
Federal Communications Commission

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

In the Matter of)	
)	
Frankie Grover)	File No: EB-08-TP-0342
)	
Lakeland, Florida)	NAL/Acct. No.: 200932700006
)	
)	FRN: 0019037555

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: August 18, 2009

By the District Director, Tampa Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Frankie Grover, apparently willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended (“Act”),¹ by operating an unlicensed radio transmitter on 87.9 MHz in Lakeland, Florida. We conclude, pursuant to Section 503(b) of the Act,² that Mr. Grover is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On October 2, 2008, in response to a complaint that Mr. Grover was operating an unlicensed radio station in Lakeland, Florida, agents from the Commission’s Tampa Office of the Enforcement Bureau (“Tampa Office”), used direction finding techniques, to locate the source of broadcast transmissions on 87.9 MHz to the Kingston Lakeside Inn (“Lakeside Inn”) in Lakeland, Florida. The agents took field strength measurements and determined that the signals being broadcast exceeded the limits for operation under Part 15 of the Commission’s Rules (“Rules”) and therefore required a license.³ According to Commission records, neither Mr. Grover, nor any other person or entity, holds an authorization to broadcast on that frequency from any location in the state of Florida.

3. While monitoring the station on October 2, 2008, agents from the Tampa Office heard the station air a callsign of WGBC FM. This callsign is not listed in the Commission’s databases. Also on October 2, 2008, the agents observed a vehicle registered to Mr. Grover parked in the driveway of his home with a personalized license tag of “WGBC 1.” The vehicle contained advertising on the rear window for the “Frankie Grover Morning Show” for “WGBC FM.BIZ.” The advertisement listed the address of the

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 30-88 MHz band is permitted only if the field strength of the transmission does not exceed 100 µV/m at three meters. 47 C.F.R. § 15.239. The measurements made on October 2, 2008, indicated that the signal was 3,942 times greater than the maximum permissible level for a non-licensed Part 15 transmitter.

Lakeside Inn in Lakeland, Florida where the unlicensed radio station was found earlier in the day.

4. On October 3, 2008, agents from the Tampa Office visited WGBC's webpage, <http://www.wgbcfm.biz/>, which lists Mr. Grover as the CEO of WGBCFM. The website also listed daily show times for different DJ's including the "Frankie Grover Morning Show" from 7-10 am Monday through Friday.

5. On October 7, 2008 and again on November 6, 2008, agents from the Tampa Office continued their investigation of 87.9 MHz in Lakeland, Florida. Using direction finding techniques, agents again located the source of unidentified broadcast transmissions on 87.9 MHz to the Lakeside Inn located in Lakeland, Florida. Advertisements for WGBC FM biz were located on windows of several ground level suites at the Lakeside Inn. The agents took field strength measurements and determined that the signals being broadcast exceeded the limits for operation under Part 15 of the Rules and therefore required a license.⁴ According to Commission records, neither Mr. Grover, nor any other person or entity, holds an authorization to broadcast on that frequency from any location in the state of Florida.

6. During the morning of November 7, 2008, agents from the Tampa Office observed that the unlicensed radio station was broadcasting at 87.9 MHz from the Lakeside Inn in Lakeland, Florida and heard an individual identify himself as Frankie Grover during the "Frankie Grover Morning Show." The agents inspected the radio station and observed Mr. Grover on the air. The agents interviewed Mr. Grover, who admitted that he was solely responsible for setting up and operating the broadcast station on 87.9 MHz. Mr. Grover admitted he did not have a license to operate on 87.9 MHz but stated that on an unspecified date and time he spoke to an unidentified person at the FCC who told him it was okay to broadcast as long as no one complained and there was no interference.

III. DISCUSSION

7. 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.⁵ The term "repeated" means the commission or omission of such act more than once or for more than one day.⁶

8. Section 301 of the Act requires 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. On October 2 and 7, and November 6 and 7, 2008, agents from the Tampa Office observed an unlicensed radio station operating on 87.9 MHz from the Lakeside Inn in Lakeland, Florida. The station identified itself on the air and advertised itself as WGBC. Station

⁴ The measurements made on October 7, 2008, indicated that the signal was 5,221 times greater than the maximum permissible level for a non-licensed Part 15 transmitter and the measurements made on November 6, 2008, indicated that the signal was 5,157 times greater than the maximum permissible level for a non-licensed Part 15 transmitter.

⁵ 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).

⁶ 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."

advertisements and materials stated that Mr. Grover broadcast a radio program on the station and was the station CEO. Mr. Grover admitted that he was solely responsible for setting up and operating the radio station, which did not have a license, from the Lakeside Inn. Although Mr. Grover states he believed no license was necessary to operate his station, that belief was mistaken.⁷ Moreover, his belief that his actions did not violate the Act is irrelevant as to whether his violation was willful, as he intentionally operated the station.⁸ Based on the evidence before us, we find Mr. Grover apparently willfully and repeatedly violated Section 301 of the Act by operating radio transmission apparatus without a license on 87.9 MHz from the Lakeside Inn.

9. 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 operating a radio station without an instrument of authorization is \$10,000.⁹ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) 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.¹⁰ Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Mr. Grover is apparently liable for a \$10,000 forfeiture.

IV. ORDERING CLAUSES

10. 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, Frankie Grover 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.¹¹

11. **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, Frankie Grover **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and the 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 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

⁷ We note that Mr. Grover was familiar with the Commission's rules regarding broadcast stations, as he was formerly the President of AM Station WHNR, facility ID 21766, Cypress Gardens, Florida.

⁸ The Commission has consistently stated that ignorance of the law is not a mitigating factor. *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), citing *Vernon Broadcasting, Inc.*, Memorandum Opinion and Order, 60 RR 2d 1275, 1277 (1986) and *Fay Neel Eggleston*, Memorandum Opinion and Order, 19 FCC 2d 829 (1969).

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

¹⁰ 47 U.S.C. § 503(b)(2)(E).

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

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should be sent to: Chief Financial Officer—Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington D.C. 20554. If you have questions, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. If payment is made, Mr. Grover will send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

13. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Tampa Office, 2203 N Lois Avenue, Room 1215, Tampa, Florida 33607 and must include the NAL/Acct. No. referenced in the caption.

14. 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.

15. **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 Frankie Grover at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Ralph Barlow
District Director,
Tampa Office
Southeast Region
Enforcement Bureau