

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

In re	)	
	)	
AMERICAN PAGING, INC. OF VIRGINIA	)	File No. 720EF0009
	)	
Notice of Apparent Liability for Forfeiture	)	
for Paging and Radiotelephone Service	)	
Stations KNKC336 and KNKD363	)	
	)	
Virginia Beach, Virginia.	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Adopted: April 25, 1997

Released: April 30, 1997

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 American Paging, Inc. of Virginia ("American"), licensee of Paging and Radiotelephone Service Stations KNKC336 and KNKD363, in Virginia Beach, Virginia. Specifically, we find that American failed to timely notify the Commission of antenna location modifications for stations KNKC336 and KNKD363 in apparent violation of Section 22.3 of the Commission's Rules, 47 C.F.R. § 22.3.

2. On July 29, 1996, American submitted to the Commission an application for Special Temporary Authority (STA) to relocate the antenna for its two stations. Subsequently, at a meeting on August 23, 1996, with Commission staff, American admitted that on July 27, 1996, it had moved the antenna to a new location, and was operating without proper authorization, as required by Section 22.3. While American knew that an STA was required to move its antenna, and it had contacted the FCC several times between July 27th and August 23rd, it did not admit its violation until it was specifically asked about it at the August 23rd meeting. The STA was verbally granted on that date in order to permit continued service to the public.

3. Section 22.3 of the Commission's Rules states:

*Authorization required.* Stations in the Public Mobile Services must be used and operated only in accordance . . . with a valid authorization granted by the FCC under the provisions of this part.

47 C.F.R. § 22.3 (1996).

4. Section 301 of the Communications Act of 1934, as amended, states that no person "shall use or operate any apparatus for the transmission of energy or communication or signals by radio . . . except under and in

accordance with this Act and with a license in that behalf granted under the provisions of this Act." 47 U.S.C. § 301. In the past, the Commission has determined that a forfeiture of \$3,500 is justified when a licensee has operated a facility without authorization. See, e.g., *AllCity Communication Company, Inc.*, 10 FCC Rcd 12217 (1995).

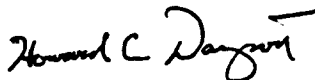
5. In the instant case, American concedes that it failed to file FCC Forms 600 at the time it relocated its tower. Under these circumstances, it appears that American violated Section 301 of the Act and Section 22.3 of the Commission's Rules over an extended period of time. Based on the factors set forth in Section 503(b)(2)(D) of the Act and case precedent, we find that American's violations of Section 301 of the Act and 22.3 of the Commission's Rules warrant a \$3,500 forfeiture for each of the two violations. Therefore, the total forfeiture is \$7,000.

6. 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, American Paging, Inc. of Virginia is hereby advised of its APPARENT LIABILITY FOR FORFEITURE in the amount of seven thousand dollars (\$7,000) for repeated violations of Section 301 of the Act, 47 U.S.C. § 301, and Section 22.3 of the Commission's Rules, 47 C.F.R. § 22.3 (1996).

7. Payment of the forfeiture may be made by credit card or by a check or similar instrument, made 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.

8. A copy of this Notice is being sent to counsel for American, George Y. Wheeler, Esq., Koteen and Naftalin, 1150 Connecticut Avenue, Washington, D.C. 20036, by Certified Mail, Return Receipt Requested.

## FEDERAL COMMUNICATIONS COMMISSION



Howard C. Davenport  
Chief, Enforcement Division  
Wireless Telecommunications Bureau