

Federal Communications Commission

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

In the Matter of)	
)	
)	File Number: EB-09-NY-0316
Ronald Reid)	
)	NAL/Acct. No: 201032380003
)	
Bronx, New York)	FRN: 0019263912

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: January 6, 2010

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Ronald Reid 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 107.3 MHz in Bronx, New York. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),² that Ronald Reid is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On October 29, 2009, the New York Office of the FCC's Enforcement Bureau received a complaint from the Federal Aviation Administration ("FAA") regarding interference from an illegal broadcast station operating on 107.3 MHz in Bronx, New York, to authorized FAA frequencies.

3. On October 29, 2009, a Commission agent, using a mobile direction-finding vehicle, monitored the frequency 107.3 MHz in Bronx, New York. The agent observed a radio station broadcasting on 107.3 MHz and determined that the station was operating from an apartment building located at 4643 Bronx Boulevard, Bronx, New York. The agent observed an FM broadcast antenna on top of the roof of the apartment building and a coaxial cable going from the antenna to a first floor window at the rear of the building. The agent subsequently 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")³ and therefore required a license. The agent searched Commission databases and found no evidence of a Commission authorization for this operation on 107.3 MHz in Bronx, New York. The agent attempted a station inspection, but no one answered the door. The agent spoke to a woman in 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 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. Measurements showed that the field strength of the station's signal exceeded the permissible level for a non-licensed Part 15 transmitter.

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building who told the agent that Mr. Reid was the owner of the building and lived in the first floor apartment. The agent prepared a Hand-Delivered Notice of Unlicensed Radio Operation ("NOUO") and left it in Mr. Reid's mail box.

4. On October 30, 2009, the New York Office sent, via regular mail and certified mail, return receipt requested, a NOUO addressed to Ronald Reid at 4643 Bronx Boulevard, Bronx, New York 10470. The NOUO warned Mr. Reid that operation of the unlicensed radio station on 107.3 MHz violated Section 301 of the Act and outlined the potential penalties for such a violation, including seizure of the equipment, fines and imprisonment. The NOUO also directed Mr. Reid to terminate operation of the unlicensed station immediately and provided Ronald Reid ten days to reply.

5. On October 31, 2009, in response to another complaint from the FAA, a Commission agent, using a mobile direction-finding vehicle, monitored the frequency 107.3 MHz in Bronx, New York. The agent observed a radio station broadcasting on 107.3 MHz and determined that the station was operating from an apartment building located at 4643 Bronx Boulevard, Bronx, New York 10470. The agent observed the same FM broadcast antenna on top of the roof of the apartment building and a coaxial cable going from the antenna to a first floor window at the rear of the building. The agent subsequently took field strength measurements and determined that the signals being broadcast again exceeded the limits for operation under Part 15 of the Commission's Rules and therefore required a license. The agent attempted a station inspection, but no one answered the door.

6. On November 2, 2009, a Commission agent, using a mobile direction-finding vehicle, monitored the frequency 107.3 MHz in Bronx, New York. The agent observed a radio station broadcasting on 107.3 MHz and again determined that the station was operating from an apartment building at 4643 Bronx Boulevard, Bronx, New York 10470. The agent observed that the FM antenna that was previously on the roof had been moved to a window at the back of the building. This was the same window where the agent observed the coaxial cable entering the first floor apartment on October 29, 2009.

7. Also on November 2, 2009, the agent again attempted an inspection and observed a male person in the first floor window. The agent knocked on the window and the person who answered the door identified himself as Ronald Reid. Mr. Reid stated to the agent that he owns the building and resides in the first floor apartment.⁴ Mr. Reid further stated that he operates the station on 107.3 MHz and showed the agent the hand-built transmitter that he made and programmed to operate on 107.3 MHz. Mr. Reid verbally confirmed to the agent that he received the October 31, 2009 NOUO and acknowledged such receipt by making a written notation and signing a copy of the NOUO provided by the agent. Mr. Reid claimed that the transmitter output power was less than 10 watts and that he did not understand how it could be causing interference to FAA frequencies. At the request of the agent, Mr. Reid turned off the transmitter. Upon leaving the area, the agent confirmed that the station on 107.3 MHz was off the air.

III. DISCUSSION

8. 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) of the Act has been interpreted to mean simply that the acts or omissions are committed knowingly.⁵ The term

⁴ Property records obtained by agents confirmed that Mr. Reid owns the building at 4643 Bronx Boulevard in Bronx, New York.

⁵ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed

“repeated” means the commission or omission of such act more than once or for more than one day.⁶

9. 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. Agents determined that, on October 29, 2009, October 31, 2009, and November 2, 2009, an unlicensed broadcast station was broadcasting on 107.3 MHz from 4643 Bronx Boulevard, Bronx, New York. During an interview with an FCC agent on November 2, 2009, Mr. Reid admitted to operating the radio station on frequency 107.3 MHz from his first floor apartment at 4643 Bronx Boulevard. We find that Mr. Reid is responsible for the unlicensed station operation on 107.3 MHz at 4643 Bronx Boulevard and that his actions amounted to willful and repeated violations of Section 301 of the Act.

10. 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 \$10,000.⁷ 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.⁸ Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that Ronal Reid is apparently liable for a \$10,000 forfeiture.

IV. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Ronald Reid 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.⁹

12. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules, within thirty (30) days of the release date of this Notice of Apparent Liability for Forfeiture, Ronald Reid **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

13. 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

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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).

⁶Section 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.”

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

⁸ 47 U.S.C. § 503(b)(2)(D).

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

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overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment[s] 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. Reid must send electronic notification on the date said payment is made to NER-Response@fcc.gov.

14. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Northeast Region, New York Office, 201 Varick Street, Suite 1151, New York, NY 10014, and must include the NAL/Acct. No. referenced in the caption.

15. 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.

16. **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 Ronald Reid at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel
District Director
New York Office
Northeast Region
Enforcement Bureau