

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

In the Matter of)	
)	
Pamal Broadcasting Ltd.)	
Owner of Antenna Structure # 1054493 in)	File No. EB-02-TP-525
Cedar Key, Florida)	NAL/Acct. No. 200332700013
Latham, New York)	FRN 0005-8279-69

MEMORANDUM OPINION AND ORDER

Adopted: June 14, 2004

Released: June 16, 2004

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order* ("Order"), we grant the petition for reconsideration filed by Pamal Broadcasting Ltd. ("Pamal"), owner of antenna structure # 1054493, located in Cedar Key, Florida, of the *Forfeiture Order* issued on May 16, 2003.¹ The *Forfeiture Order* imposed a monetary forfeiture in the amount of three thousand dollars (\$3,000) against Pamal for failure to update the Commission antenna structure registration ("ASR") ownership records, in willful and repeated violation of Section 17.57 of the Commission's Rules ("Rules").²

II. BACKGROUND

2. In September of 2002, the Commission's Tampa, Florida Field Office ("Field Office") inspected antenna structure # 1054493, and observed that there was no ASR posting at the site. The Field Office's search of Commission databases revealed that although Pamal acquired Station WRGO(FM), Cedar Key, Florida from Williams Broadcasting Co. ("Williams") and associated antenna structure # 1054493, on July 11, 2000, Williams was still listed as the antenna structure owner. In January of 2003, the Field Office released a *Notice of Apparent Liability for Forfeiture* ("NAL").³ The NAL found that Pamal apparently willfully and repeatedly violated Section 17.57 of the Rules by failing to "immediately" notify the Commission of the change in ownership of antenna structure # 1054493, and proposed a \$3,000 forfeiture against Pamal.

3. The Enforcement Bureau ("Bureau") released a *Forfeiture Order* on May 16, 2003,⁴ having

¹See *Pamal Broadcasting Ltd.*, 18 FCC Rcd 10349 (Enf. Bur. 2003).

²47 C.F.R. § 17.57.

³See *Pamal Broadcasting Ltd.*, NAL/Acct. No. 200332700013 (Enf. Bur., Tampa, Florida Field Office, January 8, 2003).

⁴See note 1, *supra*.

had no record of receiving a response to the *NAL*. On June 13, 2003, the Bureau received Pamal's petition for reconsideration.⁵ In its petition, Pamal did not dispute the *NAL*'s findings, acknowledging that "due to an oversight during the transfer of property, the registered owner of the tower was not changed at closing." However, Pamal sought a reduction of the forfeiture amount based upon its history of overall compliance.

III. DISCUSSION

4. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended ("Act"),⁶ Section 1.80 of the Rules,⁷ and the *Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.⁸ In assessing forfeitures, Section 503(b)(2)(D) of the Act requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.⁹ Having considered Pamal's petition in light of the statutory factors, we find that reduction of the forfeiture amount is warranted.

5. Pamal asserted, and a search of Commission records confirms, that Pamal and its subsidiary, 6 Johnson Road Licenses, Inc., licensee of twenty (20) FM and AM broadcast stations, have a history of compliance. After considering Pamal's past history, we conclude that reduction of the forfeiture amount from \$3,000 to \$2,400 is appropriate.¹⁰ The fact that Pamal corrected the violation after the *NAL* was released is not, however, a basis for further reduction.¹¹

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 405, 503(b)(2)(d) and 504(b) of the Communications Act of 1934, as amended, and Sections 1.80(i) and 1.106 of the Rules, the Needham's petition for reconsideration **IS GRANTED**.

7. **IT IS FURTHER ORDERED** that, pursuant to Sections 503(a) and (b) of the Act,¹² and

⁵See Letter from Paul Howard-Thurst, Engineer, Pamal Broadcasting, Inc. to David H. Solomon, Chief, Enforcement Bureau, Federal Communications Commission (June 13, 2003).

⁶47 U.S.C. § 503(b).

⁷47 C.F.R. § 1.80.

⁸12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*").

⁹47 U.S.C. § 503(b)(2)(D).

¹⁰See, e.g., *South Central Communications Corp.*, 18 FCC Rcd 700, 701, 703 ¶¶ 6, 9 (Enf. Bur. 2003) (finding that a licensee's history of compliance with Commission regulations, operating over 30 broadcast stations, warranted a reduction of the proposed forfeiture).

¹¹See *AT&T Wireless Services, Inc.*, 17 FCC Rcd 7891 (2002), *forfeiture ordered*, 17 FCC Rcd 21855, 21875-76 ¶¶ 26-28 (2002); *Seawest Yacht Brokers*, 9 FCC Rcd 6099, 6099 ¶ 7 (1994); *TCL Cablevision of Maryland, Inc.*, 7 FCC Rcd 6013, 6014 ¶ 8 (1992).

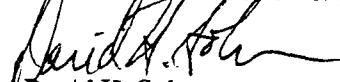
¹²47 U.S.C. §§ 503(a) and (b).

Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,¹³ Pamal Broadcasting, Ltd., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of two thousand four hundred dollars (\$2,400) for its failure to comply with the notification requirement of the ASR rules, in willful and repeated violation¹⁴ of Sections 17.57 of the Rules.¹⁵

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules 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.¹⁶ 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 reference NAL/Acct. No. 200332700013 and FRN 0005-8279-69. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁷

9. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Pamal Broadcasting, Ltd., 6 Johnson Road, Latham, New York, 12110.

FEDERAL COMMUNICATIONS COMMISSION


David H. Solomon
Chief, Enforcement Bureau

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

¹⁴See 47 U.S.C. § 312(f); see also *Southern California Broadcasting Co.*, 6 FCC Rcd 4387, 4387-88 ¶ 5 (1991).

¹⁵47 C.F.R. § 17.57.

¹⁶47 U.S.C. § 504(a).

¹⁷See 47 C.F.R. § 1.1914.