

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

In the Matter of)	
)	
P&Y Broadcasting Corporation)	File No. EB-10-LA-0265
Antenna Structure Registrant)	
Los Angeles, California)	NAL/Acct. No.: 201232900001
ASR No. 1246297)	FRN: 0016908238
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: October 19, 2011

Released: October 21, 2011

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find P&Y Broadcasting Corporation (“P&Y Broadcasting”), owner of antenna structure number 1246297, in Los Angeles, California, apparently willfully and repeatedly violated section 17.57 of the Commission’s rules (“Rules”)¹ by failing to immediately notify the Commission of a change in ownership information for antenna structure number 1246297. We conclude that P&Y Broadcasting is apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000).

II. BACKGROUND

2. On December 7, 2010, an agent of the Enforcement Bureau’s Los Angeles Office (“Los Angeles Office”) inspected antenna structure number 1246297,² located in Los Angeles, California.³ A search of the Commission’s Antenna Structure Registration (“ASR”) database revealed that the antenna structure was registered to Rose City Radio Corporation.

3. On December 9, 2010, the Los Angeles agent contacted Rose City Radio Corporation and was informed by an employee that antenna structure number 1246297, and Station KMPC(AM), had been sold to P&Y Broadcasting a few years earlier. On December 15, 2010, the agent contacted P&Y Broadcasting and was told by P&Y Broadcasting’s Chief Strategy Officer that P&Y Broadcasting had purchased the antenna structure a few years earlier as part of the acquisition of Station KMPC(AM) from a previous licensee. On March 2, 2011, the Los Angeles Office sent a Letter of Inquiry to P&Y Broadcasting.⁴ On March 21, 2011, P&Y Broadcasting updated the ASR information for antenna

¹ 47 C.F.R. § 17.57.

² Antenna structure number 1246297 is required to have painting and lighting in accordance with FAA Chapters 4, 5, 12, FAA Circular Number 70/7460-1K.

³ P&Y Broadcasting is also the licensee of Station KMPC(AM), Los Angeles, California, and utilizes antenna structure number 1246297 to broadcast KMPC(AM).

⁴ See Letter of Inquiry from Nader Haghighat, District Director, Los Angeles Office, Western Region, Enforcement Bureau, to P&Y Broadcasting Corporation, dated March 2, 2011 (“LOI”).

structure number 1246297 to reflect its ownership of the structure. On March 25, 2011, in its *LOI Response*, P&Y Broadcasting stated that it had purchased the antenna structure as part of the acquisition of Station KMPC(AM) and that the transaction was consummated on January 14, 2008.⁵

III. DISCUSSION

4. Section 503(b) of the Communications Act of 1934, as amended (“Act”), provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. Section 312(f)(1) of the Act defines willful as the “conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.⁶ The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both section 312 and 503(b) of the Act⁷ and the Commission has so interpreted the term in the section 503(b) context.⁸ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.⁹ The term “repeated” means the commission or omission of such act more than once or for more than one day.¹⁰

5. Section 17.57 of the Rules requires the owner of an antenna structure to immediately notify the Commission, using FCC Form 854, upon any change in ownership information.¹¹ It is required that antenna structure owners maintain current antenna structure registration information with the Commission and post ASR numbers at the base of antenna structures to allow for easy contact if problems arise.¹² P&Y Broadcasting acquired antenna structure number 1246297 on January 14, 2008, but failed to update the ownership information for the antenna structure until March 21, 2011, and only after receiving an *LOI* from the Los Angeles Office. From January 14, 2008, until March 21, 2011, P&Y Broadcasting failed to notify the Commission that it had acquired antenna structure number 1246297. Based on the evidence before us, we find that P&Y Broadcasting apparently willfully and repeatedly violated section 17.57 of the Rules by failing to immediately notify the Commission about a change in ownership for antenna structure

⁵ See Letter from Phill Sohn, Chief Executive Office, P&Y Broadcasting Corporation, to Nader Haghghat, District Director, Los Angeles Office, Western Region, Enforcement Bureau, dated March 25, 2011 (“*LOI Response*”).

⁶ 47 U.S.C. § 312(f)(1).

⁷ H.R. Rep. No 97-765, 97th Cong. 2d Sess. 51 (1982) (“This provision[inserted in section 312] defines the terms ‘willful’ and ‘repeated’ for purposes of section 312, and for any other relevant section of the [A]ct (e.g., section 503)... As defined... ‘willful’ means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. ‘Repeated’ means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be ‘continuous’ would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in sections 312 and 503, and are consistent with the Commission’s application of those terms...”).

⁸ See, e.g., *Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) (“*Southern California Broadcasting Co.*”).

⁹ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362 ¶ 10 (2001) (“*Callais Cablevision, Inc.*”) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

¹⁰ 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.”

¹¹ 47 C.F.R. § 17.57.

¹² See, e.g., *American Tower Corporation*, Notice of Apparent Liability, 16 FCC Rcd 1282 (2001) (Commission proposed \$3,000 per violation by antenna structure owner for failure to update antenna structure registration thereby complicating Commission’s staff ability to contact antenna structure owners); *American Tower Corporation*, Consent Decree, 16 FCC Rcd 14937 (2001).

number 1246297.

6. Pursuant to the Commission's *Forfeiture Policy Statement* and section 1.80 of the Rules, the base forfeiture amount for failure to file forms or required information is \$3,000.¹³ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, 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.¹⁴ Applying the *Forfeiture Policy Statement*, section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that P&Y Broadcasting is apparently liable for a \$3,000 forfeiture.

IV. ORDERING CLAUSES

7. 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 of the Commission's rules, P&Y Broadcasting Corporation is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of three thousand dollars (\$3,000) for violation of section 17.57 of the Rules.¹⁵

8. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, P&Y Broadcasting Corporation **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the 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. 20554.¹⁶ If you have questions about payment procedures, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. P&Y Broadcasting Corporation shall send electronic notification on the date said payment is made to WR-Response@fcc.gov.

10. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to

¹³ *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) ("*Forfeiture Policy Statement*"), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. §1.80.

¹⁴ 47 U.S.C. § 503(b)(2)(E).

¹⁵ 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 17.57.

¹⁶ *See* 47 C.F.R. § 1.1914.

sections 1.80(f)(3) and 1.16 of the Rules.¹⁷ Mail the written statement to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles Office, 18000 Studebaker Rd., Suite 660, Cerritos, CA 90703 and include the NAL/Acct. No. referenced in the caption. P&Y Broadcasting Corporation shall also email the written response to WR-Response@fcc.gov.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent both by Certified Mail, Return Receipt Requested, and regular mail, to P&Y Broadcasting Corporation, 3700 Wilshire Boulevard, Suite 510, Los Angeles, California, 90010.

FEDERAL COMMUNICATIONS COMMISSION

Nader Haghghat,
District Director
Los Angeles Office
Western Region
Enforcement Bureau

¹⁷ 47 C.F.R. §§ 1.80(f)(3), 1.16.