

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Andrew O. Turner) File No.: EB-FIELDSCR-15-00018593
Miami Gardens, FL) NAL/Acct. No.: 201632600001
) FRN: 0025070996

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: November 20, 2015

Released: November 20, 2015

By the Resident Agent, Miami Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of \$15,000 against Andrew O. Turner for operating an unlicensed radio station on 95.9 MHz in Broward County, FL. The Commission previously warned Mr. Turner that operation of this unlicensed station was illegal and that continued operation could result in further enforcement action. Mr. Turner’s deliberate disregard of the Commission’s warnings warrants a significant penalty. Commission action in this area is essential because unlicensed radio stations create a danger of interference to licensed communications and undermine the Commission’s authority over FM broadcast radio operations.

II. BACKGROUND

2. On January 26, 2015, in response to a complaint, agents from the Enforcement Bureau’s Miami Office (Miami Office) used mobile direction-finding techniques to locate the source of radio frequency transmissions on the frequency 95.9 MHz to an FM transmitting antenna located at a residential property in Broward County, FL. The agents took field strength measurements of the station’s signal and determined that the transmissions on 95.9 MHz exceeded the limits for operation under Part 15 of the Commission’s rules (Rules),¹ and therefore required a license. The agents consulted the Commission’s records and confirmed that no authorization had been issued to Mr. Turner, or to anyone else, for the operation of an FM broadcast station at or near the residence in Broward County, FL.

3. While monitoring the transmissions on January 26, 2015, agents heard the announcer identify the station as “BIG Station 95.9” and observed a vehicle registered to Mr. Turner parked in the residence’s driveway. The agents identified a coaxial cable connected to the antenna in the backyard and running toward the house along the ground. The agents also observed a large sign leaning up against the residence advertising a community event that stated “Tune in to 95.9” and “One Caribbean International.” State records list Andrew Turner as the registered agent and president of “One Caribbean International, Inc.” and the president of “WBig International Solushuns, Inc.,” which has an address similar to the residential property housing the unlicensed station.²

¹ 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.

² Florida Department of State, Division of Corporations Homepage, www.sunbiz.org (last visited Nov. 18, 2015). The address listed for Andrew Turner differs from the station location address by one digit in the street number. According to the U.S. Postal Service website, the address listed in the state corporation records is not a valid street address in Broward County, FL. Beginning in April 2015, official public records list the property housing the unlicensed station as Mr. Turner’s residence and show that Mr. Turner connected utilities at this location.

4. On March 7, 2015, agents from the Miami Office and the Enforcement Bureau's Tampa Office (Tampa Office) used mobile direction-finding techniques to locate the source of radio frequency transmissions on 95.9 MHz to an FM transmitting antenna located at the same residential property identified on January 26, 2015. The agents again consulted the Commission's records and confirmed that no authorization had been issued to Mr. Turner, or to anyone else, for the operation of an FM broadcast station at or near the residence in Broward County, FL. While at the residence, the agents observed two vehicles registered to Mr. Turner parked in the driveway. The agents left a written Notice of Unlicensed Operation addressed to Mr. Turner at the residence, which directed Mr. Turner to cease operating the unlicensed radio station on 95.9 MHz in Broward County, FL, and warned that continued unlicensed operations could result in additional enforcement action.³

5. On August 17, 2015, in response to continued unlicensed operations, agents from the Miami Office used mobile direction-finding techniques to identify the source of transmissions on the frequency 95.9 MHz to an FM transmitting antenna located at a different residential property in Broward County, FL. The agents again took field strength measurements of the station's signal, confirmed that the station required a license, and determined that no authorization had been issued to Mr. Turner, or to anyone else, for the operation of an FM broadcast station at or near the residence in Broward County, FL. While at the residence, the agents spoke to a woman who identified herself as the property owner. The property owner stated that she allowed another woman to install the radio equipment in a locked room with an exterior door on the side of the residence for which she did not have a key. The property owner called this woman on her cellphone and allowed an agent to speak to her. The woman stated she was unable to come to the residence. The agents issued two written Notices of Unlicensed Operation, one addressed to the property owner and the other to the woman installing the radio equipment and "Andrew Turner/WBIG Station", directing them to cease operating the unlicensed radio station on 95.9 MHz in Broward County, FL, and warning that continued unlicensed operations could result in additional enforcement action.⁴ The agents later drove by the residence and observed a vehicle registered to Mr. Turner parked in the driveway.

6. A Miami Office agent subsequently searched Facebook and found several webpages linking Mr. Turner with operation of the unlicensed station on 95.9 MHz known as WBIG Station. WBIG Station's Facebook page had a picture of Mr. Turner as its cover photo.⁵ The "About" section of the WBIG Station Facebook page listed "Andrew Turner" as the affiliation and the "Bio" section listed Mr. Turner as the "Owner of the Big Station 95.9, Ceo of One Caribbean International." In addition to several other photos of Mr. Turner, the WBIG Station Facebook page also listed an email address of "bungiewbig@gmail.com" and a webpage of "wbigstation.net". Facebook pages for Andrew Turner⁶ and Bungie Andrew Turner⁷ also contained several photographs showing the same individual identified as Mr. Turner in the photos from the WBIG Station Facebook page. Both pages contained an event flyer photo, which had a picture of Mr. Turner and stated "Minister Bungie Big Birthday Celebration Sunday July 5

³ *Andrew O. Turner*, Notice of Unlicensed Operation (Enf. Bur. Mar. 7, 2015) (on file in EB-FIELDSCR-15-00018593).

⁴ *Andrew Turner/WBIG Station*, Notice of Unlicensed Operation (Enf. Bur. Aug. 17, 2015) (on file in EB-FIELDSCR-15-00018593).

⁵ See WBIG Station 95.9 fm Facebook page, located at www.facebook.com/pages/WBig-Station-959-fm/242233067963 (last visited Nov. 18, 2015).

⁶ See Andrew Turner Facebook page, located at www.facebook.com/andrew.turner.796774?fref=ts (last visited Nov. 18, 2015).

⁷ See Bungie Andrew Turner Facebook page, located at www.facebook.com/bungie.turner (last visited Nov. 18, 2015).

2015.” The Bungie Andrew Turner Facebook page contained another event flyer photo, which had a picture of Mr. Turner and stated “Minister Andrew Turner’s Brother Bungie Big Birthday Bash . . . Some know him as Andrew, some as Brother Bungie and others as 1-800 Bungie . . . Saturday July 5 2014.” This date matched Mr. Turner’s date of birth listed in official public records. The webpage at www.wbigstation.net showed a logo for “WBIG Station 95.9,” stated “For Information Call Us: Minister Andrew,” and provided a phone number matching the number agents used to call the woman who installed the radio equipment at the unlicensed station identified on August 17, 2015.

7. On September 9, 2015, in response to continued unlicensed operations, agents from the Miami Office used mobile direction-finding techniques to locate the source of radio frequency transmissions on 95.9 MHz to an FM transmitting antenna located at the same residential property identified on January 26 and March 7, 2015. The agents observed a vehicle registered to Mr. Turner parked in the residence’s driveway. The agents once again took field strength measurements of the station’s signal, confirmed that the station required a license, and determined that no authorization had been issued to Mr. Turner, or to anyone else, to operate this station at or near the residence in Broward County, FL.

III. DISCUSSION

8. We find that Mr. Turner apparently willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended (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 without a license granted by the Commission. On January 26, March 7, August 17, and September 9, 2015, agents from the Miami Office and Tampa Office determined that Mr. Turner operated an unlicensed radio station on 95.9 MHz from residences in Broward County, FL.⁹ Mr. Turner was warned by the Commission in writing that such unlicensed operations violated the Act on March 7 and August 17, 2015.¹⁰ As a result, we find Mr. Turner apparently willfully and repeatedly violated Section 301 of the Act by operating an unlicensed radio station.

9. 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.¹¹ Here, Section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against Mr. Turner of up to \$16,000 for each day of a continuing violation, up to a statutory maximum of \$122,500 for a single act or failure to act.¹² In exercising our forfeiture authority, we must consider the “nature, circumstances, extent, and gravity of the violation and, with respect to the

⁸ 47 U.S.C. § 301.

⁹ *See supra* paras. 2–7.

¹⁰ *See supra* paras. 4–5.

¹¹ 47 U.S.C. § 503(b).

¹² *See* 47 U.S.C. § 503(b)(2)(D); 47 C.F.R. § 1.80(b)(7). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(D) (\$10,000 per violation or per day of a continuing violation and \$75,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321, requires the Commission to adjust its forfeiture penalties periodically for inflation. *See* 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. *See Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 28 FCC Rcd 10785 (Enf. Bur. 2013); *see also* Inflation Adjustment of Monetary Penalties, 78 Fed. Reg. 49,370-01 (Aug. 14, 2013) (setting Sept. 13, 2013, as the effective date for the increases).

violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹³ In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.¹⁴ Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.¹⁵

10. Section 1.80(b) of the Rules sets a base forfeiture of \$10,000 for operation without an instrument of authorization.¹⁶ We have discretion, however, to depart from these guidelines, taking into account the particular facts of each individual case.¹⁷ On March 7 and August 17, 2015, Mr. Turner was issued a warning explaining that unlicensed operation of a radio station violated the law and could subject him to further enforcement action, including a substantial monetary forfeiture. The fact that Mr. Turner continued to operate an unlicensed station after being put on notice that his actions contravened the Act, the Rules, and related Commission orders demonstrates a deliberate disregard for the Commission’s authority and requirements. Thus, we find that an upward adjustment in the forfeiture amount of \$5,000 is warranted.¹⁸ After applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors, we propose a total forfeiture of \$15,000, for which Mr. Turner is apparently liable.

IV. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act¹⁹ and Section 1.80 of the Rules,²⁰ Andrew O. Turner is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for willful and repeated violations of Section 301 of the Act.²¹

12. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,²² within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Andrew O.

¹³ 47 U.S.C. § 503(b)(2)(E).

¹⁴ 47 C.F.R. § 1.80(b)(8), Note to paragraph (b)(8).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *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, 17098–99, para. 22 (1997) (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

¹⁸ *See Robert Brown*, Memorandum Opinion and Order, 27 FCC Rcd 6975 (Enf. Bur. 2012), *aff’g*, Forfeiture Order, 26 FCC Rcd 6854 (Enf. Bur. 2011), *aff’g*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 13740 (Enf. Bur. 2010) (upwardly adjusted proposed forfeiture by \$5,000 because violator operated an unlicensed radio station after receiving a written warning that such action violated the Act and Rules); *Lloyd Morris*, Memorandum Opinion and Order, 27 FCC Rcd 6979 (Enf. Bur. 2012), *aff’g*, Forfeiture Order, 26 FCC Rcd 6856 (Enf. Bur. 2011), *aff’g*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 13736 (Enf. Bur. 2010) (same).

¹⁹ 47 U.S.C. § 503(b).

²⁰ 47 C.F.R. § 1.80.

²¹ 47 U.S.C. § 301.

²² 47 C.F.R. § 1.80.

Turner **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 15 below.

13. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Andrew O. Turner shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²³ 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 that should be followed based on the form of payment selected:

- 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.

14. 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, SW, Room 1-A625, Washington, DC 20554.²⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

15. 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 1.16 and 1.80(f)(3) of the Rules.²⁵ The written statement must be mailed to the Federal Communications Commission, Enforcement Bureau, South Central Region, Miami Office, P.O. Box 266468, Weston, FL 33326, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to SCR-Response@fcc.gov.

16. 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; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current

²³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁴ See 47 C.F.R. § 1.1914.

²⁵ 47 C.F.R. §§ 1.16, 1.80(f)(3).

financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

17. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Andrew O. Turner at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Steven DeSena
Resident Agent
Miami Office
South Central Region
Enforcement Bureau