

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

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| In the Matter of  | ) |  |
|                   | ) |  |
| Charles Philome   | ) | File No.: EB-FIELDSCR-16-00021884 <sup>1</sup> |
| Pompano Beach, FL | ) | NAL/Acct. No.: 201732600001                    |
|                   | ) | FRN: 0026005926                                |

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: November 2, 2016**

**Released: November 3, 2016**

By the Regional Director, Region Two, Enforcement Bureau:

**I. INTRODUCTION**

1. We propose a penalty of \$20,000 against Charles Philome for apparently operating an unauthorized radio station on 88.7 MHz and 90.1 MHz from three different locations in Pompano Beach and Margate, Florida. The Commission previously warned Mr. Philome that operation of this unlicensed station was illegal and that continued operation could result in further enforcement action. Mr. Philome's deliberate disregard of the Commission's warning 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 November 18, 2015, in response to a complaint, an agent from the Enforcement Bureau's Miami Office used mobile direction-finding techniques to locate the source of radio frequency transmissions on frequency 88.7 MHz to an FM transmitting antenna located at All Nations Tax Services, Inc., 1941 N. Dixie Hwy., Pompano Beach, Florida. The agent observed that an antenna coaxial cable entered the back of Unit 5 at this address. The agent also made a field strength measurement of the station's signal and determined that it exceeded the limits for operation under Part 15 of the Commission's rules, and therefore required a license.<sup>2</sup> The agent consulted the Commission's records and confirmed that no authorization had been issued for the operation of an FM broadcast station on 88.7 MHz at or near this location. Public records show that Mr. Philome is the vice president of a Florida for-profit corporation called "All Nations Tax Services Inc." that lists its principal address as the same location at which the agent found the transmitting antenna.

3. On December 2, 2015, after agents from the Miami Office confirmed that unauthorized radio station operations continued at 1941 N. Dixie Hwy. on 88.7 FM at a power level that exceeded the

<sup>1</sup> Previous investigations of Mr. Philome were assigned File No. EB-FIELDSCR-15-00020437 and File No. EB-FIELDSCR-15-00018581, and were subsequently assigned File No. EB-FIELDSCR-16-00021884. Any future correspondence with the Commission concerning this matter should reflect the newest case number.

<sup>2</sup> 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. The agents measured 848,218 µV/m extrapolated to three meters, which is 3,393 times over the limit for unlicensed use.

Part 15 limits,<sup>3</sup> they attempted to inspect the station. Mr. Philome was not present, but the agents met with the property owner, who stated that he rented Unit 5 to someone named “Charles,” and provided the agents with Charles’ telephone number. That number was the same as the telephone number listed on a radio station website for “Super Star FM.”<sup>4</sup> The agents issued Mr. Philome a hand-delivered Notice of Unauthorized Operation (NOUO)<sup>5</sup> and taped it to the door of Unit 5.

4. On December 11, 2015, after monitoring indicated that the station on 88.7 MHz was still on the air, one of the agents called Mr. Philome at the number provided by the property owner. Mr. Philome answered, positively identified himself as Charles Philome, and acknowledged receipt of the NOUO that the agents left at his door on December 2. Mr. Philome stated that the radio station had been in operation about two months, at a power of about 50 watts. Mr. Philome stated that he wanted to continue operating the station for at least several more days. The agent advised him that such operation was illegal. Mr. Philome admitted that he had been involved with other unlicensed radio stations in the past.<sup>6</sup> The agent advised Mr. Philome to cease operating the station and to remove the antenna as soon as possible. On January 26, 2016, the agent located a website for “Belle Radio FM 88.7,” which listed Mr. Philome’s verified contact number as one of its administration phone numbers.<sup>7</sup>

5. On February 2, 2016, the same two agents used mobile direction-finding techniques to locate the source of a signal on 90.1 MHz as an FM transmitting antenna mounted on a mast at the back of a commercial space at 209 South State Rd. 7, Margate, Florida. The agents observed that an antenna coaxial cable led from the antenna through the back wall of the space. One of the agents consulted the Commission’s records and confirmed that no authorization had been issued for the operation of an FM broadcast station on 90.1 MHz at or near this location in Margate, Florida. Public records showed that Mr. Philome is the president of a Florida profit corporation, “Automatic Agriculture Support Inc.” that lists its principal address at the same Margate location. On February 16, 2016, one of the agents confirmed that a new website at [www.belleradiofm.com](http://www.belleradiofm.com) had the same content as the website previously located at [www.belleradiofm887.com](http://www.belleradiofm887.com) (Belle Radio FM 88.7), except that the site at [www.belleradio.com](http://www.belleradio.com) states that the station operated on a new frequency (“Belle Radio FM 90.1”). The website still listed Mr. Philome’s phone number as one of its administration phone numbers.<sup>8</sup>

6. On July 16, 2016, in response to a consumer complaint, the agents used mobile direction-finding techniques to locate the source of a signal on 90.1 MHz in Broward County, Florida to an FM transmitting antenna located at 504 NW 6th Ave., Pompano Beach, Florida. One of the agents made a field strength measurement of the station’s signal and determined that it exceeded the limits for operation under Part 15 of the Commission’s rules, and therefore required a license.<sup>9</sup> The agent consulted the Commission’s records and confirmed that no authorization had been issued for the operation of an FM broadcast station on 90.1 MHz at or near this location. The agents observed a sign on the building at 504 NW 6th Ave., Pompano Beach for “Discount Express Tax & Multiservice,” which included a phone

<sup>3</sup> The agents measured 3,610,983  $\mu\text{V}/\text{m}$  extrapolated to three meters, which is 14,444 times over the limit for unlicensed use.

<sup>4</sup> [www.radiosuperstarfm.net](http://www.radiosuperstarfm.net) (last accessed March 9, 2015).

<sup>5</sup> *Charles Philome*, Notice of Unauthorized Operation (Dec. 2, 2015).

<sup>6</sup> On March 7, 2015, after an agent located an unauthorized radio station on 102.1 MHz FM at 860 NW 8<sup>th</sup> Avenue, Apt. 1, in Pompano Beach, Florida, the resident of that apartment, Emmanuel Fils-Amie, said he sublet the portion of the property where the transmitter was located, and provided the agent Mr. Philome’s telephone number. The agent called Mr. Philome and explained the violation and penalties. The agent also hand delivered a Notice of Unlicensed Operation to Mr. Fils-Amie. *Emmanuel Fils-Amie*, Notice of Unlicensed Operation (March 7, 2015).

<sup>7</sup> [www.belleradiofm887.com](http://www.belleradiofm887.com) (last accessed on January 26, 2016).

<sup>8</sup> [www.belleradio.com](http://www.belleradio.com) (accessed on February 16, 2016).

<sup>9</sup> The agents measured 2,947,086  $\mu\text{V}/\text{m}$  extrapolated to three meters, which is 11,788 times over the limit for unlicensed use.

number. The agents heard a commercial on 90.1 MHz for “Discount Express Multi Services” announcing the same phone number and address. Public records indicate that Mr. Philome has been affiliated with the address at 504 NW 6th Ave., Pompano Beach, Florida since 2003. Florida corporation records list Mr. Philome as the owner of a company called “Discount Express Multi Services,” at that location. The phone number for Discount Express Multiservices Inc. is the same number as the request line phone number listed on the “Belle Radio FM 90.1” website. Mr. Philome is the registered agent and president of a Florida for-profit corporation called “Radio Super Star, Inc.” that lists its principal address as the same location. Mr. Philome is also the president of a number of other Florida corporations that use 504 NW 6th Ave. in Pompano Beach as their principal address or their mailing address.<sup>10</sup> The Commission later issued a Notice of Unauthorized Operation (NOUO) to Mr. Philome.<sup>11</sup>

7. Shortly after the Commission issued the NOUO for the 504 NW 6<sup>th</sup> Ave. address, on September 12, 2016, an agent used mobile direction finding techniques to positively identify the source of a signal on 90.1 MHz as an FM transmitting antenna at 209 South State Rd. 7, Margate, Florida, the same address where the agents had found an unauthorized radio station on property affiliated with Mr. Philome on February 2, 2016. The agent made a field strength measurement of the station’s signal and determined it exceeded the limits under Part 15 of the Commission’s rules, and therefore required a license.<sup>12</sup> The agent consulted the Commission’s records and confirmed that no authorization had been issued for the operation of an FM broadcast station on 90.1 MHz at or near this location.

### III. DISCUSSION

8. We find that Mr. Philome apparently willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended (Act). Section 301 of the Act states that no person shall use or operate an apparatus for the transmission of energy or communications or signals by radio within the United States without a license granted by the Commission. As the record shows, on five days, agents determined that an unlicensed radio station was operating on two different frequencies from three different locations controlled by Mr. Philome or by businesses operated by Mr. Philome. No license had been issued for any station on these frequencies at or near any of these locations.

9. On November 18, 2015, Commission agents observed Mr. Philome’s illegal transmissions. On December 2, 2015, an agent warned Mr. Philome in writing that such unlicensed operation violated the Act. On December 11, 2015, Mr. Philome acknowledged the illegal radio station operation and receipt of the December 2 written warning. Commission agents observed Mr. Philome’s illegal transmissions on three additional occasions,<sup>13</sup> and issued an additional warning to Mr. Philome.<sup>14</sup> Nonetheless, Mr. Philome continued to operate an unlicensed radio station. As a result, we find Mr. Philome apparently willfully and repeatedly violated Section 301 of the Act by operating an unlicensed radio station.

10. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that “willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission.”<sup>15</sup> Here, Section 503(b)(2)(D) of the Act authorizes us to

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<sup>10</sup> Mr. Philome’s verified contact phone number, and Belle Radio FM 90.1’s administration number, is listed as the contact number on a website for “All Nations Discount Services” ([www.allnationsdiscountservices.com](http://www.allnationsdiscountservices.com)). This website lists its physical addresses in Pompano Beach as 504 NW 6th Ave. and 1941 N. Dixie Hwy. #5, which are two of the locations where agents found unauthorized radio stations.

<sup>11</sup> *Charles Philome*, Notice of Unlicensed Operation (Aug. 29, 2016).

<sup>12</sup> The agents measured 1,386,203  $\mu\text{V/m}$  extrapolated to three meters, which is 5,545 times over the limit for unlicensed use.

<sup>13</sup> These observations occurred on February 2, July 16, and September 12, 2016.

<sup>14</sup> *Charles Philome*, Notice of Unlicensed Operation (Aug. 29, 2016).

<sup>15</sup> 47 U.S.C. § 503(b).

assess a forfeiture against Mr. Philome of up to \$18,936 for each day of a continuing violation, up to a statutory maximum of \$142,021 for a single act or failure to act.<sup>16</sup> In exercising our forfeiture authority, we must 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.”<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

11. Section 1.80(b) of the Rules sets a base forfeiture of \$10,000 for operating without an instrument of authorization.<sup>20</sup> We have discretion, however, to depart from these guidelines, taking into account the particular facts of each individual case.<sup>21</sup> In December 2015, the Commission warned Mr. Philome verbally and in writing that operation of an unlicensed station is illegal. Since then, Mr. Philome resumed illegal operation. On August 29, 2016, Mr. Philome was issued a written 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. Yet agents confirmed further unauthorized radio station operation on September 12, 2016. The fact that Mr. Philome continued to operate an unlicensed station after being put on notice multiple times 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 \$10,000 is warranted.<sup>22</sup> After

<sup>16</sup> See 47 U.S.C. § 503(b)(2)(D); 47 CFR §§ 1.80(b)(7), (9). 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 (DCIA), as further amended by the Federal Reports Elimination Act of 1998, Pub. L. No. 105-362, Sec. 1301, 112 Stat. 3280, and as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701, Pub. L. No. 114-74, 129 Stat. 599 (codified as amended 28 U.S.C. § 2461 note) (the 2015 Inflation Adjustment Act), requires the Commission to adjust its penalties for inflation and publish interim final rules with the initial penalty adjustment amounts by July 1, 2016 and new penalty levels must take effect no later than August 1, 2016. See 28 U.S.C. § 2461 note. The Commission published those interim final rules on June 30, 2016. See *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 31 FCC Rcd 6793 (EB 2016); see also *Adjustment of Civil Monetary Penalties to Reflect Inflation*, 81 Fed. Reg. 42554 (June 30, 2016) (setting August 1, 2016, as the effective date for the increases). The adjustments to the civil monetary penalties adopted by the Bureau pursuant to 2015 Inflation Adjustment Act will apply only to such penalties assessed after the effective date of the amendments to Section 1.80(b). See 28 U.S.C. § 2461 note (6).

<sup>17</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>18</sup> 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

<sup>19</sup> *Id.*

<sup>20</sup> 47 CFR § 1.80(b).

<sup>21</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, 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).

<sup>22</sup> See, e.g., *Luis Angel Ayora*, 30 FCC Rcd 3621 (EB 2015) (proposing \$20,000 forfeiture for repeated violation of Section 301 of the Act after receiving multiple written warnings); *Marc-Nus Charles*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5835 (EB 2014) (same); *Whisler Fleurinor*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 2478 (EB 2011) (same); *Nounone Lubin*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 12654 (EB 2010) (same).

applying the Forfeiture Policy Statement, Section 1.80 of the Rules, and the statutory factors, we propose a total forfeiture of \$20,000, for which Mr. Philome is apparently liable.

#### IV. ORDERING CLAUSES

12. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act<sup>23</sup> and Sections 1.80 of the Rules,<sup>24</sup> Charles Philome is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty thousand dollars (\$20,000) for willful and repeated violations of Section 301 of the Act.<sup>25</sup>

13. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,<sup>26</sup> within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Charles Philome **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 16 below.

14. 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. Charles Philome shall send electronic notification of payment to [SCR-Response@fcc.gov](mailto: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.<sup>27</sup> 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.

15. 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>28</sup> 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](mailto:ARINQUIRIES@fcc.gov).

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<sup>23</sup> 47 U.S.C. § 503(b).

<sup>24</sup> 47 CFR § 1.80.

<sup>25</sup> 47 U.S.C. § 301.

<sup>26</sup> 47 CFR § 1.80.

<sup>27</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>28</sup> See 47 CFR § 1.1914.

16. 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.<sup>29</sup> The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau –Office of the Field Director, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to SCR-Response@fcc.gov.

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

18. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by certified mail, return receipt requested, to Charles Philome at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Ronald Ramage  
Regional Director, Region Two  
Enforcement Bureau

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<sup>29</sup> 47 CFR §§ 1.16, 1.80(f)(3).