

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

In the Matter of)	
)	
St. Louis Mobile Systems Inc.)	File No. EB-02-KC-0549
)	NAL/Acct. No. 200232560023
Owner of Unregistered Antenna Structure Located)	FRN 0005-9463-55
at 38° 17' 31" North Latitude and 91° 41' 50")	
West Longitude, near Belle, Missouri)	
)	
Rolla, Missouri)	

MEMORANDUM OPINION AND ORDER

Adopted: September 3, 2004

Released: September 8, 2004

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* (“*Order*”), we grant the petition for reconsideration filed by St. Louis Mobile Systems Inc. (“St. Louis Mobile”), owner of an antenna structure located at geographic coordinates 38° 17' 31" North Latitude and 91° 41' 50" West Longitude (“the Belle tower”) of the *Forfeiture Order*¹ issued to St. Louis Mobile on June 27, 2003, cancel the \$3,000 monetary forfeiture and admonish St. Louis Mobile for repeated violation of Section 17.4(a) of the Commission’s Rules (“Rules”).² The noted violation involves St. Louis Mobile’s failure to register the Belle tower.

2. In its petition for reconsideration pursuant to Section 405 of the Communications Act of 1934, as amended (“Act”),³ St. Louis Mobile does not dispute our determination that the Belle tower was not registered from 1996 until July 2002, but argues that we should cancel or reduce the forfeiture because of its good faith efforts to register the tower. Specifically, St. Louis Mobile asserts that, in the *Forfeiture Order*, we incorrectly found that St. Louis Mobile had made no efforts to register the Belle tower since 1999 when, in fact, it attempted to do so between 1999 and June 2002. Finally, St. Louis Mobile provides additional information to support its claim, originally made in its response to the *NAL*, that it is unable to pay the \$3,000 monetary forfeiture.

3. Even if St. Louis Mobile did try to register its tower between 1999 and June 2002, that would not warrant cancellation or reduction of the forfeiture. The apparent reason for the failure of St. Louis Mobile’s attempts to register the Belle Tower was its inability to provide certain information regarding a 1981 Federal Aviation Administration (“FAA”) study requested by the prior owner. As pointed out in the *Forfeiture Order*, if St. Louis Mobile was unable to get this information, it simply could have requested that the FAA conduct a new study.

¹ *St. Louis Mobile Systems Inc.*, 18 FCC Rcd 12670 (Enf. Bur. 2003).

² 47 C.F.R. § 17.4(a).

³ 47 U.S.C. § 405.

4. In the *Forfeiture Order*, we found that we did not have a sufficient basis upon which to evaluate St. Louis Mobile's claim of inability to pay the forfeiture because St. Louis Mobile did not provide any financial information concerning its paging and radiotelephone operations. St. Louis Mobile has now provided that information and copies of its 1999, 2000 and 2001 federal income tax returns. After reviewing the information provided by St. Louis Mobile, we conclude that payment of the \$3,000 monetary forfeiture would pose a financial hardship and that cancellation of the forfeiture is warranted on the basis of St. Louis Mobile's inability to pay. We do find, however that St. Louis Mobile should be admonished for its repeated violations of Section 17.4(a) of the Rules.

5. We have examined St. Louis Mobile's petition for reconsideration pursuant to the statutory factors prescribed by Section 503(b)(2)(D) of the Act,⁴ and in conjunction with the *Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*,⁵ as well. As a result of our review, we conclude that St. Louis Mobile's petition for reconsideration should be granted, the monetary forfeiture against St. Louis Mobile should be cancelled and St. Louis Mobile should be admonished for its repeated violations of Section 17.4(a) of the Rules.

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 504(b) of the Act⁶ and Section 1.80(i) of the Rules,⁷ the \$3,000 forfeiture issued to St. Louis Mobile Systems, Inc., **IS CANCELLED**, and that pursuant to Sections 405 of the Act and 1.106 of the Rules,⁸ St Louis Mobile's Petition for Reconsideration **IS** hereby **GRANTED**.

7. **IT IS FURTHER ORDERED** that St. Louis Mobile Systems, Inc., **IS ADMONISHED** for failure to register the Belle tower.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail return receipt requested to St. Louis Mobile Systems Inc., P.O. Box 405, Rolla, Missouri 65402-0405.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁶ 47 U.S.C. § 504(b).

⁷ 47 C.F.R. § 1.80(i).

⁸ 47 C.F.R. § 1.106.