

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

In the Matter of)	
)	
Econopage of Cleveland, Inc.)	File No. EB-00-TS-215
)	
Licensee of Station KNKJ435)	NAL/Acct. No. 200132100001
)	
Columbus, Ohio)	

FORFEITURE ORDER

Adopted: February 7, 2001

Released: February 9, 2001

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of five thousand dollars (\$5,000) against Econopage of Cleveland, Inc. (“Econopage”) for willful violation of Section 301 of the Communications Act of 1934 (“Act”)¹, as amended, and Section 22.3 of the Commission’s Rules (“Rules”).² The violation involved Econopage’s operation of a paging facility without authorization from April 1, 1999 to October 18, 1999.

II. BACKGROUND

2. Econopage’s license to operate paging station KNKJ435 was set to expire on April 1, 1999. On April 1, 1999, Econopage filed a renewal application for paging station KNKJ435. The Wireless Telecommunications Bureau (“Wireless Bureau”) dismissed the renewal application on April 19, 1999 because the requisite filing fee did not accompany the application. When Econopage’s application was dismissed on April 19, 1999, its license expiration became effective as of April 1, 1999. On September 29, 1999, Econopage requested Special Temporary Authority (“STA”) to operate. On October 15, 1999, Econopage filed a renewal application for paging station KNKJ435 and a request for a waiver of Section 1.949 of the Rules, which requires, in pertinent part, that “[a]pplications for renewal of authorizations in the Wireless Radio Services must be filed no later than the expiration date of the authorization for which renewal is sought”³. The STA request was granted on October 6, 1999. On December 13, 1999, the Wireless Bureau granted the request for waiver of Section 1.949 and the late-filed renewal application.

¹ 47 U.S.C. § 301.

² 47 C.F.R. § 22.3.

³ 47 C.F.R. § 1.949.

3. On October 17, 2000, the Chief of the Enforcement Bureau, pursuant to Section 503(b) of the Act and Section 1.80 of the Rules,⁴ issued a Notice of Apparent Liability in the amount of \$5,000 to Econopage for operating paging station KNKJ435 without authorization.⁵

4. On November 15, 2000, Econopage filed a response with the Commission in which it requests reduction of the forfeiture amount. Econopage asserts that the forfeiture amount should be reduced because it did submit its renewal application timely; however, the application was submitted by a third-party without the required fees. Econopage contends that it did not receive sufficient notice from the third-party for it to properly respond to the application dismissal.

III. DISCUSSION

5. Section 301 of the Act sets forth the general mandate that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license. Section 22.3 of the Rules requires stations in the Public Mobile Services to be used and operated only in accordance with the rules and with a valid authorization.

6. Because Econopage's application was not renewed on April 1, 1999, we find that it did operate in violation of the Act and the Rules by operating paging station KNKJ435 without a license. The unauthorized operation occurred, admittedly, from April 1, 1999 to November 30, 1999. Even if Econopage had received more timely notice of the dismissal of its renewal application from the third-party who filed it, it would not have been possible for Econopage to receive such notice prior to the date its license expired, April 1, 1999. Consequently, there would still have been some period of time, at least nineteen days, during which Econopage would have been operating without a license. Moreover, although Econopage relied on a third-party to properly file its renewal application, "[l]icensees are expected to know and comply with the Commission's rules, and will not be excused for violations thereof, absent clear mitigating circumstances."⁶ Econopage has not presented mitigating circumstances that would warrant reducing the forfeiture amount.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,⁷ Econopage of Cleveland, Inc. IS LIABLE FOR A MONETARY FORFEITURE in the amount of five thousand dollars (\$5,000) for violating Section 301 of the Act and Section 22.3 of the Rules by operating station KNKJ435 without a license.

⁴ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

⁵ Econopage of Cleveland, Inc., 15 FCC Rcd 20,074 (EB 2000).

⁶ *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970).

⁷ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules,⁸ within 30 days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁹ Payment may be made by mailing a check or similar instrument, payable to the order of the "Federal Communications Commission," to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 200132100001. Requests for full payment under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

9. **IT IS FURTHER ORDERED** that, a copy of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested to counsel for Econopage of Cleveland, Inc., Schwaninger & Associates, Attention: Benjamin J. Aron, 1835 K Street, NW, Suite 650, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

⁸ 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 504(a).

¹⁰ See 47 C.F.R. § 1.1914.