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

In the Matter of)	File Number: EB-01-TP-020
)	
Mega Communications of St. Petersburg Licensee, L.L.C.)	NAL/Acct. No.: 200132700005
)	
Antenna Structure Numbers 1040050,1040051)	
)	
St. Petersburg, Florida		

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: April 25, 2001

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Mega Communications of St. Petersburg Licensee, L.L.C. apparently violated Section 17.51(a)¹ of the Commission's Rules ("Rules") for failing to exhibit all red obstruction lights from sunset to sunrise. We conclude that Mega Communications of St. Petersburg Licensee, L.L.C. is apparently liable for forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On January 8, 2001, the Commission's Tampa Field Office received a telephone call from the FAA office in Tampa, Florida, reporting that they had received information that antenna structure light outages had occurred in Largo, Florida. The antenna structures were alleged to be used by radio station WMMG(AM). The tower owner was determined to be Mega Communications of St. Petersburg Licensee, L.L.C., licensee of WMMG(AM).

3. On January 9, 2001, agents from the Tampa Office conducted an inspection of the station and the associated towers. The agents found that the tower owner was in violation of several of the Commission's Rules relating to marking and lighting of antenna structures.

4. During the inspection on January 9, 2001, the FCC agents determined that no one at the main studio was in charge of the technical operation of the station. Mr. Joshua Mednick, VP and General Manager, explained to the agents that the person in charge of monitoring the operating parameters, including the antenna structure lights operation, was Mr. Robert Hailey. When the agents met with Mr. Hailey at the transmitter site, he explained that he was not the chief operator, but that he worked for the station on a part time basis. Mr. Hailey explained that he

¹ 47 C.F.R. § 17.51(a)

used a beeper to receive indications of out of tolerance situations from the station's remote control system. However, Mr. Hailey was not aware of the antenna structure lights failure on tower #2. The agents determined that the lights for towers #1 and #2 were not functioning. Although Mr. Hailey advised he was aware of the outage on antenna structure #1 and that he had notified FAA, there was no evidence that FAA had been notified. Mr. Hailey notified FAA of both outages during the inspection.

5. On March 26, 2001, a check of FCC's antenna structure registration database showed the owner of the tower to be Clear Channel Communications. Mega confirmed that they owned the tower in question and filed the appropriate forms after they were advised of the discrepancy.

III. DISCUSSION

6. Section 17.51(a) requires that all red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified. FCC agents confirmed the allegation about antenna structure light outages. The antenna structure owner failed to exhibit the red obstruction lights as required.

7. Pursuant to Section 1.80(b)(4)² of the Commission's Rules, the base forfeiture amount for failure to comply with prescribed lighting and/or marking is \$10,000. 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."³ Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended⁴, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules⁵, Mega Communications of St. Petersburg Licensee, L.L.C. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful⁶ violation of Section 17.51(a)⁷.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules⁸, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Mega Communications of St. Petersburg Licensee, L.L.C. SHALL PAY the full amount of the proposed

² 47 C.F.R. § 1.80(b)(4)

³ 47 U.S.C. § 503 (b)(2)(D)

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁶ 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).

⁷ 47 C.F.R. § 17.51(a)

⁸ 47 C.F.R. § 1.80.

forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. 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.

11. 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.

12. 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.

13. 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

14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Mega Communications of St. Petersburg Licensee, L.L.C., 8121 Georgia Avenue, 10th Floor, Silver Spring, MD 20910.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director
Tampa Office, Enforcement Bureau

⁹ See 47 C.F.R. § 1.1914.