

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

In the Matter of)	
)	
Mobile Relay Associates)	File No.: EB-FIELDWR-13-00006950
)	NAL/Acct. No.: 201532900001
Licensee of WPPF234)	FRN: 0001532027
Malibu, California)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 6, 2015

Released: July 7, 2015

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of \$25,000 against Mobile Relay Associates (MRA), licensee of private land mobile radio (PLMR) station WPPF234, Malibu, California, for failing to monitor and take other precautions to avoid causing harmful interference to another licensed station operating on a shared frequency in the Los Angeles area. The Commission notified MRA that its operations were in violation of the Commission's sharing and monitoring requirements for PLMR stations, however, MRA failed to modify its operations of the station to remedy the interference it was causing. MRA continued to operate the station, causing harmful interference warranting a significant monetary penalty.

II. BACKGROUND

2. MRA is the licensee of multiple PLMR stations in the Los Angeles area.¹ Frequencies assigned to PLMR stations are available on a shared basis, unless specified otherwise.² Station WPPF234 (Station) is authorized to operate on six frequencies from a fixed location on Saddle Peak in Malibu, California.³ MRA is required to share two of the Station's assigned frequencies, 151.7825 MHz and 152.2925 MHz, with other co-channel licensees.⁴ The Station is also required to operate as a trunked Industrial/Business Pool station.⁵ Monitoring requirements apply to all trunked operations on shared

¹ See, e.g., WQQA438, Pasadena, California; WQGW503, Chatsworth, California.

² See 47 C.F.R. § 90.173(a) ("Except as otherwise specifically provided for in this part, frequencies assigned to land mobile stations are available on a shared basis only and will not be assigned for the exclusive use of any licensee.").

³ Four of those frequencies 150.9575 MHz, 152.4575 MHz, 153.2525 MHz and 153.2675 MHz are assigned station class code FB8, which identifies channels that are not subject to a monitoring requirement because the licensee has obtained the necessary consent from co-channel licensees or has exclusive use of the channel. See *1998 Biennial Regulatory Review -- 47 C.F.R. Part 90 - Private Land Mobile Radio Services*, Report and Order and Further Notice of Proposed Rule Making, WT Docket No. 98-182, 15 FCC Rcd 16673, 16686, para. 26 (2000) (*1998 Biennial Review R&O and FNPRM*). The Station is also authorized to operate mobile units on multiple frequencies at multiple locations.

⁴ These two frequencies are assigned station class code FB6, which designates the operation as a for-profit private carrier, and does not exempt the Station from the Commission's monitoring and sharing requirements when using those frequencies. MRA is also authorized to operate on frequencies 151.7825 MHz, 152.2925 MHz, 152.4575 MHz, 153.2525 MHz, and 153.2675 MHz, assigned station class code FB6T (Private Carrier (profit) – Temporary) in a 40.0 km radius around its fixed location on Saddle Peak, Malibu, California.

⁵ The Station is assigned radio service code "YG" indicating that it must operate as a trunked Industrial/Business (continued....)

channels.⁶ The level of monitoring must be sufficient to avoid causing harmful interference to other systems.⁷

3. On March 20, 2013, after investigating complaints of interference against the Station,⁸ the Enforcement Bureau's Los Angeles Office issued a Notice of Violation to MRA for violating the Commission's rules (Rules).⁹ The Los Angeles Office found that the Station was operating nearly continuously on the shared frequencies 151.7825 MHz and 152.2925 MHz, and therefore failing to restrict its transmissions to the minimum practical transmission time,¹⁰ was not monitoring the transmitting frequencies of other licensees or taking any other reasonable precautions to avoid causing

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Pool station. See WPPF234 Authorization, renewal granted Sept. 4, 2014. See also *1998 Biennial Review R&O and FNPRM*, 15 FCC Rcd at 16686, para. 26 (“A radio service code indicating trunked operation, either YG and YW, must be used to show that the system is being operated in the trunked mode.”).

⁶ *1998 Biennial Review R&O and FNPRM*, 15 FCC Rcd at 16686, para. 25.

⁷ 47 C.F.R. § 90.187(b). Stations operating on shared frequencies must engage in Level 1 Monitoring, which requires the repeater (base station) to monitor the input channel for transmit signals from co-channel mobile and portable units (this level of monitoring requires the corresponding repeater output channel be disabled during the co-channel mobile or portable unit's transmission). Stations may also be required to engage in Level 2 Monitoring, requiring the additional step of having the repeater (base station) monitor the output channel for transmit signals coming from co-channel base stations (this level of monitoring requires that the corresponding repeater output channel be disabled during the co-channel base station's transmission). Absent special circumstances, frequency coordinators will recommend Level 1 Monitoring for non-exempt trunked systems. See *Private Land Mobile Radio – Monitoring Levels for Non-Exempt Trunked Systems on Channels Between 150 – 512 MHz*, Public Notice, 16 FCC Rcd 21421, 21423 (WTB 2001) (*Monitoring PN*).

⁸ The complainants included Eden Memorial Park, licensee of Station WPWA436, Mission Hills, California, operating on frequency 152.2925 MHz, and Knott's Berry Farm, licensee of KML654, Buena Park, California, operating on 151.775 MHz.

⁹ See *Mobile Relay Associates*, Notice of Violation, V201332900014 (Mar. 20, 2013) (NOV), issued for failing to: 1) restrict Station WPPF234's transmission to the minimum practical transmission time; 2) monitor the transmitting frequencies of other licensees or take any other reasonable precautions to avoid causing harmful interference; 3) operate Station WPPF234 in accordance with the Commission's rules and the Station's authorization.

¹⁰ Section 90.403(c) of the Rules states that “[e]xcept for stations that have been granted exclusive channels under this part and that are classified as commercial mobile radio service providers pursuant to part 20 of this chapter, each licensee must restrict all transmissions to the minimum practical transmission time and must employ an efficient operating procedure designed to maximize the utilization of the spectrum.” 47 C.F.R. § 90.403(c). The Los Angeles Office determined that, at the time of the investigation, “Station WPPF234 was transmitting on 151.7825 MHz and 152.2925 MHz nearly continuously.” NOV at 1.

harmful interference;¹¹ and was not operating its station in accordance with the Rules and the Station's authorization, specifically, failing to operate using trunked technology.¹²

4. MRA responded to the NOV stating that the Station was not operating continuously, but that it was simply engaged in "heavy usage" of the shared frequencies.¹³ MRA stated that it had programmed the shared channels to allow for a pause of five seconds once every five minutes and that if a transmission begins during that five-second interval the system is programmed to prevent the transmitter from resuming.¹⁴ MRA argued that its "voluntary" efforts were consistent with Section 90.403(e) and that there is no Commission "rule" that requires it to do more.¹⁵ MRA contended that if the Commission wanted to create a "more precise rule" that "requires a licensee on a shared channel to force a pause in transmission at any particular interval" it is free to do so but must do so prospectively through a rulemaking complying with the Administrative Procedures Act.¹⁶ MRA also stated that, in order to avoid causing interference it has reduced its power and that it is in compliance with the monitoring requirement as specified by the frequency coordinators.¹⁷ Further, MRA asserted that the station "is employing a form of trunking" and that even if its operation was deemed "conventional" it would not be a rule violation.¹⁸

5. On September 25, 2014, October 1, 2014, and May 7, 2015, agents from the Los Angeles Office monitored the Station on frequency 152.2925 MHz, and determined that the Station continued to operate in a nearly continuous mode, with a duty cycle of 96 to 98%. On May 8, 2015, after the agents monitored the Station again, finding that the duty cycle was 97 to 98% and observing transmission intervals of 120 seconds on and 3 seconds off, the agents conducted an inspection of the Station accompanied by the owner of MRA. The agents observed that the Station was operating on shared

¹¹ Section 90.403(e) of the Rules states that "[l]icensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference." 47 C.F.R. §§ 90.403(e). The Los Angeles Office stated that, "at the time of the investigation, agents monitored WPPF234 and observed digitally modulated continuous signals on 151.7825 MHz and on 152.2925 MHz. Specifically, the continuous transmissions from WPPF234 on 151.7825 MHz with bandwidth of 11.2 KHz interfered with communications of adjacent channel licensees centered on 151.775 MHz, and the continuous transmissions from WPPF234 on 152.2925 MHz interfered with the communications of a co-channel licensee. The agent observed no evidence of monitoring the transmitting frequencies for communications in process or other measures to avoid interference by WPPF234." NOV at 2.

¹² Section 1.903(a) states that "[s]tatements in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section." 47 C.F.R. § 1.903(a). The Los Angeles Office found that the "WPPF234 license authorized trunked operations in the Industrial Radio Service. At the time of the inspection the station was not using trunking technology and all communications between the base station on 151.7825 MHz and mobile units on 159.8775 MHz were on a single channel pair. In addition, all communications between the base station on 152.2925 MHz and mobile units on 157.5525 MHz were not using trunking technology." NOV at 2.

¹³ See Response to Notice of Violation of Mobile Relay Associates at 2 (Apr. 2, 2013) (NOV Response) (on file in EB-FIELDWR-12-00006950).

¹⁴ *Id.* at 2.

¹⁵ *Id.*

¹⁶ *Id.*; 5 U.S.C. §§ 551 *et seq.*

¹⁷ NOV Response at 3–4.

¹⁸ NOV Response at 4–6. Contrary to MRA's assertions, operation as a trunked station is not optional. It is a requirement of the Station's authorization and MRA must operate the Station as a trunked radio station.

frequencies 151.7825 MHz and 152.2925 MHz using the non-voice digital communications Digital Dispatch System (DDS).¹⁹ The agents observed that the system transmits a synchronizing signal on the repeater output frequency nearly continuously to keep mobile units registered with the system. The agents also observed the synchronizing signal only occasionally punctuated with data addressed to mobile units. At the end of the inspection, MRA's owners modified the Station's transmitter to transmit 60 seconds and remain off for three seconds, a 95% duty cycle. Subsequent monitoring by the Los Angeles Office confirmed that the Station continues to operate with a 95% duty cycle.

6. On June 4, 2015, Eden Memorial Park (Eden), licensee of PLMR station WPWA436, Mission Hills, California, reported to the Los Angeles Office that it continued to receive harmful interference on frequency 152.2925 MHz, a frequency it shares with MRA's Station.²⁰ Subsequently, on June 4, 2015, and June 8, 2015, Los Angeles agents monitored 152.2925 MHz near the Station WPWA436 fixed transmitter site²¹ and, using directing finding techniques, located co-channel transmissions to MRA's Station on Saddle Peak in Malibu, California. The agents determined that, on both days, MRA continued to operate its Station in a nearly continuous mode, utilizing a 95% duty cycle, and that its transmissions were seriously degrading Eden's co-channel operations on frequency 152.2925 MHz. This included MRA's near continual transmission of synchronizing signals, generally not containing data, on the shared frequency, even when Eden attempted to utilize the channel.

III. DISCUSSION

7. We find that MRA apparently willfully and repeatedly violated Sections 90.403(e) and 90.187(b) of the Rules, by failing to take reasonable precautions to avoid causing harmful interference, and by failing to monitor sufficiently to avoid harmful interference to other systems.²² Section 503(b) of the Communications Act of 1934, as amended (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.²³ Section 312(f)(1) of the Act defines "willful" as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.²⁴ The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,²⁵ and the Commission has so interpreted the term in the Section

¹⁹ In the configuration utilized by MRA for the Station, the DDS mobile data terminal (MDT) units are located in taxis and communicate via a land mobile channel to the DDS-enabled base station. At the Station's base station, a Kenwood Model TKR-750 transmitter is connected to a Redundant Base Station Controller (BSC) for each base station frequency. The BSC processes the messages going to and from the MDTs and controls the operation of the transmitters. See DDS BSC260 Manual, Fourth Edition, May 2005. MRA's owner has stated on multiple occasions to Los Angeles agents that the DDS base station needs to transmit continuously to the MDTs to keep them synchronized, even when no dispatch data is being transmitted to the MDTs.

²⁰ See *supra* note 8.

²¹ The agents monitored the signal 0.4 kilometers from Eden's fixed transmitter site. Eden is authorized to operate on frequency 152.2925 MHz, service class code FB2 (mobile relay) from its fixed transmitter site located at 11500 Sepulveda Boulevard, Mission Hills, California. Its operating area includes a 16 kilometer radius around its fixed location. See WPWA436 Authorization, granted August 3, 2012.

²² 47 C.F.R. §§ 90.403(e) and 90.187(b).

²³ 47 U.S.C. § 503(b).

²⁴ 47 U.S.C. § 312(f)(1).

²⁵ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms 'willful' and 'repeated' for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) (continued....)

503(b) context.²⁶ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.²⁷ The term “repeated” means the commission or omission of such act more than once or for more than one day.²⁸

A. MRA Apparently Violated Section 90.403(e) of the Rules by Failing to Take Reasonable Precautions to Avoid Causing Harmful Interference

8. We find that the evidence in this case is sufficient to establish that MRA willfully and repeatedly violated Section 90.403(e) of the Rules. Section 90.403(e) of the Rules states that “[l]icensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.”²⁹ Agents from the Los Angeles Office determined that MRA operated the Station on a nearly continual basis, giving co-channel users the opportunity to operate on the shared frequency of 152.2925 MHz only 5% of any given interval. MRA failed to take precautions to avoid harmful interference and, consequently, its operation resulted in harmful interference to at least one co-channel licensee. When MRA was notified of this violation in the NOV, it responded that its voluntary efforts were consistent with Section 90.403(e), that there is no Commission “rule” that requires it to do more, and that a more precise requirement could only be enforced prospectively against MRA after a rulemaking took place.³⁰ It also stated that it reduced the Station’s power to avoid interference,³¹ and recently added Level 2 Monitoring at the Station.

9. We find MRA’s efforts failed to minimize the potential for causing interference as required by Section 90.403(e). MRA’s chosen course of monopolizing a shared channel by utilizing it with a 95% duty cycle is unacceptable, regardless of its monitoring efforts and power decrease. We also disagree with MRA’s assertion that we cannot enforce this rule absent a rulemaking. The Commission has already determined precisely what MRA must avoid: causing harmful interference.³² For land mobile stations, harmful interference is defined as “any emission, radiation, or induction which specifically degrades,

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. . . . As defined[,] . . . ‘willful’ means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law.”)

²⁶ See, e.g., *So. Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992).

²⁷ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

²⁸ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” See *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, para. 9.

²⁹ 47 C.F.R. § 90.403(e).

³⁰ NOV Response at 2.

³¹ *Id.* at 3.

³² See 47 C.F.R. §§ 90.403(e), 90.187(b). See, e.g., *Amendment of Part 90 of the Rules*, Second Report and Order and Second Further Notice of Proposed Rule Making, 25 FCC Rcd 2479, 2483, para. 10 (2010) (land mobile operators may be subject to enforcement action for causing interference to other users in violation of Section 90.403(e)).

obstructs, or interrupts the service provided by such stations.”³³ The Los Angeles agents observed MRA’s transmissions on frequency 152.2925 MHz seriously degrading Eden’s co-channel transmissions. Further, the investigation showed that MRA’s operation continued to cause harmful interference to Eden’s operations on frequency 152.2925 MHz, despite being notified of the interference more than two years earlier. As a result, we find that MRA apparently willfully and repeatedly violated Section 90.403(e) of the Rules by failing to take reasonable precautions to avoid causing harmful interference.

B. MRA Apparently Violated Section 90.187(b) of the Rules by Failing to Employ Equipment and Engage in Monitoring Sufficient to Avoid Harmful Interference to Other Systems

10. We find that the evidence in this case is sufficient to establish that MRA willfully and repeatedly violated Section 90.187(b) of the Rules. Section 90.187(b) of the Rules states that “[e]xcept as provided in paragraphs (c) and (d) of this section, trunked systems operating under this section must employ equipment that prevents transmission on a trunked frequency if a signal from another system is present on that frequency. The level of monitoring must be sufficient to avoid harmful interference to other systems.”³⁴ Los Angeles agents determined that MRA operated the Station on a nearly continual basis, monitoring for co-channel use only 5% of the time. The agents also determined that MRA’s synchronizing signal continued unabated even when the co-channel licensee, Eden, attempted to utilize the channel for voice communications. The investigation by the Los Angeles Office revealed that MRA’s system did not prevent its synchronizing signals from transmitting on the shared channels when a signal from another system was present and the level of monitoring it employed, which amounted to five seconds every five minutes and later to three seconds every 60 seconds, resulted in harmful interference to at least one other licensed station.³⁵ As stated above,³⁶ MRA’s protestations to the contrary,³⁷ it is simply unacceptable for any licensee on a shared channel to monopolize the channel at the levels attained by MRA, particularly when the licensee is causing harmful interference to a co-channel licensee. Neither the equipment utilized nor the level of monitoring employed ensured that MRA avoided causing harmful interference to Eden. As a result, MRA continually operated its Station on a shared frequency as if it were operating on an exclusive frequency by occupying the channel with synchronizing signals, effectively disregarding the Commission’s requirements for operators on shared channels to monitor to avoid causing harmful interference. Thus, we find that MRA apparently willfully and repeatedly violated Section 90.187(b) of the Rules by failing to employ equipment and engage in monitoring that avoids harmful interference to other systems.

C. Proposed Forfeiture

11. MRA’s repeated operation of its Station without regard to the harmful interference it is causing to a co-channel licensee warrants a significant penalty. Section 503(b)(2) of the Act authorizes us to assess a forfeiture against MRA 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.³⁸ In exercising our forfeiture authority, we must

³³ 47 C.F.R. § 90.7.

³⁴ 47 C.F.R. § 90.187(b). The exceptions to this rule, which do not apply to MRA in this case, include trunked systems operating in the 470–512 MHz band that meet the loading requirements of 47 C.F.R. § 90.313 and have exclusive use of their frequencies in their service area; or when the licensee has obtained consent from all affected licensees. See 47 C.F.R. § 90.187(c)–(d).

³⁵ See *supra* at paras. 4–6.

³⁶ See *supra* at para. 9.

³⁷ NOV Response at 2.

³⁸ 47 U.S.C. § 503(b)(2); see 47 C.F.R. § 1.80(b). These amounts reflect inflation adjustments to the forfeitures

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consider 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.”³⁹ 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.⁴⁰ 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.⁴¹

12. The Commission’s *Forfeiture Policy Statement* and Section 1.80 of the Rules set a base forfeiture of \$7,000 for interference.⁴² The Los Angeles Office determined that MRA’s operations, including its failure to employ an appropriate level of monitoring or take other precautions to avoid causing harmful interference, resulted in harmful interference to a co-channel licensee on June 4 and June 8, 2015. This requires a base forfeiture amount of \$14,000. Because MRA continued to operate its Station in this manner despite being notified by the Commission that its actions violated the Rules prior to the June 2015 investigation, we find that a significant upward forfeiture adjustment is warranted.⁴³ Therefore, applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that MRA is apparently liable for a forfeiture in the amount of twenty-five thousand dollars (\$25,000).

IV. ORDERING CLAUSES

13. 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 of the Rules, Mobile Relay Associates is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for willful and repeated violations of Sections 90.403(e) and 90.187(b) of the Rules.⁴⁴

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

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specified in Section 503(b)(2)(D) of the Act (\$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 (2013) (setting Sept. 13, 2013, as the effective date for the increases).

³⁹ 47 U.S.C. § 503(b)(2)(E).

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

⁴¹ *Id.*

⁴² *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*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

⁴³ *See, e.g., Marc-Nus Charles*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5835 (Enf. Bur. 2014) (doubling the base forfeiture after subject continued operating despite receiving written warnings), *aff’d*, Forfeiture Order, 29 FCC Rcd 12590 (Enf. Bur. 2014); *Birach Broadcasting Corporation*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 7612 (Enf. Bur. 2014) (forfeiture paid) (upwardly adjusting a base forfeiture amount by 71% because licensee failed to adequately enclose an antenna structure, despite previous notices from the FCC).

⁴⁴ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 90.403(e), 90.187(b).

Associates **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 17 below.⁴⁵

15. 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. Mobile Relay Associates shall also send electronic notification on the date said payment is made to WR-Response@fcc.gov. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁴⁶ 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.

16. 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, DC 20554.⁴⁷ 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.

17. 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.⁴⁸ Mail the written statement to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles Office, 18000 Studebaker Rd., Suite 660, Cerritos, CA 90703, and include the NAL/Acct. No. referenced in the caption. The statement must also be e-mailed to WR-Response@fcc.gov.

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

⁴⁵ 47 C.F.R. § 1.80.

⁴⁶ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁴⁷ See 47 C.F.R. § 1.1914.

⁴⁸ 47 C.F.R. §§ 1.16, 1.80(f)(3).

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

19. **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 Mobile Relay Associates, P.O. Box 19, Paramount, CA 90723-0019, and to its counsel, David J. Kaufman, Esquire, Rini O'Neil, PC, 1200 New Hampshire Ave. NW, Suite 600, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Charles A. Cooper
District Director
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Enforcement Bureau