

**Federal Communications Commission**

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

In the Matter of	)	
	)	
Gold Coast Radio , LLC	)	File Number: EB-06-LA-114
	)	
Licensee of Station KMLA	)	NAL/Acct. No.: 200732900003
El Rio, California	)	FRN: 0003745254
Facility ID # 55273	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: December 22, 2006

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Gold Coast Radio, LLC ("Gold Coast"), licensee of station KMLA, an FM broadcast station serving El Rio, California, apparently repeatedly violated Section 73.1560(b) of the Commission's Rules ("Rules")<sup>1</sup> by operating its transmitter at a power level exceeding 105% of that authorized by its license. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>2</sup> that Gold Coast is apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000).

**II. BACKGROUND**

2. On August 29, 2006, in response to complaints, Los Angeles agents monitored and made field strength measurements of KMLA's transmitted signal from a location 7 kilometers from the KMLA transmitter site. At that location, the field strength was measured at 17.2 mV/m, when measured with a field strength meter. The agents also set up a spectrum analyzer and sampling antenna at their hotel and observed the emissions mask and relative strength of the KMLA transmitter emissions. Agents made periodic observations at several times during the day and evening of August 29, 2006, and observed that the level of the signal transmitted by KMLA did not change.

3. On August 30, 2006, the Los Angeles agents, after observing the signal level on the spectrum analyzer was consistent with their observations from the previous day, inspected the KMLA transmitter and observed the transmitter power meter which indicated that the KMLA transmitter output was 1022 watts. According to the station's license, KMLA is authorized to operate at 530 watts. The agents also interviewed KMLA station management personnel who reported that the station had been operating without a Chief Engineer or designated Chief Operator for a period of one month, and that there was no one available to adjust the transmitter. After the transmitter inspection, the Los Angeles agents again measured the field strength of the KMLA signal from the same location as the previous day. At that location, the field strength was measured at 16.7 mV/m, when measured with a field strength meter, indicating a variance of 0.25 dB from the day before. The agents also observed the spectrum analyzer set up in the hotel room and noted that the KMLA signal level had not changed from the observations made on August

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<sup>1</sup> 47 C.F.R. § 73.1560(b).

<sup>2</sup> 47 U.S.C. § 503(b).

29, 2006, and earlier on August 30, 2006.

### III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "repeated" means the commission or omission of such act more than once or for more than one day.<sup>3</sup>

5. Section 73.1560(b) states: "*FM stations.* Except as provided in paragraph (d) of this section, the transmitter output of an FM station... must be maintained as near as practicable to the authorized transmitter output power and may not be less than 90%, nor more than 105% of the authorized power."<sup>4</sup> On August 29, 2006, and August 30, 2006, Los Angeles agents, through multiple observations and field strength measurements, determined that KMLA was operating at approximately 190% of its authorized power of 530 watts. The violation occurred on more than one day, therefore, it is repeated. Based on the evidence before us, we find that Gold Coast apparently repeatedly violated Section 73.1560(b) of the Rules by operating the KMLA transmitter at a power level exceeding 105% of power level authorized by the KMLA license.

6. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("*Forfeiture Policy Statement*"), and Section 1.80 of the Rules, the base forfeiture amount for exceeding power limits is \$4,000.<sup>5</sup> 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 Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.<sup>6</sup> Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that Gold Coast is apparently liable for a \$4,000 forfeiture.

### IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, 0.314 and 1.80 of the Commission's Rules, Gold Coast Radio, LLC, is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of four thousand dollars (\$4,000) for violations of Section 73.1560(b) of the Rules.<sup>7</sup>

8. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Gold Coast Radio, LLC, **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 must be made by check or similar instrument, payable to the

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<sup>3</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under 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."

<sup>4</sup> 47 C.F.R. § 73.1560(b) (Operating power and mode tolerances).

<sup>5</sup> 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

<sup>6</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>7</sup> 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 0.314, 1.80, 73.1560(b).

**Federal Communications Commission**

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order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

10. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles Office, 18000 Studebaker Rd., Suite 660, Cerritos, CA 90703, and must include the NAL/Acct. No. referenced in the caption.

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 for Forfeiture under an installment plan should be sent to: Associate Managing Director – Financial Operations, Room 1A625, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

13. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Gold Coast Radio, LLC.

FEDERAL COMMUNICATIONS COMMISSION

Catherine Deaton  
District Director  
Los Angeles Office  
Western Region  
Enforcement Bureau

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<sup>8</sup> See 47 C.F.R. § 1.1914.