

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

In the Matter of)	
)	
Louis Gentile)	File Number EB-04-PA-083
)	
Philadelphia, PA)	NAL/Acct. No. 200532400001
)	
)	FRN 0011588993

FORFEITURE ORDER

Adopted: January 5, 2006

Released: January 9, 2006

By the Regional Director, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of ten thousand dollars (\$10,000) to Louis Gentile for willful violation of Section 301 of the Communications Act of 1934, as amended (“*Act*”).¹ The noted violation involves Mr. Gentile’s operation of a radio station on the frequency 107.7 MHz in Philadelphia, Pennsylvania without a Commission license.

II. BACKGROUND

2. On April 29, 2004, the Commission’s Philadelphia Field Office (“Philadelphia Office”) received a complaint about an illegal broadcast station operating on the frequency 107.7 MHz in Philadelphia, PA. On May 6, 2004, an agent from the Philadelphia Office monitored the frequency 107.7 MHz and, using direction-finding techniques, determined that the radio station broadcasting on the frequency 107.7 MHz was operating from 4727 Oakmont Street, Philadelphia, PA. The agent took field strength measurements and determined that the station required a license to operate.² The Commission’s database contained no record of a station authorized to operate on 107.7 MHz in Philadelphia, PA.

3. On May 7, 2004, the Philadelphia Office sent a warning letter to Mr. Gentile, who resides at 4727 Oakmont Street, Philadelphia, PA, by Certified Mail, Return Receipt Requested, advising him that the operation of a radio station on the frequency 107.7 MHz without a license violates Section 301 of the Act. The letter requested that Mr. Gentile provide a response within ten (10) days of receipt of the letter. Although the Return Receipt indicates that the letter was received and signed for by Antoinette Gentile, the Philadelphia Office did not receive a response to the warning letter from Mr. Gentile.

¹47 U.S.C. § 301.

² Section 15.239 of the Commission's Rules, 47 C.F.R. § 15.239, provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 μ V/m at three meters. In this instance, the measurements showed that the field strength of the station’s signal exceeded the permissible level for a non-licensed low-power station by 1,617 times.

4. During an interview with two Commission agents on June 9, 2004 at 4727 Oakmont Street in Philadelphia, PA, Mr. Gentile admitted that he operated a radio station on 107.7 MHz on May 6, 2004 without a license.

5. On November 12, 2004, the Philadelphia Office issued a *Notice of Apparent Liability for Forfeiture* to Mr. Gentile in the amount of ten thousand dollars (\$10,000) for the apparent willful violation of Section 301 of the Act.³ In his response, Mr. Gentile claims that he did not admit to operating a radio station on 107.7 MHz in 2004 and that he has never operated an unlicensed station on that frequency in Philadelphia, PA. He further states that nothing has ever been found at his house and there could be radio stations operating somewhere else in the vicinity of his house.⁴

III. DISCUSSION

6. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,⁵ Section 1.80 of the Commission's Rules ("Rules"),⁶ and the *Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.⁷ 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.⁸

7. Section 301 of the Act states that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act. We decline to accept as credible Mr. Gentile's response denying operation of the radio station and his claim that the unlicensed operation could have been "anywhere in the vicinity of my house." Agents determined, through the use of direction-finding techniques, that a station operated on 107.7 MHz from 4727 Oakmont Street in Philadelphia, PA, Mr. Gentile's residence, without a license. Contrary to Mr. Gentile's claim that nothing has ever been found at his house, agents observed a radio transmitting antenna on the roof of 4727 Oakmont Street and a coaxial cable going from the antenna on the roof into the basement of the house. Mr. Gentile provides no explanation for the inconsistency between his contemporaneous admission on June 9, 2004 that he operated the station, which was documented by FCC agents, and his recantation of such admission in response to the *NAL*. We therefore find that his statements denying the admission and denying any unlicensed operation on 107.7 MHz are unreliable and not supported by the

³*Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200532400001 (Enf. Bureau, Philadelphia Office, November 12, 2005) ("NAL").

⁴We do not address here the concerns Mr. Gentile raises in his response regarding other unlicensed stations may be operating in the Philadelphia, PA area.

⁵47 U.S.C. § 503(b).

⁶47 C.F.R. § 1.80.

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

⁸47 U.S.C. § 503(b)(2)(D).

record. Accordingly, we stand by our agents' findings and conclude that Mr. Gentile willfully⁹ violated Section 301 of the Act.

8. We have examined Mr. Gentile's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that Mr. Gentile willfully violated Section 301 of the Act. We find no basis for cancellation or reduction of the \$10,000 forfeiture proposed for this violation.

IV. ORDERING CLAUSES

9. 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,¹⁰ Louis Gentile **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 301 of the Act.

10. 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. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under an installment plan should be sent to: Associate Managing Director, Financial Operations, 445 12th Street, S.W., Room 1A625, Washington, D.C. 20554.¹¹

11. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Louis Gentile at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Russell Monie, Jr.
Regional Director, Northeast Region
Enforcement Bureau

⁹ 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', when used with reference to the commission or omission of any act, 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).

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

¹¹ See 47 C.F.R. § 1.1914.