

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
MINISTERIO RADIAL CRISTO VIENE)	EB-06-IH-5641
PRONTO, INC.)	Facility ID No. 42685
)	NAL/Account No. 200932080024
Licensee of Noncommercial Educational Station)	FRN 0009422858
WCRP(FM), Guayama, Puerto Rico)	

FORFEITURE ORDER

Adopted: August 25, 2009

Released: August 25, 2009

By the Acting Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order*, we impose a monetary forfeiture of \$2,000 against Ministerio Radial Cristo Viene Pronto, Inc. (“Ministerio” or “Licensee”), licensee of noncommercial educational Station WCRP (FM), Guayama, Puerto Rico (“Station”), for violating Section 399B of the Communications Act of 1934, as amended (the “Act”),¹ and Section 73.503(d) of the Commission’s rules² by broadcasting prohibited advertisements over the Station.

II. BACKGROUND

2. This case arises from a complaint made to the Commission alleging that noncommercial educational Station WCRP(FM) broadcast prohibited underwriting announcements on or about October 25, 2006.³ Thereafter, the Bureau inquired of the Licensee concerning the allegations contained in the complaint.⁴ Ministerio responded substantively to the *LOI* on June 5, 2007.⁵

3. On January 16, 2009, the Bureau issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”),⁶ finding that the Licensee had apparently violated the pertinent statute and Commission rules,

¹ See 47 U.S.C. § 399b. Section 399B(b)(2) of the Act prohibits noncommercial stations from broadcasting advertisements. See 47 U.S.C. § 399b(b)(2).

² See 47 C.F.R. § 73.503(d) (prohibiting noncommercial educational FM broadcasting stations from broadcasting promotional announcements).

³ See *Ministerio Radial Cristo Viene Pronto, Inc.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 241 (Enf. Bur. 2009) (“*NAL*”). See *NAL* for a full discussion of the facts.

⁴ See Letter from Benigno E. Bartolome, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Ministerio, dated April 20, 2007 (“*LOP*”).

⁵ See Letter from Frank R. Jazzo, Esq., and Anne Goodwin Crump, Esq., to Marlene H. Dortch, Secretary, FCC, dated June 5, 2007 (“*Response*”).

⁶ See *NAL*, 24 FCC Rcd 241.

and proposing a monetary forfeiture of \$2,500. On April 30, 2009, Ministerio responded to the *NAL*.⁷ In its response, Ministerio urges the Commission to cancel or substantially reduce the *NAL*'s proposed forfeiture amount asserting that it is unable to pay that amount and that the forfeiture amount should reflect its history of compliance with the Commission's rules.⁸

III. DISCUSSION

4. In its *NAL Response*, Ministerio does not dispute the Bureau's *NAL* finding that the two announcements at issue violated the Commission's underwriting rules and so we adopt the *NAL*'s apparent conclusion concerning those announcements. Instead, Ministerio focuses on the proposed forfeiture amount, which was assessed in accordance with Section 503(b) of the Communications Act,⁹ Section 1.80 of the Commission's Rules,¹⁰ and the Commission's forfeiture guidelines set forth in its *Forfeiture Policy Statement*.¹¹ In assessing forfeitures, Section 503(b) 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 other matters as justice may require.¹²

5. Ministerio claims that, due to its strained financial condition, it cannot satisfy the forfeiture amount and argues that cancellation or at least reduction is warranted due to such hardship.¹³ In support, Ministerio has provided financial documentation for 2006, 2007, and 2008.¹⁴ Ministerio also states that it has loans that constrain its ability to pay the forfeiture.¹⁵

6. The Commission has determined that a licensee's gross revenues are the best yardsticks for determining its ability to pay,¹⁶ and that the net losses do not, in the absence of other mitigating factors, demonstrate a licensee's inability to pay.¹⁷ After reviewing Ministerio's financial documentation and in light of its gross revenues, we do not agree with Ministerio that cancellation or reduction on the basis of inability to pay is appropriate in this case.¹⁸ Upon providing proper documentation, however, Ministerio may request an installment payment plan option to lessen the immediate impact of the forfeiture.

⁷ See *Ministerio Radial Cristo Viene Pronto, Inc.*, Response to the Notice of Apparent Liability for Forfeiture, filed April 30, 2009 ("Response").

⁸ See *id.* at 3.

⁹ See 47 U.S.C. § 503(b).

¹⁰ See 47 C.F.R. § 1.80.

¹¹ See *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*").

¹² See 47 U.S.C. § 503(b)(2)(E).

¹³ See *NAL Response* at 2.

¹⁴ See *id.* & Attachments.

¹⁵ See *id.* at 2.

¹⁶ See *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088 (1992) ("*PJB Communications*").

¹⁷ See *Independent Communications Inc.*, Memorandum Opinion and Order and Forfeiture Order, 14 FCC Rcd 9605, 9610 (1999); *PJB Communications*, 7 FCC Rcd at 2089.

¹⁸ See, e.g., *PJB Communications*, 7 FCC Rcd at 2089 (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, 24389

7. Ministerio also requests that we consider reducing the forfeiture amount based on its overall record of compliance with the Commission's rules.¹⁹ We have reviewed our records and find no other violations by the Licensee. Under similar circumstances, we have reduced other proposed forfeitures, and find that doing so in this case is appropriate.²⁰ Consequently, we reduce Ministerio's forfeiture amount from \$2,500 to \$2,000.

IV. ORDERING CLAUSES

8. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Commission's rules,²¹ Ministerio Radial Cristo Viene Pronto, Inc., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$2,000 for willfully and repeatedly violating Section 399B of the Act, as amended, and Section 73.503(d) of the Commission's Rules.²²

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules²³ within thirty (30) days of the release of this *Forfeiture Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.²⁴ 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 No. and FRN No. 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 24A (payment type code). Ministerio will also send electronic notification on the date said payment is made to Hillary.DeNigro@fcc.gov, Ben.Bartolome@fcc.gov, Kenneth.Scheibel@fcc.gov, and Anita.Patankar-Stoll@fcc.gov. 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.

(2000), *recons. denied*, 16 FCC Rcd 10023, 10025 (2001) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, 15 FCC Rcd 8640, 8641 (Enf. Bur. 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues). In this case, the forfeiture represents a smaller percentage of the licensee's gross revenues than those involved in the foregoing precedent.

¹⁹ *See id.*

²⁰ *See, e.g., WMGO Broadcasting Corp., Inc.*, Forfeiture Order, 23 FCC Rcd 3754 (Enf. Bur., Invest. and Hearings Div. 2008).

²¹ *See* 47 U.S.C. § 503(b), 47 C.F.R. § 1.80.

²² *See* 47 U.S.C. § 399b; 47 C.F.R. § 73.503(d).

²³ *See* 47 C.F.R. § 1.80.

²⁴ *See* 47 U.S.C. § 504(a).

10. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent, by Certified Mail/Return Receipt Requested, to Ministerio Radial Cristo Viene Pronto, Inc., P.O. Box 344, Guayama, Puerto Rico, 00785-0344, and to its counsel, Frank R. Jazzo, Esq., and Anne Goodwin Crump, Esq., Fletcher Heald & Hildreth, P.L.C., 11th Floor, 1300 North 17th Street, Arlington, Virginia 22209.

FEDERAL COMMUNICATIONS COMMISSION

Suzanne M. Tetreault
Acting Chief, Enforcement Bureau