New Jersey 08742.

FEDERAL COMMUNICATIONS COMMISSION

John E. Rahtes
District Director
Philadelphia Office