

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

In the Matter of)	
)	
Mexicana Corp)	File Number: EB-06-NY-049
Licensee of WPIY498)	
Yonkers, NY)	NAL/Acct. No: 200732380007
)	
)	FRN: 0011 0104 10
)	

FORFEITURE ORDER

Adopted: February 26, 2008

Released: February 28, 2008

By the Acting Regional Director, Northeast Region, Enforcement Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of two thousand dollars (\$2,000) to Mexicana Corp (“Mexicana”), licensee of private land mobile station WPIY498, in Yonkers, NY, for willfully and repeatedly violating Section 1.903(a) of the Commission's Rules (“Rules”).¹

2. On February 20, 2007, the New York Field Office issued a Notice of Apparent Liability for Forfeiture (“*NAL*”) to Mexicana in the amount of \$8,000 for operating mobile units on an unauthorized frequency and operating a base station at an unauthorized location in violation of Section 1.903(a). In its response to the *NAL*, Mexicana does not dispute the findings, but requests a cancellation or reduction in the forfeiture amount based on its inability to pay.

III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,² Section 1.80 of the Rules,³ and *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* (“*Forfeiture Policy Statement*”).⁴ In examining Mexicana’s response, Section 503(b) of the Act requires that the Commission 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 other such matters as justice may require.⁵

¹ 47 C.F.R. § 1.903(a).

² 47 U.S.C. § 503(b).

³ 47 C.F.R. § 1.80.

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

⁵ 47 U.S.C. § 503(b)(2)(E).

4. With regard to an entity's inability to pay, the Commission has determined that, in general, an entity's gross revenues are the best indicator of its ability to pay a forfeiture.⁶ After examining the financial documentation submitted by Mexicana, we conclude that a reduction in the forfeiture to \$2,000 is warranted based on its demonstrated inability to pay.

IV. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules, Mexicana Corp. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of two thousand dollars (\$2,000) for violation of Section 1.903(a) of the Rules.⁷

6. 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/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures.

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Mexicana Corp. at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

G. Michael Moffitt
Acting Regional Director, Northeast Region
Enforcement Bureau

⁶ See *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Local Long Distance, Inc.*, 16 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

⁷ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 1.903(a).