

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

In the Matter of)	
)	
Jared A. Bruegman)	File Number: EB-FIELDSCR-12-00005740
)	NAL/Acct. No.: 201332560003
Bolivar, MO)	FRN: 0003872686
)	

FORFEITURE ORDER

Adopted: October 23, 2013

Released: October 23, 2013

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 five hundred dollars (\$500) to Jared A. Bruegman for willfully violating Section 301 of the Communications Act of 1934, as amended (Act).¹ The noted violation involved Mr. Bruegman's operation of an unlicensed radio transmitter on the frequency 14.312 MHz in Bolivar, Missouri.

II. BACKGROUND

2. On February 25, 2013, the Enforcement Bureau's Kansas City Office (Kansas City Office) issued a Notice of Apparent Liability for Forfeiture (*NAL*) for ten thousand dollars (\$10,000) to Mr. Bruegman for operating an unlicensed radio transmitter in Bolivar.² In response to the *NAL*, Mr. Bruegman does not deny the violation, but requests cancellation or reduction of the forfeiture based on his inability to pay claim.³

III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁴ Section 1.80 of the Commission's rules (Rules),⁵ and the *Forfeiture Policy Statement*.⁶ In examining Mr. Bruegman's response, Section 503(b)(2)(E) of the Act requires that the Commission take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the

¹ 47 U.S.C. § 301.

² *Jared A. Bruegman*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 1327 (Enf. Bur. 2013) (*NAL*). A comprehensive recitation of the facts and history of this case can be found in the *NAL* and is incorporated herein by reference.

³ See Letter from Jared A. Bruegman to Kansas City Office, South Central Region, Enforcement Bureau (Mar. 20, 2013) (on file in EB-FIELDSCR-12-00005740) (*NAL Response*) (stating that the \$10,000 forfeiture would "bankrupt" him).

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. § 1.80.

⁶ *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*).

violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁷

4. We affirm the *NAL*'s finding that Mr. Bruegman violated Section 301 of the Act.⁸ Section 301 of the Act states 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 granted under the provisions of the Act.⁹ As reflected in the *NAL*, on December 18, 2012, agents from the Kansas City Office observed an unlicensed radio transmitter operating on the frequency 14.312 MHz from a residence in Bolivar.¹⁰ During the agents' inspection of the radio transmitter at the residence, Mr. Bruegman was the only person present in the bedroom where the transmitter (which was powered on) was located.¹¹ Mr. Bruegman also admitted to owning the radio transmitting equipment. Based on the record evidence, which Mr. Bruegman does not dispute, we conclude that Mr. Bruegman willfully violated Section 301 of the Act by operating radio transmission equipment without the required Commission authorization.

5. In response to the *NAL*, Mr. Bruegman nonetheless requests cancellation or reduction of the \$10,000 forfeiture, asserting that his financial circumstances make it difficult for him to pay the forfeiture.¹² With regard to an individual's or entity's inability to pay claim, the Commission has determined that, in general, gross income or revenues are the best indicator of an ability to pay a forfeiture.¹³ Based on the financial documents provided by Mr. Bruegman, we find that there is a sufficient basis to reduce (but not cancel) the forfeiture to \$500.¹⁴ We caution Mr. Bruegman, however, that a party's inability to pay is only one factor in our forfeiture calculation analysis, and is not dispositive.¹⁵ In this regard, we have previously rejected inability to pay claims in cases of repeated or otherwise egregious violations.¹⁶ Therefore, future violations of this kind may result in significantly higher forfeitures that may not be reduced due to Mr. Bruegman's financial circumstances.

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ See *NAL*, *supra* note 2.

⁹ 47 U.S.C. § 301.

¹⁰ *NAL*, 28 FCC Rcd at 1328, para. 5.

¹¹ *Id.*

¹² See *NAL Response*, *supra* note 3.

¹³ See *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).

¹⁴ This forfeiture amount falls within the percentage range that the Commission has previously found acceptable. See *supra* note 13. If Mr. Bruegman finds it financially infeasible to make full payment of this amount within 30 days, he can request an installment plan, as described in paragraph 8, *infra*, of this Forfeiture Order.

¹⁵ See 47 U.S.C. § 503(b)(2)(E) (requiring the Commission to 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 such other matters as justice may require).

¹⁶ See, e.g., *Whisler Fleurinor*, Forfeiture Order, 28 FCC Rcd 1087 (Enf. Bur. 2013) (affirming \$25,000 forfeiture and rejecting inability to pay claim because violator was previously afforded a reduction based on inability to pay, but later committed the same violation). *Accord Kevin W. Bondy*, Forfeiture Order, 26 FCC Rcd 7840 (Enf. Bur. 2011) (holding that violator's repeated acts of malicious and intentional interference outweigh evidence concerning his ability to pay claim), *aff'd*, Memorandum Opinion and Order, 28 FCC Rcd 1170 (Enf. Bur. 2013) (further request for reconsideration pending); *Hodson Broadcasting Corp.*, Forfeiture Order, 24 FCC Rcd 13699 (Enf. Bur. 2009) (holding that permittee's continued unauthorized operation outweighed its inability to pay claim).

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, Jared A. Bruegman **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of five hundred dollars (\$500) for violation of Section 301 of the Act.¹⁷

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.¹⁸ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.¹⁹ Jared A. Bruegman shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁰ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

8. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²¹ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

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

¹⁸ 47 C.F.R. § 1.80.

¹⁹ 47 U.S.C. § 504(a).

²⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²¹ See 47 C.F.R. § 1.1914.

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

FEDERAL COMMUNICATIONS COMMISSION

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