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source of the transmissions was from a door to the suite for rooms 325 & 327. There was no answer to a knock on the door, so a member of the University's security force unlocked the suite for the agents. In the common area between rooms 325 and 327 was what appeared to be an illegal transmitter and an antenna. The agents traced the antenna cable into room 325 of MU Hall. While the FCC agents were inspecting the equipment a student arrived who identified himself as Andre Dominique Hunter. Mr. Hunter admitted to owning the equipment and to operating the unlicensed broadcast station. He was unable to produce a license for his radio station. The agents informed Mr. Hunter that his unlicensed operation was a violation of 47 U.S.C. § 301, which prohibits operation of a radio broadcast station without a license. In light of the violation, the agents warned Mr. Hunter of the possible enforcement sanctions for his unlicensed operation, such as assessing a monetary forfeiture, and offered him the option to voluntarily surrender the illegal equipment. In response, Mr. Hunter stated that he would prefer to pay a monetary fine from the FCC rather than voluntarily surrender the illegal equipment. On October 10, 1998, the District Director of the Bureau's Tampa Office issued the subject NAL to Mr. Hunter in the amount of \$6,000 for the willful violation of 47 U.S.C. § 301.

DISCUSSION

4. In the two written responses to the NAL, Mr. Hunter seeks mitigation or cancellation of the monetary forfeiture. In support of his request, Mrs. Hunter states that her son, is an unemployed full-time student, and is therefore unable to pay the forfeiture.

5. The Bureau's Tampa Office issued the forfeiture pursuant to 47 U.S.C. § 503 and 47 C.F.R. § 1.80. Although the base amount forfeiture for this type of violation is \$11,000, in assessing the forfeiture amount, the Tampa Office, following the forfeiture standards established in 47 U.S.C. § 503 and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate Guidelines*, 12 FCC Rcd 17087 (1997) ("*Policy Statement*"), *recon. pending*, concluded that a monetary forfeiture in the amount of \$6,000 would be warranted. In reviewing the responses to the NAL, 47 U.S.C. § 503(b) requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. *See* 47 U.S.C. § 503(b)(2)(D).

6. Applying the *Policy Statement* and the statutory factors to the instant case, we are not convinced that mitigation or cancellation of the forfeiture amount is warranted. Specifically, Mr. Hunter's admission during the inspection and his response to the NAL clearly demonstrate that Mr. Hunter's violation of 47 U.S.C. § 301 was willful, as his operation of the unlicensed radio station was not caused by accident or mistake.² Furthermore, in response to the option offered by the agents to voluntarily surrender the illegal equipment, Mr. Hunter stated that he would prefer to pay a fine from the FCC rather than voluntarily surrender the illegal equipment. With respect to Mr. Hunter's claim that he is unable to pay the forfeiture amount, the Commission requires such claims to be supported by financial

² Section 312(f)(1) of the Communications Act, as amended, 47 U.S.C. § 312(f)(1), which also applies to 47 U.S.C. § 503(b), provides: "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States." *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

statements prepared in accordance with generally accepted accounting principles for the most recent three years or other reliable and objective documentation that accurately reflects the claimant's current financial status. *See generally, PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088 (1992). In cases involving individuals, financial documentation other than financial statements is often submitted such as copies of filed tax forms or other objective information. *See Ellwood Beach Broadcasting, Ltd.*, 8 FCC Rcd 453, 454 (1993) (respondent's failure to submit any financial documents or other evidence deemed insufficient showing of inability to pay); *Liability of Macau Traders, Inc.*, 13 FCC Rcd 228, 233 (MMB 1998) (no reduction of forfeiture warranted due to undue financial hardship where violator provided no documentary evidence upon which to evaluate its financial condition or ability to pay). No financial documentation to support Mr. Hunter's claim of inability to pay has been provided, therefore, we do not find that mitigation of the forfeiture amount is warranted at this time. In light of the above, the appropriate amount for the violation is \$6,000.

7. **ACCORDINGLY, IT IS ORDERED** that, pursuant to 47 U.S.C. § 503(b) and 47 C.F.R. § 1.80, Andre Dominique Hunter **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$6,000 for willful violation of 47 U.S.C. § 301.

8. **IT IS FURTHER ORDERED** that, pursuant to 47 C.F.R. § 1.80(f), Andre Dominique Hunter shall, within thirty (30) days of the release of this Forfeiture Order, pay the amount of \$6,000. Payment of the forfeiture shall be made in U.S. dollars by check, money order or credit card, drawn on a U.S. financial institution, with the appropriate documentation, made payable to the Federal Communications Commission.³ The remittance should be marked NAL/Acct. No. 915TP0001, and mailed to the following address:

Federal Communications Commission
Post Office Box 73482
Chicago, IL 60673-7482

Petitions for reconsideration pursuant to 47 C.F.R. § 1.106, or applications for review pursuant to 47 C.F.R. § 1.115, should be sent to:

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
ATTN: Mail Stop 1500E3-DLH
Compliance and Information Bureau

Forfeiture penalties not paid within 30 days will be referred to the U.S. Attorney for recovery in a civil suit. 47 U.S.C. § 504(a).

³ Requests for payment under installment plans should be mailed to: Chief, Billings and Collections, Mail Stop 1110A2, 445 12th Street, S.W., Washington, D.C. 20554. Payment of the forfeiture in installments may be considered as a separate matter in accordance with 47 C.F.R. § 1.1914. Contact Chief, Billings and Collections at (202) 418-1995 for more information on payments by credit card.

9. **IT IS FURTHER ORDERED** that, a copy of this Order shall be sent certified mail, return receipt requested, to Andre Dominique Hunter at 421 N.W. 201 Avenue, Pembroke Pines, Florida 33029.

FEDERAL COMMUNICATIONS COMMISSION

Ricardo M. Durham
Director, Legal Services Group
Compliance Division
Compliance and Information Bureau