

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

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)	
In the Matter of)	
)	
David A. Hernandez)	
d/b/a/ Crystal Communications)	NAL/Acct. No. 615SF0002
)	

ORDER

Adopted: December 18, 1997

Released: December 23, 1997

By the Compliance and Information Bureau:

INTRODUCTION

1. Before the Bureau is a Petition for Reconsideration, 47 C.F. R. § 1.106, of the Notice of Forfeiture issued by the Compliance and Information Bureau's San Francisco Field Office on August 6, 1997, in the amount of \$4,000, against David A. Hernandez, d/b/a Crystal Communications (Crystal) pursuant to Section 503 of the Communications Act, as amended (the Act), 47 U.S.C. § 503. As stated in the NAL, the Commission assessed the forfeiture because of Crystal's failure to respond to Commission correspondence, a violation of Section 1.89 of the Commission's Rules, 47 C.F.R. §1.89.

2. In its Petition for Reconsideration, Crystal maintains that the Bureau erred in imposing a forfeiture for failure to respond to its correspondence because Crystal did, in fact, respond to the inquiries made by the Compliance and Information Bureau.

DISCUSSION

3. Crystal's argument is without merit. Essentially, Crystal advances the same arguments that it made in response to the Notice of Apparent Liability, *i.e.*, that it provided a response through its subsequent actions by allowing inspection and responding to subsequent Bureau inquiries. The record indicates, however, that Crystal did not provide a response to the Bureau's inquiries until after it had received a warning, and the San Francisco Field Office had commenced further enforcement proceedings. Moreover, the responses Crystal did provide were incomplete and failed to provide an acceptable explanation for its refusal to allow inspection in the first instance. Section 1.89 of the rules states that "an answer shall be made at the earliest practicable date with a satisfactory explanation of the delay; the answer

shall be complete, and shall contain a statement of action taken to correct the condition or omission complained of and to preclude its recurrence." 47 C.F.R. § 1.89. Until the filing of its Petition for Reconsideration, Crystal did not satisfy many of these requirements for a responsive answer. The Commission relies upon licensees to respond to correspondence inquiring about compliance with its rules and regulations, particularly when the information requested is known only by the licensee. As noted, in the NOF, licensees do not get to select which requests from the Commission they will honor. In these circumstances, the Bureau affirms the \$4,000 forfeiture amount.

ORDERING CLAUSES

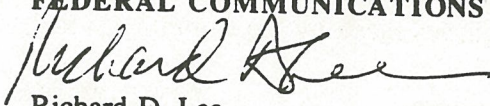
4. **ACCORDINGLY, IT IS ORDERED** that, pursuant to 47 C.F.R. § 1.106, the Petition for Reconsideration of the Forfeiture Order, NAL No. 615SF0002, issued to David A. Hernandez, d/b/a Crystal Communication, is **DENIED**.

5. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act, as amended, 47 U.S.C. § 503(b), and Section 1.80 of the Commission's Rules, 47 C.F.R. § 1.80, Crystal Communications must pay the amount of \$4,000 within thirty (30) days of the release date of this Order, or file an Application for Review pursuant to Section 1.115 of the Commission's Rules, 47 C.F.R. § 1.115. Payment may be made by check or money order, drawn on a U.S. financial institution, payable to the Federal Communications Commission. Payment may also be made by credit card with the appropriate documentation.¹ The remittance should be marked NAL Acct. No. 615SF0002 and mailed to the following address:

Federal Communications Commission
P.O. Box 73482
Chicago, Illinois 60673-7482

6. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent certified mail, return-receipt requested, to David A. Hernandez, d/b/a Crystal Communications, and its counsel of record.

FEDERAL COMMUNICATIONS COMMISSION


Richard D. Lee
Chief, Compliance and Information Bureau

¹ Payment of the forfeiture in installments may be considered as a separate matter in accordance with Section 1.1914 of the Commissions rules, 47 C.F.R. § 1.1914. Requests for installments plans should be mailed to: Chief, Billings and Collections, Mail Stop 1110A2, 1919 M Street, N.W., Washington, D.C. 20554. For information regarding credit card payments, contact the Chief, Billings and Collections at (202) 418-1995.