

Federal Communications Commission

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

In the Matter of)	
)	
Radhames Severino)	File Number: EB-09-HU-0031
)	
Houston, Texas)	NAL/Acct. No: 200932540002
)	
)	FRN: 0018771907

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: May 26, 2009

By the Resident Agent, Houston Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Radhames Severino, apparently willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended (“Act”),¹ by operating an unlicensed radio transmitter on the frequency 101.5 MHz in Houston, Texas. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended (“Act”),² that Mr. Severino is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On October 23 and 25, 2006, in response to a complaint about an unlicensed radio station in the Houston area, an agent from the Commission’s Houston Office of the Enforcement Bureau (“Houston Office”), using radio direction-finding methods, determined that the source of a signal on 101.5 MHz was an antenna on the roof of a building at 9801 Bissonnet Street, Houston, Texas. The agent took field strength measurements of the signals on both days and determined the signals being broadcast exceeded the limits for operation under Part 15 of the Commission’s Rules (“Rules”)³ and therefore required a license. A search of the Commission databases found no evidence of a Commission authorization for this operation on 101.5 MHz in Houston, Texas. On October 31, 2006, an agent from the Houston Office inspected the radio station located in suites K-M of the building, which was labeled as the home of the Iglesia Misionera Evangelistica Elohim church.⁴ The agent determined that Mr. Severino leased these suites, was responsible for the station, and was the pastor for the church.

¹ 47 U.S.C. § 301.

² 47 U.S.C. § 503(b).

³ Section 15.239 of the Rules provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 µV/m at three meters. 47 C.F.R. § 15.239. On October 23 and 25, 2006, the measurements indicated that the signals were 4,816 and 11,602 times greater, respectively, than the maximum permissible level for a non-licensed Part 15 transmitter.

⁴ The webpage for the church lists its address as 9801k/m bissonnet, Houston, Texas. See www.mmmhouston.com.

3. On November 7, 2006, the Houston Office sent, via regular and certified mail, a formal Notice of Unlicensed Operation (“NOUO”) to Mr. Severino at his residence. The NOUO warned Mr. Severino that operation of the unlicensed radio station on 101.5 MHz violated Section 301 of the Act, outlined the potential penalties for such a violation, and directed him to cease all unlicensed operations immediately.⁵

4. On January 30, March 12, and October 15, 2008, agents from the Houston Office, using radio direction-finding methods, determined that the source of signals on 101.5 MHz was once again the antenna on the roof of 9801 Bissonnet Street, Houston, Texas. The agents took field strength measurements of the signals and determined the signals being broadcast exceeded the limits for operation under Part 15 of the Rules,⁶ and therefore required a license. A search of the Commission databases found no evidence of a Commission authorization for this operation on 101.5 MHz in Houston, Texas.

5. On April 15, 2009, an agent from the Houston Office, using radio direction-finding methods, determined that the source of signals on 101.5 MHz was an antenna on the roof of 9801 Bissonnet Street, Houston, Texas. The agent took field strength measurements and determined the signals being broadcast exceeded the limits for operation under Part 15 of the Rules,⁷ and therefore required a license. A search of the Commission databases found no evidence of a Commission authorization for this operation on 101.5 MHz in Houston, Texas. On April 21, 2009, the agent confirmed that Mr. Severino was still leasing suites K-M of the building for his church.

III. DISCUSSION

6. 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 “willful” as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.⁴ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁵

7. Section 301 of the Act states that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act. Section 3(33) of the Act defines “communications by radio” as “the transmission by radio of writing, signs, signals, pictures, and

⁵ The Houston Office received a signed return receipt from Mr. Severino for the NOUO.

⁶ On January 30, March 12, and October 15, 2008, the measurements indicated that the signals were 8,819, 6,503, and 12,138 times greater, respectively, than the maximum permissible level for a non-licensed Part 15 transmitter.

⁷ On April 15, 2009, the measurements indicated that the signals were 11,443 times greater than the maximum permissible level for a non-licensed Part 15 transmitter.

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under 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 or any rule or regulation of the Commission authorized by this Act....” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ 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.”

sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things the receipt, forwarding, and delivery of communications) incidental to such transmission.”⁶ On November 7, 2006, Mr. Severino received a NOUO warning him that operation of a radio transmitter on 101.5 MHz without a license violated the Act and the Rules. On October 15, 2008, and April 15, 2009, agents determined that an unlicensed radio station operated on 101.5 MHz from 9801 Bissonnet Street in Houston, Texas. The unlicensed radio station is located in the Iglesia Misionera Evangelistica Elohim church in suites K-M of 9801 Bissonnet Street. Mr. Severino has been the tenant for these suites since 2006 and is the pastor of the church. Mr. Severino broadcasts church-related religious programming on 101.5 MHz, and is the operator of this unlicensed station. On October 15, 2008 and April 15, 2009, Mr. Severino, as the tenant for suites K-M of 9801 Bissonnet Street and the pastor for the church, was responsible for actions taking place within his control. The Enforcement Bureau has previously held that liability for unlicensed operation may be assigned to an individual who provides services and facilities incidental to the transmission of communications by radio.⁷ We therefore find that, Mr. Severino is also responsible for the unlicensed station operation on 101.5 MHz at 9801 Bissonnet Street in Houston, Texas, because he provided the facilities used in the operation of the station. Based on the evidence before us, we find that Mr. Severino apparently willfully and repeatedly violated Section 301 of the Act by operating radio transmission apparatus without a license on 101.5 MHz on October 15, 2008 and April 15, 2009.

8. 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 operation without an instrument of authorization is \$10,000.⁸ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in 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.⁹ Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that Mr. Severino is apparently liable for a \$10,000 forfeiture.

IV. ORDERING CLAUSES

9. 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, Radhames Severino is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of Section 301 of the Act.¹⁰

10. **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, Radhames Severino **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 must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail

⁶ 47 U.S.C. § 153(33).

⁷ See *Joni K. Craig*, Forfeiture Order, 21 FCC Rcd 10793 (EB 2006).

⁸ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. §1.80.

⁹ 47 U.S.C. § 503(b)(2)(E).

¹⁰ 47 U.S.C. §§ 301, 503(b); 47 C.F.R. §§ 0.111, 0.311, 0.314, 1.80.

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may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. If payment is made, Mr. Severino should send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

12. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Houston Office, 9597 Jones Road, #362, Houston, TX 77065 and must include the NAL/Acct. No. referenced in the caption.

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. **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 Radhames Severino at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Lee R. Browning
Resident Agent
Houston Office
South Central Region
Enforcement Bureau