

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

In re Application of)	
)	
Wendolynn Tellez)	Facility ID No. 165972
)	NAL/Acct. No. MB-201841410003
Application for Renewal of License)	FRN: 0008539470
KSAG(FM), Pearsall, Texas)	BRH-20130401ACS

FORFEITURE ORDER

Adopted: May 7, 2018

Released: May 7, 2018

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of six thousand four hundred dollars (\$6,400) to Wendolynn Tellez (Tellez), licensee of Station KSAG(FM), Pearsall, Texas (Station), for willfully and repeatedly violating Sections 73.1745(a) and 73.1635 of the Commission's rules (Rules)¹ by operating the Station at a variance from its licensed parameters without authority to do so.

II. BACKGROUND

2. On January 10, 2018, the Media Bureau (Bureau) issued a Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture in the amount of eight thousand dollars (\$8,000) to Tellez for operating the Station from an unauthorized location and at a variance from its licensed parameters without obtaining Commission authorization to do so. The NAL noted that Tellez had done this in two different instances.² Tellez responded to the NAL on February 8, 2018.³ Tellez notes that she has no history of prior violations and requests that the Commission reduce or rescind the proposed forfeiture.

III. DISCUSSION

3. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (the Act),⁴ Section 1.80 of the Rules,⁵ and the

¹ 47 CFR §§ 73.1745(a), 73.1635.

² *Wendolynn Tellez*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 33 FCC Red 112 (MB 2018) (NAL). From July 9, 2012 until January 19, 2013, the Station operated with facilities specified in a grant of special temporary authority that had expired. In the second instance, the Station operated for a period of time with facilities specified in a construction permit granted for a minor modification of the Station's facilities, without submitting a covering license application.

³ See Tellez Petition for Partial Reconsideration (Feb. 8, 2018).

⁴ 47 U.S.C. § 503(b).

⁵ 47 CFR § 1.80.

Commission's Forfeiture Policy Statement,⁶ which establish a base forfeiture amount of \$4,000 for operation at an unauthorized location. In assessing 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.⁷

4. Tellez requests cancellation or reduction of the forfeiture based on her history of compliance with the Rules. While we do not find that cancellation is appropriate, we do find that Tellez's history of compliance warrants a forfeiture reduction.⁸ Accordingly, based on the record before us and in light of the applicable statutory factors, we impose a penalty of six thousand four hundred dollars (\$6,400) against Tellez for willfully and repeatedly violating Sections 73.1745 and 73.1635 of the Rules by operating the Station at an unauthorized location and at a variance from its licensed parameters without authority to do so.

5. As noted in the NAL, we will grant the captioned application for renewal of the Station's license by separate action upon the conclusion of this forfeiture proceeding if there are no issues other than the violations discussed here that would preclude grant of the application.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the FCC's Rules,⁹ that Wendolynn Tellez IS LIABLE FOR A MONETARY FORFEITURE in the amount of six thousand four hundred dollars (\$6,400) for willfully and repeatedly violating Sections 73.1745 and 73.1635 of the Rules.

7. Payment of the proposed forfeiture must be made by a check or similar instrument, wire transfer or credit card and include the NAL/Account Number and FRN referenced in the caption above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. 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). Tellez will also send electronic notification on the date said payment is made to Heather.Dixon@fcc.gov. 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

⁶ *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), *recon. denied*, 15 FCC Rcd 303 (1999).

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ *See, e.g., WLTV, Inc.*, Forfeiture Order, 24 FCC Rcd 7715, 7717 (MB 2009) (20 percent forfeiture reduction accorded for "history of compliance"), *citing Wayne State College*, Forfeiture Order, 24 FCC Rcd 2484 (MB 2009) (issuing forfeiture for licensee's public file violations, but reducing forfeiture amount by 20 percent based on licensee's history of compliance); *Christian Center, Inc.*, Forfeiture Order, 24 FCC Rcd 1128 (MB 2009) (same); *John Brown University*, Forfeiture Order, 24 FCC Rcd 1536 (MB 2009) (same).

⁹ 47 U.S.C. § 503(b); 47 CFR §§ 0.283, 1.80.

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.

8. Requests for payment of the full amount of the forfeiture 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 20554.¹⁰

9. IT IS FURTHER ORDERED that, pursuant to Section 73.3526(e)(10) of the Commission's rules, Wendolynn Tellez shall place a copy of this Forfeiture Order in the public inspection file of Station KSAG(FM).

10. IT IS FURTHER ORDERED, that copies of this Forfeiture Order shall be sent by Certified Mail, Return Receipt Requested, and by First Class Mail, to Wendolynn Tellez, 2702 Pine Street, Laredo, TX 78046, and her counsel, Dan J. Alpert, Esq., 2120 N. 21st Road, Arlington, VA, 22201.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

¹⁰ *Id.*