

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
) File No.: EB-FIELDWR-17-00024047
) NAL/Acct. No.: 201832030002
) FRN: 0017129206
Full Spectrum, Inc.)
)

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: March 30, 2018

Released: March 30, 2018

By the Regional Director, Region Three, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of \$22,000 against Full Spectrum, Inc. (Full Spectrum), for apparently willfully and repeatedly causing harmful interference to over 200 Verizon Wireless base stations in San José, California, operating radio transmission equipment without a license on frequencies 785 MHz – 790 MHz, and operating radio frequency equipment without a Federal Communications Commission (FCC or Commission) equipment authorization. We take this enforcement action because unlicensed radio operations impede the Commission’s responsibility to manage radio spectrum and because the unlicensed radio operations and unauthorized radio frequency equipment can cause harmful interference to licensed radio communications.

II. BACKGROUND

2. On April 4, 2017, a representative from Verizon Wireless¹ contacted the FCC Enforcement Bureau’s San Francisco regional office (San Francisco Office) and requested assistance to resolve an interfering signal Verizon Wireless observed being transmitted on the uplink channel of its 700 MHz band licensed spectrum. Specifically, Verizon Wireless stated that, starting on March 27, 2017, its engineers observed an unknown signal transmitting in the 776 MHz – 787 MHz C Block Upper 700 MHz band service in which Verizon Wireless is the sole licensee, and the signal affected all of Verizon Wireless’s base stations in the South Bay, which are concentrated around the east side of San José, California.

3. On April 5, 2017, two agents from the San Francisco Office, used a mobile direction-finding vehicle to locate the source of the alleged interference. The agents observed a wide band signal transmitting on 785 MHz to 790 MHz and traced the signal to an antenna secured to a pole next to a water tank located on a hill at 15815 Mt. Hamilton Road, San José, California (Mt. Hamilton Road Property).²

¹ Verizon Wireless is the wireless communications products and services segment of Verizon Communications, Inc. See Verizon Communications 2016 Annual Report at 11, http://www.verizon.com/about/sites/default/files/annual_reports/2016/downloads/Verizon-AnnualReport2016.pdf (last visited Mar. 14, 2018).

² The agents observed a Yagi antenna, which is a directional antenna (i.e., it (i) must be pointed directly at a signal source for peak performance, (ii) has a high gain, typically greater than 10 dB, and (iii) consists of multiple parallel elements in a line, usually half-wave dipoles made of metal rods). See The Yagi-Uda Antenna, ANTENNA-THEORY.COM, http://www.antenna-theory.com/antennas/travelling/yagi.php (last visited Feb. 1, 2018); see also, (continued....)

4. While walking on the property, the agents used a hand-held spectrum analyzer with a directional antenna; and when pointing it towards the water tank, they confirmed the peak of the interfering signal corresponded to the antenna located next to the water tank. The agents observed the antenna cable led into a building and connected to a Cobalt-Plus, model CP-1000 radio (Cobalt Radio). Later that day, the agents returned to the Mt. Hamilton Road Property and interviewed the property manager who identified Full Spectrum, Inc. (Full Spectrum)³ as the owner of the Cobalt Radio. At the agent's request, the property manager turned off the Cobalt Radio and the agent, using the spectrum analyzer, confirmed the interfering transmission had ceased.

5. The agents hand-delivered a Warning of Interference notice to the property manager advising him they observed interference on 777 MHz – 787 MHz.⁴ The notice also instructed him to review the station's operations to ensure the interference ceases and advised that failure to take corrective action could result in the Commission issuing additional sanctions or forfeitures.⁵ The agents then called the Verizon Wireless representative who made the initial complaint, and the representative confirmed the interference had ceased.

6. On the evening of April 5, 2017, Stewart Kantor, CEO of Full Spectrum, contacted one of the FCC agents in follow-up to the inspection. Mr. Kantor confirmed the property manager gave him the Warning of Interference; and he explained to the agent that the Cobalt Radio devices “were designed to operate within a 1 MHz channel in the Upper 700 MHz A Block (787 MHz – 788 MHz) with a center frequency of 787.5 MHz.”⁶ Mr. Kantor also said the Cobalt Radio had been removed from the property to determine the cause of the out-of-band emissions. When asked whether the radio had been certified by the FCC, Mr. Kantor stated that Full Spectrum had designed the unit and obtained an FCC identification number, but had not printed or placed the FCC certification label on the Cobalt Radio.⁷ The agent requested that Mr. Kantor submit documents demonstrating that the FCC certified the radio.

7. On April 6, 2017, Mr. Kantor followed up his call with an email to the FCC agent. In the email, Mr. Kantor explained that Full Spectrum “had been operating [the Cobalt] [R]adio for several months in a 500 kHz channel in the Upper 700 MHz A Block (757 MHz – 758 MHz, 787 MHz – 788 MHz) without causing known interference.”⁸ Mr. Kantor also stated that Full Spectrum inspected the Cobalt Radio and discovered that a technician mistakenly configured the Cobalt Radio to “a 5 MHz channel size versus a 500 kHz channel at the same center frequency of 787.5 MHz,”⁹ thereby causing the radio to transmit over a wider bandwidth, including spectrum outside of the Upper 700 MHz A Block.

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What is a Yagi Antenna, WEBOOST.COM, <https://blog.weboost.com/news/blog/what-is-a-yagi-antenna-and-how-does-it-work/> (last visited Feb. 1, 2018).

³ Full Spectrum, Inc. is Delaware corporation that is a supplier of private broadband cellular data network technology and, also designs, develops, manufactures, and sells its Software Defined Radio technology to companies in the utilities, defense, oil & gas, and transportation industries. See Full Spectrum, About Us, <http://www.fullspectrumnet.com/background/>; see also, Bloomberg, Company Overview of Full Spectrum, Inc., <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=60309355> (last visited Feb. 1, 2018).

⁴ Warning of Interference hand-delivered to Mt. Hamilton Road Property Manager (Apr. 5, 2017) (on file in EB-FIELDWR-17-00024047).

⁵ *Id.*

⁶ Email from Stewart Kantor, CEO, Full Spectrum, Inc., to FCC Field Agent, (Apr. 5, 2017, 5:23 p.m.) (on file in EB-FIELDWR-17-00024047).

⁷ See Investigation Notes (on file in EB-FIELDWR-17-00024047).

⁸ Email from Stewart Kantor, CEO, Full Spectrum, Inc., to FCC Field Agent, (Apr. 6, 2017, 6:19 p.m.) (on file in EB-FIELDWR-17-00024047).

⁹ *Id.*

Further, Mr. Kantor explained that Full Spectrum uses the Mt. Hamilton Road Property “as a test site on behalf of its electric utility customers,” and had “authorization to operate a variety of frequencies for test purposes.”¹⁰ He also provided an Internet link to electronic documents demonstrating Full Spectrum had obtained FCC certification for several of its other radio devices. Finally, Mr. Kantor assured the agent that Full Spectrum would not sell the new radio until the certification process was complete.¹¹

8. The agent reviewed the documentation that Full Spectrum provided and found that it did not include any information indicating the FCC had certified the Cobalt Radio. On May 9, 2017, the agent informed Mr. Kantor that the correct information was not submitted, and requested Full Spectrum to submit the certification for the Cobalt Radio,¹² as well as Full Spectrum’s license authorizing it to operate on 776 MHz – 787 MHz.¹³ On May 9, Mr. Kantor responded that he would send the information as soon as possible.¹⁴ On May 23, 2017, the agent sent a follow-up email, again, requesting copies of Full Spectrum’s license and equipment certification.¹⁵

9. Full Spectrum did not produce either. With regard to a license, on May 24, 2017, rather than submitting a copy of its license, Mr. Kantor provided a copy of an April 2015 letter from BPC Spectrum, LLC (BPC Spectrum), the licensee of the Upper 700 MHz A band (757 MHz – 758 MHz and 787 MHz – 788 MHz), in which it granted Full Spectrum permission to conduct testing on their frequencies at the Mt. Hamilton Road Property for two months beginning April 10, 2015.¹⁶ The letter, however, was signed only by Mr. Kantor and not by BPC Spectrum’s representative.¹⁷ In a follow-up email dated May 26, 2017, Full Spectrum claims it had permission to use BPC Spectrum’s frequencies until April 18, 2016.¹⁸ The May 26, 2017, email includes an April 12, 2016, email from BPC Spectrum advising Full Spectrum to discontinue using BPC’s Spectrum License before April 18, 2016, because BPC Spectrum had a pending contract to transfer control of its 700 MHz licenses to CaHRA. The Commission’s Universal Licensing System shows no record of a spectrum lease from BPC Spectrum to Full Spectrum.

10. With regard to an equipment certification, Mr. Kantor informed the agent that Full Spectrum completed the FCC authorization process for the Cobalt Radio at the Bay Area Compliance Laboratory.¹⁹ Mr. Kantor, however, did not produce a certification from the FCC for the Cobalt Radio to substantiate his claims.

¹⁰ *Id.*

¹¹ *Id.*

¹² Email from FCC Field Agent to Stewart Kantor, CEO, Full Spectrum, Inc. (May 9, 2017, 11:23 a.m.) (on file in EB-FIELDWR-17-00024047).

¹³ *Id.* at May 9, 2017, 12:22 p.m. (on file in EB-FIELDWR-17-00024047).

¹⁴ Email from Stewart Kantor, CEO, Full Spectrum, Inc., to FCC Field Agent (May 9, 2017, 1:07 p.m.) (on file in EB-FIELDWR-17-00024047).

¹⁵ Email from FCC Field Agent to Stewart Kantor, CEO, Full Spectrum, Inc. (May 23, 2017, 8:47 a.m.) (on file in EB-FIELDWR-17-00024047).

¹⁶ Email from Stewart Kantor, CEO, Full Spectrum, Inc., to FCC Field Agent, (May 24, 2017, 8:13 p.m.) (May 24 Email) (on file in EB-FIELDWR-17-00024047). Mr. Kantor told the agent that BPC Spectrum sold its spectrum to the California High-Speed Rail Authority (CaHRA) on March 5, 2016, but Full Spectrum had not reached yet an agreement with CaHRA to continue using the spectrum. *Id.*

¹⁷ See May 24 Email, at Attachment.

¹⁸ Email from Stewart Kantor, CEO, Full Spectrum, Inc., to FCC Field Agent, (May 26, 2017, 1:31 p.m.) (on file in EB-FIELDWR-17-00024047). See Email from Robert Finch, Beach Point Capital to Stewart Kantor, Full Spectrum (Apr. 12, 2016, 6:33 a.m.) (on file in EB-FIELDWR-17-00024047).

¹⁹ May 24 Email.

11. On August 11, 2017, the Enforcement Bureau's Los Angeles Regional Office issued a Notice of Unlicensed Operation (NOUO) to Full Spectrum advising the Company that operation of the Cobalt Radio was found to have caused interference to Verizon Wireless C Block Upper 700 MHz spectrum, affecting over 200 Verizon Wireless base stations in San Jose, California.²⁰ In addition, the NOUO notified Full Spectrum that it must have a station license to operate the Cobalt Radio on the 776 MHz – 787 MHz frequency band as required by Section 301 of the Communications Act of 1934, as amended (Act), and that the Cobalt Radio at issue had no label with an FCC ID and was not FCC-certified as required by Section 27.51(a) of the Commission's rules.²¹

12. On August 18, 2017, Full Spectrum responded to the NOUO, reiterating that its operation on 785 MHz – 790 MHz was inadvertent due to installer error and that, upon learning about the resulting interference, it ceased operations.²² In addition, Full Spectrum stated that its previous authority to operate on the subject frequencies had expired.²³ Moreover, Full Spectrum stated it would not resume operations until it obtained authorization from the current licensee and corrected the error in the radio configuration.²⁴ Full Spectrum also indicated the Cobalt Radio had been certified under FCC ID X27FS-CP757787.²⁵ A review of the Commission's Office of Engineering and Technology Equipment Authorization database shows the Cobalt Radio was certified for use, but not until July 6, 2017.²⁶

III. DISCUSSION

13. We find that Full Spectrum, by its own admissions, apparently willfully and repeatedly violated Section 301 of the Act and Sections 1.903(a), 2.805(a), and 27.51(a) of the Commission's rules. Section 301 of the Act states that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States without a license granted by the Commission.²⁷ Section 1.903(a) of the Commission's rules requires that stations in the Wireless Radio Services²⁸ must be used and operated only in accordance with the rules applicable to their particular service and with a valid authorization granted by the Commission.²⁹ Section 2.805(a) requires radio frequency equipment to be authorized by the Commission prior to operation.³⁰ Section 27.51(a) of the Commission's rules provides that each transmitter utilized for operation must be of the type that has been authorized by the Commission under its certification procedure.³¹

²⁰ Notice of Unlicensed Operation to Stewart Kantor, San Jose, CA (dated Aug. 11, 2017) (on file in EB-FIELDWR-17-00024047).

²¹ *Id.*

²² Response to the Notice of Unlicensed Operation from Stewart Kantor to Lark Hadley, Regional Director, Region Three, Enforcement Bureau (dated Aug. 18, 2017) (on file in EB-FIELDWR-17-00024047).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ See Office of Engineering and Technology Equipment Authorization Database, https://ebats.fcc.gov/ebats-appfiles/documents/FCC_OET_TCB_Electronic_Fi_ijcm2vrusg.pdf.

²⁷ 47 U.S.C. § 301.

²⁸ The term "Wireless Radio Services" is defined as including wireless communications services authorized under Part 27 of the Commission's rules, therefore encompassing frequencies 785 MHz – 790 MHz. 47 CFR § 1.907.

²⁹ *Id.* § 1.903(a).

³⁰ *Id.* § 2.805(a).

³¹ *Id.* § 27.51.

A. Full Spectrum is Apparently Liable for Causing Harmful Interference to Verizon Wireless's Upper 700 MHz C Block Service in San José, California

14. Full Spectrum apparently willfully and repeatedly violated Section 301 of the Act by causing harmful interference to a licensed operator. Section 301 requires that a person or entity shall not use or operate a device to transmit a broadcast signal when such use or operation causes interference.³² As discussed above, on April 5, 2017, agents from the San Francisco Office determined by radio direction-finding techniques that the Cobalt Radio was the source of unauthorized transmissions that caused harmful interference to the Verizon Wireless 776 MHz – 787 MHz C Block Upper 700 MHz band service, affecting over 200 Verizon Wireless base stations in San José, California from March 27, 2017, to April 5, 2017. Verizon Wireless confirmed the unauthorized transmissions ceased immediately when Full Spectrum shut off the radio at 15815 Mt. Hamilton Road. Moreover, as discussed above, Full Spectrum admitted that “one of [its] technicians mistakenly misconfigured the radio to transmit over a wider bandwidth than intended,” partially overlapping the adjacent licensee, Verizon Wireless’s, channel.³³ Therefore, based on the record before us, Full Spectrum apparently willfully and repeatedly violated Section 301 of the Act.

B. Full Spectrum is Apparently Liable for Operating in the Upper 700 MHz Spectrum Band without Commission Authorization

15. Full Spectrum apparently willfully and repeatedly violated Section 301 of the Act and Section 1.903(a) of the Commission’s rules by operating in the 700 MHz band without a valid Commission authorization. Section 301 of the Act requires that, in order to transmit a radio frequency signal, a person must first obtain and hold a valid authorization from the Commission.³⁴ Section 1.903(a) of the Commission’s rules requires Full Spectrum to have a valid license for the 776 MHz – 787 MHz band before it began transmitting in this frequency range.³⁵ As detailed above, Full Spectrum did not have a Commission license to operate on this spectrum before it began its transmissions. Nor did it have a spectrum lease.³⁶ Moreover, even if Full Spectrum had a basis for thinking it had a valid spectrum lease with BPC Spectrum, Full Spectrum admitted that its purported authority to operate in this frequency band would have terminated on April 18, 2016, almost a year before the transmissions as issue.³⁷ Finally, Full Spectrum’s assertion that it had been “operating [the radio for several months without causing any known interference]”³⁸ does not excuse its failure to have a license to operate in the first place. Rather, Full

³² 47 U.S.C. § 301.

³³ As the Commission has repeatedly held, violations resulting from inadvertent error or failure to become familiar with the FCC’s requirements can be and often are willful violations. *See Acumen Commc’ns*, Forfeiture Order, 30 FCC Rcd 6472, 6475 (2015) citing *Emery Telephone*, Memorandum Opinion and Order, 13 FCC Rcd 23854, 23859, para. 12 (1998) (by issuing forfeitures for inadvertent violations corrected after the fact, “the Bureau impels licensees to be more familiar with the applicable rules in structuring future conduct”), *recon. dismissed in part and denied in part*, Memorandum Opinion and Order, 15 FCC Rcd 7181 (1999).

³⁴ 47 U.S.C. § 301.

³⁵ 47 CFR § 1.903(a).

³⁶ *See supra* para. 9.

³⁷ In the August 10, 2015, letter agreement, BPC Spectrum, LLC attempted to grant Full Spectrum authority to test the performance of its type accepted FullMax radios within the South Bay Area of Silicon Valley “in accordance with Section 2.803(e)(3)(iii) of the FCC’s rules.” We note the referenced section was not a valid section within Title 47 of the Code of Federal Regulations when the contract was executed. Notwithstanding, Full Spectrum was not authorized to operate in the Upper 700 MHz A Block because (i) the letter agreement expired and, (ii) the licensee never filed the leasing arrangement with the Commission as required by Section 1.9020(e) of the Commission’s rules. *Id.* § 1.9020(e).

³⁸ *See supra* note 5.

Spectrum operated without a required instrument of authorization for at least the period of March 27, 2017, to April 5, 2017. Therefore, based on the record before us, we determine that Full Spectrum apparently willfully and repeatedly violated Section 301 of the Act and Section 1.903(a) of the Commission's rules.³⁹

C. Full Spectrum is Apparently Liable for Use of Unauthorized Radio Frequency Equipment

16. Full Spectrum apparently operated unauthorized radio equipment in violation of the Commission's rules. Section 2.805(a) of the Commission's rules provides in relevant part that, except in a few narrow circumstances not pertinent here, "[a] radio frequency device may not be operated prior to equipment authorization."⁴⁰ In addition, Section 27.51(a) of the Commission's rules requires radio frequency devices operating in Wireless Communications Services frequencies under Part 27 of the Commission's rules to be authorized in accordance with the Commission's certification procedures.⁴¹ Despite repeated requests by the agent for Full Spectrum to produce the authorization documentation specific to the Cobalt Radio, Full Spectrum could not do so. Instead, Full Spectrum said it had completed the FCC authorization process at the Bay Area Compliance Laboratory. This, however, is not the same as gaining certification from the Commission. More importantly, according to OET's Equipment Authorization database, the Cobalt Radio was not certified until July 6, 2017, four months after the operations at issue. Because Full Spectrum operated an unauthorized device from at least March 27, 2017, through April 5, 2017, we find Full Spectrum apparently willfully and repeatedly violated Sections 2.805(a) and 27.51(a) of the Commission's rules.⁴²

D. Proposed Forfeiture Amount

17. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission.⁴³ Here, Section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against Full Spectrum of up to \$19,639 for each day of a continuing violation, up to a statutory maximum of \$147,290 for a single act or failure to act.⁴⁴ In exercising our forfeiture authority,

³⁹ 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. 47 U.S.C. § 312(f)(1). The Commission may also assess a forfeiture for violations that are merely repeated, and not willful. *See e.g., Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (proposing a forfeiture for, *inter alia*, a cable television operator's repeated signal leakage) (*Callais Cablevision*), Forfeiture Order, 17 FCC Rcd 22626 (2002). The term "repeated" means the commission or omission of such act more than once or for more than one day. *See* 47 U.S.C. § 312(f)(2); *Callais Cablevision*, 16 FCC Rcd at 1362, para. 9.

⁴⁰ 47 CFR § 2.805(a).

⁴¹ *Id.* § 27.51(a).

⁴² We also remind Full Spectrum that the Commission prohibits licensees and regulatees from marketing uncertified radio frequency equipment. Section 2.803(g) of the Commission's rules provides, in pertinent 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." *Id.* § 2.803(g).

⁴³ 47 U.S.C. § 503(b).

⁴⁴ *See* 47 U.S.C. § 503(b)(2)(D); 47 CFR §§ 1.80(b)(7), (9). The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, requires agencies, starting in 2017, to adjust annually the civil monetary penalties covered thereunder, and to publish each such annual adjustment by January 15 of each year. 28 U.S.C. § 2461 note, citing the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, § 4(a). *See also* Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments and Agencies re Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act

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Section 503(b)(2)(E) requires that we consider 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 such other matters as justice may require.”⁴⁵ In addition, the Commission has established forfeiture guidelines that establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.⁴⁶

18. Pursuant to the Commission’s *Forfeiture Policy Statement* and Section 1.80(b) of the Commission’s rules, the base forfeiture amount for operations without an instrument of authorization for the service is \$10,000, the base forfeiture amount for harmful interference to radio communications is \$7,000, and the base forfeiture for using unauthorized equipment is \$5,000. As detailed above, we find that Full Spectrum is apparently liable for each of these violations. Accordingly, we propose a total base forfeiture of \$22,000.

19. In addition, the Commission has identified criteria under which we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator, or where there are prior violations of any FCC requirements.⁴⁷ In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture.⁴⁸ Based on the facts of this case, we decline to propose either an upward or downward adjustment. Therefore, after applying the Forfeiture Policy Statement, Section 1.80 of the Commission’s rules, and the statutory factors, as well as considering the facts in this case, we propose a total forfeiture of \$22,000 for which Full Spectrum is apparently liable.

IV. CONCLUSION

20. We have determined that Full Spectrum apparently willfully and repeatedly violated Section 301 of the Act and Sections 1.903(a), 2.805(a), and 27.51(a) of the Commission’s rules.⁴⁹ Accordingly, we find Full Spectrum is apparently liable for a total forfeiture of \$22,000.

V. ORDERING CLAUSES

21. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act⁵⁰ and Section 1.80 of the Commission’s rules,⁵¹ Full Spectrum, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of Twenty-Two Thousand dollars (\$22,000) for willful and repeated violations of Section 301 of the Act, and willful and repeated violations of Sections 1.903(a), 2.805(a), and 27.51(a) of the Commission’s rules.⁵²

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Improvements Act of 2015, M-17-11, Dec. 16, 2016 at 1. The Bureau released the order making the 2018 annual adjustment on January 5, 2018. See *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 18-12 (EB 2018), 2018 WL 305640. The 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, “including [penalties] whose associated violation predated such increase.” See 28 U.S.C. § 2461 note, citing the Federal Civil Penalties Inflation Adjustment Act, as amended, § 6.

⁴⁵ 47 U.S.C. § 503(b)(2)(E).

⁴⁶ 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ 47 U.S.C. § 301; 47 CFR §§ 1.903(a), 2.805(a), and 27.51(a).

⁵⁰ 47 U.S.C. § 503(b).

⁵¹ 47 CFR § 1.80.

⁵² 47 U.S.C. § 301.

22. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Full Spectrum, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraphs 25 and 26 below.

23. 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. Full Spectrum, Inc., shall send electronic notification of payment to Field@fcc.gov and Joy.Ragsdale@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁵³ 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 that should be followed based on the form of payment selected:

- 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.

24. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.⁵⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

25. 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 Commission's rules.⁵⁵ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Joy M. Ragsdale, Enforcement Bureau, Field Counsel, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Field@fcc.gov and Joy M. Ragsdale, joy.ragsdale@fcc.gov.

26. 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; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial

⁵³ A copy of an FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁵⁴ See 47 CFR § 1.1914.

⁵⁵ *Id.* §§ 1.16, 1.80(f)(3).

status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

27. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both certified mail, return receipt requested, and regular mail to Stewart Kantor, CEO, Full Spectrum, Inc., 687 N. Pastoria Avenue, Sunnyvale, California 94085.

FEDERAL COMMUNICATIONS COMMISSION

Lark Hadley
Regional Director
Region Three
Enforcement Bureau