

Federal Communications Commission

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

In the Matter of)
) File No.: EB-09-PA-0083
Diamond Tool)
) Citation No.: C200932400001
Philadelphia, Pennsylvania)

CITATION

Released: April 24, 2009

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),¹ to Diamond Tool (“Diamond”) for violation of Section 90.427(b) of the Commission’s Rules (“Rules”).²

2. An investigation by the Enforcement Bureau’s Philadelphia Office revealed that Diamond had programmed radio transmitting equipment with the frequency 461.0375 MHz for which Merchant Construction Co., Inc. in Woodbury, New Jersey was not authorized.

3. Section 90.427(b) of the Rules states “[e]xcept for frequencies used in accordance with § 90.417, no person shall program into a transmitter frequencies for which the licensee using the transmitter is not authorized.” By programming portable radio transmitters with frequencies for which Merchant Construction Co., Inc. is not authorized, Diamond violated Section 90.427(b) of the Rules.

4. Violations of the Act or the Commission’s Rules may subject the violator to substantial monetary forfeitures,³ seizure of equipment through *in rem* forfeiture action, and criminal sanctions, including imprisonment.⁴

5. Diamond Tool may request an interview at the closest FCC Office, which is Federal Communications Commission, One Oxford Valley, Suite 404, 2300 E. Lincoln Highway, Langhorne, PA 19047.⁵ You may contact this office by telephone, (XXX) XXXX-XXXX to schedule this interview, which must take place within 14 days of this Citation. Diamond Tool may also submit a written statement to the above address within 14 days of the date of this Citation. Any written statements should specify what actions have been taken to correct the violation outlined above. Please reference file number EB-09-PA-0083 when corresponding with the Commission.

¹ 47 U.S.C. § 503(b)(5).

² 47 C.F.R. 90.427(b).

³ 47 C.F.R. § 1.80(b)(3).

⁴ 47 U.S.C. §§ 401, 501, 503, 510.

⁵ 47 U.S.C. § 503(b)(5).

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6. Any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.⁶ Any knowingly or willfully false statement made in reply to this Citation is punishable by fine or imprisonment.⁷

7. **IT IS ORDERED** that copies of this Citation shall be sent by First Class U.S. Mail and Certified Mail, Return Receipt Requested to Diamond Tool at its record of address.

FEDERAL COMMUNICATIONS COMMISSION

Gene J. Stanbro
District Director
Philadelphia District Office
Northeast Region
Enforcement Bureau

⁶See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

⁷See 18 U.S.C. § 1001 *et seq.*