

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

In the Matter of)	
)	
SpectraSite Communications, Inc.)	File No. EB-00-SF-672
)	
Cary, North Carolina)	NAL/Acct. No. 20013276002
)	
)	

FORFEITURE ORDER

Adopted: March 16, 2001

Released: March 19, 2001

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of seventeen thousand dollars (\$17,000) against SpectraSite Communications, Inc. (“SpectraSite”) for willful and repeated violation of Section 17.57 and Section 17.4(g) of the Commission’s Rules (“Rules”).¹ The violations involved SpectraSite’s failure to post antenna structure registration ("ASR") numbers on three of its towers, failure to post the correct ASR number on one of its towers, and failure to notify the Commission of changes in ownership information for three of its towers.

II. BACKGROUND

2. On January 16, 2001, we issued a Notice of Apparent Liability (“NAL”) to SpectraSite for \$17,000.² On February 15, 2001, SpectraSite filed a response to the NAL. In its response, SpectraSite challenges \$11,000 of the forfeiture amount for NOV numbers EB-00-AT-1308 (\$3,000), EB-00AT-1297 (\$3,000), EB-00-DV-413 (dated September 6, 2000 for \$2,000), and EB-00-DV-413 (dated September 27, 2000 for \$3,000).³ The first two violations, and the fourth violation, involved failures to change ownership information. The third violation cited failure to post the registration number. SpectraSite concedes that it posted the incorrect number. SpectraSite asserts that the forfeiture amounts applicable to these violations should be reduced because it relied upon inaccurate information provided by Nextel, the previous owner of the towers, which caused it to take the actions that resulted in the violations.

¹ 47 C.F.R. §§ 17.57 and 17.4(g).

² SpectraSite Communications, Inc., DA 01-86, released January 16, 2001.

³ SpectraSite does not challenge the forfeiture amounts assessed for NOV numbers EB-00-DT-775, EB-00-OR-135, and EB-00-DT-584.

III. DISCUSSION

3. Section 17.57 of the Rules requires tower owners to immediately notify the Commission upon any change in ownership. SpectraSite did not notify the Commission that it was the owner of the respective towers. Section 17.4(g) of the Rules requires the ASR number to be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Having the incorrect number posted does not comport with the requirements of the rule. SpectraSite acknowledges that the violations occurred. SpectraSite's contention that it relied upon Nextel's data to make the requisite filings and postings is of no consequence. Section 17.2(c) of the Rules explicitly states that the tower owner is ultimately responsible for compliance with the rule sections governing antenna structures.⁴ Assuming that a prior owner complied with the rules does not constitute good faith compliance with respect to SpectraSite's own obligations.

4. Finally, SpectraSite points out that its ability to submit prompt responses to some of the NOV's was hampered by the fact that the violation notices were sent to Nextel. SpectraSite requests that the Commission send two copies of violation notices for tower violations that relate to towers the Commission believes to be owned by Nextel, one to Nextel and one to SpectraSite. The Commission will send official correspondence to the owner of record. As we previously stated, Section 17.57 of the Rules requires SpectraSite to immediately notify the Commission of any change in tower ownership. Compliance with this rule obviates the need to send copies of violation notices to any entity other than the tower owner of record.

IV. ORDERING CLAUSES

5. 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,⁵ SpectraSite Communications, Inc. IS LIABLE FOR A MONETARY FORFEITURE in the amount of seventeen thousand dollars (\$17,000) for violating Sections 17.57 and 17.4(g) of the Rules by failing to notify the Commission of changes in tower ownership, failing to post ASR numbers, and in one instance, failing to post the correct ASR number.

6. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules,⁶ 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.⁷ 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. 20013276002. Requests for full payment

⁴ 17 C.F.R. § 17.2(c).

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

⁶ 47 C.F.R. § 1.80.

⁷ 47 U.S.C. § 504(a).

under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

7. **IT IS FURTHER ORDERED** that, a copy of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested to SpectraSite Communications, Inc., 100 Regency Forest Drive, Cary, North Carolina 27511, and its counsel Dow, Lohnes & Albertson, Attn: M. Anne Swanson, 1200 New Hampshire Avenue, Suite 800, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.