



**FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
NORTHEAST REGION**

Detroit Office
24897 Hathaway Street
Farmington Hills, Michigan 48335

November 9, 2010

(Sent via Certified Return Receipt Requested and First Class U.S. Mail)

David L. Spain
Lancaster, Kentucky

NOTICE OF UNLICENSED OPERATION

Case Number: EB-10-DT-0314
Document Number: W201132360004

The Detroit Office received a complaint alleging that your Citizens Band ("CB") radio station was being operated illegally and causing harmful interference in Lancaster, Kentucky. As described below, agents from the Enforcement Bureau's Detroit Office found during an investigation that you were operating your CB station at your residence in Lancaster, Kentucky in a manner that voided your authorization to operate.

CB Rule 11, 47 C.F.R. § 95.411, provides that CB operators shall not attach to their CB stations external radio frequency power amplifiers ("linear amplifiers") or any other devices which are capable of amplifying a CB station's signal¹ and that use of a linear amplifier voids the authority to operate.² Operators are presumed to have used a linear amplifier if the linear amplifier is in the operator's possession or on the operator's premises and there is other evidence that the station was operated overpowered.³ On September 27, 2010, agents from this office conducted an inspection of your CB station and observed that a linear amplifier, which had a measured output power of 80 watts, was attached to your CB station. You admitted to the agents that you used the linear amplifier.

In addition to the linear amplifier, the agents also observed during the inspection that you were operating a non-certified CB transceiver, a Magnum S-9, at your CB station. CB Rule 9, 47 C.F.R. § 95.409(a), states that "[u]se of a transmitter which is not FCC certified voids your authority to operate the station." By using the non-certified Magnum S-9 transceiver, you voided your authority to operate this station.

You are hereby warned that operation of radio transmitting equipment without a valid radio station authorization constitutes a violation of 47 U.S.C. § 301 and could subject you to severe penalties, including, but not limited to, substantial monetary fines, *in rem* arrest action against the offending radio equipment, and criminal sanctions including imprisonment. (*see* 47 U.S.C. §§ 401, 501, 503 and 510).

UNLICENSED OPERATION OF THIS RADIO STATION MUST BE DISCONTINUED IMMEDIATELY.

If the harmful interference continues, the FCC may impose restricted hours of operation for your CB

¹ 47 C.F.R. § 95.411(a).

² 47 C.F.R. § 95.411(b).

³ 47 C.F.R. §§ 95.411(c).

station pursuant to CB Rule 23, 47 C.F.R. § 95.423. In addition, the Commission may commence a further investigation to determine whether you continue to operate your station in violation of any of the Commission's Rules.

Pursuant to Section 308(b) of the Act, you have 15 days from the date of this letter to respond advising what corrective actions you have taken to eliminate the observed violations of Commission Rules. Your response should be sent to the address in the letterhead and reference the listed case and document number. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it to determine what, if any, enforcement action is required to ensure your compliance with FCC Rules. This will include any information that you disclose in your reply.

You may contact this office if you have any questions.

James A. Bridgewater
District Director
Detroit Office
Northeast Region
Enforcement Bureau

Attachments:

Excerpts from the Communications Act of 1934, As Amended
Enforcement Bureau, "Inspection Fact Sheet", March 2005