

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

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|-----------------------------|---|--------------------------|
| In the Matter of |) | |
| |) | |
| Ian R Walker |) | File Number EB-02-TP-463 |
| 458 Arlington Road |) | NAL/Acct.No.200332700006 |
| Jacksonville, Florida 34112 |) | FRN : 0007767973 |
| |) | |
| |) | |

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: November 5, 2002

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find that Ian R Walker willfully violated Section 301 of the Communications Act of 1934, as amended (“Act”).¹ On August 8, 2002, Mr. Ian R Walker operated a radio station on the frequency 95.5 MHz. without Commission authorization. We conclude that Ian R Walker is apparently liable for forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On August 8, 2002, while in Jacksonville, Florida, agents from the Commission’s Tampa Field Office observed FM radio broadcasts on the frequency 95.5 MHz. Commission records showed no authorization for this operation in Jacksonville, Florida. Using electronic direction finding techniques, the agents positively identified the source of the transmissions to be emanating from the residence located at 458 Arlington Road, Jacksonville, Florida. The agents observed an antenna mounted in a tree on the side of the residence. Based on field strength measurements taken by the agents of the station’s signal, this station required a license to operate.²

3. Still on August 8, 2002, the agents interviewed Ian R. Walker, the occupant of the residence at 458 Arlington Road, Jacksonville, Florida. Mr. Walker admitted that he had been

¹ 47 U.S.C. § 301.

² See 47 C.F.R. § 15.239(b).

operating the unlicensed station and owned the equipment located at the residence. Mr. Walker stated that he had no FCC authorization to operate the equipment. The agents inspected the unlicensed radio station at the residence and found, among other equipment, an FM transmitter and associated studio equipment.

III. DISCUSSION

4. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy of communications or signals by radio within the United States except under and in accordance with the Act and with a license. On August 8, 2002, Ian R Walker operated radio transmitting equipment on the frequency 95.5 MHz without benefit of the required Commission authorization.

5. Based on the evidence before us, we find that on August 8, 2002, Ian R Walker willfully³ violated Section 301 of the Act by operating radio transmission apparatus without a license.

6. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amount for the violation(s) cited in this notice is \$10,000.⁴ Section 503(b)(2)(D) of the Act, requires us to 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."⁵ Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁶ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁷ Ian R Walker is hereby NOTIFIED of his APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 301 of the Communications Act of 1934, as amended.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's

³ 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

Rules, within thirty days of the release date of this *NAL*, Ian R Walker SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made 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, Chicago, Illinois 60673-7482. The payment must include the FRN and NAL/Acct. No. referenced in the letterhead above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

11. 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-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.

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this *NAL*, either in your response to the *NAL* or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Ian R Walker at 458 Arlington Road, Jacksonville, Florida 34112.

⁸ See 47 C.F.R. § 1.1914.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director, Enforcement Bureau

Attachment