

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

In the Matter of)	
)	File Number: EB-07-TP-201
Traffic Control Products of Florida Inc.)	
Licensee of Radio Station WPNP358)	NAL/Acct. No: 200832700009
Tampa, Florida)	
)	FRN: 0010528073

FORFEITURE ORDER

Adopted: March 27, 2008

Released: March 31, 2008

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of three thousand two hundred dollars (\$3,200) to Traffic Control Products of Florida Inc. (“Traffic Control”), licensee of station WPNP358, in Tampa, Florida, for willful and repeated violation of Section 90.403(a)(2) of the Commission’s Rules (“Rules”).¹ The noted violation involves Traffic Control’s operation of radio transmission equipment inconsistent with the terms of its authorization.

II. BACKGROUND

2. On October 23, 2007, in response to a complaint of interference from private land mobile station WPFS376, agents from the Commission’s Tampa Office of the Enforcement Bureau (“Tampa Office”) investigated and found the source of the interference to be a wireless transmitter operating on 467.8375 MHz, station WPFS376’s authorized frequency. The wireless transmitter was being used to control portable traffic signal lights positioned over both ends of a bridge that was being constructed in Englewood, FL, about one mile away from station WPFS376. The agents spoke with the construction supervisor for the bridge who stated the wireless signal lights were set up about two months ago, the same time station WPFS376 started to receive the interference, and operated by Traffic Control to control the traffic on the bridge. An agent contacted a representative from Traffic Control to determine its call sign and get more information on its license. The representative from Traffic Control was warned that operation of the signal lights was causing harmful interference to a co-channel licensee.

3. On October 24, 2007, agents from the Tampa Office determined that the wireless station was operating at Latitude 26 52 17 N and Longitude 082 18 37 W just south of Englewood, FL. According to Traffic Control’s license, call sign WPNP358, its area of operation is limited to a 32 km radius around Latitude 28 00 14.1 N and Longitude 082 22 38.3 W (Tampa, Florida). The bridge in Englewood is not within a 32 km radius of Tampa. The representative from Traffic Control stated on October 24, 2007 that he had only just learned of the geographic limitation of its license.

4. On October 26, 2007, an agent from the Tampa Office reminded a representative from Traffic Control that it was operating outside its licensed 32 km radius and was continuing to cause interference to a licensed user. The representative from Traffic Control stated the bridge transmitter would

¹ 47 C.F.R. § 90.403(a)(2).

be “hard-wired” by the end of the week so the transmitter could be turned off.

5. On November 2, 2007 the agent received a message from Traffic Control that it had installed a cable to “hard-wire” the traffic signals and had turned the transmitter off. On November 5, 2007, a representative from station WPFS376 confirmed the interference stopped on November 2, 2007.

6. On March 10, 2008, the Tampa Office issued a *Notice of Apparent Liability for Forfeiture* to Traffic Control in the amount of four thousand dollars (\$4,000), for the apparent willful and repeated violation of Section 90.403(a)(2) of the Rules.² Traffic Control submitted a response to the *NAL* requesting a reduction or cancellation of the proposed forfeiture.

III. DISCUSSION

7. The proposed forfeiture amounts in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (“Act”),³ Section 1.80 of the Rules,⁴ and *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), recon. denied, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”). In examining Traffic Control’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

8. Section 90.403(a)(2) of the Rules requires that licensees in the Private Land Mobile Radio Services (“PLMRS”) shall be directly responsible for the proper operation and use of each transmitter for which they are licensed.⁶ In this connection, licensees shall exercise such direction and control as to assure that the transmitter is being operated ... only in a permissible manner. Traffic Control’s license, call sign WPNP358, only authorizes it to operate its mobile station within a 32 km radius around center point of Latitude 28 00 14.1 N and Longitude 082 22 38.3 W on the frequency 467.8375 MHz (this corresponds to Tampa, Florida). On October 23 and 24, 2007, agents from the Tampa Office observed the WPNP358 mobile radio base station operating at a Latitude of 26 52 17 N and a Longitude of 082 18 37 W on the frequency of 467.8375, which is approximately 125 km outside of Latitude 28 00 14.1 N and Longitude 082 22 38.3 W. Traffic Control began its operation in late August/early September 2007 and did not discontinue its operation of its radio transmitter from this location until November 2, 2007. Traffic Control’s operation at an unauthorized location caused interference to a co-channel licensee. Based on the evidence before us, we find that Traffic Control willfully⁷ and repeatedly⁸ violated Section 90.403(a)(2) of the Rules by operating station WPNP358 for several months, on frequency 467.8375 MHz, outside of the 32 km radius specified within its license.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200832700009 (Enf. Bur., Tampa Office, March 10, 2007) (“*NAL*”). The *NAL* was originally issued to Traffic Control Products of Florida Inc., the licensee name listed in the Universal Licensing System (“ULS”). In response to the *NAL*, Traffic Control identified itself as Traffic Control, with one “l.” Traffic Control has since corrected the typographical error in the ULS.

³ 47 U.S.C. § 503(b).

⁴ 47 C.F.R. § 1.80.

⁵ 47 U.S.C. § 503(b)(2)(E).

⁶ 47 C.F.R. § 90.403(a)(2).

⁷ 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).

9. Traffic Control requests cancellation or reduction of the proposed forfeiture, because it was unaware its license contained a geographic limitation, was operating its transmitter to control traffic on a one-lane bridge under construction, cooperated with the agents from the Tampa Office, and acted quickly to correct the violation. We find, however, that Traffic Control's arguments do not justify a reduction or cancellation of the forfeiture. Traffic Control admits that it operated a radio transmitter from an area not authorized by its license on more than one day. Moreover, Traffic Control admits that it consciously and deliberately installed and operated the radio transmitters on 467.8375 MHz on a bridge in the Englewood area. For its violation to be willful, Traffic Control need not have intended to violate the rules, but rather needed only to perform actions consciously and deliberately that violated the rules.⁹ Similarly, it is irrelevant why Traffic Control operated the transmitters. In addition, although we appreciate Traffic Control's efforts to promptly correct the violation, corrective action taken to come into compliance with the Rules is expected, and does not nullify or mitigate any prior forfeitures or violations.¹⁰

10. Finally, Traffic Control requests a reduction of the forfeiture because it has not experienced prior problems of this type during its many years as a government contractor. Based on Traffic Control's history of compliance with the Rules, we reduce the forfeiture to \$3,200

11. We have examined Traffic Control'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 a reduction of the proposed forfeiture to \$3,200 is warranted, based on its history of compliance with the Rules.

IV. ORDERING CLAUSES

12. 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, Traffic Control Products of Florida Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of three thousand two hundred dollars (\$3,200) for violation of Section 90.403(a)(2) of the Rules.¹¹

13. 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[s] 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

⁸ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

⁹ See *supra* note 7.

¹⁰ See *Seawest Yacht Brokers*, Forfeiture Order, 9 FCC Rcd 6099 (1994).

¹¹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 90.403(a)(2).

or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures.

14. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Traffic Control Products of Florida Inc. at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director, South Central Region
Enforcement Bureau