

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

In the Matter of	)	
	)	
William A. Woods	)	File No. EB-02-ST-244
Tacoma, Washington	)	NAL/Acct. No. 200332980003
	)	FRN 0007-9944-78
	)	

**FORFEITURE ORDER**

**Adopted: September 15, 2003**

**Released: September 17, 2003**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of five hundred dollars (\$500) to William A. Woods, Tacoma, Washington, for willful violation of Section 303(n) of the Communications Act of 1934, as amended, (“*Act*”) and Section 95.426 of the Commission’s Rules (“*Rules*”).<sup>1</sup> The noted violations involve Mr. Woods’ failure to make his CB radio station available for inspection at the request of authorized Commission personnel.

2. On December 30, 2002, the Commission’s Seattle, Washington, Field Office (“*Seattle Office*”) issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) to Mr. Woods for a forfeiture in the amount of seven thousand dollars (\$7,000).<sup>2</sup> Mr. Woods responded to the *NAL* on February 10, 2003.

**II. BACKGROUND**

3. On September 3, 2002, the Seattle Office received a report from the City of Tacoma, Washington, concerning complaints about interference to home entertainment equipment in the 3000 block of South Madison Street in Tacoma, Washington.

4. On October 29, 2002, FCC agents from the Seattle Office, using mobile direction finding equipment, determined that an interfering signal on CB frequency 27.025 MHz was emanating from the residence of William A. Woods at 3005 S. Madison Street, Tacoma, Washington. The agents observed signal strength levels significantly higher than those expected from an authorized CB transmitter.

5. On November 5, 2002, the agents again observed transmissions on 27.025 MHz with signal strength levels significantly exceeding those expected from an authorized CB transmitter. Using mobile direction finding equipment, they again determined that the transmissions emanated from Woods’

<sup>1</sup> 47 C.F.R. § 95.426.

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332980003 (Enf. Bur., Seattle Office, released December 30, 2002).

residence. After locating the source of the transmissions on November 5, 2002, the agents, who were accompanied by two police officers, requested that Mr. Woods make his CB station available for inspection. After a delay, Mr. Woods allowed the agents but not the police officers to enter his residence. Once the agents began an inspection of Mr. Woods' CB station, Mr. Woods changed his mind and refused to allow the inspection to continue. The agents then informed Mr. Woods that his refusal to allow an inspection could result in a monetary forfeiture.

6. On December 30, 2002, the Seattle Office issued a *NAL* for a \$7,000 forfeiture to William A. Woods for refusing to allow an inspection of his CB radio station, in willful violation of Section 303(n) of the Act and Section 95.426 of the Rules.<sup>3</sup> In his response to the *NAL*, Mr. Woods claims that the agents who came to his residence on November 5, 2002, did not present any identification and that he did not refuse to allow the agents to inspect his station. In addition, Mr. Woods submitted financial documentation concerning his inability to pay the proposed monetary forfeiture and also stated that he had taken medication before the agents arrived at his house.

### III. DISCUSSION

7. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,<sup>4</sup> Section 1.80 of the Rules,<sup>5</sup> and *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) ("*Policy Statement*"). In examining Mr. Woods' response, Section 503(b) of the Act requires that the Commission take into account 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.<sup>6</sup>

8. Section 303(n) of the Act authorizes the Commission to inspect radio stations and Section 95.426 of the Rules requires CB operators to make their stations available for inspection upon the request of Commission personnel. The agents who attempted to inspect Mr. Woods' station flatly contradict his claims that they did not present any identification and that Mr. Woods did not refuse to allow the inspection. The agents state that they presented identification indicating that they are FCC agents and that, after allowing the inspection to begin, Mr. Woods became extremely agitated and then told the agents that they could not continue with the inspection. We conclude that Mr. Woods violated Sections 303(n) of the Act and 95.426 of the Rules by refusing to make his CB radio station available for inspection. We also conclude these violations were "willful" within the meaning of Section 503(b) of the Act.<sup>7</sup>

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<sup>3</sup> Under Section 1.80(b)(4) of the Rules, \$7,000 is the base forfeiture amount for failure to permit an inspection. 47 C.F.R. § 1.80(b)(4), Note to Paragraph (b)(4): *Section I.—Base Amounts for Section 503 Forfeitures*.

<sup>4</sup> 47 U.S.C. § 503(b).

<sup>5</sup> 47 C.F.R. § 1.80.

<sup>6</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>7</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful,' ... means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act ...." See *Southern California Broadcasting*

9. Mr. Woods claims to have taken the medication “Olanzapine” before the arrival of FCC agents at his house on May 8, 2002. Mr. Woods does not contend that this medication contributed to his refusal to permit an inspection; indeed, he flatly denies refusing to permit an inspection. Furthermore, it is unclear from the information provided whether this medication would have any affect on Mr. Woods’ actions or state of mind.

10. Upon review of the financial documentation presented by Mr. Woods, we conclude that the forfeiture amount should be reduced to \$500 on the basis of financial hardship.

11. Mr. Woods presented several additional arguments in his response to the *NAL*, such as his claim that he did not operate his station on October 29, 2002, and his attempts to discredit the complainants. These additional arguments have no bearing upon the matters at issue in this proceeding: whether Mr. Woods failed to allow a station inspection, in violation of Section 303(n) of the Act and Section 95.426 of the Rules; whether a forfeiture should be imposed for those violations; and the amount of any such forfeiture. Accordingly, we find that these additional arguments are not material to this proceeding and we will not consider them.

12. We have examined the response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Policy Statement* as well. As a result of our review, we conclude that Mr. Woods willfully violated Section 303(n) of the Act and Section 95.426 of the Rules and we find that, while there is no basis for cancellation of the proposed monetary forfeiture, a reduction to \$500 is warranted on the basis of financial hardship.

#### IV. ORDERING CLAUSES

13. Accordingly, **IT IS ORDERED** that, pursuant to Section 503 of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,<sup>8</sup> William A. Woods **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of five hundred dollars (\$500) for willful violation of Section 303(n) of the Act and Section 95.426 of the Rules.

14. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>9</sup> Payment may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200332980003 and FRN 0007-9944-78. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>10</sup>

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*Co.*, 6 FCC Rcd 4387 (1991).

<sup>8</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>9</sup> 47 U.S.C. § 504(a).

<sup>10</sup> *See* 47 C.F.R. § 1.1914.

15. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to William. A. Woods, 3005 S. Madison Street, Tacoma, Washington 98409.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau