

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

In the Matter of)	
)	
Centro Colegial Cristiano, Inc.)	File No.: EB-FIELDSCR-12-00001943
)	NAL/Acct. No.: 201332680001
Licensee of FM Station WVID)	FRN: 0001729490
Anasco, Puerto Rico)	Facility ID No.: 10053

FORFEITURE ORDER

Adopted: October 28, 2013

Released: October 28, 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 six thousand four hundred dollars (\$6,400) to Centro Colegial Cristiano, Inc. (Centro Colegial), licensee of FM Station WVID in Anasco, Puerto Rico, for willful and repeated violation of Sections 11.35(a), 11.51(m)(1), and 11.52(e)(1) of the Commission's rules (Rules).¹ The noted violations involved Centro Colegial's failure to maintain fully operational Emergency Alert System (EAS) equipment when the station was in operation.

II. BACKGROUND

2. On January 24, 2013, the Enforcement Bureau's San Juan Office (San Juan Office) issued a Notice of Apparent Liability for Forfeiture and Order (NAL)² to Centro Colegial for failing to maintain fully operational EAS equipment. Centro Colegial submitted a response to the NAL stating that its EAS equipment is now fully operational and it is maintaining required EAS logs, and requesting cancellation or reduction of the proposed \$8,000 forfeiture.³ In support of its request for cancellation or reduction of the proposed forfeiture, Centro Colegial asserts that it has a long history of compliance with the Rules and is unable to pay the forfeiture.⁴

III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁵ Section 1.80 of the Rules,⁶ and the *Forfeiture Policy Statement*.⁷ In examining Centro

¹ 47 C.F.R. §§ 11.35(a), 11.51(m)(1), 11.52(e)(1).

² *Centro Colegial Cristiano, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 329 (Enf. Bur. 2013). A comprehensive recitation of the facts and history of this case can be found in the NAL and is incorporated herein by reference.

³ Letter from Reynaldo J. Garcia, Technical and Compliance Manager, Station WVID, to San Juan Office, South Central Region, Enforcement Bureau at 1 (Feb. 21, 2013) (on file in EB-FIELDSCR-12-00001943).

⁴ *Id.* at 1-2.

⁵ 47 U.S.C. § 503(b).

Colegial'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 violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁸ As discussed below, we have considered Centro Colegial's response in light of these statutory factors and find that a reduction of the forfeiture is warranted based on its history of compliance with the Rules.

4. We conclude that the evidence supports the Bureau's undisputed findings that, as of sometime in September 2011 through April 30, 2012, Station WVID's EAS equipment was unable to interrupt programming and transmit automatically an EAS message.⁹ Moreover, although Station WVID broadcast programming 24 hours a day, the station was not staffed 24 hours a day.¹⁰ Accordingly, when unattended, Station WVID was unable to interrupt normal programming or transmit EAS messages.¹¹ Based on the evidence before us, we find that Centro Colegial willfully and repeatedly violated Sections 11.35(a), 11.51(m)(1), and 11.52(e)(1) of the Rules by failing to maintain fully operational EAS equipment at Station WVID when the station was operational and unattended.

5. In response to the *NAL*, Centro Colegial requested cancellation or reduction of the \$8,000 forfeiture based on its history of compliance with the Rules and inability to pay. We have reviewed our records and concur that Centro Colegial has not been previously cited with a violation of the Rules. Accordingly, we reduce the proposed forfeiture to six thousand four hundred dollars (\$6,400) based on Centro Colegial's history of compliance.¹² When faced with claims alleging an inability to pay, the Commission has determined that gross revenues are generally the best indicator of an individual or entity's ability to pay a forfeiture.¹³ Based on the financial documents provided by Centro Colegial, we find insufficient basis to reduce the forfeiture further due to an inability to pay.¹⁴

⁶ 47 C.F.R. § 1.80.

⁷ *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*).

⁸ 47 U.S.C. § 503(b)(2)(E).

⁹ *NAL*, 28 FCC Rcd at 331, para. 6.

¹⁰ *Id.*

¹¹ *Id.*

¹² See *Martin Broad., Inc.*, Forfeiture Order, 28 FCC Rcd 1923 (Enf. Bur. 2013) (proposed forfeiture reduced based on history of compliance with the Rules). If Centro Colegial believes that paying this amount presents financial difficulties, we note that it could always pursue an installment plan to lessen the immediate impact of the forfeiture. See *infra* para. 8.

¹³ See *Hoosier Broad. Corp.*, Memorandum Opinion and Order, 15 FCC Rcd 8640 (Enf. Bur. 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues); *Local Long Distance, Inc.*, Order of Forfeiture, 15 FCC Rcd 24385 (Enf. Bur. 2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues).

¹⁴ The proposed \$6,400 forfeiture amount falls within the percentage range that the Commission has previously found acceptable. See *supra* para. 5, note 13. We note that Centro Colegial states that it has been operating with a net loss for the past two years. In most cases, however, the Commission considers gross, not net, revenues when determining ability to pay. See *id.*

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, Centro Colegial Cristiano, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of six thousand four hundred dollars (\$6,400) for violations of Sections 11.35(a), 11.51(m)(1), and 11.52(e)(1) of the Commission's rules.¹⁵

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's rules within thirty (30) calendar days after the release date of this Forfeiture Order.¹⁶ 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.¹⁷ Centro Colegial Cristiano, Inc. 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.¹⁸ 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. 20554.¹⁹ If you have questions regarding payment procedures,

¹⁵ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 11.35(a), 11.51(m)(1), 11.52(e)(1).

¹⁶ 47 C.F.R. § 1.80.

¹⁷ 47 U.S.C. § 504(a).

¹⁸ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹⁹ See 47 C.F.R. § 1.1914.

please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

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 Centro Colegial Cristiano, Inc. at POB 3420, Mayaguez, PR 00681-3420 and to its counsel, Richard F. Swift, Fletcher, Heald & Hildreth, at 1300 North 17th Street, 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

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