

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

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| In the Matter of |) | |
| |) | |
| National Cable |) | File Number EB-01-KC-1113 |
| FRN: 0005-8059-24 |) | |
| Columbus, Ohio |) | NAL/Acct.No. 20013256-004 |
| |) | |
| |) | |

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: December 4, 2001

By the Enforcement Bureau, Kansas City Field Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that National Cable apparently violated Section 1.89(b) of the Commission's Rules ("Rules") by failing to respond to Commission correspondence.¹ We conclude that National Cable is apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000).

II. BACKGROUND

2. On September 5, 2001, an agent from the Kansas City Field Office ("Field Office") inspected the cable system serving Lone Jack, MO. During this inspection, the agent determined that leakage exceeded 20 microvolts per meter at 5 different locations. On September 6, 2001, the Field Office issued a Notice of Violation ("NOV") to National Cable citing these deficiencies. The Field Office received no reply to this notice.

3. On October 5, 2001, the Field Office issued a second NOV to National Cable. This NOV stated that no reply had been received to the NOV issued on September 6, 2001, and included a copy of the NOV. Additionally, the letter cautioned the licensee concerning failure to reply to Commission correspondence. No reply to either NOV has been received.

4. On October 26, 2001, a telephone call to Shannon Mayes, Vice President of National Cable, confirmed ownership of the Lone Jack cable system. It was also stated that the office had moved from 5151 Reed Road 106A Columbus, Ohio to 5151 Reed Road 113A Columbus, Ohio. Copies of both NOVs were transmitted via facsimile transmission to the number provided by Mr. Mayes. The September 6, 2001, NOV was retransmitted on October 31, 2001. No reply has been

¹ 47 C.F.R. § 1.89

received.

5. A telephone call was placed to Shannon Mayes on November 30, 2001. Mr. Mayes wasn't available so a brief, detailed message was left on his voice mail asking for the FRN for National Cable, the number and size of other cable systems owned by National Cable and the number of subscribers for the system at Lone Jack, MO. No reply has been received.

III. DISCUSSION

6. Section 1.89(b) of the Rules, 47 C.F.R. § 1.89(b), requires any person who holds a license, permit, or other authorization to respond in writing within ten days from receipt of a notice from the Commission or such other period as may be specified.

7. Based on the evidence before us, we find that National Cable willfully² violated Section 1.89(b) of the Rules by failing to respond to the Notices of Violation dated September 6, 2001, and October 5, 2001.

8. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amount for failure to respond to Commission communications is \$4,000.³ Section 503(b)(2)(D) of the Act requires us to 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."⁴ Applying Section 1.80(b)(4) of the Rules and statutory factors to the instant case, we find no compelling evidence to support any adjustments to the base forfeiture amounts. Therefore, a total forfeiture in the amount of \$4,000 is warranted.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended,⁵ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁶ National Cable is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of four

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful' when used with reference to commission or omission of any act, means that conscious and deliberate commission or omission of such an act, irrespective of any intent to violate any provision of this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ 47 C.F.R. § 1.80(b)(4)

⁴ 47 U.S.C. § 503 (b)(2)(D)

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

thousand dollars (\$4,000) for willful violation of Section 1.89(b) of the Commission's Rules.⁷

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

11. 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 payment should note the NAL/Acct. No. referenced in the letterhead above.

12. 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 NAL/Acct. No. referenced in the letterhead above.

13. 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.

14. 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, S.W., Washington, D.C. 20554.⁹

15. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to National Cable 5151 Reed Road, 113A, Columbus, OH. 43220.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney
District Director

⁷ 47 C.F.R. § 1.89(b)

⁸ 47 C.F.R. § 1.80.

⁹ See 47 C.F.R. § 1.1914.

Kansas City Field Office
Enforcement Bureau