

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

In the Matter of)	
)	
Madison Broadcasting Group, Inc.)	File Number EB-02-NF-051
Danboro, PA)	NAL/Acct.No.N20023264002
Antenna Structure Registration Nos. 1065920,)	FRN 6144950
1065921, 1065922, 1065923, 1065924		

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: April 29, 2002

By the Enforcement Bureau, Norfolk Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Madison Broadcasting Group, Inc. (“Madison”) apparently violated Sections 17.4(g) and 17.50 of the Federal Communications Commission’s (“FCC”) Rules.¹ Madison failed to post its antenna structure registration (“ASR”) numbers and failed to maintain specified painting on its five antenna structures in Lynchburg, Virginia. We conclude that Madison Broadcasting Group, Inc. is apparently liable for forfeiture in the amount of twelve thousand dollars (\$12,000.00).

II. BACKGROUND

2. On February 28, 2002, an agent from the FCC Enforcement Bureau’s Norfolk Resident Agent Office observed five antenna structures, registration numbers 1065920, 1065921, 1065922, 1065923 and 1065924, owned by Madison and used as part of the WLVA AM broadcast facility in Lynchburg, Virginia. The agent observed that the required painting on each antenna structure was faded and chipped such that it failed to provide good visibility. Also, the agent observed that all five towers did not have the required ASR number posted.

III. DISCUSSION

3. Section 17.4(g) of the Rules requires the owners of registered antenna structures to display the ASR number in a conspicuous place so that it is readily visible near the base of the antenna structure.²

4. Section 17.50 of the Rules states that “[a]ntenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility.”³

¹ 47 C.F.R. §§ 17.4(g) and 17.50

² 47 C.F.R. § 17.4(g).

³ 47 C.F.R. § 17.50.

5. Based on the evidence before us, we find that on February 28, 2002, Madison willfully⁴ violated Sections 17.4(g) and 17.50 of the Rules.⁵ Madison failed to display ASR numbers on all five of its antenna structures and it failed to clean or repaint its five antenna structures as often as necessary to maintain good visibility.

6. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for failure to comply with prescribed lighting and/or marking is \$10,000.⁶ Section 1.80(b)(4) does not establish a base forfeiture amount for failure to post the ASR number. The Commission has determined, however, that an appropriate base forfeiture amount for failure to post the ASR number is \$2,000 per violation.⁷ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 (“Act”), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), 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.⁸ Considering the entire record and applying the statutory factors listed above, this case warrants a \$12,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended,⁹ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,¹⁰ Madison Broadcasting Group, Inc., is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of twelve thousand dollars (\$12,000.00) for willful violation of Sections 17.4(g) and 17.50 of the Rules.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,¹¹ within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Madison Broadcasting Group, Inc., SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that “[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” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ 47 C.F.R. §§ 17.4(g) and 17.50

⁶ 47 C.F.R. § 1.80(b)(4)

⁷ *American Tower Corporation*, 16 FCC Rcd 1282 (2001).

⁸ 47 U.S.C. § 503(b)(2)(D).

⁹ 47 U.S.C. § 503(b).

¹⁰ 47 C.F.R. §§ 0.111, 0.311, 1.80.

¹¹ 47 C.F.R. § 1.80.

payment must note the FRN 6144950 and the NAL/Acct. No. N20023264002.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE FRN and NAL/Acct. No. N20023264002.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, SW, Washington, D.C. 20554.¹²

13. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Madison Broadcasting Group, Inc., contact representative L. Jay Mapstone; 22 Terrace Drive Nyack NY 10960. A copy shall also be mailed to Madison Broadcasting Group, Inc., POB 50; Danboro, PA 18947.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Husnay
Resident Agent, Enforcement Bureau

¹² See 47 C.F.R. § 1.1914.