

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

In re	)	
	)	
Toor, Inc.	)	
	)	File No. 720EF0014
Notice of Apparent Liability for Forfeiture	)	
for Paging and Radiotelephone Service	)	
Station KNKP763	)	
Houston, Texas	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted:** August 15, 1997

**Released:** August 19, 1997

By the Chief, Enforcement and Consumer Information 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 Toor, Inc. ("Toor"), licensee of Paging and Radiotelephone Service Station KNKP763, Houston, Texas. Specifically, we find that Toor failed to timely file FCC Form 489 for Station KNKP763, in apparent violation of Section 22.142(b) of the Commission's Rules, 47 C.F.R. § 22.142(b).

2. The Commission granted Toor authorization to construct station facilities for KNKP763 on June 21, 1994. The authorization required construction to be completed by June 21, 1995, and permitted operation on frequency 931.1875 MHz.

3. Toor completed construction and began operating the station by June 5, 1995. However, Toor did not file FCC Form 489 at that time, which notifies the Commission that construction has been completed and service has begun. Soon after June 5, 1995, Toor claims to have filed FCC Form 489, without requesting a stamped file copy. In January, 1997, when Toor decided to expand coverage for KNKP763, it discovered that the Commission had not received its FCC Form 489, and had terminated Toor's authorization. On February 18, 1997, Toor filed the necessary FCC Forms 489 and 600, and the Commission reinstated KNKP763 through Public Notice Report No. NCS-97-27-A, released April 2, 1997.

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

*Notification of status of facilities.* (FCC Form 489). When construction has been completed in accordance with the radio station authorization, the licensee shall so

notify the Commission using Form 489. Licensees can commence service the day Form 489 is placed in the mail to FCC.

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., Mountaineer Paging*, 12 FCC Rcd 4727 (1997).

5. Toor claims to have filed FCC Form 489 after the system was put into operation. The Commission, however, has no record of having ever received it and had cancelled Toor's authorization. Therefore, Toor was operating without Commission authorization. When Toor discovered the inadvertent error, 18 months after commencing service, it promptly filed FCC Form 489.

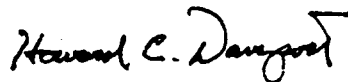
6. Because Toor cannot offer evidence that it filed FCC Form 489 in a timely manner, and the Commission's records show no such filing, the Commission must assume that Toor commenced service without filing FCC Form 489 in a timely manner. Therefore, the fact remains that Toor willfully and repeatedly violated Section 22.142(b) of the Commission's Rules over an extended period of time. Based on the factors set forth in Section 503(b)(2)(D) of the Act and case precedent, we find that Toor's violations of Section 22.142(b) warrant a \$2,000 forfeiture.

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, Toor is hereby advised of its APPARENT LIABILITY FOR FORFEITURE in the amount of two thousand dollars (\$2,000) 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, sending it 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 Safdar R. Qamar, Toor, Inc., P.O. Box 717, Dickinson, Texas 77539, by Certified Mail, Return Receipt Requested.

FEDERAL COMMUNICATIONS COMMISSION



Howard C. Davenport  
Chief, Enforcement and Consumer Information Division  
Wireless Telecommunications Bureau