

---

**Federal Communications Commission**

---

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

In the Matter of

Cerritos Ford

Licensee of Station WQKA311  
Cerritos, California

)  
)  
)  
)  
)  
)  
)

File Number: EB-09-LA-0094

NAL/Acct. No. 201032900003  
FRN: 0018543215

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: January 27, 2010

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 Cerritos Ford, licensee of land mobile station WQKA311, in Cerritos, California, apparently repeatedly violated Section 1.903(a) of the Commission's Rules ("Rules")<sup>1</sup> by conducting voice communications on 467.675 MHz, a frequency not authorized by its license. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>2</sup> that Cerritos Ford is apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000).

**II. BACKGROUND**

2. On August 7, 2009, the Enforcement Bureau's Los Angeles Office received a complaint stating that Cerritos Ford was operating on frequency 467.675 MHz, without a license.<sup>3</sup>

3. On August 27, 2009, an agent from the Los Angeles Office used mobile direction finding techniques to locate radio operations on 467.675 MHz being transmitted from Cerritos Ford's location at 18900 Studebaker Rd., Cerritos, California. The agent noted that Cerritos Ford was not authorized to be using this frequency for voice communications.

4. On September 1, 2009, the Los Angeles agent continued to monitor and determined the transmissions were voice communications by employees of Cerritos Ford on 467.675 MHz. On that same day, the Los Angeles agent spoke with the Cerritos Ford Service Manager. The manager stated that Cerritos Ford believed that it was operating on one of the five frequencies authorized by its new Industrial Radio Service license (WQKA311).<sup>4</sup> The Los Angeles agent then inspected two of the handheld radios being used by Cerritos Ford and determined that one of the five channels programmed into the radios had been programmed for 467.675 MHz, as opposed to 467.7625 MHz, which was the frequency authorized by the license. The manager ensured that the operation on 467.675 MHz ceased at that time.

---

<sup>1</sup> 47 C.F.R. § 1.903(a).

<sup>2</sup> 47 U.S.C. § 503(b).

<sup>3</sup> On December 9, 2008, Cerritos Ford was warned by an agent of the Enforcement Bureau's Los Angeles Office regarding its apparent unlicensed operation on General Mobile Radio Service (GMRS) frequency 467.675 MHz.

<sup>4</sup> The WQKA311 license was granted to Cerritos Ford on March 3, 2009.

### III. DISCUSSION

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

6. Section 1.903(a) of the Rules requires that stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service, and with a valid authorization granted by the Commission. Cerritos Ford did not hold a license to operate on 467.675 MHz but operated on 467.675 MHz on August 27, 2009, and September 1, 2009. At the time, the license held by Cerritos Ford was WQKA311 which authorized five different frequencies in the Industrial Radio Service. Based on the evidence before us, we find Cerritos Ford apparently repeatedly violated Section 1.903(a) of the Rules by operating on frequency 467.675 MHz, a frequency not authorized in its license.

7. 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 using an unauthorized frequency is \$4,000. 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.<sup>7</sup> Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that Cerritos Ford is apparently liable for a forfeiture of \$4,000.

### IV. ORDERING CLAUSES

8. 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, Cerritos Ford is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of four thousand dollars (\$4,000) for violations of Section 1.903(a) of the Act.<sup>8</sup>

9. **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, Cerritos Ford **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

---

<sup>5</sup> 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).

<sup>6</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>7</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>8</sup> 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 0.314, 1.80, 1.903(a).

---

**Federal Communications Commission**

---

10. 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 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.<sup>9</sup> Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures. Cerritos Ford will also send electronic notification on the date said payment is made to [WR-Response@fcc.gov](mailto:WR-Response@fcc.gov).

11. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles District Office, 18000 Studebaker Rd., Suite 660, Cerritos, CA 90703, and must include the NAL/Acct. No. referenced in the caption. An electronic copy shall be sent to [WR-Response@fcc.gov](mailto:WR-Response@fcc.gov).

12. 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.

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 Cerritos Ford.

FEDERAL COMMUNICATIONS COMMISSION

Nader Haghighat  
District Director  
Los Angeles Office  
Western Region  
Enforcement Bureau

---

<sup>9</sup> See 47 C.F.R. § 1.1914.