

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

In the Matter of)	File No.: EB-10-TP-0077
)	
Fritzner Lindor)	NAL/Acct. No.: 201132700007
)	
Orange Park, Florida)	FRN No.: 0020856266
)	

FORFEITURE ORDER

Adopted: September 20, 2011

Released: September 20, 2011

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 hundred dollars (\$300) to Fritzner Lindor (“Mr. Lindor”) for willful and repeated violation of section 301 of the Communications Act of 1934, as amended (“*Act*”).¹ The noted violations involved Mr. Lindor’s operation of an unlicensed radio station on the frequency 94.7 MHz in Orange Park, Florida.

II. BACKGROUND

2. On May 16, 2011, the Enforcement Bureau’s Tampa Office (“Tampa Office”) issued a Notice of Apparent Liability for Forfeiture (“*NAL*”)² to Mr. Lindor for operating an unlicensed radio station. In view of the record evidence discussed in detail in the *NAL*, including the fact that Mr. Lindor admitted that he knew his action violated the *Act*, the *NAL* proposed a forfeiture of \$15,000 against Mr. Lindor for violation of section 301 of the *Act*.³ Mr. Lindor submitted a response to the *NAL* acknowledging that he committed the violation, but denying that he “used the radio knowing that it was illegal.”⁴ Mr. Lindor also requests cancellation or reduction of the proposed forfeiture because he asserts that he cannot afford the proposed forfeiture.⁵

¹ 47 U.S.C. § 301.

² *Fritzner Lindor*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 6779 (Enf. Bur. 2011). A comprehensive recitation of the facts and history of this case can be found in the *NAL* and is incorporated herein by reference.

³ 47 U.S.C. § 301.

⁴ Letter from Fritzner Lindor to the Tampa Office dated June 4, 2011 (“*NAL Response*”).

⁵ *Id.*

III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with section 503(b) of the Act,⁶ section 1.80 of the Commission's rules,⁷ and the *Forfeiture Policy Statement*.⁸ In examining Mr. Lindor'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.⁹ As discussed below, we have considered Mr. Lindor's response in light of these statutory factors and find that reduction of the forfeiture is warranted based solely on his documented inability to pay.

4. As set forth in the *NAL*, agents from the Tampa Office determined that Mr. Lindor operated an unlicensed radio station on the frequency 94.7 MHz on June 8, 9, and 10, 2010. In his response to the *NAL*, Mr. Lindor admits to operating an unlicensed radio station, but asserts he did not know his actions were illegal.¹⁰ Such knowledge, however, is unnecessary for a violation to be willful. As the Commission has long held, "willful" is defined as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.¹¹ Thus, we find that Mr. Lindor willfully and repeatedly¹² violated section 301 of the Act by operating an unlicensed radio transmitter. We also find Mr. Lindor's statement that he did not know his actions to be illegal to be unreliable, given his statements to the contrary made to agents during the inspection on June 10, 2010.¹³

5. Finally, Mr. Lindor asserts that payment of the forfeiture would pose a financial hardship. With regard to an individual's or entity's inability to pay claim, the Commission has determined that, in general, gross revenues are the best indicator of an ability to pay a forfeiture.¹⁴ Having reviewed Mr. Lindor's submitted documentation, we conclude that the forfeiture should be reduced to \$300, an amount within the range determined by the Bureau to be affordable.¹⁵

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. § 1.80.

⁸ *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), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*").

⁹ 47 U.S.C. § 503(b)(2)(E).

¹⁰ *NAL Response* at 1.

¹¹ 47 U.S.C. § 312(f)(1).

¹² 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."

¹³ During the inspection on June 10, 2010, Mr. Lindor stated to FCC agents that he had about 19 years of experience in the broadcasting industry and knew his actions violated the Act. *See NAL* at 6779.

¹⁴ *See PJB Communications of Virginia, Inc.*, Forfeiture Order, 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.*, Forfeiture Order, 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*, Forfeiture Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

¹⁵ *See NAL* at 6779.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's rules, Fritzner Lindor **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of three hundred dollars (\$300) for violations of section 301 of the Act.¹⁶

7. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for enforcement pursuant to section 504(a) of the Act.¹⁷ 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 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. Fritzner Lindor shall also send electronic notification to SCR-Response@fcc.gov on the date said payment is made.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Fritzner Lindor at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

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

¹⁶ 47 U.S.C. §§ 301, 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4).

¹⁷ 47 U.S.C. § 504(a).