unlicensed operation creates a danger of interference to important radio communications services and may subject the operator to severe penalties, we emphasize the importance of complying strictly with the legal requirements mentioned above. Operation of radio transmitting equipment without proper authority granted by the Commission should *cease immediately*. (emphasis in the original).

The letter also informed Ptak that he need not reply but, if desired, he could submit relevant information to Perry. Commission records reveal no response from Ptak.

6. By a letter dated May 12, 1997 and transmitted via facsimile on May 13, 1997, a further complaint from the San Marcos Police Department concerning Ptak's unlicensed operation was received by Perry. Among other things, the complaint reflected that unauthorized transmissions by Ptak were continuing. Perry's investigations indicated that the unauthorized transmissions by Ptak were still ongoing. On March 20, 1998, using direction finding techniques, Perry confirmed that Ptak was continuing to operate.

7. *Discussion*. Section 301 of the Act, 47 U.S.C. 301, provides in pertinent part:

It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of radio transmission. * * * No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio (a) from one place in any State * * * to another place in the same State * * * except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.

Anyone transmitting radio transmissions in the United States must have authority from the Commission to do so. *See U.S.* v. *Medina,* 718 F. Supp. 928 (S.D. Fla. 1989); *U.S.* v. *Weiner,* 701 F.Supp. 15 (D.Mass. 1988), *aff'd,* 887 F.2d 259 (1st Cir. 1989); *Stephen Paul Dunifer,* 11 FCC Rcd 718, 720–21, ¶¶ 7–9 (1995) (regarding Commission's licensing requirement); and *Order to Show Cause and Notice of Apparent Liability,* 50 FR 20603, published May 17, 1985 (Alan H. Weiner). As the facts recited above reflect, it appears that Ptak has violated and may currently be violating Section 301 of the Act.

Ordering Clauses

8. Accordingly, It Is Ordered that, pursuant to Section 312(c) of the Act, Joseph Frank Ptak Is Directed To Show Cause why he should not be ordered to Cease And Desist from violating Section 301 of the Act, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

1. To determine whether Joseph Frank Ptak has transmitted radio energy without appropriate authorization in violation of Section 301 of the Act.

2. To determine whether, based on the evidence adduced pursuant to the preceding issue, Joseph Frank Ptak should be ordered to cease and desist from violating Section 301 of the Act.

9. *It is further ordered* that, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Compliance and Information Bureau with respect to issues 1 and 2.

10. *It is further ordered* that this Order to Show Cause shall constitute a Bill of Particulars with respect to all foregoing issues.

11. *It is further ordered* that, to avail himself of the opportunity to be heard, Joseph Frank Ptak, pursuant to Section 1.91(c) of the rules, in person or by attorney, Shall File in triplicate with the Commission within twenty (20) days of the mailing of this Order, a written appearance stating that he will appear at the hearing and present evidence on the matters specified in this Order.

12. *It is further ordered* that, without regard as to whether the hearing record warrants an order that Joseph Frank Ptak cease and desist from violating the Act or the rules, it shall be determined, pursuant to Section 503(b) of the Act, whether an Order For Forfeiture in an amount not to exceed $11,000 [1] shall be issued against Joseph Frank Ptak for the alleged violations of Section 301 of the Act.

13. *It is further ordered* that in connection with the possible forfeiture liability noted above, this document constitutes a notice of opportunity for hearing pursuant to Section 503(b) of the Act and Section 1.80 of the rules.

14. *It is further ordered* that a copy of each document filed in this proceeding subsequent to the date of adoption of this *Order shall be served* on the counsel of record appearing on behalf of the Chief, Compliance and Information Bureau. Parties may inquire as to the identity of such counsel by calling the Compliance and Information Bureau at (202) 418–1100, TTY (202) 418–2544. Such service *Shall be addressed* to the named counsel of record, Compliance and Information Bureau, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

15. *It is further ordered* that the Office of Public Affairs, Reference Operations Division of the Commission send a copy of this Order by Certified Mail—Return Receipt Requested to: Joseph Frank Ptak, 505 Patricia Drive, San Marcos, Texas 78666.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–12815 Filed 5–12–98; 8:45 am]

BILLING CODE 6712–01–P

[1] This figure reflects the maximum appropriate forfeiture amount in light of the specific facts at issue. *See* 47 U.S.C. 503(b)(2)(C); 47 CFR 1.80(b)(3), (b)(4), (b)(5); *see also In re 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)(petitions for reconsideration pending).

FEDERAL COMMUNICATIONS COMMISSION

[FCC 98–63]

Order To Show Cause and Notice of Opportunity for Hearing

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission will hold a hearing to determine whether to issue a Cease and Desist Order, and whether a forfeiture will be imposed for the unlicensed operation of a radio station in violation of the Communications Act in docket case CI 98–47.

DATES: Prehearing on May 19, 1998, 9:00 am; Hearing on June 23, 1998, 10:00 am.

ADDRESSES: All pleadings and papers must be mailed to Office of the Secretary, 1919 M Street, N.W., Room 222, Washington, D.C. 20554; Hearings held at Offices of the Commission.

FOR FURTHER INFORMATION CONTACT: Norman Goldstein and James Shook, Mass Media Bureau, (202) 418–1430, e-mail ngoldste@fcc.gov and jshook@fcc.gov

SUPPLEMENTARY INFORMATION:

Released: April 6, 1998

1. The Commission has under consideration information concerning the transmission of radio signals without a license by Mark A. Rabenold (''Rabenold''). For the reasons that follow, we order Rabenold to show cause, pursuant to Section 312(c) of the Communications Act of 1934, as amended (the ''Act''), 47 U.S.C. 312(c), why we should not issue a cease and desist order which prohibits further unauthorized transmissions on his part. Also, pursuant to Section 1.80(g) of the Commission's Rules (the ''rules''), 47 CFR 1.80(g), this order constitutes a notice of opportunity for hearing to

determine whether, in addition to or as an alternative to the issuance of a cease and desist order, a forfeiture should be imposed for violations of the Act and the rules.

2. *Background.* On August 21, 1997, Michael P. Rothe (''Rothe'') and Donald C. Roberson (''Roberson''), employees of the Commission's Compliance and Information Bureau (''CIB'') stationed in the Seattle Field Office observed an unauthorized FM broadcast station operating on 105.1 MHz in the Oroville, Washington, area. Using directional finding techniques, they determined that the signals came from an antenna at the back of the building at 1214 Main Street, Oroville. Rothe and Roberson measured the strength of the signal from two locations. At a distance of 103 meters from the antenna, the signal strength was measured at 6.5 mV/m, while, from a slightly different angle and at a distance of 99.3 meters, the signal strength was measured at 5.8 mV/m. Rothe and Roberson calculated that these values are the equivalent of 223,900 ''V/m at 3 meters and 180,400 ''V/m at 3 meters, respectively, both of which exceed the limit for unlicensed operation in the FM band of 250 ''V/m at 3 meters prescribed by Section 15.239 of the rules, 47 C.F.R. § 15.239. Further investigation by Rothe and Roberson appeared to indicate that the operator was Rabenold.

3. That same day, Rothe and Roberson located Rabenold. Rabenold informed them that he would let them inspect the station if they filled out a questionnaire he had prepared. After Rothe and Roberson refused to complete the questionnaire, Rabenold stated he would not let them inspect the station. Rothe and Roberson then handed Rabenold a letter, which advised Rabenold that no license had been issued by the Commission to him for broadcast operations on 105.1 MHz. The letter also stated that:

> [O]peration of radio transmitting equipment without a valid radio station authorization and/or refusal to allow inspection of your radio station constitutes violation of the Federal laws cited above and could subject the owner, operator or anyone aiding and abetting this illegal operation to an administrative penalty of monetary forfeiture under Section 503(b) of the Act, 47 U.S.C. 503(b) * * * UNLICENSED OPERATION OF THIS RADIO STATION MUST BE DISCONTINUED IMMEDIATELY. (emphasis in original).

The letter also solicited Rabenold's comments on the matter and advised him that he could request an interview with the Commission to discuss the matter.

By certified letter dated September 25, 1997, Dennis J. Anderson (''Anderson''), District Director of the Seattle Field Office, informed Rabenold that Commission agents had determined that he was operating illegally on 105.1 MHz in that the field strength of the signal transmitted by Rabenold exceeded the maximum authorized for operation without a license by Section 15.239(b) of the rules. 47 CFR 15.239(b). Anderson's letter advised Rabenold immediately to cease operating the unlicensed FM radio broadcast station and that operation of a radio transmitter without proper authorization could subject Rabenold to a forfeiture as well as criminal penalties. Anderson's letter requested a reply describing the steps that had been taken to ensure that illegal broadcasts did not recur. Commission records indicate that Rabenold appears to have signed the return receipt but that he did not submit a response. On March 12, 1998, Roberson confirmed that Rabenold's unauthorized transmissions are continuing.

5. *Discussion.* Section 301 of the Act, 47 U.S.C. 301, provides in pertinent part:

> It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of radio transmission. * * * No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio (a) from one place in any State * * * to another place in the same State * * * except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.

Anyone transmitting radio transmissions in the United States must have authority from the Commission to do so. *See U.S.* v. *Medina,* 718 F. Supp. 928 (S.D. Fla. 1989); *U.S. v.* Weiner, 701 F.Supp. 15 (D.Mass. 1988), *aff'd,* 887 F.2d 259 (1st Cir. 1989); *Stephen Paul Dunifer,* 11 FCC Rcd 718, 720–21, ¶¶ 7–9 (1995) (regarding Commission's licensing requirement); and *Order to Show Cause and Notice of Apparent Liability,* 50 FR 20603, published May 17, 1985 (Alan H. Weiner). As the facts recited above reflect, it appears that Rabenold has violated and may currently be violating Section 301 of the Act.

Ordering Clauses

6. Accordingly, *it is ordered* that, pursuant to Section 312(c) of the Act, Mark A. Rabenold Is Directed To Show Cause why he should not be ordered to Cease And Desist from violating Section 301 of the Act, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

1. To determine whether Mark A. Rabenold has transmitted radio energy without appropriate authorization in violation of Section 301 of the Act.

2. To determine whether, based on the evidence adduced pursuant to the preceding issue, Mark A. Rabenold should be ordered to cease and desist from violating Section 301 of the Act.

7. *It is further ordered* that, pursuant to Section 312(d) of the Act, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Compliance and Information Bureau with respect to issues 1 and 2.

8. *It is further ordered* that this Order to Show Cause shall constitute a Bill of Particulars with respect to all foregoing issues.

9. *It is further ordered* that, to avail himself of the opportunity to be heard, Mark A. Rabenold, pursuant to Sections 1.91(c) of the rules, in person or by attorney, Shall File in triplicate with the Commission within twenty (20) days of the mailing of this Order, a written appearance stating that he will appear at the hearing and present evidence on the matters specified in this Order.

10. *It is further ordered* that, without regard as to whether the hearing record warrants an order that Mark A. Rabenold cease and desist from violating the Act or the rules, it shall be determined, pursuant to Section 503(b) of the Act, whether an Order For Forfeiture in an amount not to exceed $11,000 [1] shall be issued against Mark A. Rabenold for the alleged violations of Section 301 of the Act.

11. *It is further ordered* that in connection with the possible forfeiture liability noted above, this document constitutes a notice of opportunity for hearing pursuant to Section 503(b) of the Act and Section 1.80 of the rules.

12. *It is further ordered* that a copy of each document filed in this proceeding subsequent to the date of adoption of this Order Shall Be Served on the counsel of record appearing on behalf of the Chief, Compliance and Information Bureau. Parties may inquire as to the identity of such counsel by calling the Compliance and Information Bureau at (202) 418–1100, TTY (202) 418–2544. Such service Shall Be Addressed to the named counsel of record, Compliance and Information Bureau, Federal

[1] This figure reflects the maximum appropriate forfeiture amount in light of the specific facts at issue. See 47 U.S.C. 503(b)(2)(C); 47 CFR 1.80(b)(3), (b)(4), (b)(5); *see also In re 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)(petitions for reconsideration pending).

Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

13. *It is further ordered* that the Office of Public Affairs, Reference Operations Division of the Commission send a copy of this Order by Certified Mail—Return Receipt Requested to: Mark A. Rabenold, 960 Swanson Mill Road, Tonasket, Washington 98855.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–12812 Filed 5–12–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FCC 98–64]

Order To Show Cause and Notice of Opportunity for Hearing

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission will hold a hearing to determine whether to issue a Cease and Desist Order, and whether a forfeiture will be imposed for the unlicensed operation of a radio station in violation of the Communications Act in docket case CI 98–48.

DATES: Prehearing on May 21, 1998, 9:00 am; Hearing on June 23, 1998, 10:00 am.

ADDRESSES: All pleadings and papers must be mailed to Office of the Secretary, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, Hearings held at Offices of the Commission.

FOR FURTHER INFORMATION CONTACT: Norman Goldstein and James Shook, Mass Media Bureau, (202) 418–1430, e-mail ngoldste@fcc.gov and jshook@fcc.gov

SUPPLEMENTARY INFORMATION:

Released: April 6, 1998.

1. The Commission has under consideration information concerning the transmission of radio signals without a license by Jerry Szoka (''Szoka''). For the reasons that follow, we order Szoka to show cause, pursuant to Section 312(c) of the Communications Act of 1934, as amended (the ''Act''), 47 U.S.C. 312(c), why we should not issue a cease and desist order which prohibits further unauthorized transmissions on his part. Also, pursuant to Section 1.80(g) of the Commission's Rules (the ''rules''), 47 CFR 1.80(g), this order constitutes a notice of opportunity for hearing to determine whether, in addition to or as an alternative to the issuance of a cease and desist order, a forfeiture should be imposed for violations of the Act and the rules.

2. Background. On November 4, 1996, James A. Bridgewater (''Bridgewater''), the Detroit Field Office Director of the Commission's Compliance and Information Bureau, received information from Mark Krieger, Chairman of the Society of Broadcast Engineers, concerning an unauthorized radio station operating as ''The Grid,'' on 96.9 MHz. On February 20, 1997, Bridgewater sent a letter under his signature by certified mail to ''The Grid.'' In pertinent part, the letter stated:

> Unlicensed operation is a violation of Section 301 of the Act, 47 U.S.C. 301, and may subject the operator to substantial monetary fines, in rem forfeiture action, and criminal sanctions including imprisonment. See 47 U.S.C. 401, 501, 503, 510. Because unlicensed operation creates a danger of interference to important radio communications services and may subject the operator to severe penalties, we emphasize the importance of complying strictly with the legal requirements mentioned above. Operation of radio transmitting equipment without proper authority granted by the Commission should *cease immediately*. (Emphasis in the original).

The letter also informed ''The Grid'' that a response was required within 15 days of receipt of the letter. On March 31, 1997, the Commission received an unsigned reply dated March 26, 1997, from Szoka, in which he acknowledged receipt of Bridgewater's letter and stated that he would take necessary actions to meet FCC requirements. He also urged the Commission to ignore the unlicensed operation because the station is top quality, provides a much needed community service without commercials, and is not interfering with other stations.

3. On June 11, 1997, Bridgewater sent Szoka a second warning letter regarding the unlicensed operation on 96.9 MHz. That letter also required a reply within 15 days of receipt. Commission records reveal no response from Szoka.

4. Between June 18, 1997, and September 9, 1997, the Commission received four additional complaints regarding the unlicensed broadcast operation at 96.9 MHz. Each complaint indicated that unauthorized transmissions were continuing.

5. On September 11, 1997, FCC Agents Patrick G. Patterson (''Patterson'') and Paul S. Mako (''Mako'') drove to Cleveland, Ohio, in a Commission mobile direction finding vehicle. At approximately 5:10 p.m., Patterson and Mako positively identified the location of the transmitted signal as emanating from 1281 West 9th Street, Cleveland, Ohio. This address is the location of ''The Grid,'' a commercial night club. Patterson and Mako observed that the transmitting antenna was located at the top of the 4 1/2 story building on the north side and approximately half way between the front and back of the building. Patterson and Mako also determined that the coaxial cable connected to the antenna entered the building housing the establishment known as ''The Grid.'' The agents took a field strength measurement of the signal identified as ''The Grid.'' The measurement was made approximately 171 meters (561 feet) from the transmitting antenna and recorded a value of 35.55 millivolts/meter (33,550 microvolts/meter). This measurement far exceeds the limit set out in Section 15.239(b) of the rules, 47 CFR 15.239(b), which allows unlicensed operation of a low power radio transmitter in the FM broadcast band provided the signal level is below 250 μV/m at a distance of 3 meters. The 96.9 FM signal was also monitored via the direction finding vehicle's normal AM/FM radio by Patterson and Mako while exiting the Cleveland area and heading west on I–90. The signal could be heard for approximately 18.6 miles. On Friday, March 19, 1998, at 4:57 pm, FCC Agent Patterson confirmed that the station was still operating.

6. Discussion. Section 301 of the Act, 47 U.S.C. 301, provides in pertinent part: It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of radio transmission. * * * No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio (a) from one place in any State * * * to another place in the same State * * * except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.

Anyone transmitting radio transmissions in the United States must have authority from the Commission to do so. *See U.S.* v. *Medina,* 718 F. Supp. 928 (S.D. Fla. 1989); *U.S.* v. *Weiner,* 701 F.Supp. 15 (D.Mass. 1988), *aff'd,* 887 F.2d 259 (1st Cir. 1989); *Stephen Paul Dunifer,* 11 FCC Rcd 718, 720–21, ¶¶ 7–9 (1995) (regarding Commission's licensing requirement); and *Order to Show Cause and Notice of Apparent Liability,* 50 FR 20603, published May 17, 1985 (Alan H. Weiner). As the facts recited above reflect, it appears that Szoka has violated and may currently be violating Section 301 of the Act.

Ordering Clauses

7. Accordingly, It Is Ordered that, pursuant to Section 312(c) of the Act,