

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

In the Matter of)	
)	
Pinnacle Towers LLC)	File Number: EB-06-NY-014
)	
Hicksville, New York)	NAL/Acct. No. 200732380004
ASR #1017802)	
)	FRN 0006 1561 11

ORDER

Adopted: March 6, 2008

Released: March 12, 2008

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

I. INTRODUCTION AND BACKGROUND

1. In this Order (“*Order*”), we cancel a proposed forfeiture in the amount of three thousand dollars (\$3,000) issued to Pinnacle Towers LLC (“Pinnacle”) for apparent willful and repeated violation of Section 17.57 of the Commission's Rules (“Rules”)¹ for failing to immediately notify the Commission of a change in ownership of an antenna structure.

2. On December 21, 2006, the Commission’s New York Field Office issued a Notice of Apparent Liability for Forfeiture (“*NAL*”) in the amount of \$3,000 to Pinnacle for failure to notify the Commission of a change in the ownership of antenna structure #1017802.² Pinnacle submitted a response to the *NAL* on January 25, 2007 and reports that Holmes Farm LLC (“Holmes”) owns the tower.

II. DISCUSSION

3. During the course of the FCC’s investigation into the ownership of antenna structure #1017802, the central issue had been whether Pinnacle or Holmes owned the tower. Holmes appeared to own the real property, but it was unclear whether Holmes or Pinnacle owned the tower. The New York Office ultimately issued the *NAL* to Pinnacle because (1) after an FCC agent contacted Pinnacle regarding the ownership information in the FCC’s antenna structure registration (“ASR”) database, Pinnacle filed an

¹ 47 C.F.R. § 17.57.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732380004 (Enf. Bur., New York Office, released December 21, 2006).

FCC Form 854 updating the ASR database to reflect Pinnacle's apparent ownership of antenna structure # 1017802 and (2) Holmes submitted a Memorandum of Lease and Consent and a Purchase Agreement that appeared to confirm that Pinnacle owned the tower, though not the real property. Pinnacle now claims that it submitted an ownership change with the FCC "prematurely," before fully investigating the tower's ownership. The documentation submitted by Pinnacle in response to the *NAL* shows that Holmes is in fact the actual owner of the tower. In addition, Holmes confirmed its ownership of the tower in response to a Letter of Inquiry issued by the New York Office on February 8, 2008, and Holmes is now listed in the FCC's ASR database as the tower's registered owner. Accordingly, we conclude that the *NAL* issued to Pinnacle must be cancelled and a Notice of Apparent Liability for Forfeiture in the amount of \$3,000 is being issued on this date to Holmes.

III. ORDERING CLAUSES

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended,³ and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,⁴ the Notice of Apparent Liability for Forfeiture issued to Pinnacle Towers LLC **IS HEREBY CANCELLED**.

5. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Pinnacle Towers LLC at its address of record and to counsel for Pinnacle Towers LLC at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

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

³ 47 U.S.C. § 503(b).

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