

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

In the Matter of)	
)	File No. EB-03-SE-291
Schumacher Electric Corporation,)	NAL/Acct. No. 200432100010
Mt. Prospect, Illinois)	FRN # 0010291185

ORDER

Adopted: May 14, 2004

Released: May 18, 2004

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and Schumacher Electric Corporation (“Schumacher”). The Consent Decree terminates the forfeiture proceeding initiated by the Enforcement Bureau against Schumacher for its apparent failure to comply with the equipment requirements set forth in Section 302(b) of the Act¹ and Section 2.803(a) of the Commission’s Rules (“Rules”).²

2. The Enforcement Bureau and Schumacher have negotiated the terms of a Consent Decree that would resolve this matter and terminate the forfeiture proceeding. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, we conclude that no substantial or material questions of fact exist with respect to this matter as to whether Schumacher possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree and terminating the forfeiture proceeding.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j) and 503(b) of the Communications Act of 1934, as amended,³ and Sections 0.111 and 0.311 of the Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the Enforcement Bureau’s forfeiture proceeding against Schumacher **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that Schumacher Electric Corporation shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, 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,

¹ 47 U.S.C. § 302(b).

² 47 C.F.R. § 2.803(a).

³ 47 U.S.C. §§ 4(i), 4(j) and 503(b).

⁴ 47 C.F.R. §§ 0.111, 0.311.

Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 200432100010 and FRN 0010291185.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to John Waldron, Executive Vice President, Schumacher Electric Corporation, 801 Business Center Drive, Mount Prospect, Illinois 20056-2179, and to David E. Hilliard, Wiley, Rein & Fielding, LLP, 1776 K Street, N.W., Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

CONSENT DECREE

The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) and Schumacher Electric Corporation (“Schumacher”) hereby enter into this Consent Decree regarding possible violations of Section 302(b) of the Communications Act of 1934, as amended (“Act”),⁵ and Section 2.803(a) of the Commission’s Rules (“Rules”)⁶ concerning certain switching power supply battery chargers displayed by Schumacher.

Background

1. Under Parts 2 and 15 of the Commission’s Rules, certain external switching power supplies must be authorized in accordance with the Commission’s verification procedure and comply with all applicable technical standards, including emission limits, and labeling requirements prior to the initiation of marketing in the United States. On November 5, 2003, the Bureau received a complaint alleging that Schumacher was marketing a new line of SpeedCharge automobile battery chargers (“SpeedChargers”) at the ongoing Automobile Aftermarket Products Expo (“AAPEX”) in Las Vegas. The complaint alleged that Schumacher did not label the exhibited SpeedChargers under Section 15.19(a)(3) of the Rules⁷, and did not display the trade show notice under Section 2.803(c) of the Rules.

2. In response to the Bureau’s Letter of Inquiry (“LOI”) dated November 15, 2003, Schumacher stated that it exhibited “mock-ups” (*i.e.* non-working display units) of SpeedCharger models SC 600A, SSC 1000A, SC 1200A, SSC 1500A, SC 2500A, SC 4000A, SC6000A and SC 10000A. Schumacher represented that it did not sell and/or take orders to sell any of the exhibited SpeedChargers at AAPEX. Of the exhibited Speedchargers, Schumacher further represented that models SC 600A, SSC 1000A, SC 1200A, SSC 1500A, and SC 6000A had been verified prior to the AAPEX, and provided each verification report for the models, but, that models SC 2500A, SC 4000A and SC 10000A had not been verified prior to the AAPEX. The Bureau found that Schumacher appeared to have violated Section 302(b) of the Act and Section 2.803(a) of the Rules by displaying at AAPEX non-working mock-ups of models SC2500A, SC4000A and SC10000A without the requisite disclaimer notice, and on April 12 issued a *Notice of Apparent Liability for Forfeiture* (“NAL”).⁸

Definitions

3. For the purposes of this Consent Decree the following definitions shall apply:

- (a) “Commission” means the Federal Communications Commission;
- (b) “Bureau” means the Enforcement Bureau of the Commission;
- (c) “Schumacher” means Schumacher Electric Corporation, its subsidiaries, affiliates and any successors or assigns;
- (d) “Parties” means Schumacher and the Bureau;

⁵ 47 U.S.C. § 302(b).

⁶ 47 C.F.R. § 2.803(a).

⁷ 47 C.F.R. § 15.19(a)(3).

⁸ *Schumacher Electric Corporation*, DA 04-976, (Enf. Bur. April 12, 2004).

- (e) “Enforcement Proceeding” means the investigation of the alleged Rule violation by Schumacher culminating in the *Notice of Apparent Liability for Forfeiture*.
- (f) “Notice of Apparent Liability for Forfeiture” or “NAL” means *Schumacher Electric Corporation*, DA 04-976 (Enf. Bur. April 12, 2004).
- (g) “Adopting Order” means an order of the Bureau adopting this Consent Decree;
- (h) “Effective Date” means the date the Adopting Order is released by the Bureau;
- (i) “Rules” means the Commission’s Rules found in Title 47 of the Code of Federal Regulations; and
- (j) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §§151 *et seq.*

Terms of Settlement

4. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

5. The Parties agree that this Consent Decree shall become binding on the Parties on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other final order of the Commission and any violation of the terms or conditions of this Consent Decree shall constitute a violation of a Commission order.

6. Schumacher acknowledges that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

7. The Parties waive any rights they may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided that the Adopting Order adopts the Consent Decree without change, addition or modification.

8. Schumacher waives any rights it may have under any provision of the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

9. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination of any compliance or noncompliance with the Act or the Rules. The Parties further agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Schumacher does not admit or deny any liability for violating the Act or the Rules in connection with the matters that are the subject of this Consent Decree.

10. In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees to terminate the Enforcement Proceeding at such time as both Parties sign this Consent Decree and the Bureau adopts this Consent Decree.

11. Schumacher agrees that, as of the Effective Date of this Consent Decree, every model of switching power supply battery charger subject to the Rules that is imported and/or marketed by Schumacher shall be verified and labeled in accordance with applicable Rules before importation and marketing. Schumacher further agrees to undertake the development of a regulatory compliance program (“RCP”) to educate employees involved in the design, development and marketing of its products as to the Commission’s Rules and their applicability to Schumacher’s products, and to maintain this RCP for

twenty-four (24) months. The RCP includes Schumacher's appointment of a regulatory compliance officer charged with oversight of personnel responsible for ensuring that switching power supply battery chargers comply with all applicable Rules prior to importation and marketing. Schumacher will submit details of its RCP to the Bureau no later than thirty (30) days after the Effective Date. Schumacher may submit its RCP on a confidential basis pursuant to Sections 0.457 and 0.459 of the Commission's Rules.⁹

12. The Parties acknowledge and agree that this Consent Decree shall constitute a final and binding settlement between Schumacher and the Bureau regarding possible violations of the Act and the Rules prior to the Effective Date of this Consent Decree with respect to the switching power supply battery charger models that Schumacher displayed at AAPEX, and that were subject to the *NAL*. In consideration for termination by the Bureau of the Enforcement Proceeding and in accordance with the terms of this Consent Decree, Schumacher agrees to the terms set forth herein

13. The Bureau agrees that it will not entertain, or institute on its own motion, any new proceeding, formal or informal, take any action on its own motion, or recommend to the full Commission any forfeiture or other sanction, against Schumacher for any alleged violation of the Act or the Rules prior to the Effective Date of this Consent Decree with respect to the switching power supply battery charger models that Schumacher displayed at AAPEX, and that were subject to the *NAL*. Nothing in this Consent Decree shall prevent the Bureau from instituting investigations or enforcement proceedings against Schumacher in the event of any other alleged misconduct that violates this Consent Decree or that violates any provision of the Act or the Rules.

14. The Parties agree that each is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that Schumacher fails to satisfy any condition, in the absence of Commission alteration of the condition, it will be deemed noncompliant and may be subject to possible future enforcement action with respect to such failure to satisfy the condition.

15. The Parties agree that any provision of this Consent Decree which conflicts with any subsequent rule, order of general applicability or other decision of general applicability adopted by the Commission will be superseded by such Commission rule, order or other decision.

16. Schumacher agrees to make a voluntary contribution to the United States Treasury in the amount of seven thousand dollars (\$7,000) within thirty (30) days of the Effective Date. Such contribution shall be made, without further protest or recourse, by credit card through the Commission's Debt and Credit Management Center at (202) 418-1995, or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200432100010 and FRN 0010291185.

17. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Schumacher nor the Commission shall contest the continuing validity of the Consent Decree or Adopting Order. The Parties agree to comply with, defend and support the validity of this Consent Decree and the Adopting Order in any proceeding seeking to nullify, void, or otherwise modify the Consent Decree or the Adopting Order.

18. The Parties agree that in the event that any court of competent jurisdiction renders this Consent Decree invalid, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

⁹ 47 C.F.R. §§ 0.457, 0.459.

19. This Consent Decree cannot be modified without the advance written consent of all of the Parties.

20. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau:

By: _____
David H. Solomon
Chief, Enforcement Bureau

For Schumacher Electric Corporation:

By: _____
John Walton
Executive Vice President