

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

In the Matter of	)	
	)	File No. EB-04-SE-384
World Radio Network, Inc.	)	NAL/Acct. No. 200532100011
Satellite Earth Station, Call Sign E940225	)	FRN # 0006844344
McAllen, Texas	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: June 10, 2005**

**Released: June 14, 2005**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture*, we find World Radio Network, Inc. (“WRN”), licensee of Satellite Earth Station E940225, McAllen, Texas, apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000) for the unauthorized operation of the earth station in violation of Section 301 of the Communications Act of 1934, as amended, (“Act”)<sup>1</sup> and Section 25.102(a) of the Commission’s Rules (“Rules”).<sup>2</sup> The violation involves WRN’s willful and repeated operation of the earth station without Commission authorization between the expiration of the license and the grant of Special Temporary Authority (“STA”) by the International Bureau.

**II. BACKGROUND**

2. WRN is a non-commercial educational (“NCE”) Commission licensee, which operates NCE broadcast radio stations primarily on the border between Mexico and the United States. It holds Commission licenses for 25 broadcast stations, 14 Aural Studio Transmitter links, and one earth station license. The license for the earth station was granted on April 29, 1994 and expired on April 29, 2004. Eight months after the expiration of the license, on December 22, 2004, WRN notified the International Bureau of its failure to timely renew the subject license and requested an STA to continue operations while it completed and submitted a renewal request for authorization to continue to operate the earth station.<sup>3</sup> The Commission granted the STA on January 4, 2005.<sup>4</sup> On January 18, 2005, WRN filed an application to reinstate its earth station license which was subsequently dismissed by the International

---

<sup>1</sup> 47 U.S.C. § 301.

<sup>2</sup> 47 C.F.R. § 25.102(a).

<sup>3</sup> See Letter from Glenn C. Lafitte, Secretary of World Radio Network, Inc. to Robert Nelson, Chief, Engineering Branch, Satellite Division, International Bureau, Federal Communications Commission (December 22, 2004).

<sup>4</sup> See Grant of Authority for Application for Earth Station Special Temporary Authority, SES-STA-20050103-00003. The Commission granted two additional STA requests while WRN’s reinstatement application was pending, extending temporary authority to April 27, 2005.

Bureau as defective on February 1, 2005.<sup>5</sup> On April 11, 2005, the International Bureau granted WRN's application for reinstatement of the earth station license,<sup>6</sup> which WRN had resubmitted on February 7, 2005.<sup>7</sup>

3. Because it appeared that WRN may have operated the station after the expiration of its license, the International Bureau referred this case to the Enforcement Bureau for investigation and possible enforcement action. On March 7, 2005, the Enforcement Bureau's Spectrum Enforcement Division issued a letter of inquiry ("LOI") to WRN.<sup>8</sup> The LOI sought information regarding the actions WRN took to ensure compliance with Section 301 of the Act and Section 25.102 of the Rules, the date on which WRN became aware of the expiration of its license, and the basis of authority under which WRN operated after the license expired and before the International Bureau granted the STA request.

4. In its March 21, 2005 response to the LOI, WRN conceded that it continuously operated the earth station beyond the April 29, 2004 expiration date without authorization.<sup>9</sup> WRN explained that it holds thirty-nine FCC licenses granted by the Wireless and Media Bureaus, and one license granted by the International Bureau. WRN asserted that it has never before been found in violation of the Commission's Rules. It also asserted that both the Wireless and Media Bureaus send reminders to licensees for license renewals, and that it was unfamiliar with the International Bureau's license renewal process which does not include the sending of reminders of upcoming license renewal deadlines. WRN also conceded that it "failed to put in place internal guidelines and procedures which would have prevented its operation on an expired license."<sup>10</sup>

### III. DISCUSSION

5. Section 301 of the Communications Act of 1934, as amended, ("Act"), provides that "[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio . . . except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act." Section 25.102(a) of the Rules mandates that operation of "energy or communications or signals by space or earth stations" requires Commission authorization. WRN was required to maintain its authorization in order to operate the earth station. WRN stated that the Wireless and Media Bureaus send notices of license renewal deadlines. WRN also averred that it had no prior experience with the International Bureau concerning its license renewal process. As a Commission

---

<sup>5</sup> See Application for Earth Station Authorization, Form 312, File No. SES-LIC-20050118-00072 (dismissed February 1, 2005). See also Letter from Scott A. Kotler, Chief, Systems Analysis Branch, International Bureau, Federal Communications Commission (January 31, 2005).

<sup>6</sup> See Radio Station Authorization, SES-LIC-20050210-00165 (granted on April 11, 2005). The grant for renewal of the earth station license specifically states that it is granted "without prejudice to any future FCC enforcement action against World Radio Network."

<sup>7</sup> See Application for Earth Station Authorization, Form 312, File No. SES-LIC-20050207-00155 (filed on February 7, 2005).

<sup>8</sup> See Letter from Kathryn Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to James V. Heck, Technical Services, World Radio Network, Inc. (March 7, 2005).

<sup>9</sup> See Letter from Glenn C. Lafitte, World Radio Network, Inc., to Katherine Power, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (March 21, 2005).

<sup>10</sup> *Id.*

licensee, WRN is charged with knowledge of the full range of its obligations,<sup>11</sup> including its duty to timely seek renewal of its licenses to maintain operating authority.<sup>12</sup> This obligation attaches even where the Commission does not provide notification regarding license renewal obligations.<sup>13</sup> Based on the information before us, we find that WRN filed its license for renewal for the captioned earth station approximately eight (8) months after its authorization expired. By failing to timely renew its license, WRN operated the earth station without Commission authority from the time the license expired on April 29, 2004 until the STA request was granted on January 4, 2005. During those eight months, WRN acted in apparent violation of Sections 301 of the Act and 25.102 of the Rules by willfully<sup>14</sup> and repeatedly<sup>15</sup> operating the earth station without Commission authority.

6. The guidelines contained in the Commission's *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*,<sup>16</sup> and Section 1.80(b) of the Rules<sup>17</sup> specify a base forfeiture amount of ten thousand dollars (\$10,000) for operation of a station without an instrument of authorization. Section 503(b)(2)(D) of the Act requires the Commission to consider "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."<sup>18</sup> In this instance, WRN operated its earth station without an instrument of authorization for approximately eight months after its license expired. In reviewing other cases involving a licensee operating without a license for a similar amount of time, we find that the Commission has reduced the forfeiture amount from \$10,000 to five thousand dollars (\$5,000).<sup>19</sup> Considering all of the factors

---

<sup>11</sup> See *Sitka Broadcasting Company, Inc.*, 70 FCC2d 2375, 2378 (1979) ("Licensee are expected to know and comply with the Commission's rules . . .").

<sup>12</sup> See *Lauren A. Colby*, 19 FCC Rcd 15600 (Media Bur., Audio Div. 2004).

<sup>13</sup> See *Berkshire Communicators, Inc.* 15 FCC Rcd 18242 (Enf. Bur. 2000) (finding that even if a licensee does not receive a renewal reminder notice, the licensee still must timely file its renewal application).

<sup>14</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful,' . . . means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act . . ." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>15</sup> Section 312(f)(2) of the Act provides that "[t]he term 'repeated,' . . . means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. §312(f)(2). The *Conference Report* for Section 312(f)(2) indicates that Congress intended to apply this definition to Section 503 of the Act as well as Section 312. See H.R. Rep. 97<sup>th</sup> Cong. 2d Sess. 51 (1982). See *Southern California Broadcasting Company, supra* at 4388.

<sup>16</sup> 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, FCC 99-407 (1999) ("*Forfeiture Policy Statement*").

<sup>17</sup> 47 C.F.R. § 1.80.

<sup>18</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>19</sup> See *Page-Comm*, 16 FCC Rcd 6842 (Enf. Bur. 2001) (reducing the base forfeiture amount to \$5,000 due to the nature of the violation as an unauthorized operation of a paging station because of a failure to renew for 10 months). See also *US Unwired, Inc.*, 15 FCC Rcd 20295 (Enf. Bur. 2000) (similar finding for 7 months unauthorized operation by a licensee that was previously licensed, to distinguish the forfeiture amount from "pirate" operations (*i.e.*, stations that have never been licensed by the Commission), which typically result in the full base forfeiture amount of \$10,000, as with *Jean R. Jonassaint*, 25 FCC Rcd 10422 (Enf. Bur. 2000)).

required by Section 503(b)(2)(D) of the Act and the *Forfeiture Policy Statement*, we conclude that a forfeiture of \$5,000 for WRN is warranted. Because we have confirmed WRN's claim that it has no history of Commission violations, we further reduce the forfeiture amount to \$4,000.<sup>20</sup>

#### IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act<sup>21</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>22</sup> WRN **IS** hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of four thousand dollars (\$4,000) for the willful and repeated violations of Section 301 of the Act and Section 25.102(a) of the Rules.

8. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules,<sup>23</sup> within thirty days of the release date of this *Notice of Apparent Liability for Forfeiture*, WRN **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. A request for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.<sup>24</sup>

10. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for Forfeiture* shall be sent by first class mail and certified mail return receipt requested to Glenn C. Lafitte,

---

<sup>20</sup>See *Max Media of Montana, L.L.C.*, 18 FCC Rcd 21375, 21379 (Enf. Bur. 2003) (further reducing the proposed forfeiture from \$11,000 to \$8,800 for antenna structure lighting and registration violations due to the licensee's history of overall compliance); *South Central Communications Corp.*, 18 FCC Rcd 700, 702 (Enf. Bur. 2003) (reducing the proposed forfeiture from \$10,000 to \$8,000 for antenna structure lighting violations due to the licensee's history of overall compliance).

<sup>21</sup> 47 U.S.C. § 503(b).

<sup>22</sup> 47 C.F.R. § 0.111, 0.311 and 1.80.

<sup>23</sup> 47 C.F.R. § 1.80.

<sup>24</sup> See 47 C.F.R. § 1.1914.

Secretary of the Board of Trustees, World Radio Network, Inc., P.O. Box 3765, McAllen, Texas 78502-3765.

**FEDERAL COMMUNICATIONS COMMISSION**

Joseph P. Casey  
Chief, Spectrum Enforcement Division  
Enforcement Bureau