

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

In the Matter of)	
)	
Ivan Angeles, Passaic, New Jersey)	File No.: EB-FIELDNER-15-00019896
)	NAL/Acct. No.: 201532380004
)	FRN: 0024912602
)	

MEMORANDUM OPINION AND ORDER

Adopted: June 7, 2018

Released: June 8, 2018

By the Deputy Chief, Enforcement Bureau:

I. INTRODUCTION

1. We dismiss as untimely the Petition for Reconsideration (Petition) filed by Ivan Angeles in this proceeding.¹ Mr. Angeles, through counsel, seeks reconsideration of the *Forfeiture Order*, in which the Enforcement Bureau (Bureau) found Mr. Angeles liable for a monetary forfeiture of \$15,000 for willful and repeated violation of Section 301 of the Communications Act of 1934, as amended (the Act), in connection with his operation of an unlicensed broadcast station in Passaic, New Jersey.²

II. BACKGROUND

2. On September 25, 2015, the Bureau's New York Field Office (New York Office) issued a Notice of Apparent Liability for Forfeiture (*NAL*), finding that Mr. Angeles had operated an unauthorized radio station in apparent violation of Section 301 of the Act³ and directing Mr. Angeles to pay the forfeiture penalty or to submit a written statement seeking reduction or cancellation of the penalty within 30 days of the release date of the *NAL*.⁴ The New York Office followed the requirements of the Act, the Commission's rules, and the Bureau's standard practices and sent a copy of the *NAL* to Mr. Angeles's last known address by first-class mail and certified mail, return receipt requested.⁵

3. Mr. Angeles did not respond to the *NAL*. Accordingly, on May 26, 2016, the Bureau adopted the *Forfeiture Order*, concluding that Mr. Angeles is liable for the forfeiture penalty proposed in

¹ *Ivan Angeles*, Petition for Reconsideration, July 13, 2016 (on file in EB-FIELDNER-15-000896) (Petition).

² See *Ivan Angeles, Passaic, New Jersey*, Forfeiture Order, 31 FCC Rcd 5202 (EB 2016) (*Forfeiture Order*).

³ 47 U.S.C. § 301.

⁴ *Ivan Angeles, Passaic, New Jersey*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 10202 (EB 2015). The *NAL* includes a more complete discussion of the facts and history of this case and is incorporated herein by reference.

⁵ See 47 U.S.C. § 503(b)(4)(B); 47 CFR § 1.80(f)(2) ("The notice of apparent liability will be sent to the respondent, by certified mail, at his last known address"); *NAL*, 30 FCC Rcd at 10206, para. 14. The New York Office sent the *NAL* to an address in Garfield, New Jersey, where the New York Office has previously sent notices to Mr. Angeles and received proof of delivery. See *Ivan Angeles*, Notice of Unlicensed Operation (March 21, 2012) (on file in EB-FIELDNER-12-00001294); *Ivan Angeles*, Notice of Unlicensed Operation (September 26, 2012) (on file in EB-FIELDNER-13-00016577); *Ivan Angeles*, Notice of Unlicensed Operation (September 16, 2013) (on file in EB-FIELDNER-13-00011482).

the *NAL*.⁶ On July 13, 2016, the Commission received a letter from Mr. Angeles's attorney requesting reconsideration of the *Forfeiture Order*, arguing that that Mr. Angeles never received the *NAL*.⁷

III. DISCUSSION

4. We dismiss Mr. Angeles's petition for reconsideration as statutorily time-barred. By statute, a petition for reconsideration must be filed with the Commission "within thirty days from the date upon which public notice is given of the order . . . complained of."⁸ Public notice of the *Forfeiture Order* occurred on the day the Bureau released it, May 26, 2016.⁹ Thus, the Petition was due to the Commission no later than June 27, 2016. Although the letter from Mr. Angeles's lawyer was dated June 17, 2016, it bears a stamp from the FCC Mail Room stating that it was "Received & Inspected JUL 13 2016."¹⁰ Under the Commission's rules, pleadings are considered to be filed with the Commission upon their receipt by the Commission.¹¹

5. The Commission lacks authority to waive or extend the statutory 30-day filing period for petitions for reconsideration unless the petitioner shows that its failure to file in a timely manner resulted from "extraordinary circumstances."¹² Here, Mr. Angeles makes no argument that any circumstances exist, let alone extraordinary circumstances, that would justify the late filing of his Petition. Because the Commission (and, by extension, the Bureau) lacks authority to consider the late-filed Petition absent extraordinary circumstances,¹³ and because the period in which the Bureau might have acted *sua sponte* expired before the Commission received the Petition,¹⁴ the Bureau must dismiss the Petition as untimely.

6. Although we are dismissing the Petition as untimely, we would also deny the Petition if it had been timely filed. The Petition alleges that the Bureau did not properly notify Mr. Angeles of the *NAL*, stating that Mr. Angeles never actually received the *NAL*, and that "[h]ad he received notice of same he surely would have filed a response to the allegations set forth."¹⁵ If the Petition were timely filed, we would reject this argument and deny reconsideration because the Bureau satisfied its notice obligations under Section 503(b)(4)(B) of the Act when it sent the *NAL* to the "last known address" of Mr. Angeles by certified mail.¹⁶

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act, and Section 1.106 of the Commissions' rules, the Petition for Reconsideration filed by Ivan Angeles is hereby **DISMISSED** as untimely filed.¹⁷

⁶ *Forfeiture Order*, 31 FCC Rcd at 5202, para. 2.

⁷ Petition at 1.

⁸ 47 U.S.C. § 405(a); *see also* 47 CFR § 1.106(f).

⁹ 47 CFR § 1.4(b)(2).

¹⁰ Petition at 1.

¹¹ 47 CFR § 1.7.

¹² *See, e.g., Gardner v. FCC*, 530 F.2d 1086, 1091-92 (D.C. Cir. 1976).

¹³ *See Reuters, Ltd. v. FCC*, 781 F.2d 946, 952 (D.C. Cir. 1986) (express statutory limitations barred the Commission from acting on a petition for reconsideration that was filed after the due date).

¹⁴ 47 CFR §§ 1.108; 1.117.

¹⁵ Petition at 1. Inasmuch as the Petition alleges that Mr. Angeles was deprived of an opportunity to respond to or to deny the facts set forth in the *NAL*, we note that he could have done so in the Petition itself. Yet, he did not.

¹⁶ *See* 47 U.S.C. § 503(b)(4)(B); 47 CFR § 1.80(f)(2); *see also* paragraph 2, *supra*.

¹⁷ 47 U.S.C. § 405; 47 CFR § 1.106.

8. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311, and 1.80 of the Rules, Ivan Angeles **IS LIABLE FOR A MONETARY FORFEITURE** of \$15,000 for willfully and repeatedly violating Section 301 of the Act.¹⁸

9. 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 date of this Memorandum Opinion and Order.¹⁹ 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.²⁰

10. 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. Mr. Angeles shall send electronic notification of payment to Matthew L. Gibson at matthew.gibson@fcc.gov, with copy to field@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.²¹ 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.

11. 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, D.C. 20554.²² 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.

¹⁸ 47 U.S.C. §§ 301, 503(b); 47 CFR §§ 0.111, 0.311, 1.80.

¹⁹ 47 CFR § 1.80.

²⁰ 47 U.S.C. § 504(a).

²¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²² See 47 CFR § 1.1914.

12. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order shall be sent by first class mail and certified mail, return receipt requested, to Ivan Angels at his address of record and to his counsel, Charles C. Festa, III, Esq., 88 Main Street, Little Falls, New Jersey 07424.

FEDERAL COMMUNICATIONS COMMISSION

Phillip Rosario
Deputy Chief, Enforcement Bureau