

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

In re )  
 )  
Source One Wireless, Inc. ) File No. 620EF0017  
  
Notice of Apparent Liability for Forfeiture )  
for Paging and Radiotelephone Service )  
Station KNKK670 )  
Ottawa, Illinois )

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: October 30, 1996;**

**Released: October 31, 1996**

By the Chief, Enforcement Division, Wireless Telecommunications Bureau:

1. This action constitutes a Notice of Apparent Liability for Forfeiture, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), against Source One Wireless, Inc. ("Source One"), licensee of Paging and Radiotelephone Service Station KNKK670, Ottawa, Illinois. Specifically, we find that Source One failed to timely notify the Commission of commencement of service of Station KNKK670, in apparent violation of Section 22.142(b) of the Commission's Rules, 47 C.F.R. § 22.142(b).

2. The Commission granted Source One authorization to construct base station facilities for KNKK670 on March 4, 1995. The authorization required construction to be completed by March 4, 1996 and permitted operation on frequency 931.1875 MHz.

3. On April 25, 1996, Source One filed a request for a waiver of Commission Rule Section 22.142(b) and filed FCC Form 489 for Station KNKK670. In the request, Source One stated that: a) in March of 1996, they completed construction of Station KNKK670, along with 23 other facilities, and commenced service to the public; and b) although they filed an FCC Form 489 to cover the other facilities, they inadvertently failed to timely file FCC Form 489 for Station KNKK670.

4. Section 22.142(b) of the Commission's Rules provides in pertinent part:

*Notification requirement.* Licensees must notify the Commission (FCC Form 489) of commencement of service to subscribers. The notification must be mailed or delivered to the filing place (*see* § 22.106 of this part) no later than 15 days after service begins.

47 C.F.R. § 22.142(b). In the past, the Commission has determined that a forfeiture of \$2,000 is justified when a licensee fails to timely file FCC Form 489. *See, e.g., R & D Cellular*, 11 FCC Rcd 3350 (1996).

5. There is no dispute that Source One failed to timely notify the Commission of the initiation of service on Station KNKK670. Regardless of its claim of inadvertence, the fact remains that it repeatedly violated Section 22.142(b) of the Commission's Rules over an extended period of time. Furthermore, Source One's request for a waiver of Commission Rule Section 22.142(b), pursuant to Commission Rule Section 22.119, is denied. Inadvertence is not a basis for granting a waiver, according to § 22.119(a). *See, MobileComm of the Northeast, Inc.*, 11 FCC Rcd 8791 (1996), where the licensee also claimed inadvertence as justification for its failure to timely file a Form 489, and the Commission determined that the violation warranted a \$2,000 forfeiture, nonetheless, which it similarly reduced to \$1,000.

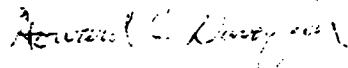
6. Based on the factors set forth in Section 503(b)(2)(D) of the Act and case precedent, we reach the following conclusion. Source One's violation of Section 22.142(b) warrants a \$2,000 forfeiture. However, because it voluntarily disclosed the violation, and the infraction was minor, we reduce the total forfeiture to \$1,000.

7. Accordingly, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and Section 1.80 of the Commission's Rules, 47 C.F.R. § 1.80, Source One is hereby advised of its APPARENT LIABILITY FOR FORFEITURE in the amount of one thousand dollars (\$1,000) for repeated violations of Section 22.142(b).

8. Payment of the forfeiture may be made by credit card or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, and sent to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the File Number of the above-captioned proceeding.

9. A copy of this Notice is being sent to counsel for Source One, Audrey P. Rasmussen, Esq., O'Connor & Hannan, 1919 Pennsylvania Ave., N.W., Suite 800, Washington D.C. 20006, by Certified Mail, Return Receipt Requested.

FEDERAL COMMUNICATIONS COMMISSION



Howard C. Davenport  
Chief, Enforcement Division  
Wireless Telecommunications Bureau