

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

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

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 16, 2011

Released: May 16, 2011

By the District Director, Tampa Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Fritzner Lindor (“Mr. Lindor”), apparently willfully and repeatedly violated section 301 of the Communications Act of 1934, as amended (“Act”),¹ by operating an unlicensed radio transmitter on the frequency 94.7 MHz in Orange Park, Florida. We conclude that Mr. Lindor is apparently liable for a forfeiture in the amount of fifteen thousand dollars (\$15,000).

II. BACKGROUND

2. On June 8 and 9, 2010, agents from the Enforcement Bureau’s Tampa Office (“Tampa Office”), in response to a complaint, used direction-finding techniques to locate the source of radio frequency transmissions on the frequency 94.7 MHz to Mr. Lindor’s residence in Orange Park, Florida.² On both days the agents determined that the signals being broadcast exceeded the limits for operation under Part 15 of the Commission’s rules (“Rules”) and therefore required a license.³ A review of Commission records shows that Mr. Lindor does not hold any authorization to broadcast on any frequency in Orange Park, Florida.

3. On June 10, 2010, agents from the Tampa Office inspected the unauthorized broadcast station in Mr. Lindor’s residence while it was on the air. During the inspection, Mr. Lindor admitted to purchasing the station’s transmitter and operating the station without a license. Mr. Lindor also stated that he had been involved in broadcasting for about 19 years and knew that his actions violated the Act.

¹ 47 U.S.C. § 301.

² On June 8 and 10, 2010, the agents from the Tampa Office observed an antenna mounted to a tree in Mr. Lindor’s yard and traced a coaxial cable from the antenna into his residence.

³ Part 15 of the Rules sets out the conditions and technical requirements under which certain radio transmission devices may be used without a license. In relevant part, section 15.239 of the Rules provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 µV/m at three meters. 47 C.F.R. § 15.239.

III. DISCUSSION

4. Section 503(b) of the 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.⁴ The term “willful” as used in section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.⁵ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁶

5. Section 301 of the Act requires that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license.⁷ On June 8, 9, and 10, 2010, agents from the Tampa Office determined that an unlicensed radio station was operating on the frequency 94.7 MHz from Mr. Lindor’s residence in Orange Park, Florida. A review of the Commission’s records revealed that Mr. Lindor did not have a license to operate a radio station on this frequency at this location. During the Commission’s inspection, Mr. Lindor also admitted to operating an unlicensed radio station with knowledge that such operation violated the Act and the Rules. Because Mr. Lindor consciously operated a station, we find the apparent violation willful. Because the operation occurred on more than one day, we find that the apparent violation was repeated. Based on the evidence before us, we find that on June 8, 9, and 10, 2010, Mr. Lindor apparently willfully and repeatedly violated section 301 of the Act by operating radio transmission equipment without the required Commission authorization.

6. Pursuant to the Commission’s *Forfeiture Policy Statement* and section 1.80 of the Rules, the base forfeiture amount for operation without an instrument of authorization is \$10,000.⁸ 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.⁹ In this regard, we take into account the fact that Mr. Lindor knew that his actions violated the Act, yet he still engaged in the conduct, thereby demonstrating a deliberate disregard for the Commission’s requirements. Based on the evidence before us, we find that an upward adjustment of \$5,000 is warranted.¹⁰ Applying the *Forfeiture Policy Statement*, section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Mr. Lindor is apparently liable for a \$15,000 forfeiture.

⁴ 47 U.S.C. § 503(b).

⁵ 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, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

⁶ 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.”

⁷ 47 U.S.C. § 301.

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

⁹ 47 U.S.C. § 503(b)(2)(E).

¹⁰ See *Robert Brown*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 13740 (Enf. Bur. 2010); *Lloyd Morris*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 13736 (Enf. Bur. 2010).

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, Fritzner Lindor is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for violations of section 301 of the Act.¹¹

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, Fritzner Lindor **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 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. 20554.¹² For questions about payment, contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. Fritzner Lindor shall also send an email notification to SCR-Response@fcc.gov on the date said payment is made.

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 sections 1.80(f)(3) and 1.16 of the Rules. The written statement, if any, shall be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Tampa Office, 4010 W. Boy Scout Blvd., Suite 425, Tampa, Florida 33607, and must include the NAL/Acct. No. referenced in the caption. The written statement shall also be emailed to SCR-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.

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

¹² See 47 C.F.R. § 1.1914.

12. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to Fritzner Lindor at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Ralph Barlow
District Director,
Tampa Office
Southeast Region
Enforcement Bureau