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**Federal Communications Commission**

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

In the Matter of	)	
	)	
International Church of the Foursquare Gospel DBA	)	File Number: EB-09-LA-0118
Radio Station KFSG FM	)	
	)	
Antenna Structure Registrant	)	NAL/Acct. No.: 201032900004
Los Angeles, California	)	FRN: 0005822622
ASR No. 1012525	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released:** January 28, 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 International Church of the Foursquare Gospel DBA Radio Station KFSG FM ("Foursquare Gospel"), registrant of antenna structure #1012525 in Los Angeles, California, apparently repeatedly violated Section 303(q) of the Communications Act of 1934, as amended, ("Act"),<sup>1</sup> and Section 17.51(a) of the Commission's Rules ("Rules")<sup>2</sup> by failing to exhibit the structure's red obstruction lighting from sunset to sunrise; by failing to maintain the antenna structure painting and lighting in accordance with their Antenna Structure Registration ("ASR"), a violation of Section 17.6(a) of the Rules;<sup>3</sup> and by failing to monitor the antenna structure's lights, using a properly maintained indicator and/or automatic alarm system designed to register or detect any failure of such lights, a violation of Section 17.47(a) of the Rules.<sup>4</sup> Foursquare Gospel's failure to make the required observations of the lighting on the antenna structure resulted in its failure to notify the nearest Flight Service Station of the Federal Aviation Administration ("FAA") of the outage of the flashing obstruction light, a violation of Section 17.48 of the Rules.<sup>5</sup> Foursquare Gospel's failure to maintain required lighting on the antenna structure and comply with the FCC's rules created a hazard to air navigation. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>6</sup> that Foursquare Gospel is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

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<sup>1</sup> 47 U.S.C. § 303(q).

<sup>2</sup> 47 C.F.R. § 17.51(a).

<sup>3</sup> 47 C.F.R. § 17.6(a).

<sup>4</sup> 47 C.F.R. § 17.47(a).

<sup>5</sup> 47 C.F.R. § 17.48.

<sup>6</sup> 47 U.S.C. § 503(b).

## II. BACKGROUND

2. Antenna structure #1012525 is an antenna tower of 67.8 meters (approximately 222 feet) in height above ground. The registered owner is Foursquare Gospel. According to the antenna structure registration (“ASR”) for antenna structure #1012525, the structure is required to be painted and lit in accordance with FCC Paragraphs for Obstruction Marking and Lighting.<sup>7</sup> Specifically, the structure is required to be painted and have, at its top, a flashing red obstruction beacon, along with steady burning red side obstruction lights at approximately two-thirds and one-third of the over-all height of the tower.<sup>8</sup>

3. On August 28, 2009, the Enforcement Bureau’s Los Angeles Office received complaints concerning an antenna tower light outage in regard to antenna structure #1012525, located at 1050 Montecito Dr. (Tower 2), Los Angeles, California. The complaint stated that the antenna tower had been unlit for approximately two months and there was concern as the structure is located on a ridge in a heavily traveled helicopter flight path. The complaint also stated that there was an attempt to contact the tower owner via the telephone number listed on the antenna structure registration form but the number listed had been disconnected and was no longer a working telephone number. An agent of the Los Angeles Office performed a search of the Commission’s ASR database, obtained the listed antenna registration information for ASR #1012525, and attempted to contact the registered tower owner, International Church of the Foursquare Gospel DBA Radio Station KFSG FM. The agent confirmed that the telephone number listed on the structure’s ASR had been disconnected and was not a working telephone number. The Los Angeles agent contacted the Federal Aviation Administration’s (“FAA”) Flight Service Station (“FSS”) to determine if the tower light outage had been reported. The FAA informed the Los Angeles agent that no prior light outage report had been made for antenna structure #1012525. The Los Angeles agent requested the FSS issue a NOTAM for tower #1012525. Subsequently, a few minutes later, the FSS called back confirming that the NOTAM had been issued and providing the agent with a NOTAM number.

4. On August 28, 2009 and August 31, 2009, the Los Angeles agent was on scene at 1050 Montecito Dr. and on both occasions confirmed that the antenna tower lights on tower #1012525 were out and the tower was completely dark.

5. On September 2, 2009, the Los Angeles agent made contact with the registered antenna tower owner, Foursquare Gospel, and spoke with a Facilities Manager who stated that the antenna tower in question, #1012525, was owned by Spanish Broadcasting System (“SBS”), not Foursquare Gospel. He stated that the antenna tower had been sold years earlier. He acknowledged that he was aware of the antenna tower light outage but went on to state that it was the responsibility of Spanish Broadcasting System to maintain the tower. Subsequently, the Los Angeles agent contacted Spanish Broadcasting System and spoke with management there who acknowledged that they were a Commission licensee operating a transmitter on the antenna structure, but not the antenna structure owner. The management at Spanish Broadcasting System stated that they were unaware of the antenna tower light outage but in the interests of safety would take immediate steps to get the tower lit and properly monitored as soon as possible. An official at Spanish Broadcasting System did offer that they were not monitoring the antenna tower lights and went on to state that if it turned out to be their responsibility, visual monitoring would be impractical and they would elect to automate the process. The Los Angeles agent also spoke with officials at Clear Channel, the owner of the remaining two antenna towers in the array, # 1051221 and # 1051222. In subsequent correspondence, a Clear Channel Engineering Supervisor stated that Clear Channel personnel first noticed the antenna tower light outage on August 30, 2009. He went on to state that although the Clear Channel towers do not have painting and lighting requirements, the lights on antenna tower #1051221 were turned on to give some

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<sup>7</sup> See FCC Forms 715/715A, paragraphs 1, 3, 12 and 21.

<sup>8</sup> FCC Forms 715/715A, paragraphs 3, 12 and 21.

marking to the area once Clear Channel discovered the antenna tower light outage on the tower owned by Foursquare Gospel, tower #1012525.

6. On September 3, 2009, the Los Angeles agent visited the offices of the International Church of the Foursquare Gospel and interviewed the Department Manager, Properties and Credentials. The manager acknowledged that the church owns antenna structure #1012525 but leases it to Spanish Broadcasting System. When asked for copies of the antenna structure light logs, the manager stated that no tower light logs were maintained by the church as their lease agreement requires Spanish Broadcasting System to fully maintain the tower.

7. On September 8, 2009, the Los Angeles agent received an e-mail from an engineer at Spanish Broadcasting System advising that the company will be adding an Automatic Tower Light alarm to their remote control since it is their intention to make certain any tower light outages in the future are met with a speedy response from SBS regardless of who owns the tower.

8. On September 11, 2009, the Los Angeles agent received a separate e-mail from the engineer at Spanish Broadcasting System advising that it determined that a contactor in the photocell switching circuit had blown up, interrupting the power to the lights. The engineer stated that the power was restored but when measuring the current draw of the lights, it was apparent that one of the beacons was still out so therefore the plan to replace all the tower lamps was still scheduled for September 14, 2009.

9. On September 17, 2009, the Los Angeles agent received a final e-mail from the engineer at Spanish Broadcasting System advising that the tower crew had been on site on September 14, 2009, and replaced all the tower lights. The engineer stated that two new beacon bulbs were installed at the top of the tower as well as four new side markers. The engineer also requested that the agent provide him with the appropriate FAA telephone number for reporting NOTAMs, to be kept in his file for future reference in case of an antenna tower light outage.

10. On September 23, 2009, the Los Angeles agent received an e-mail from a Clear Channel engineering supervisor, stating that Clear Channel, in conjunction with SBS, hired a tower company to re-lamp the tower. The engineer from Clear Channel confirmed that a tower re-lamp was accomplished on September 14, 2009.

### **III. DISCUSSION**

11. 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>9</sup> The term "repeated" means the commission or omission of such act more than once or for more than one day.<sup>10</sup>

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<sup>9</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>10</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."

12. Section 303(q) of the Act states that antenna structure owners shall maintain the painting and lighting of antenna structures as prescribed by the Commission.<sup>11</sup> The Commission's antenna structure construction, marking and lighting requirements operate in concert with FAA regulations to ensure that antenna structures do not present hazards to air navigation.<sup>12</sup> Generally, the Rules require that antenna structures located close to airports or that are greater than 200 feet in height comply with painting and lighting specifications designed to ensure air safety.<sup>13</sup> Section 17.51(a) of the Rules states that all red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified.<sup>14</sup> The FCC Paragraphs for antenna structure 1012525, require that the structure be painted and have, at its top, a flashing red beacon, along with steady burning red side obstruction lights at approximately two-thirds and one-third of the overall height of the tower.<sup>15</sup> Section 17.6(a) of the Rules requires that the antenna structure owner maintain the painting and lighting in accordance with the specifications set forth in the ASR.<sup>16</sup> Section 17.47(a) of the Rules requires that the owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications shall make an observation of the antenna structure's lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator designed to register any failure.<sup>17</sup> Section 17.48 of the Rules requires that registered antenna structures that have been assigned lighting specifications shall report immediately by telephone or telegraph to the FSS or FAA any observed or otherwise known extinguishment of any flashing obstruction light not corrected within 30 minutes.<sup>18</sup>

13. On August 28, 2009, the Enforcement Bureau's Los Angeles Office received a complaint that antenna structure #1012525 located at 1050 Montecito Dr., Los Angeles, California, had been unlit for approximately a two month period. An agent in the Los Angeles Office contacted the FAA's Flight Service Station and discovered that the antenna tower owner, Foursquare Gospel, had not reported the light outage. Foursquare Gospel acknowledged that the antenna tower lights for tower #1012525 were not being monitored. Additionally, Foursquare Gospel was unable to produce any logs concerning the light outage on antenna structure #1012525, and acknowledged that there was no automatic alarm system installed to detect the failure of the lights and to provide indication of such failure to the owner.

14. Foursquare Gospel's failure to properly observe and maintain an indicator and/or automatic alarm system designed to register or detect any lighting failure resulted in Foursquare Gospel's failure to monitor the lights on antenna structure #1012525. This failure to monitor resulted in Foursquare Gospel's failure to notify the FAA Flight Service Station of the outage of the flashing obstruction light, which is required to be exhibited from sunset to sunrise. Based on the evidence before us, we find that Foursquare Gospel apparently repeatedly violated Section 303(q) of the Act, and Sections 17.51(a), 17.47(a), 17.6(a), and 17.48 of the Rules, by failing to maintain the required red obstruction lighting on antenna structure #1012525; by failing to monitor the antenna structure's lights, using a properly maintained indicator and/or automatic alarm system designed to register or detect any lighting failure; by failing to maintain the structure lighting in accordance with the ASR specifications, and by failing to report the extinguishment of the top flashing red beacon on antenna structure #1012525.

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<sup>11</sup> 47 U.S.C. § 303(q).

<sup>12</sup> *AT&T Wireless Services, Inc.*, 17 FCC Rcd 7891, 7892 (2002).

<sup>13</sup> 47 C.F.R. § 17.21.

<sup>14</sup> 47 C.F.R. § 17.51(a).

<sup>15</sup> FCC Forms 715/715A, paragraphs 3, 12 and 21.

<sup>16</sup> 47 C.F.R. § 17.6(a).

<sup>17</sup> 47 C.F.R. § 17.47(a).

<sup>18</sup> 47 C.F.R. § 17.48.

15. 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"),<sup>19</sup> and Section 1.80 of the Rules, the base forfeiture amount for failing to comply with the prescribed lighting and/or marking for an antenna structure is \$10,000. 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,<sup>20</sup> 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. Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that Foursquare Gospel is apparently liable for a \$10,000 forfeiture. In addition, we direct Foursquare Gospel to update its antenna structure registration with a valid telephone contact number.

#### IV. ORDERING CLAUSE

16. 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, International Church of the Foursquare Gospel DBA Radio Station KFSG FM is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of Section 303(q) of the Act, and Sections 17.6(a), 17.47(a), 17.48, and 17.51(a) of the Rules.<sup>21</sup>

17. **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, International Church of the Foursquare Gospel DBA Radio Station KFSG FM, **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

18. 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>22</sup> Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. International Church of the Foursquare Gospel DBA Radio Station KFSG FM shall also send electronic notification on the date said payment is made to WR-Response@fcc.gov.

19. 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.

20. The Commission will not consider reducing or canceling a forfeiture in response to a claim

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<sup>19</sup> 12 FCC Rcd 17087(1997), *recon. denied* 15 FCC Rcd 303 (1999).

<sup>20</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>21</sup> 47 U.S.C. §§ 303(q), 503(b), 47 C.F.R. §§ 0.111, 0.311, 1.80, 17.6, 17.47(a), 17.48, 17.51(a).

<sup>22</sup> See 47 C.F.R. § 1.1914.

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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.

21. **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 International Church of the Foursquare Gospel DBA Radio Station KFSG FM, at its address of record.

**FEDERAL COMMUNICATIONS COMMISSION**

Nader Haghighat  
District Director  
Los Angeles Office  
Western Region  
Enforcement Bureau