

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

In the Matter of)	File No. EB-08-SE-664
)	
Redflex Traffic Systems, Inc.)	Acct. No. 200932100018
)	
)	FRN No. 0018359760

ORDER

Adopted: December 19, 2008

Released: December 23, 2008

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Redflex Traffic Systems, Inc. (“Redflex”). The Consent Decree terminates an investigation by the Bureau against Redflex for possible violations of Section 302(b) of the Communications Act of 1934, as amended (“Act”),¹ and Sections 2.803(a), 2.925, 15.19, 15.201 and 90.203 of the Commission’s rules (“Rules”)² regarding the marketing and use of two models of radar speed meter equipment.

2. The Bureau and Redflex have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Redflex possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,³ and sections 0.111 and 0.311 of the Commission’s Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that all third-party complaints against Redflex before the Bureau related to the above-captioned-investigation as of the date of this Consent Decree **ARE DISMISSED**.

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.803(a), 2.925, 15.19, 15.201 and 90.203.

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

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 Karen Finley, Chief Executive Officer and President, Redflex Traffic Systems, Inc., 23751 N. 23rd Avenue, Suite 150 Phoenix, Arizona 85085-1854 and Robert J. Ungar, Esq., Fish & Richardson P.C., 1425 K Street, N.W., Washington, D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Redflex Traffic Systems, Inc. (“Redflex”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Redflex violated Section 302(b) of the Communications Act of 1934, as amended (“Act”),¹ and Sections 2.803(a), 2.925, 15.19, 15.201 and 90.203 of the Commission’s rules (“Rules”)² regarding the marketing and use of two models of radar speed meter equipment.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Complaints” means third-party complaints that may have been received by, or are in the possession of, the Commission or Bureau alleging violations by Redflex of the rules governing the marketing and use of two models of radar speed meter equipment.
 - (f) “Compliance Plan” means the program described in this Consent Decree at paragraph 8.
 - (g) “Effective Date” means the date on which the Bureau releases the Adopting Order.

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.803(a), 2.925, 15.19, 15.201 and 90.203.

- (h) “Investigation” means the investigation the investigation commenced by the Bureau’s October 9, 2008 letter of inquiry (“LOI”)³ into whether Redflex violated Section 302(b) of the Act and Sections 2.803(a), 2.925, 15.19, 15.201 and 90.203 of the Rules.⁴
- (i) “Parties” means Redflex and the Bureau.
- (j) “Redflex” means Redflex Traffic Systems, Inc. and its predecessors-in-interest and successors-in-interest.
- (k) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Pursuant to Section 302(b) of the Act⁵ and Sections 2.803(a), 15.201 and 90.203 of the Rules,⁶ radio frequency devices subject to certification may not be marketed or used unless authorized by the Commission in accordance with the applicable technical and administrative provisions of the Rules. Under Section 2.925 of the Rules, equipment that is required to be certified must be labeled with a permanently affixed nameplate or label that lists the FCC identifier,⁷ and Section 15.19 of the Rules imposes additional labeling requirements.⁸

3. On October 9, 2008, the Bureau issued an LOI to Redflex.⁹ The October 9, 2008 LOI directed Redflex, among other things, to submit a sworn written response to a series of questions relating to the marketing of two models of radar speed meters. Redflex responded to the October 9, 2008 LOI on November 10, 2008.¹⁰

III. TERMS OF AGREEMENT

4. **Adopting Order.** 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 without change, addition, modification, or deletion.

5. **Jurisdiction.** Redflex agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

³ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Karen Finley, President/CEO, Redflex Traffic Systems, Inc. (October 9, 2008) (“October 9, 2008 LOI”).

⁴ 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803(a), 2.925, 15.19, 15.201 and 90.203.

⁵ 47 U.S.C. § 302a(b).

⁶ 47 C.F.R. §§ 2.803(a), 15.201 and 90.203.

⁷ 47 C.F.R. § 2.925.

⁸ 47 C.F.R. § 15.19.

⁹ October 9, 2008 LOI.

¹⁰ See Letter from Karen Finley, President/CEO, Redflex Traffic Systems, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (November 10, 2008).

6. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

7. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its investigation and dismiss the Complaint. In consideration for the termination of said investigation and dismissal of the Complaint, Redflex agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Redflex concerning the matters that were the subject of the investigation. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Redflex with respect to Redflex's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission licenses or authorizations

8. **Compliance Plan.** For purposes of settling the matters set forth herein, Redflex agrees to maintain a Compliance Plan related to future compliance with the Act, the Commission's Rules, and the Commission's Orders. The Compliance Plan will include, at a minimum, the following components:

- (a) **Compliance Officer.** Redflex will designate its Director of Technology, Charles Carpinteri ("Compliance Officer") to be responsible for administering the Compliance Plan.
- (b) **Training.** Redflex will retrain, and provide materials concerning Parts 2, 15 and 90 of the Rules and the requirements of the Consent Decree to all of its employees who are involved directly or indirectly in the use and distribution or use of the radio frequency products imported and used by Redflex in the United States.
- (c) **Compliance Reports.** Redflex will file compliance reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date. Each report shall include a compliance certificate from the Compliance Officer asserting that the Compliance Officer has personal knowledge that Redflex has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the Compliance Officer's compliance certification. All compliance reports shall be submitted to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W. Washington, D.C. 20554. All compliance reports shall also be submitted electronically to Deborah Broderson at Deborah.Broderson@fcc.gov and Kathryn Berthot at Kathy.Berthot@fcc.gov.
- (d) **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty-four (24) months after the Effective Date.

9. **Voluntary Contribution.** Redflex agrees that it will make a voluntary contribution to the United States Treasury in the amount of twenty-two thousand dollars (\$22,000). The payment will be

made within 30 days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. 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). Redflex will also send electronic notification on the date said payment is made to Deborah.Broderson@fcc.gov and Kathy.Berthot@fcc.gov.

10. **Waivers.** Redflex waives any and all rights it 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 the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification, or deletion. Redflex shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Redflex nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Redflex shall waive any statutory right to a trial *de novo*. Redflex hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

11. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

12. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Redflex does not expressly consent) that provision will be superseded by such Commission rule or Order.

13. **Successors and Assigns.** Redflex agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

14. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission’s Rules and Orders.

15. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

16. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

17. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

18. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

Date

Karen Finley
Chief Executive Officer and President
Redflex Traffic Systems, Inc.

Date