

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

In the Matter of)	
)	
Groveton Broadcasting Group Inc)	File No. EB-01-DL-0488
)	
Mexia, TX)	NAL/Acct.No. 200232500001

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: **October 2, 2001**

By the Enforcement Bureau, Dallas Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Groveton Broadcasting Group, Inc. (“Groveton”), apparently violated section 17.4(a) of the Commission’s rules, 47 C.F.R. § 17.4(a) by failing to register KYCX-FM’s antenna supporting structure. We conclude that Groveton is apparently liable for forfeiture in the amount of three thousand dollars (\$3,000).

II. BACKGROUND

2. Groveton is the licensee of Station KYCX-FM (licensed to serve Mexia, Texas) and is the owner of the station’s antenna supporting structure located at or near geographical coordinates 31° 42’ 25”N / 096° 31’23”W.

3. On October 18, 2000, an agent from the Commission’s Dallas Office inspected station KYCX-FM. The agent observed several violations and during the inspection determined that station KYCX-FM had not registered the antenna structure as required by Section 17.4(a) of the Rules.¹

4. On October 30, 2000, the Commission’s Dallas Office issued a Notice of Violation to station KYCX-FM. A subsequent response received by the Commission’s Dallas Office indicated that station KYCX-FM was still not in compliance with the requirement to register its antenna supporting structure.

5. On April 23, 2001, FCC agents telephoned Susan Cholopisa, General Manager of KYCX-FM, and informed her that according to the Commission’s database the station’s antenna supporting structure was still not registered. Ms. Cholopisa acknowledged that the structure was not registered and said that they had been unable to obtain Federal Aviation Administration (FAA) study information necessary to register the tower. The agents provided information on how to obtain an FAA study for the structure and again verbally warned Cholopisa of the requirement to register the structure.

¹ 47 C.F.R. § 17.4(a)

6. On September 19, 2001, FCC agents visited station KYCX-FM. Susan Cholopisa, General Manager at the station, stated that the structure was still not registered with the Commission. The station manager stated that she would immediately register the antenna supporting structure.

7. On October 2, 2001, a check of the FCC's antenna structure registration database revealed that the antenna supporting structure was still not registered.

III. DISCUSSION

8. Section 17.4(a) of the Commission's rules provides that the owner of antenna structures that require notice to the Federal Aviation Administration must register the structure with the Commission.

9. Between October 18, 2000 and September 19, 2001, the Commission repeatedly advised Groveton (by written notice and verbally) that Groveton's failure to register its antenna structure violated Section 17.4(a) of the Commission's rules.

10. We conclude that since October 18, 2000, Groveton repeatedly² and willfully³ violated Section 17.4(a) of the Commission's rules by failure to register the antenna supporting structure owned by Groveton and utilized by station KYCX-FM at or near geographical coordinates 31° 42' 25"N / 096° 31'23"W.

11. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"), the base forfeiture amount is \$3,000 for failure to file required forms or information (i.e. failure to file an application for antenna structure registration). 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 Act⁴, 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. Applying the *Forfeiture Policy Statement* and statutory factors to the instant case, a \$3,000 forfeiture is warranted.

IV. ORDERING CLAUSES

12. 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 Groveton

² Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies to Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

³ 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 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).

⁴ 47 U.S.C. § 503(b)(2)(D). See also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01 (discussion of upward and downward adjustment factors).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

Broadcasting Group, Inc. is hereby NOTIFIED of their APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for failure to file required forms or information required by Section 17.4(a) of the Commission's rules, 47 C.F.R. § 17.4(a).

13. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,⁷ within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Groveton 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.

14. 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, IL 60673-7482. The payment should note the NAL/Acct. No. referenced in the letterhead above.

15. 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 and Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. reference in the letterhead above.

16. 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.

17. 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, DC 20554.⁸

18. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Groveton Broadcasting Group, Inc. at 1006-B Milam Street, Mexia, TX 76667.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director – Dallas Office

⁷ 47 C.F.R. § 1.80.

⁸ See 47 C.F.R. § 1.1914.