

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

In the Matter of)	
)	File Number: EB-07-TP-183
John Doe ¹)	
Largo, FL)	NAL/Acct. No: 200832700016
)	
)	FRN: 0017350919
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MEMORANDUM OPINION AND ORDER

Adopted: September 11, 2008

Released: September 15, 2008

By the Associate Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order (“Order”), we grant the petition for reconsideration filed by John Doe² of the *Forfeiture Order* issued June 30, 2008. The *Forfeiture Order* imposed a monetary forfeiture in the amount of \$18,000 for Mr. Doe’s willful and repeated violation of Sections 301 and 325 of the Communications Act of 1934, as amended (“Act”).³ The noted violations involve Mr. Doe’s operation of radio transmission equipment without a license in Largo, Florida, on the International Distress, Safety and Calling Channel⁴ and transmission of false signals of distress. Based on the evidence before us, we cancel the forfeiture and admonish Mr. Doe for his willful and repeated violation of Sections 301 and 325 of the Act.

II. BACKGROUND

2. On August 23 and 24, 2007, the Commission’s Tampa Office of the Enforcement Bureau (“Tampa Office”) received complaints from the United States Coast Guard (“USCG”) St. Petersburg Sector regarding interference and false distress/mayday calls they had been receiving on channels 16 (156.800 MHz) since August 13, 2007.⁵ The USCG stated they had dispatched ships and aircraft to search for the caller in response to several of these false distress calls.⁶ On at least one of these calls, the USCG stated the caller identified his location as an area in close proximity to where he was eventually apprehended.

¹ Name redacted due to age of individual.

² *John Doe*, Forfeiture Order, DA 08-1505 (Enf. Bur. South Central Region June 30, 2008) (“*Forfeiture Order*”).

³ 47 U.S.C. §§ 301, 325.

⁴ The frequency 156.800 MHz, channel 16, is the international distress, safety and calling channel. See 47 C.F.R. § 80.369(e)(3).

⁵ The USCG also mentioned that they had received interference on channels 21 and 22a.

⁶ The USCG maintains an aural watch on channel 16 to, among other things, respond to distress calls.

3. On August 24, 2007, the USCG contacted an agent from the Tampa Office, who was en route to locate the source of the false distress calls, and stated they had used direction finding techniques to determine that the false distress calls were emanating from a location in or near a mobile home community in Largo, Florida. The USCG also stated that the Largo Police Department had just apprehended and was taking into custody a student, who lived in this mobile home community and who had several radios, including a marine radio, in his bedroom rigged to a 12 volt marine battery and whip antenna.

4. On August 24, 2007, Mr. Doe confessed to an officer with the Largo Police Department that he stole a marine radio from a boat and used it to make five false distress/mayday calls to the USCG from his bedroom. The Largo Police Department arrested Mr. Doe on this date on charges unrelated to the false distress calls and confiscated one marine radio, two CB radios, and a marine battery from Mr. Doe's bedroom and a whip antenna from outside his bedroom window. According to Commission records, Mr. Doe does not hold a license to operate a marine radio on land. On August 30, 2007, agents from the Tampa Office confirmed that the marine radio confiscated from Mr. Doe's bedroom could in fact operate on channel 16 (156.800 MHz).

5. On April 30, 2008, the Tampa Office issued a *Notice of Apparent Liability for Forfeiture* to Mr. Doe in the amount of eighteen thousand dollars (\$18,000), for the apparent willful and repeated violation of Sections 301 and 325 of the Act.⁷ Mr. Doe did not submit a response to the *NAL*, and on June 30, 2008, the Enforcement Bureau ("Bureau") released the *Forfeiture Order*. Mr. Doe, however, did submit a petition for reconsideration of the *Forfeiture Order*, requesting reduction or cancellation of the forfeiture.

III. DISCUSSION

6. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁸ Section 1.80 of the Rules,⁹ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.¹⁰ In examining Mr. Doe's petition, 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 any other such matters as justice may require.¹¹

7. Mr. Doe expresses sincere remorse for his actions and requests reduction or cancellation of the forfeiture, because it would pose a financial hardship. Mr. Doe, a sixteen-year-old, states he has never had a job and has no sources of income. He has also been in the custody of the state in a juvenile detention facility since February 2008. After examining the financial documentation submitted by Mr. Doe, we conclude that cancellation of the forfeiture is warranted, based solely on his lack of income and the fact that he is currently in the custody of the state of Florida. However, because of the seriousness of the violation, we admonish Mr. Doe for his willful and repeated violation of Sections 301 and 325 of the Act.

⁷ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200832700016 (Enf. Bur., Tampa Office, April 30, 2008) ("*NAL*").

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. § 1.80.

¹⁰ 12 FCC Rcd. 17087 (1997), *recon. denied*, 15 FCC Rcd. 303 (1999).

¹¹ 47 U.S.C. § 503(b)(2)(D).

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Communications Act of 1934, as amended,¹² and Section 1.106 of the Commission's Rules,¹³ John Doe's petition for reconsideration of the June 30, 2008 *Forfeiture Order* **IS** hereby **GRANTED** and the Notice of Apparent Liability for Forfeiture and Forfeiture Order issued to John Doe **ARE HEREBY CANCELED**.

9. **IT IS FURTHER ORDERED** that, John Doe **IS ADMONISHED** for his violation of Sections 301 and 325 of the Communications Act of 1934, as amended.

10. **IT IS FURTHER ORDERED** that this Order shall be sent by regular mail and by certified mail, return receipt requested, to John Doe at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon
Associate Chief, Enforcement Bureau

¹² 47 U.S.C. § 405.

¹³ 47 C.F.R. § 1.106.