

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Fellowshipworld, Inc.	)	File No.: EB-FIELDNER-12-00004958
	)	NAL/Acct. No.: 201332400003
Licensee of Station WFWO,	)	FRN: 0020533394
Medina, New York	)	Facility ID No.: 172262

**FORFEITURE ORDER**

**Adopted: June 5, 2015**

**Released: June 5, 2015**

By the Regional Director, Northeast Region, Enforcement Bureau:

**I. INTRODUCTION**

1. We impose a penalty of \$8,000 against Fellowshipworld, Inc. (Fellowshipworld) for operating its radio transmitter from an unauthorized location. Unauthorized operations threaten to undermine the Commission's licensing regime and potentially cause harmful interference to authorized operations. Fellowshipworld does not deny that it moved its transmitter for Station WFWO to an unauthorized location, but seeks a reduction or cancellation of the forfeiture based on its purported good faith efforts to remedy the violation, its history of compliance with the Commission's rules, and its inability to pay the forfeiture. However, Fellowshipworld took no action to address its unauthorized operations until after it was notified of the violation, resumed operations from the unauthorized location after it received a written warning from the Enforcement Bureau (Bureau), and failed to provide any documentation supporting its inability to pay claim. As a result, we find no reason to cancel, withdraw, or reduce the proposed penalty, and we therefore assess the \$8,000 forfeiture the Bureau previously proposed.

**II. BACKGROUND**

2. Station WFWO is authorized to transmit on frequency 89.7 MHz from Presbyterian Road in Knowelsville, New York.<sup>1</sup> On October 18, 2012, in response to a complaint, an agent from the Bureau's Philadelphia Office determined that Station WFWO was transmitting from a site 36 miles from the authorized location in Buffalo, New York.<sup>2</sup> After repeated attempts to contact Fellowshipworld, its President informed the Bureau that it ceased operating Station WFWO at its authorized location on October 13, 2012, and confirmed that Fellowshipworld was transmitting from the unauthorized Buffalo location.<sup>3</sup> During this discussion, Fellowshipworld's President agreed to cease operating its transmitter from Buffalo.<sup>4</sup> The Bureau issued a Notice of Unauthorized Operation (NOUO) to Fellowshipworld on November 1, 2012, ordering it to cease operation of its transmitter from the unauthorized location and warning it that future unauthorized operations could result in monetary penalties.<sup>5</sup>

<sup>1</sup> *Fellowshipworld, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 10246, 10246, para. 2 (Enf. But. 2013) (*NAL*). The *NAL* includes a more complete discussion of the facts and history of this case and is incorporated herein by reference.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 10247, para. 3.

<sup>4</sup> *Id.*

<sup>5</sup> *Fellowshipworld, Inc.*, Notice of Unlicensed Operation (Nov. 1, 2012) (on file in EB-FIELDNER-12-00004958).

3. On November 15, 2012, the agent determined that Station WFWO was again operating from the unauthorized Buffalo location.<sup>6</sup> On July 17, 2013, the Bureau issued the *NAL* proposing an \$8,000 forfeiture against Fellowshipworld for apparently willfully and repeatedly violating Section 301 of the Communications Act, as amended (Act), and Section 17.1350(a) of the Commission's rules (Rules) by failing to operate Station WFWO in accordance with its authorization.<sup>7</sup> In its *NAL Response*, Fellowshipworld argues that the forfeiture should be reduced or cancelled.<sup>8</sup> First, it states that it made good faith efforts to remedy the violation.<sup>9</sup> Next, Fellowshipworld argues that it has a history of compliance with the Commission's rules.<sup>10</sup> Finally, it claims an inability to pay the forfeiture due to "financial hardship."<sup>11</sup>

### III. DISCUSSION

4. The Bureau proposed a forfeiture in this case in accordance with Section 503(b) of the Act,<sup>12</sup> Section 1.80 of the Rules,<sup>13</sup> and the Commission's *Forfeiture Policy Statement*.<sup>14</sup> When we assess forfeitures, Section 503(b)(2)(E) of the Act requires that we 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."<sup>15</sup> As discussed below, we have fully considered Fellowshipworld's *NAL Response*, but we find none of its arguments persuasive. We therefore affirm the \$8,000 forfeiture proposed in the *NAL*.

#### A. Fellowshipworld Did Not Make Good Faith Corrective Efforts Prior to Commission Notification of its Violation

5. Fellowshipworld requests reduction or cancellation of the proposed forfeiture because it made good faith efforts to cease operation at the unauthorized location after receiving notification of the violation from the Philadelphia Office.<sup>16</sup> While the Commission will generally reduce an assessed forfeiture based on the good faith corrective efforts of a violator, those corrective efforts must be taken *prior* to Commission notification of the violation.<sup>17</sup> The Commission has made it clear that "corrective action taken to come into compliance with Commission rules or policy is expected, and does not nullify

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<sup>6</sup> *NAL*, 28 FCC Rcd at 10247, para. 4.

<sup>7</sup> *Id.* at 10248–49, paras. 6–7; 47 U.S.C. § 301; 47 C.F.R. § 73.1350(a).

<sup>8</sup> Letter from John H. Young, President, Fellowshipworld, Inc., to Philadelphia Office, Northeast Region, Enforcement Bureau (Aug. 16, 2013) (on file in EB-FIELDNER-12-00004958) (*NAL Response*).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> 47 U.S.C. § 503(b).

<sup>13</sup> 47 C.F.R. § 1.80.

<sup>14</sup> *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*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

<sup>15</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>16</sup> *NAL Response* at 1.

<sup>17</sup> *See, e.g., Catholic Radio Network of Loveland, Inc.*, Forfeiture Order, 29 FCC Rcd 121, 122–23, para. 5 (Enf. Bur. 2014) ("The Commission will generally reduce an assessed forfeiture based on the good faith corrective efforts of a violator when those corrective efforts were taken *prior* to Commission notification of the violation.") (emphasis in original); *Argos Net, Inc.*, Forfeiture Order, 28 FCC Rcd 1126, 1127, para. 4 (Enf. Bur. 2013) ("[C]orrective action taken after notification or inspection by the Commission does not mitigate the violation . . .").

or mitigate any prior forfeitures or violations.”<sup>18</sup> Fellowshipworld failed to take any action to cease its unauthorized operation of Station WFWO until after it was by a Bureau agent regarding the violation.<sup>19</sup> We therefore deny its request for reduction or cancellation of the proposed forfeiture on that basis. Fellowshipworld further argues that the Commission should reduce the proposed forfeiture because it cooperated with the Commission during the investigation.<sup>20</sup> Fellowshipworld’s willingness to cooperate with the Commission also does not provide a basis to reduce the forfeiture. We expect full cooperation during our investigations and proceedings, and we do not find that such cooperation warrants a reduced forfeiture.<sup>21</sup>

#### **B. Fellowshipworld Does Not Have a History of Compliance**

6. Fellowshipworld requests reduction or cancellation of the proposed forfeiture because it claims it has “no history of prior offenses.”<sup>22</sup> However, Fellowshipworld resumed operating Station WFWO from the unauthorized Buffalo location after receiving a written warning from the Bureau in the NOUO that such operations violated the Act and Rules and would subject Fellowshipworld to monetary penalties.<sup>23</sup> As a result, Fellowshipworld does not demonstrate a history of compliance warranting a forfeiture reduction. Even if Fellowshipworld did demonstrate a history of compliance, we still find that a downward forfeiture adjustment is unwarranted in light of the egregiousness of its unauthorized operations.<sup>24</sup> As stated in the *NAL*, “the misconduct in this case [is] egregious because Fellowshipworld moved the location of its transmitter more than 30 miles from its authorized location to a significantly more populous area . . . affording Fellowshipworld a significantly larger listening audience while potentially causing economic or competitive harm to radio broadcast stations that have Buffalo as their community of license.”<sup>25</sup> Accordingly, we deny Fellowshipworld’s request for a forfeiture reduction based on history of compliance.

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<sup>18</sup> See, e.g., *Seawest Yacht Brokers*, Notice of Forfeiture, 9 FCC Rcd 6099, 6099, para. 7 (1994).

<sup>19</sup> *NAL*, 28 FCC Rcd at 10247, para. 3.

<sup>20</sup> *NAL Response* at 1.

<sup>21</sup> See, e.g., *RB Commc’ns, Inc. d/b/a Starfone*, Forfeiture Order, 29 FCC Rcd 5668, 5672, para. 15 (2014) (“Full cooperation during the course of Commission investigations and proceedings is expected, and is not considered a mitigating factor warranting a reduced forfeiture.”); *Coleman Enters., Inc. d/b/a Local Long Distance, Inc.*, Order of Reconsideration, 16 FCC Rcd 10023, 10027–28, paras. 10–11 (2001) (“We find that [Coleman’s] purported cooperation with the Commission after its violations . . . is not an adequate basis for reducing the forfeiture in this case.”); *4M of Richmond, Inc.*, Forfeiture Order, 19 FCC Rcd 15447, 15452, para. 15 (Enf. Bur. 2004) (“Because we expect cooperation during an FCC investigation, no mitigation is warranted on the basis that the 4M companies acted in good faith by cooperating with the FCC agent . . . .”); *Ne. Utils.*, Forfeiture Order, 17 FCC Rcd 4115, 4117, para. 13 (Enf. Bur. 2002) (“During the course of an investigation into a licensee’s compliance with the Commission’s rules, we expect nothing less than full and complete cooperation.”).

<sup>22</sup> *NAL Response* at 1.

<sup>23</sup> See *supra* para. 2.

<sup>24</sup> See, e.g., *AERCO Broad. Corp.*, Memorandum Opinion and Order, 29 FCC Rcd 15050, para. 2 n.3 (2014) (concluding that even if the violator could show a history of compliance, the forfeiture amount remained appropriate, given the facts and circumstances of the case); *Syntax-Brilliant Corp.*, Forfeiture Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6323, 6339, para. 36 (2008) (noting history of compliance is just one factor that can be considered in determining a forfeiture amount and may not be assigned any weight, especially where a violation is egregious.).

<sup>25</sup> *NAL*, 28 FCC Rcd at 10249, para. 7.

### C. Fellowshipworld Did Not Support Its Claim of Inability to Pay

7. Fellowshipworld requests reduction or cancellation of the proposed forfeiture because it is “unable to pay the claim in full.”<sup>26</sup> As stated in the *NAL*, the Commission will not consider reducing or canceling a forfeiture on the basis 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 financial status.<sup>27</sup> Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.<sup>28</sup> Fellowshipworld provided no financial documentation in support of its inability to pay claim. Accordingly, we deny Fellowshipworld's request for a forfeiture reduction based on inability to pay.

8. Based on the record before us and in light of the applicable statutory factors and the Commission's *Forfeiture Policy Statement*, we find that Fellowshipworld is liable for a total forfeiture of \$8,000.

### IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act<sup>29</sup> and Section 1.80 of the Rules,<sup>30</sup> Fellowshipworld, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully and repeatedly violating Section 301 of the Act and Section 17.1350(a) of the Rules.<sup>31</sup>

10. 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 of this Forfeiture Order.<sup>32</sup> 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.<sup>33</sup>

11. 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. Fellowshipworld, Inc. shall send electronic notification of payment to [NER-Response@fcc.gov](mailto:NER-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.<sup>34</sup> When completing the 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 completed Form 159) must be mailed to the Federal Communications Commission, P.O. Box 979088, St. Louis, MO

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<sup>26</sup> *NAL Response* at 1.

<sup>27</sup> *NAL*, 28 FCC Rcd at 10250, para. 13.

<sup>28</sup> *See Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7441, para. 28 (2004).

<sup>29</sup> 47 U.S.C. § 503(b).

<sup>30</sup> 47 C.F.R. § 1.80.

<sup>31</sup> 47 U.S.C. § 301; 47 C.F.R. § 17.1350(a).

<sup>32</sup> 47 C.F.R. § 1.80.

<sup>33</sup> 47 U.S.C. § 504(a).

<sup>34</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

12. 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.<sup>35</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

13. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Fellowshipworld, Inc. at 1420 Main Street, Buffalo, New York 14209.

FEDERAL COMMUNICATIONS COMMISSION

G. Michael Moffitt  
Regional Director  
Northeast Region  
Enforcement Bureau

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<sup>35</sup> See 47 C.F.R. § 1.1914.