

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

In the Matter of)	
)	
Jean Richard Salvador)	File No.: EB-FIELDSCR-13-00009676
)	NAL/Acct. No.: 201432600002
Miami, Florida)	FRN: 0023464704

FORFEITURE ORDER

Adopted: June 24, 2014

Released: June 24, 2014

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. We impose a penalty of \$15,000 against Jean Richard Salvador for operating an unlicensed FM radio station on the frequency 89.5 MHz in Miami, Florida. Although Mr. Salvador denies operating the unlicensed station in September 2013, he did not dispute that he operated the station in June or July of 2013.

2. Specifically, in this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of fifteen thousand dollars (\$15,000) to Mr. Salvador for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended (Act).¹ The noted violations involved Mr. Salvador's operation of an unlicensed broadcast radio station.

II. BACKGROUND

3. On March 26, 2014, the Enforcement Bureau's Miami Office (Miami Office) issued a Notice of Apparent Liability for Forfeiture (*NAL*) to Mr. Salvador for operation of an unlicensed FM radio station.² As reflected in the *NAL*, on June 28, July 5, and September 17, 2013, agents from the Miami Office, using direction finding techniques, determined that an unlicensed radio station was operating on 89.5 MHz from Apartment 2 in a multi-family residence in Miami. Mr. Salvador was present in Apartment 2 when the agents attempted to inspect the unlicensed station on July 5, 2013. At that time, Mr. Salvador admitted to the agents that he turned the unlicensed station transmitter on and off at different times on multiple days, but claimed his unnamed "friend" operated the station. Agents later found evidence on the Internet identifying Mr. Salvador as an organizer and DJ for the unlicensed station marketing itself as BREEZ FM 89.5 in Miami. The totality of the evidence led the Enforcement Bureau to conclude that Mr. Salvador was the friend referenced during the July 5, 2013 inspection. However, even if Mr. Salvador was not the friend, the Enforcement Bureau concluded that he exercised control over the unlicensed station by turning off the transmitter on July 5, 2013, and operating the transmitter on other days.

4. In response to the *NAL*, Mr. Salvador telephoned the Miami Office on April 1, 2014, and told an agent that "I don't have a station. I'm not there anymore."³ An agent tried contacting Mr. Salvador

¹ 47 U.S.C. § 301.

² *Jean Richard Salvador*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 2976 (Enf. Bur. 2014) (*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 A written response was required by the *NAL*, so the Enforcement Bureau could have issued a Forfeiture Order without referencing Mr. Salvador's phone calls.

on April 4, 2014, but was sent to voicemail, which referenced “FM” in the recorded greeting. On April 7, 2014, Mr. Salvador again called the Miami Office and told an agent that he was not present at the station in September 2013 and that his girlfriend must have let a “guy” (the purported operator) into Apartment 2.

III. DISCUSSION

5. 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. Salvador’s responses, 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.⁷ As discussed below, we have fully considered Mr. Salvador’s responses in light of these statutory factors and find that a \$15,000 forfeiture is appropriate.

6. We affirm the *NAL*’s finding that Mr. Salvador willfully and repeatedly 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 It is undisputed that on June 28, July 5, and September 17, 2013, an unlicensed FM station operated on 89.5 MHz from Apartment 2 in a multi-family residence in Miami. Although Mr. Salvador denies *presently* having a station or being *currently* located at Apartment 2, he does not deny operating the unlicensed station in June or July 2013 or being a DJ or organizer for the unlicensed station. We also do not find credible his statement that he did not operate the unlicensed station in September, given the preponderance of the evidence, namely, that Mr. Salvador was present in the apartment with the station when the agents arrived, Mr. Salvador admitted to agents that he (Salvador) turned the station on and off, Mr. Salvador failed to identify a purported “friend” who operated the station, and the web pages evidencing Mr. Salvador’s connection to the station. Therefore, based on the evidence before us, we conclude that Mr. Salvador willfully and repeatedly violated Section 301 of the Act by operating an unlicensed FM radio station.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Rules, Jean Richard Salvador **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for violations of Section 301 of the Act.¹⁰

8. 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 Order.¹¹ 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

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*).

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ 47 U.S.C. § 301.

⁹ *Id.*

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

¹¹ 47 C.F.R. § 1.80.

the forfeiture pursuant to Section 504(a) of the Act.¹² Mr. Salvador shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made.

9. 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.¹³ 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.

10. Any request for 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. 20554.¹⁴ 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.

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

FEDERAL COMMUNICATIONS COMMISSION

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

¹² 47 U.S.C. § 504(a).

¹³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹⁴ See 47 C.F.R. § 1.1914.