

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

In the Matter of )
The Supply Room, Inc. )
Oxford, Alabama ) File No.: EB-FIELDSCR-12-00002402
) NAL/Acct. No.: 201232480005
) FRN: 0022599070
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NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: April 9, 2013

Released: April 9, 2013

By the Commission: Commissioner McDowell not participating.

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture and Order (NAL), we find that The Supply Room, Inc. (Supply Room) apparently willfully and repeatedly violated Sections 301, 302(b), and 333 of the Communications Act of 1934, as amended (Act), and Sections 2.803(g) and 15.1(c) of the Commission's rules (Rules) by operating multiple cellular phone jammers (jammers or signal jammers) in Oxford, Alabama for more than two years. We further find that to facilitate this unlawful operation, Supply Room imported five illegal signal jamming devices in violation of Section 302(b) of the Act and Sections 2.1203 and 2.1204 of the Rules. We conclude that Supply Room is apparently liable for a forfeiture in the amount of one hundred forty four thousand dollars (\$144,000).

2. Signal jamming devices operate by transmitting powerful radio signals that overpower, jam, or interfere with authorized communications. While these devices have been marketed with increasing frequency over the Internet, with limited exception, they have no lawful use in the United States. Jammers are not only designed to impede authorized communications and thereby interfere with the rights of legitimate spectrum users and the general public, but also are inherently unsafe. For example, jammers can be used to disrupt critical public safety communications, placing first responders like law enforcement and fire fighting personnel—as well as the public they are charged with protecting—at great risk. Similarly, jammers can endanger life and property by preventing individuals from making 9-1-1 or other emergency calls. In order to protect the public and preserve unfettered access

1 47 U.S.C. §§ 301, 302a(b), 333.

2 47 C.F.R. § 2.803(g), 15.1(c).

3 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.1203, 2.1204.

4 In very limited circumstances and consistent with applicable procurement requirements, individuals and/or entities may market jamming devices to the U.S. federal government for authorized, official use. See 47 U.S.C. § 302a(c); 47 C.F.R. § 2.807(d).

to emergency and other communications services, the Act generally prohibits the importation, use, marketing, manufacture, and sale of jammers.<sup>5</sup> The Commission has issued several enforcement advisories and consumer alerts emphasizing the importance of strict compliance in this area and encouraging public participation through the Commission's jammer tip line.<sup>6</sup> We expect individuals and businesses, like Supply Room, to take immediate steps to ensure compliance and to avoid any recurrence of this type of misconduct, including ceasing operation of any signal jamming devices that may be in their possession, custody or control. We also strongly encourage all users of these devices to voluntarily relinquish them to Commission agents.

3. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>7</sup> we direct Supply Room to submit, no later than thirty (30) calendar days after the release date of this NAL, a statement signed under penalty of perjury providing information concerning the source(s) from which it purchased or received the jamming devices it previously had in its possession or any such devices it may have subsequently acquired.

## II. BACKGROUND

4. On April 6, 2012, the Bureau received an anonymous complaint alleging that Supply Room was operating signal jammers to prevent its employees from using their cell phones.<sup>8</sup> An agent from the Enforcement Bureau's Atlanta Field Office (Atlanta Office) immediately investigated this matter. On April 10, 2012, the agent determined, using direction finding techniques, that strong wideband emissions in the cellular bands (824-924 MHz and 1880-1990 MHz) were emanating from Supply Room's warehouse in Oxford, Alabama. The agent further determined that the source of these emissions was one or more signal jammers. The agent interviewed the general manager of Supply Room, who confirmed that Supply Room had purchased five cellular jammers online (which were shipped from overseas) and operated four jammers in its warehouse for over two years. The general manager also confirmed that Supply Room utilized the jamming devices to prevent its employees from using their cellular phones while working. The general manager then showed the agent where the jammers were installed and surrendered them, along with a spare backup jammer.<sup>9</sup> After the jammers were removed, the agent confirmed that the unauthorized signals in the cellular bands had ceased.

## III. DISCUSSION

### A. Applicable Law

5. Federal law prohibits the importation and operation of jamming devices in the United States and its territories. Section 301 of the Act prohibits the use or operation of "any apparatus for the

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<sup>5</sup> 47 U.S.C. §§ 301, 302a, 333.

<sup>6</sup> See *Cell Jammers, GPS Jammers and Other Jamming Devices*, FCC Enforcement Advisory, 27 FCC Rcd 2309 (2012); *Cell Jammers, GPS Jammers and Other Jamming Devices*, FCC Enforcement Advisory, 26 FCC Rcd 1327 (2011). These advisories, along with frequently asked questions related to the jamming prohibition, are available at <http://www.fcc.gov/jammers>. On October 15, 2012, the Enforcement Bureau also launched a dedicated jammer tip line – 1-855-55-NOJAM (or 1-855-556-6526) – to make it easier for the public to report the use or sale of illegal cell phone, GPS or other signal jammers.

<sup>7</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

<sup>8</sup> The Supply Room states that it is the leading manufacturer and distributor of military insignia, uniforms, technical gear and school spirit products. See <http://www.supplyroom.com/about-the-supply-room/> (last visited March 5, 2013).

<sup>9</sup> See File No. EB-FIELDSCR-12-00002402. The jammers contained no markings of a manufacturer, make, or model number.

transmission of energy or communications or signals by radio” within the United States unless such use is licensed or authorized.<sup>10</sup> Section 333 of the Act states that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.”<sup>11</sup> In addition, Section 302(b) of the Act provides that “[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.”<sup>12</sup>

6. The applicable implementing regulations for Section 302(b) of the Act are set forth in Sections 2.803, 2.1203, 2.1204, 15.201, and 15.3(o) of the Rules.<sup>13</sup> Section 2.803(g) of the Rules provides in relevant part that

radio frequency devices that could not be authorized or legally operated under the current rules . . . shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed . . . absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.<sup>14</sup>

Section 2.1203 of the Rules states that “[n]o radio frequency device may be imported into the Customs territory of the United States unless the importer . . . declares that the device meets one of the conditions for entry set out in this section.”<sup>15</sup> Section 2.1204(a)(1) of the Rules further indicates that “[r]adio frequency devices may be imported only if one or more [import] conditions are met.”<sup>16</sup> In addition and pursuant to Sections 15.1(c) and 15.201(b) of the Rules,<sup>17</sup> intentional radiators<sup>18</sup> cannot be operated in the United States or its territories unless they have first been authorized in accordance with the Commission’s certification procedures.<sup>19</sup>

7. Jamming devices, however, cannot be certified or authorized because their primary purpose is to block or interfere with authorized radio communications. Thus, jamming devices such as the ones used by Supply Room cannot comply with the FCC’s technical standards and therefore cannot be operated or imported lawfully in the United States or its territories. We emphasize that under Section 302(b) of the Act, radio frequency devices like signal jamming devices are per se illegal because they are

<sup>10</sup> 47 U.S.C. § 301.

<sup>11</sup> *Id.* § 333.

<sup>12</sup> *Id.* § 302a(b) (emphasis added).

<sup>13</sup> 47 C.F.R. §§ 2.803, 2.1203, 2.1204, 15.201, 15.3(o); *see also id.* § 2.803(a)(1) (indicating that, with limited exception, “no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device.”).

<sup>14</sup> *Id.* § 2.803(g); *see also id.* § 2.803(e)(4) (defining “marketing” to include 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.”).

<sup>15</sup> *Id.* § 2.1203.

<sup>16</sup> *Id.* § 2.1204(a)(1) (describing the only circumstances under which radio frequency devices are permitted to be imported). *But see* discussion in para. 7 *infra* (emphasizing that the statutory exceptions in Section 302(c) of the Act and in Section 2.1204(a)(5)-(6) of the Rules are the only exemptions that apply to signal jamming devices).

<sup>17</sup> *Id.* §§ 15.1(c), 15.201(b).

<sup>18</sup> An “intentional radiator” is a “device that intentionally generates and emits radio frequency energy by radiation or induction.” *Id.* § 15.3(o). Under this definition, signal jamming devices are intentional radiators.

<sup>19</sup> *See, e.g.*, 47 C.F.R. §§ 22.377, 24.51, 27.51, 90.203 (requiring certification of transmitters that operate in the public mobile service, personal communications service, miscellaneous wireless service, and private land mobile radio services).

designed to compromise the integrity of the nation's communications infrastructure. As such, signal jammers may only be imported pursuant to the narrow statutory exceptions in Section 302(c) of the Act, and the import conditions in Section 2.1204 of the Rules are otherwise inapplicable to these devices.<sup>20</sup>

### **B. Illegal Operation of Multiple Cellular Jamming Devices**

8. As discussed above, an agent from the Atlanta Office observed four cellular jammers in use at Supply Room's warehouse. Supply Room's general manager admitted to the agent that these jammers had been in operation for over two years. While such use may have been non-malicious, we are mindful that in an emergency, cellular phones can provide life-saving access to 9-1-1 and police, ambulance, and fire department services. We also recognize that signal jamming devices generally do not discriminate between desirable and undesirable communications.<sup>21</sup> Thus, based on the evidence before us, we find that Supply Room apparently willfully and repeatedly violated Sections 301, 302(b), and 333 of the Act, and Sections 2.803(g) and 15.1(c) of the Rules by operating multiple cellular jammers.<sup>22</sup>

### **C. Importation of Illegal Jamming Devices; Reporting Requirement**

9. As discussed above, Section 302(b) of the Act and Sections 2.1203 and 2.1204 of the Rules prohibit the importation of illegal signal jamming devices.<sup>23</sup> Any person or entity that purchases a signal jamming device online and has it shipped to the United States from a foreign source is the importer and has violated these provisions.<sup>24</sup> On April 10, 2012, Supply Room's general manager admitted that the

<sup>20</sup> See *supra* notes 4, 16. Because Section 2.1204 of the Rules provides that radio frequency devices may only be imported if one or more import conditions is met, if the importation cannot meet any of the conditions, such importation is prohibited under the rule.

<sup>21</sup> As such, many cell jammers can block more than just cell phone calls; these devices can disrupt radio communications on any device that operates on frequencies within or adjacent to its range. Some jamming devices are designed to jam not only cellular signals, but also Global Positioning System (GPS) signals. These combination devices can disable GPS tracking capability and prevent a GPS device from receiving correct positioning signals, or worse, prevent a first responder from locating a person in need during an emergency.

<sup>22</sup> 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 any rule, regulation or order issued by the Commission thereunder shall be liable for a forfeiture penalty. 47 U.S.C. § 503(b). Section 312(f)(1) of the Act defines "willful" as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law, and defines the term "repeated" as the "commission or omission of such act more than once or for more than one day." 47 U.S.C. § 312(f)(1). The legislative history to Section 312(f)(1) of the Act clarifies that the definitions of "willful" and "repeated" apply to both Sections 312 and 503(b) of the Act, and the Commission has so interpreted the terms in the Section 503(b) context. See H.R. Rep. No. 97-765, 97<sup>th</sup> 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 . . . ."); see, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992).

<sup>23</sup> See 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.1203, 2.1204; see also para. 7 *supra*.

<sup>24</sup> See *Cell Jammers, GPS Jammers and Other Jamming Devices*, FCC Enforcement Advisory, 27 FCC Rcd 2309 (Enf. Bur. 2012); *Cell Jammers, GPS Jammers and Other Jamming Devices*, FCC Enforcement Advisory, 26 FCC Rcd 1327 (Enf. Bur. 2011), available at <http://www.fcc.gov/jammers>. According to the Department of Homeland Security, United States Customs and Border Protection, "[w]hen goods move from any foreign country to the United States, they are being IMPORTED. . . . When you buy goods from foreign sources, you become the importer. And it is the importer - in this case, YOU - who is responsible for assuring that the goods comply with a variety of both

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jammers at issue were purchased from an online retailer and shipped into the United States from overseas. Accordingly, we find that Supply Room imported illegal jamming devices in violation of Section 302(b) of the Act and Sections 2.1203 and 2.1204 of the Rules.

10. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>25</sup> we direct Supply Room to submit a written statement,<sup>26</sup> signed under penalty of perjury by an officer or director of the Supply Room, providing contact information for the seller and any and all information concerning the source(s) from which it purchased or received the five jammers it previously had in its possession or any such devices it may have subsequently acquired, including all information or documents regarding the sale or shipment of the devices. This statement must be provided to the Atlanta Office at the address listed in paragraph 22 below within thirty (30) calendar days after the release date of this NAL.

#### D. Proposed Forfeiture

11. 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.<sup>27</sup> Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amounts for (1) operation without an instrument of authorization is \$10,000, (2) use of unauthorized or illegal equipment is \$5,000, and (3) interference to authorized communications is \$7,000.<sup>28</sup> The Commission retains the discretion, however, to issue a higher or lower forfeiture than provided in the *Forfeiture Policy Statement* or to apply alternative or additional sanctions as permitted by the statute.<sup>29</sup> For violations of the signal jamming prohibition, the Communications Act authorizes monetary forfeitures of up to \$16,000 for *each* violation or, in the case of a continuing violation, the Commission may impose monetary forfeitures of up to \$16,000 for *each day* of such continuing violation up to a maximum forfeiture of \$112,500 for any single act or failure to act.<sup>30</sup> For instance, the Commission could impose separate forfeitures for each signal jammer used and/or for each day on which a signal jammer is operated.

12. We are mindful of the serious risks posed by signal jamming devices and the apparent need to provide greater incentives for individuals and businesses to cease the operation of these devices

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state and federal government import regulations. . . . It does not matter whether you bought the item from an established business or from an individual selling items in an on-line auction." *Internet Purchases, Your Responsibilities and Liabilities*, [http://cbp.gov/xp/cgov/trade/basic\\_trade/internet\\_purchases.xml](http://cbp.gov/xp/cgov/trade/basic_trade/internet_purchases.xml) (last visited March 5, 2013) (emphasis in original); *see generally* 19 U.S.C. § 1484(a)(2)(B).

<sup>25</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

<sup>26</sup> 47 C.F.R. § 1.16.

<sup>27</sup> 47 U.S.C. § 503(b).

<sup>28</sup> *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 (1997) (*Forfeiture Policy Statement*), *recons. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

<sup>29</sup> *See* 47 C.F.R. § 1.80(b)(8), Note ("The Commission and its staff retain the discretion to issue a higher or lower forfeiture than provided in the guidelines, to issue no forfeiture at all, or to apply alternative or additional sanctions as permitted by the statute . . .").

<sup>30</sup> *See* 47 U.S.C. § 503; 47 C.F.R. § 1.80(b)(7). These amounts are subject to further adjustment for inflation and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation. *See* 47 C.F.R. § 1.80(b)(9).

altogether.<sup>31</sup> As such, we will exercise our discretion and impose a separate forfeiture for *each* signal jamming device that is illegally operated in violation of the Act and our Rules, upwardly or downwardly adjusting the resulting base forfeiture based on the particular circumstances.<sup>32</sup> We caution Supply Room and other potential violators that going forward, and as circumstances warrant, we may pursue alternative or more aggressive sanctions, should the approach set forth in this NAL prove ineffective in deterring the unlawful operation of jamming devices.

13. Consistent with this approach, we find that Supply Room apparently committed twelve separate violations of the Act and our Rules, three separate violations for each jammer at issue.<sup>33</sup> Based on the evidence in the record, we further find that these violations were continuing violations, which lasted for more than two years. In assessing the appropriate monetary penalty for this misconduct, we must take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, 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>34</sup> Supply Room operated multiple radio frequency devices that are inherently illegal and prohibited for consumer use in the United States. In fact, the company appears to have established an internal program of preventing cell phone use throughout its warehouse, strategically deploying a battery of four signal jammers, with a fifth jammer in reserve to fill in any gaps. These unlawful jammer operations posed a tangible public safety hazard by potentially blocking authorized communications (including essential 9-1-1 calls and law enforcement communications) and only ceased when federal agents affirmatively intervened. We find these actions to be particularly egregious warranting an upward adjustment of the base forfeiture amounts.

14. Therefore, for the unlawful operation, unauthorized equipment, and interference violations, we will start our calculation from the maximum forfeiture authorized by statute, or \$16,000 per violation,<sup>35</sup> yielding a \$192,000 forfeiture.<sup>36</sup> While such a forfeiture would certainly reflect the gravity of

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<sup>31</sup> See, e.g., *James Christopher Garcia*, Citation and Order, 27 FCC Rcd 12173, 12177, para. 15 (Enf. Bur. 2012) (“[W]e caution you and other potential violators that going forward, and as circumstances warrant, we intend to impose substantial monetary penalties, rather than (or in addition to) warnings, on individuals who operate a jammer.”).

<sup>32</sup> See, e.g., *Hannspree North America, Inc.*, Memorandum Opinion and Order, 27 FCC Rcd 7968 (Enf. Bur. 2012) (upholding imposition of a per-unit formula for calculation of the forfeiture); *Argos Net, Inc.* Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 2786 (Enf. Bur. 2012) (proposing per transmitter forfeiture for violation of Section 301); *Syntax-Brilliant Corporation*, Forfeiture Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6323 (2008) (upholding imposition of a per-unit formula for calculation of the forfeiture).

<sup>33</sup> The twelve separate violations comprise four unlawful operation violations, four violations involving use of illegal equipment, and four violations of interference to authorized communications. See 47 U.S.C. § 301; 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803(g), 15.1(c); 47 U.S.C. § 333. See also *Directlink, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 37 (Enf. Bur. 2013) (finding operator apparently violated Sections 301 and 302(b) by operating a certified transmitter on a frequency for which it was not authorized and without required dynamic frequency selection (DFS) functionality). *Accord Skybeam Acquisition Corporation*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 11337 (Enf. Bur. 2012) (finding use of certified equipment on unauthorized frequency and without required DFS functionality apparently violated Sections 301 and 302(b)); *VPNet, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 2879 (Enf. Bur. 2012) (concluding operation of certified transmitter with unauthorized antenna connector and high-gain antenna apparently violated Sections 301 and 302(b)). Cf. *Scottsdale Lexus*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 639 (Enf. Bur. 2011) (finding only Section 301 violation where the operator used *certified* radios on unauthorized frequencies).

<sup>34</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>35</sup> 47 C.F.R. § 1.80(b)(7).

the violations, we also find it appropriate to consider Supply Room's immediate surrender of all five of the illegal devices to Commission agents. In this regard, we are mindful of the benefits of voluntary relinquishment when illegal devices are involved and will adjust the proposed forfeiture to reflect this aspect of Supply Room's conduct. We note that the Commission, in coordination with the U.S. Department of Justice, can seize an illegal jamming device, and we will continue to do so in appropriate cases.<sup>37</sup> However, voluntary relinquishment expedites the removal of these illegal devices from the stream of commerce. It also immediately curtails the misconduct, precluding further illegal operation and preventing any unlawful advertising and sales in the secondary market. Given the particular circumstances of this case, we therefore will reduce the proposed forfeiture by 25 percent to provide appropriate incentives in this regard.<sup>38</sup> Consistent with the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors, we therefore conclude that Supply Room is apparently liable for a total forfeiture in the amount of \$144,000.

15. We note that in the past, we have issued citations for importation violations in the first instance.<sup>39</sup> However, we are not required to do so.<sup>40</sup> While we will not propose a *separate* forfeiture for Supply Room's unlawful importation in the context of this first jammer operation NAL, we caution Supply Room and other potential violators that going forward, and as circumstances warrant, we intend to impose substantial monetary penalties on individuals or businesses who illegally import jammers into the United States.

#### IV. ORDERING CLAUSES

16. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's rules, The Supply Room, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of one hundred forty four thousand dollars (\$144,000) for violations of Sections 301, 302(b), and 333 of the Act and Sections 2.803(g) and 15.1(c) of the Commission's rules.<sup>41</sup>

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<sup>36</sup> We note that a \$192,000 forfeiture is substantially lower than the amount that would result from a straightforward application of the statutory maxima permitted under a continuing violation theory, which would yield a forfeiture in excess of \$1.3 million. *See supra* para. 11. Because this is the first NAL issued to a business or individual for jammer operation, we conclude that such a substantial monetary penalty is unwarranted in the first instance. However, we will continue to evaluate the success of this approach and make any necessary changes in our forfeiture framework to promote greater compliance.

<sup>37</sup> *See* 47 U.S.C. § 510.

<sup>38</sup> Going forward, the amount of any reduction for voluntary relinquishment will be based on our assessment of the facts and circumstances in a particular case.

<sup>39</sup> *See, e.g., Matthew J. Wolf*, Citation, 25 FCC Rcd 37 (Enf. Bur. 2010) (issued Citation for illegal marketing and importation of radio frequency devices); *The Spy Store, Inc.*, 24 FCC Rcd 10047 (Enf. Bur. 2009); *Robert OHarvey*, Citation, 24 FCC Rcd 10047 (Enf. Bur. 2009); *Mark Cleveland*, Citation, 24 FCC Rcd 9416 (Enf. Bur. 2009).

<sup>40</sup> 47 U.S.C. § 503(b)(5) (citation not required where "person involved is engaging in activities for which a license, permit, certificate, or other authorization is required."). *See also* 47 C.F.R. §2.909(b) (stating that importers of radio frequency devices are responsible for ensuring that the devices they import comply with the Commission's equipment authorization rules). The Commission has previously held that certain parties who engage in activities for which an authorization is required may be subject to a forfeiture without a prior citation. *See also Syntax-Brilliant Corporation*, Forfeiture Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6323 (2008) (noting that equipment certification is a "license, permit, certificate, or other authorization" for purposes of the exception to the citation requirement in Section 503(b)(5) of the Communications Act).

<sup>41</sup> 47 U.S.C. §§ 301, 302a(b), 333, 503(b); 47 C.F.R. §§ 1.80, 2.803(g), 15.1(c).

17. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) calendar days after the release date of this Notice of Apparent Liability for Forfeiture and Order, The Supply Room, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

18. 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. The Supply Room, Inc. will also send electronic notification on the date said payment is made to [SCR-Response@fcc.gov](mailto:SCR-Response@fcc.gov). Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>42</sup> 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 you should follow based on the form of payment you select:

- 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.

19. Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>43</sup> If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

20. 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.<sup>44</sup> Mail the written statement to Federal Communications Commission, Enforcement Bureau, South Central Region, Atlanta Office, 3575 Koger Blvd, Suite 320, Duluth, GA 30096, and include the NAL/Acct. No. referenced in the caption. The Supply Room, Inc. also shall e-mail the written response to: [SCR-Response@fcc.gov](mailto:SCR-Response@fcc.gov).

21. 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-

<sup>42</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>43</sup> See 47 C.F.R. § 1.1914.

<sup>44</sup> 47 C.F.R. §§ 1.16, 1.80(f)(3).



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.

22. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>45</sup> The Supply Room, Inc. **SHALL SUBMIT** a sworn statement providing the information set forth in paragraph 10 within thirty (30) calendar days after the release date of this Notice of Apparent Liability for Forfeiture and Order. The statement must be mailed to the Federal Communications Commission, Enforcement Bureau, South Central Region, Atlanta Office, 3575 Koger Blvd, Suite 320, Duluth, GA 30096. The Supply Room, Inc. shall also e-mail the written statement to SCR-Response@fcc.gov.

23. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested, to The Supply Room, Inc., 230 Supply Room Rd, Oxford, AL 36203.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>45</sup> 47 U.S.C. §§ 154(i), 154(j), 403.