

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

In the Matter of
Conroy Dawson,
Paterson, New Jersey
File No. EB-FIELDNER-16-000221551
NAL/Acct. No.: 201732380001
FRN: 0026151753

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: January 11, 2017

Released: January 12, 2017

By the Regional Director, Region One, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of \$25,000 against Conroy Dawson for operating an unlicensed radio station on 97.5 MHz in Paterson, New Jersey. The Commission previously warned Mr. Dawson that operation of this unlicensed station was illegal and that continued operation could result in further enforcement action. Mr. Dawson's deliberate disregard of the Commission's warning warrants a significant penalty. Commission action in this area is essential because unlicensed radio station create a danger of interference to licensed communications and undermine the Commission's authority over FM broadcast radio operations.

II. BACKGROUND

2. On October 17, 2015 the Commission received a complaint from the licensee of an FM translator station located in Jersey City, New Jersey, alleging that an unauthorized station was causing co-channel interference on 97.5 MHz. On November 17, 2015, two agents from the Commission's New York Field Office (New York Office) used direction finding techniques to trace the source of the interfering signal on 97.5 MHz to a residential building located in Paterson, New Jersey (First Site). The agents observed an FM broadcast antenna mounted on the roof of the First Site and recorded a portion of the station's audio stream in which the announcer identified the station as "Big Link Radio" and announced a telephone number that listeners could use to reach the station's studio (Call-In Number). The agents took field strength measurements of the station's signal and determined that the transmissions on 97.5 MHz exceeded the limits for operation under Part 15 of the Commission's rules (Rules), and therefore required a license.2 The agents consulted the Commission's records and confirmed that the

1 The investigation began under File Nos. EB-FIELDNER-15-00020409 and EB-FIELDNER-16-00021696 and was subsequently assigned File No. EB-FIELDNER-16-00022155. Any future correspondence with the Commission concerning this matter should reflect the new case number.

2 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 micro volts per meter ("µV/m") at three meters. 47 CFR § 15.239. Measurements showed that the field strength of the station's signal exceeded the permissible level for a non-licensed Part 15 transmitter.

Commission had not authorized an FM broadcast station to operate on 97.5 MHz at or near the First Site. The agents consulted the online property tax records of Paterson, New Jersey and, after identifying Mantari Investments LLC (Mantari) as the owner of the First Site, issued to Mantari a Notice of Unlicensed Operation (NOUO), dated December 2, 2015. The NOUO informed Mantari that an unlicensed radio station was operating at 97.5 MHz at the First Site and warned it that continued unlicensed operations could result in additional enforcement action.³ On January 20, 2016, agents from the New York Office confirmed that the pirate broadcast station was no longer operating on 97.5 MHz from the First Site.

3. On May 9, 2016, the Commission received a new complaint that an unlicensed station, identifying itself as WBLR, was again operating on 97.5 MHz in Paterson, New Jersey.⁴ The next day, an agent used direction finding techniques to trace the source of the signal on 97.5 MHz to the First Site. The agent recorded a portion of the station's audio in which the announcer identified the station as "WBLR – Big Link Radio 97.5 FM." The agent took field strength measurements of the station's signal and determined that the transmissions on 97.5 MHz exceeded the limits for operation under Part 15 of the Rules and therefore required a license.⁵ The agent consulted the Commission's records and confirmed that the Commission had not authorized an FM broadcast station to operate on 97.5 MHz at or near the First Site. On May 17, 2016, the agent returned to the First Site and spoke with building maintenance personnel, who accompanied the agent to the building's roof, where the agent observed an FM broadcast antenna with coaxial cable that ran to an apartment within the First Site (Apartment). The building maintenance personnel confirmed that a radio station operated from the Apartment. Upon interviewing another tenant at the First Site, the agent confirmed that Mr. Dawson and one of Mr. Dawson's relatives occupied the Apartment and operated a radio station from that location. On May 23, 2016, the New York Office sent Mr. Dawson a NOUO (Dawson NOUO) informing him that an unlicensed radio station was operating at 97.5 MHz at the First Site and warning him that continued unlicensed operations could result in additional enforcement action.⁶ That same day, the New York Office also sent Mantari a second NOUO.⁷

4. On May 31, 2016, a representative of Mantari contacted the New York Office, confirmed that Mr. Dawson was operating a station from the First Site, and stated that Mantari had requested that Mr. Dawson remove the FM broadcast antenna from the First Site. The Mantari representative also stated that Mr. Dawson claimed to have a Commission license to operate the station, but he was unable to produce a copy of the license upon Mantari's request. On June 1, 2016, Mr. Dawson contacted the New York Office and spoke with an agent, who advised Mr. Dawson that (a) he needed a license to operate an FM broadcast station on 97.5 MHz in Paterson, New Jersey and (b) continued unlicensed operations could result in additional enforcement actions. During the conversation with the agent, Mr. Dawson stated that he had applied for a Commission license to operate the station, but he did not provide the agent with more information about the purported application.⁸ Mr. Dawson then told the agent that he would remove the transmission equipment from the Apartment. On June 6, 2016, a representative from Mantari

³ *Mantari Investments LLC*, Notice of Unlicensed Operation (New York Office, EB, Dec. 2, 2015). On December 8, 2015, the New York Office received confirmation that the NOUO had been delivered to Mantari, but the New York Office did not receive a written response from Mantari.

⁴ We note that the Commission has assigned the WBLR call sign to an AM broadcast station licensed to Augusta Radio Fellowship Institute, Inc. in Batesburg, South Carolina.

⁵ See 47 CFR § 15.239.

⁶ *Conroy Dawson*, Notice of Unlicensed Operation (New York Office, EB, May 23, 2016). The New York Office confirmed with the U.S. Postal Service that the Dawson NOUO was delivered on May 26, 2016.

⁷ *Mantari Investments LLC*, Notice of Unlicensed Operation (New York Office, EB, May 23, 2016).

⁸ Following the conversation with Mr. Dawson, the agent reviewed the Commission's licensing databases and could not find evidence of Mr. Dawson having applied for a broadcast license.

contacted the New York Office and confirmed the removal of the FM broadcast antenna from the First Site.

5. On July 6, 2016, the New York Office received a complaint alleging that an unlicensed station was operating on 97.5 MHz in Paterson, New Jersey. On August 2, 2016, an agent from the New York Office used direction finding techniques to trace the source of the interfering signal on 97.5 MHz to a different residential building in Paterson, New Jersey (Second Site). The agent observed an FM broadcast antenna mounted on the roof of the Second Site and recorded a portion of the station's audio stream, during which the announcer identified the station as "WBLR – Big Link Radio" and publicized the Call-In Number as a way to contact the station's studio. The agent took field strength measurements of the station's signal and determined that the transmissions on 97.5 MHz exceeded the limits for operation under Part 15 of the Rules, and therefore required a license.⁹ The agent consulted the Commission's records and confirmed that the Commission had not authorized an FM broadcast station to operate on 97.5 MHz at or near the Second Site. The agent then posted a Notice of Unlicensed Radio Operation on the front door of the Second Site.¹⁰

6. On August 9, 2016, the agent from the New York Office returned to the Second Site to determine whether the unlicensed station was still broadcasting. At the Second Site, the agent observed that the unlicensed station remained on the air and that an FM broadcast antenna was still present on the building's roof. However, after further observation, the agent concluded that the unlicensed station was no longer operating from the Second Site. The agent then used direction finding techniques to trace the source of the unlicensed signal on 97.5 MHz to a possible location in Paterson, New Jersey. However, before the agent was able to establish the station's precise location, the station was taken off the air. While the station was on the air, however, the agent recorded a portion of the station's audio stream, in which the announcer identified the station as "WBLR – Big Link Radio."

7. On August 17, 2016, the agent returned to the Second Site and observed that the FM broadcast antenna remained on the building's roof but that the unlicensed station was operating from a different location. Using direction finding techniques, the agent traced the source of the transmissions to a single family dwelling in Paterson, New Jersey (Third Site). The agent observed the presence of an FM broadcast antenna in a tree at the Third Site and recorded a portion of the station's audio, in which the announcer identified the station as "WBLR – Big Link Radio." The agent took field strength measurements of the station's signal and determined that the transmissions on 97.5 MHz exceeded the limits for operation under Part 15 of the Rules, and therefore required a license.¹¹ The agent consulted the Commission's records and confirmed that the Commission had not authorized an FM broadcast station to operate on 97.5 MHz at or near the Third Site.

III. DISCUSSION

8. We find that Mr. Dawson 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 any apparatus for the transmission of energy or communications or signals by radio within the United States without a license granted by the Commission.¹² As noted above, after Mr. Dawson removed the unlicensed FM broadcast station's equipment from the First Site, agents from the New York Office determined that Mr. Dawson has repeatedly operated his unlicensed FM broadcast station on 97.5 MHz from three additional locations in Paterson, New Jersey.¹³ Despite receiving a written warning

⁹ 47 CFR § 15.239.

¹⁰ *Owner*, Notice of Unlicensed Radio Operation (New York Office, EB, Aug. 2, 2016).

¹¹ 47 CFR § 15.239

¹² 47 U.S.C. § 301.

¹³ *See paras. 5-7, supra.*

from the New York Office and a subsequent verbal warning from an agent of the New York Office in connection with his operations from the First Site, Mr. Dawson has chosen to continue to operate his illegal station on 97.5 MHz and has established a pattern of relocating his unlicensed FM broadcast station shortly after the New York Office issues a NOUO to the applicable building owner. This course of conduct demonstrates Mr. Dawson's continued awareness that his operation of an unlicensed FM station on 97.5 MHz in Paterson, New Jersey violates Section 301 of the Act.

9. 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."¹⁴ Here, Section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against Mr. Dawson 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.¹⁵ 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."¹⁶ 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.¹⁷ 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.¹⁸ Section 1.80(b) of the Rules sets a base forfeiture of \$10,000 for operation without an instrument of authorization for each violation or each day of a continuing violation.¹⁹

10. Through its investigation, the Enforcement Bureau has determined that Mr. Dawson operated an unlicensed FM station on 97.5 MHz (a) on May 10, 2016, from the First Site, and (b) between August 2 and August 17, 2016, from the Second Site and the Third Site, all in apparent violation of Section 301 of the Act. In light of these findings, we propose an aggregate base forfeiture of \$20,000 for these apparent violations of Section 301 of the Act. We have discretion, however, to depart from these guidelines, taking into account the particular facts of each individual case.²⁰ Given the totality of the

¹⁴ 47 U.S.C. § 503(b).

¹⁵ 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).

¹⁶ 47 U.S.C. § 503(b)(2)(E).

¹⁷ 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

¹⁸ *Id.*

¹⁹ 47 CFR § 1.80(b).

²⁰ *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 (continued....)

circumstances, and consistent with the *Forfeiture Policy Statement*, we conclude that a significant upward adjustment is warranted. While still operating at the First Site, Mr. Dawson was instructed to cease operating his unlicensed FM broadcast station. Yet, instead of complying with the Commission's instructions, Mr. Dawson continued to operate his illegal station from a series of different locations. We therefore propose an upward adjustment of \$5,000 based on the repeated nature of Mr. Dawson's apparent violations of Section 301 of the Act. After applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors, we therefore propose a total monetary forfeiture of \$25,000 for which Mr. Dawson is apparently liable.

IV. CONCLUSION

11. We have determined that Mr. Dawson apparently willfully and repeatedly violated Section 301 of the Act. As such, Mr. Dawson is apparently liable for a forfeiture of \$25,000.

V. ORDERING CLAUSES

12. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act²¹ and Sections 1.80 of the Rules,²² Conroy Dawson 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 Section 301 of the Act.²³

13. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,²⁴ within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Conroy Dawson **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. Public Safety Technologies, Inc. shall send electronic notification of payment to NER-Response@fcc.gov and Matthew.Gibson@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.²⁵ 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.

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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).

²¹ 47 U.S.C. § 503(b).

²² 47 CFR § 1.80.

²³ 47 U.S.C. § 301.

²⁴ 47 CFR § 1.80.

²⁵ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- 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 20554.²⁶ 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.

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.²⁷ The written statement must be mailed to Region One Regional Office, Federal Communications Commission, 9200 Farm House Lane, Columbia MD 21046, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to NER-Response@fcc.gov and Matthew.Gibson@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 first class mail and certified mail, return receipt requested, Conroy Dawson at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

David Dombrowski,
Regional Director, Region One
Enforcement Bureau

²⁶ See 47 CFR § 1.1914.

²⁷ 47 CFR §§ 1.16, 1.80(f)(3).