

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

In the Matter of)	
)	
CHECKPOINT OF PENNSYLVANIA, INC.)	File No. EB-00-TS-292
Licensee of Paging Station WPCA811)	NAL/Acct. No. 200132100010
Williamsport, Pennsylvania)	

MEMORANDUM OPINION AND ORDER

Adopted: February 12, 2001

Released: February 14, 2001

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

I. INTRODUCTION

1. In this Memorandum Opinion and Order (“Order”), we cancel the proposed monetary forfeiture in the amount of five thousand dollars (\$5,000) against Checkpoint of Pennsylvania, Inc. (“Checkpoint”) for willful and repeated violation of Section 301 of the Communications Act of 1934, as amended (“Act”), and Section 1.903(a) of the Commission’s Rules (“Rules”).¹ The noted violation involves operation of Paging Station WPCA811 without a valid Commission license.

2. On December 14, 2000, the Chief, Technical and Public Safety Division, Enforcement Bureau, issued a Notice of Apparent Liability (“NAL”) for Forfeiture in the amount of five thousand dollars (\$5,000) to Checkpoint for the noted violation.² Checkpoint filed a response to the NAL on January 16, 2001.

II. BACKGROUND

3. Checkpoint’s authorization for Paging Station WPCA811 expired on March 4, 1999. On December 16, 1999, Checkpoint filed an application for renewal of the authorization for that station and requested a waiver of Section 1.949(a) of the Rules.³ On April 3, 2000, the Commission granted Checkpoint's waiver request and reinstated its authority to operate Station WPCA811.

¹ 47 U.S.C. § 301; 47 C.F.R. § 1.903(a).

² *Notice of Apparent Liability*, NAL Acct. No. 200132100010 (Enf. Bur., rel. December 14, 2000).

³ 47 C.F.R. § 1.949(a).

4. On December 14, 2000, the Enforcement Bureau, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311, and 1.80 of the Rules,⁴ issued the referenced NAL in the amount of five thousand dollars (\$5,000) to Checkpoint for operating without a valid license.

5. In its response to the NAL, Checkpoint argues that the one-year statute of limitations in Section 503(b)(6)(B) prohibits the Commission from imposing the proposed forfeiture.⁵ In support of its assertion, Checkpoint states that it received Special Temporary Authority (“STA”) to operate Station WPCA811 on December 6, 1999, shortly before December 14, the “cut-off date” under Section 503(b)(6)(B) of the Act. In view of the fact that Checkpoint had STA, it had no unauthorized operation during the period December 6-16, 1999, and the Commission is barred from imposing the proposed forfeiture. Finally, Checkpoint contends that the Commission failed to apply all the relevant downward adjustment criteria in this case.

III. DISCUSSION

6. Section 503(b)(6)(B) of the Act provides that forfeitures may not be imposed against any person who is not a broadcast station licensee if the violation charged occurred more than one year prior to the date of issuance of the required notice of apparent liability.⁶ The violation at issue here occurred March 4, 1999, through December 5, 1999, more than one year prior to the issuance of the NAL on December 14, 2000. As the licensee correctly points out, there was no unlicensed operation of Station WPCA811 during the period December 6–16, 1999, because Checkpoint had STA for this period. Accordingly, the NAL had to be issued by December 5, 2000, to be timely.

7. The NAL was issued to Checkpoint on December 14, 2000, and thus was not issued within one year of the occurrence of the violation, as required by Section 503(b)(6)(B) of the Act. As a result, we conclude that cancellation of the proposed monetary forfeiture is warranted. In light of the fact that the proposed monetary forfeiture is cancelled, we need not reach Checkpoint’s arguments concerning application of downward adjustment criteria, and consequently, those arguments are dismissed as moot. However, Checkpoint’s late filing of its renewal application does warrant an admonishment.

IV. ORDERING CLAUSES

8. **Accordingly, IT IS ORDERED** that, pursuant to Sections 0.111, 0.311, and 1.80(f)(4) of the Commission’s Rules,⁷ the forfeiture in the amount of \$5,000 proposed by the NAL **IS CANCELLED** but Checkpoint **IS ADMONISHED** that it must strictly comply with Section 301 of the Act and Section 1.903(a) of the Commission’s Rules in the future.

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

⁵ 47 U.S.C. § 503(b)(6)(B).

⁶ 47 U.S.C. § 503(b)(6)(B).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

9. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order shall be sent by certified mail, return receipt requested, to counsel for Checkpoint of Pennsylvania, Inc., William J. Franklin, Esq., Law Offices of William J. Franklin, Chartered, 1200 G St., N.W., Suite 800, Washington, D.C. 20005-3814, and to Checkpoint of Pennsylvania, Inc., 419 W Fourth Street, Williamsport, Pennsylvania, 17701.

FEDERAL COMMUNICATIONS COMMISSION

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