

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Aura Holdings of Wisconsin, Inc.	)	File No.: EB-SED-17-00024701
	)	NAL/Acct. No.: 201832100010
	)	FRN: 0026158949

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: April 6, 2016**

**Released: April 6, 2018**

By the Commission:

**I. INTRODUCTION**

1. We propose a penalty of \$235,668 against Aura Holdings of Wisconsin, Inc. (Aura or Company) for the willful and repeated failure to provide truthful and accurate information to the Federal Communications Commission (FCC or Commission) in apparent violation of our rules. Specifically, Aura apparently submitted false and misleading information in 10 different change in ownership applications using the Commission's Antenna Structure Registration (ASR) system. Aura also apparently made a false and misleading statement to a Commission employee, claiming the Company owned an antenna structure that it did not own. Lastly, Aura apparently failed to respond to a Commission order directing it to answer questions regarding the veracity of the information Aura provided in its change of ownership filings as well as its representations to a Commission employee.

2. Section 1.17 of the Commission's rules provides that applicants seeking Commission authorizations or engaging in activities that require Commission authorizations must provide truthful and accurate information in all interactions with the Commission.<sup>1</sup> Such information is critical to the Commission's process in determining whether such applications should be granted, and is even more important when matters of public safety are at stake. The Commission's ASR system is a publicly available system and is a product of a collaborative effort between the Commission and the Federal Aviation Administration (FAA). The system contains information essential for air navigation safety, as it provides information used to protect airplanes from potentially catastrophic collisions with unlit or improperly painted antenna structures. The integrity of the ASR system, which contains ownership and contact information, ensures that the Commission can rely on it when an issue involving air navigation safety arises.<sup>2</sup> Additionally, the Act gives the Commission broad authority to conduct investigations and to compel entities to provide information and documents sought during such investigations.<sup>3</sup> Our action today advances the Commission's goals of promoting public safety and ensuring that those who fail to provide truthful and accurate information in doing business with the Commission, or who fail to respond to a Commission order, are held accountable.

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<sup>1</sup> 47 CFR § 1.17.

<sup>2</sup> The Commission developed the ASR system and the registration requirement for certain antenna structures as part of its fulfillment of its statutory responsibilities under Section 303(q) of the Communications Act of 1934, as amended (Act). 47 U.S.C. § 303(q); see *Streamlining the Commission's Antenna Structure Clearance Procedure*, Report and Order, 11 FCC Rcd 4272, 4274, 4278-79, paras. 2, 12-13 (1995) (*Antenna Structure Report and Order*).

<sup>3</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

## II. BACKGROUND

3. Aura is a privately held holding company, incorporated in Wisconsin in 2016.<sup>4</sup> Aura's Chief Executive Officer (CEO) is Mr. William M. Nix, who is also Aura's registered agent.

4. The Commission's rules require owners of antenna structures,<sup>5</sup> including non-licensees, to register with the Commission any tower subject to the FAA's notification requirements because of the tower's potential danger to air navigation.<sup>6</sup> Section 17.7 of the Commission's rules provides the criteria under which a tower must be registered with the Commission; for instance, any new tower construction over 200 feet in height above ground level must be registered.<sup>7</sup> An owner must request a tower registration by submitting an FCC Form 854 to the Commission.<sup>8</sup> Commission approval of the registration application, is conditioned upon receipt of a valid FAA determination and completion of an environmental review, among other things.<sup>9</sup>

5. Any entity that wishes to change the ownership information of a registered antenna structure must also submit an FCC Form 854 to the Commission.<sup>10</sup> The form includes a certification page containing two statements, one of which requires the applicant to certify that all statements made in the application are "true, complete, correct, and made in good faith."<sup>11</sup> On the same page, a warning is conspicuously displayed in bold font and capital letters, informing the applicant that "[w]illful false statements made on this form or any attachments are punishable by fine and/or imprisonment (U.S. Code, Title 18, Section 1001) and/or revocation of any station license or construction permit (U.S. Code, Title 47, Section 312(a)(1)), and/or forfeiture (U.S. Code, Title 47, Section 503)."<sup>12</sup> To submit an application, the applicant must provide the electronic signature of a party authorized to sign and click the "Submit Application" button.<sup>13</sup>

6. On December 20, 2016, the Commission's Operations Center (Ops Center) received a

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<sup>4</sup> Corporate record of Aura Holdings of Wisconsin, Inc., Wisconsin Department of Financial Institutions, <https://www.wdfi.org/apps/CorpSearch/Details.aspx?entityID=A079987&hash=1464785504&searchFunctionID=51faf26d-f1a3-4f3c-8348-a6169b33c7e2&type=Simple&q=Aura+Holdings> (last visited Feb. 9, 2018).

<sup>5</sup> In this Notice of Apparent Liability for Forfeiture (NAL), we use the term "antenna structure" and "tower" interchangeably.

<sup>6</sup> See 47 CFR §§ 17.4, 17.7; *Antenna Structure Report and Order*, 11 FCC Rcd at 4279, 4281-82, paras. 13, 19-20 (limiting required FCC registration to owners of antenna structures for which the FAA requires notification due to their potential danger to air navigation).

<sup>7</sup> See 47 CFR § 17.7.

<sup>8</sup> FCC Form 854 – Application for Antenna Structure Registration, <https://transition.fcc.gov/Forms/Form854/854.pdf> (last visited Feb. 25, 2018).

<sup>9</sup> See 47 CFR § 17.4.

<sup>10</sup> See FCC Form 854 – Application for Antenna Structure Registration, <https://transition.fcc.gov/Forms/Form854/854.pdf> (last visited Feb. 25, 2018) (including the option to select "OC-Ownership Change" as the purpose for the filing).

<sup>11</sup> Specifically, the certification statement says: "[t]he applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith." FCC Form 854, Main Form: Certification Statements at 4, <https://transition.fcc.gov/Forms/Form854/854.pdf> (last visited Feb. 9, 2018).

<sup>12</sup> *Id.* (emphasis and capitalization removed).

<sup>13</sup> See FCC Form 854, Main Form: Specific Instructions at 9, <https://transition.fcc.gov/Forms/Form854/854.pdf> (last visited Feb. 9, 2018) ("To be acceptable for filing, applications and amendments must be signed . . . . The signor must be a person authorized to sign the application."). If an applicant elects to submit the form via mail or hand delivery, it must submit an original, signed version of the form to Commission. See *id.* at 3 (General Instructions).

complaint from a pilot about an unlit tower, ASR 1200329, in Footville, Wisconsin (Footville tower). The Ops Center was unable to reach Puri, LLC (Puri), the owner listed in the ASR system for that tower,<sup>14</sup> and contacted the FAA. The FAA then issued a Notice to Airmen (NOTAM), which warns pilots of potential hazards, such as the unlit Footville tower, that might be along their flight routes.<sup>15</sup> The Ops Center forwarded the pilot's complaint to the Chicago Field Office of the Commission's Enforcement Bureau (EB or Bureau), which initiated an investigation based on the complaint (hereinafter, Footville tower investigation).<sup>16</sup> The EB field agent assigned to this investigation also tried unsuccessfully to contact Puri. The field agent also traveled to the tower site and verified that neither the daytime nor the nighttime lights on the Footville tower were operational.

7. On January 12, 2017, when the agent accessed the ASR system again, the ownership information for the Footville tower had been changed. This time the system showed a different tower owner: Aura Holdings of Wisconsin, Inc., with William M. Nix listed as Aura's CEO, project manager, and point of contact for all matters concerning the tower.<sup>17</sup> The field agent followed up by phone and e-mail with Mr. Nix who indicated that Aura recently acquired the tower; knew of the light outages; and, although it had the necessary equipment, would not be able to make repairs until the weather permitted technicians to safely climb the tower.<sup>18</sup>

8. The field agent asked for an update concerning the repairs to the Footville tower via e-mail on March 20, 2017.<sup>19</sup> Subsequently, Mr. Nix contacted the agent by e-mail on March 25 and May 12, 2017 regarding Aura's efforts to repair its antenna structure. The March 25 e-mail indicated that the repairs would be completed and that Aura would be taking steps to have the NOTAM cleared by July 1, 2017.<sup>20</sup> The May 12 e-mail stated that the repair work for the Footville tower was underway and included attachments to demonstrate progress made toward completion.<sup>21</sup>

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<sup>14</sup> Puri filed for bankruptcy protection in August 2001. Subcarrier Communications subsequently acquired the Footville tower, however, the ASR system had not been updated to reflect its ownership of the Footville tower in December 2016. See *infra* para. 9.

<sup>15</sup> See the FAA definition of NOTAM at: [https://www.faa.gov/about/office\\_org/headquarters\\_offices/ato/service\\_units/systemops/fs/alaskan/alaska/fai/notam/ntm\\_overview/](https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/alaska/fai/notam/ntm_overview/) (last visited March 7, 2018). Any light extinguishment or improper functioning of a light on an antenna structure that has been registered in the ASR system and has been assigned lighting requirements must be reported to the FAA if the problem cannot be corrected within 30 minutes. See 47 CFR § 17.48.

<sup>16</sup> The Commission's investigation of the unlit Footville tower is separate from the one associated with this case; however, as discussed below, Aura's untruthful representations arising from that investigation are implicated in this proceeding.

<sup>17</sup> See FCC Form 854 – Application for Antenna Structure Registration, file no. A1063987, <http://wireless2.fcc.gov/UlsApp/AsrSearch/asrApplication.jsp?applKey=4469661> (last visited Feb. 13, 2018) (the "Trans Log" section of the application reflects that Aura changed the ownership information for the Footville tower on January 11, 2017).

<sup>18</sup> E-mail from Agent John Kuzma, Chicago District Office, FCC Enforcement Bureau, to William Nix, CEO, Aura Holdings of Wisconsin, Inc. (Jan. 12, 2017, 11:01 CST); E-mail from Mr. William Nix, CEO, Aura Holdings of Wisconsin, Inc., to Agent John Kuzma, Chicago District Office (Jan. 14, 2017, 20:58 CST) (Jan. 14 E-mail) (both on file in EB-SED-17-00024701).

<sup>19</sup> E-mail from Agent John Kuzma, Chicago District Office, FCC Enforcement Bureau, to William Nix, CEO, Aura Holdings of Wisconsin, Inc. (Mar. 20, 2017, 09:18 CST) (on file in EB-SED-17-00024701).

<sup>20</sup> E-mail from William Nix, CEO, Aura Holdings of Wisconsin, Inc., to Agent John Kuzma, Chicago District Office, FCC Enforcement Bureau (Mar. 25, 2017, 13:30 CST) (March 25 E-mail) (on file in EB-SED-17-00024701).

<sup>21</sup> E-mail from William Nix, CEO, Aura Holdings of Wisconsin, Inc., to Agent John Kuzma, Chicago District Office, FCC Enforcement Bureau (May 12, 2017, 04:00 CST) (May 12 E-mail) (on file in EB-SED-17-00024701). The attachments to the e-mail included a letter from the FAA to Aura regarding a no-hazard study, a copy of the

9. On April 19, 2017, the Commission's Wireless Telecommunications Bureau (WTB) received a complaint from Subcarrier Communications, Inc. (Subcarrier), an owner of antenna structures.<sup>22</sup> Subcarrier alleged that the ownership information for 41 towers had been improperly amended in the ASR system to reflect Aura's FRN.<sup>23</sup> WTB confirmed that one of these towers was the Footville tower and that Subcarrier was the actual owner. On May 19, 2017, WTB contacted the EB field agent, informing him that Aura did not own the Footville tower. That same day, the agent contacted the CEO of Subcarrier, who said that, in addition to changing the ownership information for several of the company's towers, Mr. Nix had changed the locks and stolen equipment from those towers. The CEO also stated that Subcarrier had purchased new equipment to repair the extinguished lights on the Footville tower, but Mr. Nix stole it, causing the lights to remain unrepaired.

10. Upon further review of the records in the ASR system, WTB found that Aura filed 42 change in ownership applications for towers that the Company apparently did not own despite certifying otherwise in its submissions through the ASR system: four in January 2017; 28 in February 2017; and 10 in April 2017.<sup>24</sup> On May 18, 2017, WTB contacted the FAA and received information about six requests for FAA no-hazard studies filed by Mr. Nix on behalf of Aura.<sup>25</sup> Three of these requests involved towers for which Aura filed change in ownership applications but apparently did not own.<sup>26</sup> Based on this information, WTB referred the matter to EB for possible enforcement action.

11. On February 7, 2017, the Company filed an ASR application with the Commission for a new construction of a tower with a height of 213 feet above ground level in Fort Lauderdale, FL (Fort Lauderdale tower).<sup>27</sup> Based on the proposed tower's height, it is subject to the Commission's mandatory (Continued from previous page...)

Notice of Proposed Construction or Alteration page from the FAA website, an invoice from Povolny Specialties for three \$450 telco boxes, and an e-mail from CenturyLink Communications confirming an order from Aura.

<sup>22</sup> Subcarrier Complaint, ref. no. HD0000002975852 (April 19, 2017) (on file in EB-SED-17-00024701).

<sup>23</sup> *Id.* All persons or entities conducting business with the Commission must have an FCC Registration Number (FRN). FRN's are received upon application to the FCC's Commission Registration System (CORES). See <https://apps.fcc.gov/coresWeb/publicHome.do> (lasted visited Feb. 9, 2018).

<sup>24</sup> The change in ownership applications filed within the past 12 months prior to the release of this Notice of Apparent Liability for Forfeiture form the basis of our action here today: A1070331, A1070332, A1070333, A107334, A107335, A107336, A107337, and A107338, which were filed on April 9, 2017; as well as A1070560 and A1070561, which were filed on April 13, 2017. A list of the 10 applications at issue in this case is contained in the Appendix. Additionally, on May 12, 2017, Aura filed a modification for ASR 1200329 (Footville tower) in Application No. A1074796; WTB dismissed the application on June 2, 2017. Letter from Wireless Telecommunications Bureau, Federal Communications Commission, to William Nix, CEO, Aura Holdings of Wisconsin, Inc. (Jun. 3, 2017) (on file in EB-SED-17-00024701). Aura also filed two duplicate change in ownership applications for ASR 104553.

<sup>25</sup> Mr. Nix, on behalf of Aura, filed the following requests with the FAA for a no-hazard study (also known as an aeronautical study): ASN 2017-AGL-1685-OE (Evansville, WI) (ASR 1200329) (study completed), <https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=displayOECCase&oeCaseID=320490602&row=0> (last visited Feb. 9, 2018); ASN 2017-ASO-9646-OE (Belle Glade, FL) (ASR 1204876) (work in progress), <https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=displayOECCase&oeCaseID=331285408&row=0> (last visited Feb. 9, 2018); (ASN 2017-ASW-6416-OE (Geismar, LA) (ASR 1285827) (study completed), <https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=displayOECCase&oeCaseID=331285330&row=0> (last visited Feb. 9, 2018); ASN 2017-ASO-9645-OE (Fort Lauderdale FL) (study completed), <https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=displayOECCase&oeCaseID=331284768&row=0> (last visited Feb. 9, 2018); ASN 2017-WTE-900-OE (Fort Lauderdale, FL) (study terminated); and ASN 2017-WTE-899-OE (Evansville, IL) (study terminated).

<sup>26</sup> See the studies for ASRs 1200329, 1204876, and 1285827. *Id.*

<sup>27</sup> FCC Form 854–Application for Antenna Structure Registration, file no. A1065525, <http://wireless2.fcc.gov/UlsApp/AsrSearch/asrApplication.jsp?applKey=4472108> (last visited Feb. 9, 2018). On December 16, 2017, WTB returned Aura's application because it had not completed the approval process within a reasonable period of time; specifically, Aura failed to acquire an FAA determination for its proposed tower. WTB

registration requirement.<sup>28</sup>

12. On October 3, 2017, EB's Spectrum Enforcement Division (SED) sent a Letter of Inquiry (LOI)<sup>29</sup> to Mr. Nix, as the CEO of Aura. The LOI sought information regarding the veracity of the information provided to the EB field agent concerning the Footville tower and to the Commission concerning the 42 change of ownership applications filed in the ASR system. The LOI required Aura to file a response by October 24, 2017. SED sent the LOI to Aura's address of record in the ASR system and with the Wisconsin Department of Financial Institutions by both certified and First-Class mail. SED also sent the LOI via e-mail to the Company's e-mail address listed in the ASR system, which was also the same address used by Mr. Nix to communicate with the field agent regarding the Footville tower. The LOI sent via certified mail was returned as unclaimed, but the copy of the LOI sent by First-Class mail was not returned. Additionally, SED did not receive a reply from the e-mail address nor did it receive any indication that the e-mail address was invalid. To date, Aura has filed no response.

### III. DISCUSSION

13. Aura apparently willfully and repeatedly violated Section 1.17(a)(2) of the Commission's rules by providing false and misleading material information to the Commission.<sup>30</sup> Further, Aura apparently failed to comply with a Commission order to produce certain information and documents relating to Aura's alleged misconduct. Accordingly, and as explained herein, the Commission proposes a forfeiture of \$235,668 for apparent violations that occurred within 12 months prior to the release of this Notice of Apparent Liability for Forfeiture (NAL).

#### A. Aura Provided False and Misleading Material Information to the Commission in Apparent Violation of Section 1.17(a)(2) of the Commission's rules

14. Section 1.17(a)(2) of the Commission's rules provides that no person shall, in any written statement of fact, "provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading."<sup>31</sup> All applicants for any Commission authorization are subject to this rule,<sup>32</sup> as are persons performing an activity that requires a Commission authorization without having such an authorization.<sup>33</sup> A false statement may constitute an actionable violation of Section 1.17 of the Commission's rules, even absent an intent to deceive, if it is provided without a reasonable basis for believing that the statement is correct and not misleading.<sup>34</sup> Thus, parties dealing with the Commission are obligated to exercise due

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dismissed Aura's application on March 3, 2018. Letter from Wireless Telecommunications Bureau, Federal Communications Commission, to William Nix, CEO, Aura Holdings of Wisconsin, Inc. (Mar. 6, 2018) (on file in EB-SED-17-00024701).

<sup>28</sup> 47 CFR § 17.7(a).

<sup>29</sup> Letter from Aspasia A. Paroutsas, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to William Nix, CEO, Aura Holdings of Wisconsin, Inc. (Oct. 3, 2017) (on file in EB-SED-17-00024701).

<sup>30</sup> 47 CFR § 1.17(a)(2). Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history to Section 312(f)(1) of the Act clarifies that this definition of "willful" applies to both Sections 312 and 503(b) of the Act, and the Commission has so interpreted the term in the Section 503(b) context. See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991); H.R. Rep. No. 97-765, 50-51, 97th Cong. 2d Sess. 51 (1982).

<sup>31</sup> 47 CFR § 1.17(a)(2).

<sup>32</sup> See *id.* § 1.17(b)(1).

<sup>33</sup> See *id.* § 1.17(b)(3); see also *id.* § 1.17(b)(4) (providing that a person subject to Section 1.17(a) is one who is "otherwise the subject of a Commission or staff investigation, including an informal investigation").

<sup>34</sup> See, e.g., *Neon Phone Service, Inc.*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 7964, 7968, para. 10 (2017) (*Neon NAL*). In 2003, the Commission expanded the scope of Section 1.17 to include written statements that

diligence in preparing written submissions, including “taking appropriate affirmative steps to determine the truthfulness of what is being submitted [to the Commission].”<sup>35</sup> Additionally, the Commission has found that an entity’s “failure to exercise such reasonable diligence would mean that the party did not have a reasonable basis for believing in the truthfulness of the information.”<sup>36</sup>

15. As an initial matter, we find that Aura is subject to Section 1.17 of the Commission’s rules because it was an applicant for a Commission authorization during the period in which the alleged violations took place. Specifically, Aura submitted an FCC Form 854 to the Commission, seeking approval of its request to register the proposed Fort Lauderdale tower, prior to engaging in the conduct at issue.<sup>37</sup> Neither the Act nor the Commission’s rules define the phrase “Commission authorization.”<sup>38</sup> However, the term “license” is broadly defined in Section 551 of the Administrative Procedure Act (APA) as “the whole or part of an agency permit, certificate, approval, *registration* . . . or other form of permission.”<sup>39</sup> The Commission has previously adopted the APA definition of “license” and has found that the definition includes an antenna structure registration.<sup>40</sup> Specifically, in the *Antenna Structure Report and Order*, the Commission rejected arguments that an applicant for a tower registration was not subject to the certification requirement of the Anti-Drug Abuse Act of 1988 on grounds that a registration is not an authorization.<sup>41</sup> In so doing, the Commission concluded that the APA definition of license

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are made without a reasonable basis for believing the statement is correct and not misleading. The Commission explained that this revision was intended to more clearly articulate the obligations of persons dealing with the Commission, ensure that they exercise due diligence in preparing written submissions, and enhance the effectiveness of the Commission’s enforcement efforts. *Amendment of Section 1.17 of the Commission’s Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4016-4017, 4021, paras. 1-2, 12 (2003), *recon. denied*, Memorandum Opinion and Order, 19 FCC Rcd 5790, *further recon. denied*, Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004) (*Amendment of Section 1.17 Order*).

<sup>35</sup> See *Amendment of Section 1.17 Order*, 18 FCC Rcd at 4021, para. 12; see, e.g., *Neon NAL*, 32 FCC Rcd 7968, para. 10.

<sup>36</sup> See *Amendment of Section 1.17 Order*, 18 FCC Rcd at 4021, para. 12.

<sup>37</sup> See 47 CFR § 1.17(b)(1). FCC Form 854 – Application for Antenna Structure Registration is used by the Commission to “to register structures used for wire or radio communication service in any area where radio services are regulated by the Commission; to make changes to existing registered structures or pending applications; or to notify the Commission of the completion of construction or dismantlement of structures.” FCC Form 854, <https://transition.fcc.gov/Forms/Form854/854.pdf> (last visited Feb. 25, 2018). The form provides notice that the information collected is used to “to determine whether approving this application is in the public interest,” and refers to the filer as an “applicant.” *Id.*

<sup>38</sup> See 47 CFR § 1.17(b)(1) (defining “persons subject to this rule” as “[a]ny applicant for any Commission authorization”); *Amendment of Section 1.17 Order*, 18 FCC Rcd at 4016, para. 2 (acknowledging that the “[t]he new rule broadens the category of persons subject to rule . . . .”); *Amendment of Part 1, the Rules of Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Applicants, Permittees, and Licensees, and the Reporting of Information Regarding Character Qualifications*, Policy Statement and Order, 5 FCC Rcd 3252, 3253, para. 10 (in adopting Section 1.17, the Commission found it appropriate to “restate the clear intent of Section 312(a)(1) [of the Act] as a rule generally applicable to all applicants, licensees, and permittees for all radio facilities.”).

<sup>39</sup> 5 U.S.C. § 551(8) (emphasis added). *Cf. Sol Schildhouse*, Direction Letter, 100 FCC 2d 968, 971 (1985) (citing APA definition of “license” as a basis for holding that Commission’s mandatory registration of cable television operators constitutes an FCC “authorization” covered by Section 503(b)(5) of the Act).

<sup>40</sup> *Antenna Structure Report and Order*, 11 FCC Rcd at 4290, para. 43.

<sup>41</sup> See *Antenna Structure Report and Order*, 11 FCC Rcd at 4289-90, paras. 40-43; *Amendment of Part 1 of the Commission’s rules to Implement Section 5301 of the Anti-Drug Abuse Act of 1988*, 6 FCC Rcd 7551, 7551, paras. 4-5, 7 (1991) (adopting APA definition of “license” to determine the scope of the term “license” under Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, and the scope of the implementing rules, including a certification requirement for applicants of any new, modified, or renewed instrument of authorization from the Commission). As explained above, one of the two certifications required by FCC Form 854 is the anti-drug

“clearly encompasses [an] antenna registration.”<sup>42</sup>

16. Aura voluntarily chose to engage in business with the Commission when it sought to construct a tower that would require an FCC-approved registration. On February 7, 2017, Aura filed an FCC Form 854 in the ASR system for the Commission registration approval required to construct its proposed 213-foot antenna structure in Ft. Lauderdale.<sup>43</sup> Based on the proposed tower’s height and usage as a structure for radio antennas, Aura was prohibited from building the tower until the Commission granted Aura’s application and completed the registration process by issuing a registration number for the proposed tower.<sup>44</sup> We therefore conclude that Aura is an applicant for a Commission authorization.<sup>45</sup>

17. Even if Aura were not an applicant for a Commission authorization, we alternatively conclude that during the relevant period Aura was “performing without Commission authorization an activity that requires Commission authorization” and is thus subject to the Section 1.17 requirement to provide truthful statements to the Commission.<sup>46</sup> Aura held itself out to the Commission, the FAA, and the general public as a registered tower owner, but apparently was not the owner of any of the towers that are the subject of this proceeding. Specifically, by apparently (1) changing the registration information of towers it did not own through a publicly available system, (2) seeking FAA no-hazard studies for several of those towers, and (3) falsely representing itself as a tower owner to Commission staff, Aura engaged in activities for which a Commission authorization was required.

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certification which states: “[t]he applicant certifies that neither the applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance.” See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of “party to the application” as used in this certification. *See also supra* para. 5.

<sup>42</sup> *Antenna Structure Report and Order*, 11 FCC Rcd at 4290, para. 43. Although the Commission came to this conclusion by addressing the tower registration process generally, we have repeatedly found that any entity seeking the benefits of an FCC authorization is expected to have sufficient familiarity with the Commission’s rules. *See Review of Quiet Zones Application Procedures*, Report and Order, 19 FCC Rcd 3267, 3274, para. 15 (2004) (stating that applicants “are required to be aware of and to comply with all applicable Commission rules”); *see also e.g.*, *Pactel Mobile Access*, *Order on Review*, FCC 86-496, 1 FCC Rcd 564, 1986 WL 292238, at 2, para. 7 (1986) (citing “our well-established policy that licensees and applicants are strictly required to comply with all our rules, whether or not they have actual knowledge of them”); *Liability of Emporium Broadcasting*, Memorandum Opinion and Order, FCC 70-579, 23 FCC 2d 868, 868, para. 4 (1970) (“[T]he Commission has never considered lack of knowledge of its rules and regulations as justification for violations thereof[, and l]icensee [sic] are expected to know and comply with the Commission’s rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances.”).

<sup>43</sup> *See supra* note 27.

<sup>44</sup> A Commission determination on whether to grant a registration request is predicated, in part, on the applicant’s completion of the FAA notification requirements. *See* 47 CFR §§ 17.4, 17.7. This process is not automatic; the Commission can dismiss an application or require an applicant to revise it to comply with the applicable requirements before granting it and issuing a registration number for the proposed tower. *See id.* § 17.4.

<sup>45</sup> 47 CFR § 1.17(b)(1). Additionally, in the context of the National Historic Preservation Act, the Commission found that the tower registration requirement may be viewed as effectively constituting an “approval process” to ensure that the applicant obtains the requisite FAA determination prior to starting construction of a proposed tower. *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, Report and Order, 20 FCC Rcd 1073, 1084, para. 27 (2004), *aff’d sub nom. CTIA v. FCC*, 466 F.3d 105, 113-15 (D.C. Cir. 2008).

<sup>46</sup> 47 CFR § 1.17(b)(3); *see also id.* § 1.17(b)(4) (providing that a person subject to Section 1.17(a) is one who is “otherwise the subject of a Commission or staff investigation, including an informal investigation”). Additionally, pursuant to Section 503(b)(5) of the Act, because Aura “engag[ed] in activities for which a license, permit, certification or other authorization is required,” during the relevant period, it is subject to the forfeiture proposed in this NAL. 47 U.S.C. § 503(b)(5).

18. Aura apparently filed with the Commission false and misleading information in 42 change in ownership applications, including 10 in the 12-month period preceding the release of this NAL.<sup>47</sup> Aura apparently accessed the Commission's ASR system and filed applications to replace existing ownership information for towers with the Company's information, even though the Company had never owned those towers, or been authorized to change that information.<sup>48</sup> Regarding the 10 applications at issue in this NAL, WTB staff had confirmed that the actual owners of the towers had not approved or requested the ownership changes that Aura had made.<sup>49</sup> Aura apparently engaged in this conduct, which included falsely certifying to the truth and accuracy of the information in each application, despite the clear warning in each application that engaging in this exact conduct could subject the Company to a forfeiture or worse.<sup>50</sup> Aura's actions also led the Commission to believe that the Company was the owner of the towers, which could have delayed the Commission's response to an air navigation safety hazard for any of those towers.<sup>51</sup>

19. Likewise, Aura also apparently communicated false and misleading information in e-mails to the EB field agent during the Footville tower investigation, including one e-mail within the 12 months preceding the release of this NAL.<sup>52</sup> In its investigation, EB found that Aura apparently never owned the Footville tower, nor was it authorized to act on the owner's behalf. Thus, Aura's assertions that it owned the Footville tower in its e-mails to the EB field agent have no apparent basis in truth. Rather than informing the agent that Aura was not the tower owner, Mr. Nix misled the agent to believe that Aura was the actual owner and would repair the extinguished lights on the tower. These communications lasted for about four months—delaying the agent from contacting the true owner and delaying the repair of the tower that posed an air navigation safety hazard.

20. Based on the information before us, Aura apparently failed to exercise any due diligence to verify the truthfulness of the information it submitted to the Commission.<sup>53</sup> Additionally, there is no evidence in the record demonstrating any grounds for believing that Aura was the actual owner of the

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<sup>47</sup> See the Appendix for a list of the 10 filings at issue in this case.

<sup>48</sup> The Commission has taken and will continue taking steps to prevent this and similar activities from happening in the future. As discussed above, any entity who wishes to change the ownership information for a tower must submit an FCC Form 854 and certify to the accuracy of all statements in the application; the Certificate Statements section of the form includes a warning regarding the legal consequences of submitting willful false statements. *See also supra* para. 5.

<sup>49</sup> WTB staff reached out to the previous owners of the towers listed in the Appendix that were changed by Aura within the last 12 months prior to the release of this NAL to confirm that Aura's submissions were not requested or approved by the tower owners. In fact, several of the tower owners had affirmatively changed the ASR information back to reflect their ownership. For example, the ownership information for ASR 1043460, owned by AT&T Corp. (AT&T) was changed by Aura on April 9, 2017. *See* FCC Form 854—Application for Change in Ownership, file no. A1070334, <http://wireless2.fcc.gov/UlsApp/AsrSearch/asrApplication.jsp?callingSystem=RS&applKey=4478929> (last visited Feb. 9, 2018). AT&T submitted a Form 854 on May 4, 2017 that changed the ownership information back to the Company. FCC Form 854—Application for Change in Ownership, file no. A1074056, <http://wireless2.fcc.gov/UlsApp/AsrSearch/asrApplication.jsp?callingSystem=RS&applKey=4483466> (last visited Feb. 9, 2018).

<sup>50</sup> *See supra* para. 5.

<sup>51</sup> For instance, during the Footville tower investigation, the EB field agent believed that Aura was the actual owner of the tower, based on the ownership information listed for the tower in the ASR system when he checked it on January 12, 2017. *See supra* para. 7.

<sup>52</sup> *See* May 12 E-mail, *supra* note 21.

<sup>53</sup> *Amendment of Section 1.17 Order*, 18 FCC Rcd at 4021, para. 12 (“[a] failure to exercise such reasonable diligence would mean that the party did not have a reasonable basis for believing in the truthfulness of the information.”); *see also Neon NAL*, 32 FCC Rcd at 7968, para. 10.



towers it claimed to own through the ASR system.<sup>54</sup> Therefore, we conclude that Aura lacked a reasonable basis for believing that the information it submitted to the Commission during the past 12 months—in the form of 10 change in ownership applications and one e-mail—was correct and not misleading in apparent violation of Section 1.17(a)(2) of the Commission’s rules.<sup>55</sup>

**B. Aura Apparently Violated a Commission Order by Failing to Respond to a Bureau LOI**

21. Section 403 of the Act gives the Commission broad investigative authority to conduct investigations and to compel entities to provide information and documents sought during investigations.<sup>56</sup> The Bureau has delegated authority to “conduct investigations . . . on its own initiative” of potential violations of the Act or the Commission’s rules.<sup>57</sup> An LOI issued by the Bureau constitutes a Commission order,<sup>58</sup> and it is well established that a failure to respond to a Bureau LOI constitutes a violation of a Commission order.<sup>59</sup>

22. On October 3, 2017, the Bureau issued an LOI directing Aura to respond to questions regarding the veracity of the information Aura provided in its change of ownership filings, as well as its representations to an EB field agent during the Footville tower investigation. Aura failed to respond to the LOI even though the Bureau sent the letter to Aura’s address of record in the ASR system and with the Wisconsin Department of Financial Institutions by both certified and First-Class mail.<sup>60</sup> Additionally, the Bureau sent the LOI to the e-mail address used by Mr. Nix to correspond with the EB field agent. Accordingly, the Commission finds that Aura’s failure to respond to the Bureau’s LOI constitutes an

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<sup>54</sup> For example, as indicated above, none of the true tower owners contacted by Commission staff during this investigation approved or authorized Aura to make the ownership changes for the 10 towers at issue in this NAL.

<sup>55</sup> 47 CFR § 1.17(a)(2).

<sup>56</sup> Section 403 grants the Commission both the authority to institute inquiries and “the power to make and enforce any order or orders” relating to its inquiries into compliance with the Act. 47 U.S.C. § 403. Additionally, Section 4(i) of the Act authorizes the Commission to “issue such orders, not inconsistent with this Act as may be necessary in the execution of its functions.” 47 U.S.C. § 154(i). Section 4(j) states that “[t]he Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice.” 47 U.S.C. § 154(j).

<sup>57</sup> 47 CFR § 0.111(a)(17). Section 0.111(a)(17) of the Commission’s rules delegates the Commission’s broad investigative authority to the Bureau, specifically, it grants the Bureau the authority to “[i]dentify and analyze complaint information, conduct investigations, conduct external audits and collect information, including pursuant to sections 218, 220, 308(b), 403 and 409(e) through (k) of the Act, in connection with complaints, on its own initiative or upon request of another Bureau or Office.” 47 CFR § 0.111(a)(17). See 47 U.S.C. § 155(c)(3) (“Any order . . . or action made or taken pursuant to any [ ] delegation . . . shall have the same force and effect . . . and [be] enforced in the same manner, as orders . . . of the Commission.”).

<sup>58</sup> 47 U.S.C. § 155(c)(3).

<sup>59</sup> See, e.g., *Net One Int’l, Net One, LLC, Farrahtel Int’l, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014), *recons. denied*, Memorandum Opinion and Order, 30 FCC Rcd 1021 (EB 2015) (failure to respond to an LOI) (*Net One Forfeiture Order*); *Fox Television Stations, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7074, 7078-79, para. 10 (EB 2010) (same) (forfeiture paid) (*Fox NAL*); see also, e.g., *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7602-03, paras. 7-11 (EB 2008), *consent decree ordered*, 28 FCC Rcd 12587 (EB 2013) (failure to provide a complete response to an LOI); *Google, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 4012, 4030, para. 42 (EB 2012) (same) (forfeiture paid) (*Google NAL*); *SBC Commc’ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7599-7600, paras. 24-28 (2002) (same) (*SBC Forfeiture Order*).

<sup>60</sup> Although the certified mail was returned as “unclaimed,” the First-Class mail was not returned.

apparent willful violation of a Commission order.<sup>61</sup>

#### IV. PROPOSED FORFEITURE

23. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that “willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission.”<sup>62</sup> Here, Section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against Aura of up to \$19,639 per violation or per day of a continuing violation, up to a statutory maximum of \$147,290 for a single act or failure to act.<sup>63</sup> In exercising our forfeiture authority, we must consider the “nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”<sup>64</sup> In addition, the Commission has adopted forfeiture guidelines that establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.<sup>65</sup> Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.<sup>66</sup>

##### A. Violations of Section 1.17(a)(2)

24. Section 1.80(b) of the Commission’s rules sets the statutory maximum as the base forfeiture for misrepresentation or lack of candor.<sup>67</sup> Considering the circumstances of this case, we believe that the statutory maximum is warranted for Aura’s apparently willful and repeated violations, and is consistent with Commission precedent.<sup>68</sup> Within the statute of limitations, Aura apparently provided false and misleading information, despite certifying otherwise, in 10 change in ownership applications filed with the Commission.<sup>69</sup> As noted above, the Commission relies heavily on the

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<sup>61</sup> See, e.g., *Net One Forfeiture Order*, 29 FCC Rcd at 267, para. 9.

<sup>62</sup> 47 U.S.C. § 503(b). Although Section 503(b)(5) of the Act requires the Commission to issue a citation before an NAL in many instances, the Commission is not required to do so in this case because, as explained above, Aura is either an applicant for a Commission authorization or was “engaging in activities for which a license, permit, certification or other authorization is required.” *Id.* § 503(b)(5). See *supra* paras. 15-17.

<sup>63</sup> See 47 U.S.C. § 503(b)(2)(D); 47 CFR § 1.80(b)(7). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(D) of the Act (\$10,000 per violation or per day of a continuing violation, up to a statutory maximum of \$75,000 per any single act or failure to act). See *Amendment of Section 1.80(b) of the Commission’s Rules: Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 33 FCC Rcd 46 (EB 2018); see also *Adjustment of Civil Monetary Penalties to Reflect Inflation*, 83 Fed. Reg. 4600 (Feb. 1, 2018). Additionally, the 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, “including [penalties] whose associated violation predated such increase.” Pub. L. No. 114-74, § 701, 129 Stat. 584, 599 (the 2015 Inflation Adjustment Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990, which is codified, as amended, at 28 U.S.C. § 2461).

<sup>64</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>65</sup> 47 CFR § 1.80(b)(8), Note to paragraph (b)(8); see also *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

<sup>66</sup> *Id.*

<sup>67</sup> 47 CFR § 1.80(b).

<sup>68</sup> See, e.g., *Neon NAL*, 32 FCC Rcd at 7974, para. 23 (imposing statutory maximum for each instance Neon provided false information in slamming/cramming cases); *GPSPS, Inc.*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 2522, 2533, para. 26 (2015) (same), *forfeiture ordered*, 30 FCC Rcd 7814; *Syntax-Brilliant Corp.*, Forfeiture Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6323, 6343, para. 45-46 (2008) (imposing the statutory maximum for violations of 47 CFR § 1.17(a)(2)).

<sup>69</sup> See *supra* note 24; see also Appendix.

truthfulness and accuracy of the information provided to it to carry out its statutory responsibilities.<sup>70</sup> The incorrect information resulted in confusion and delay in contacting the true tower owner concerning an air navigation safety hazard. The incorrect information also wasted Commission resources by requiring Commission staff to ascertain the rightful owners when no ownership change had occurred, and wasted FAA resources to conduct unnecessary no-hazard studies. Accordingly, we propose a forfeiture of \$19,639 for each apparent false filing or \$196,390 in total for the 10 filings.

25. We also propose the statutory maximum as the base forfeiture for Aura's apparent communication of false and misleading statements in the May 12, 2017 e-mail to the EB field agent.<sup>71</sup> In complete disregard for air navigation safety, Mr. Nix's statements to the agent caused delays in both finding the true owner and repairing an unsafe antenna structure. Based on the severity of Aura's misconduct, we conclude that the statutory maximum of \$19,639 for this apparent violation, as set forth in Section 1.80(b) of the Commission's rules, is appropriate.

26. Accordingly, we propose a \$216,029 base forfeiture for the 11 instances in which Aura provided false and misleading information to the Commission in apparent violation of the Commission's rules.<sup>72</sup>

#### **B. Failure to Respond to a Commission Order**

27. Section 1.80(b) of the Commission's rules sets a base forfeiture of \$4,000 for failure to respond to Commission communications for each violation or each day of a continuing violation.<sup>73</sup> We have the discretion, however, to depart from these guidelines, taking into account the particular facts of each individual case.<sup>74</sup> Given the totality of the circumstances, and consistent with the *Forfeiture Policy Statement*, we conclude that a significant upward adjustment from the base forfeiture is warranted for the egregiousness of Aura's conduct.<sup>75</sup> Specifically, Aura failed to respond to the LOI even though the Bureau sent it to Aura's address of record, as well as the same e-mail address the Company used to correspond with the Commission field agent numerous times.<sup>76</sup> Such misconduct exhibits contempt for the Commission's authority.<sup>77</sup> Aura's failure to respond also delayed the Bureau's investigation and caused it to expend resources to determine information about the Company that it would have received had Aura responded to the LOI. A higher proposed forfeiture is thus appropriate given the extent and

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<sup>70</sup> See *supra* para. 2.

<sup>71</sup> 47 CFR § 1.17(a)(2); May 12 E-mail, *supra* note 21.

<sup>72</sup> A forfeiture would apparently be warranted for the 33 other instances in which Aura filed false information and certifications with the Commission and two other instances—the Jan. 14 E-mail and March 25 E-mail—in which the Company communicated false information to an EB field agent. See the Jan. 14 E-mail and March 25 E-mail, *supra* notes 18 and 20, respectively. However, those violations occurred outside of the one-year statute of limitations. Moreover, because we are proposing the statutory maximum for each instance in which Aura provided false and misleading information to the Commission, we are prohibited from considering this conduct as a factor for making any upward adjustment to the proposed base forfeiture amount. 47 CFR § 1.80(b).

<sup>73</sup> 47 CFR § 1.80(b).

<sup>74</sup> See *Forfeiture Policy Statement* 12 FCC Rcd at 17098-99, para. 22 (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”).

<sup>75</sup> See, e.g., *Fox NAL*, 25 FCC Rcd at 7081, paras. 15-16 (upward adjustment from \$4,000 to \$25,000 for egregiousness).

<sup>76</sup> See 47 CFR § 17.57 (requiring tower registrants to update ownership information (which includes contact information) in the ASR system within five days of any change).

<sup>77</sup> See, e.g., *Neon NAL*, 32 FCC Rcd 7974-75, para. 24 (citing to *Technical Communications Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018, 1020, para. 8 (EB 2013)).

gravity of Aura's underlying conduct and is consistent with our precedent.<sup>78</sup> As such, we conclude that Aura's apparent failure to respond to a Commission order warrants a forfeiture of \$19,693—the statutory maximum.

28. Taken together, we propose a total base forfeiture of \$235,668 for the 11 apparent violations in which Aura conveyed false and misleading information to the Commission and for the Company's failure to respond to a Commission order. In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture. Here, we find none. After applying the *Forfeiture Policy Statement*, Section 1.80 of the Commission's rules, and the statutory factors, we propose a total forfeiture of \$235,668 for which Aura is apparently liable.<sup>79</sup>

## V. CONCLUSION

29. We have determined that Aura apparently violated Section 1.17(a)(2) of the Commission's rules and violated a Commission order by failing to respond to the LOI.<sup>80</sup> As such, Aura is apparently liable for a forfeiture of \$235,668. Furthermore, we direct Aura to submit, not later than 30 calendar days after the release of this NAL, full and complete responses to all outstanding requests from the Commission for information.

## VI. ORDERING CLAUSES

30. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act<sup>81</sup> and Sections 1.80 of the Commission's rules,<sup>82</sup> Aura Holdings of Wisconsin, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of two hundred and thirty-five thousand and six hundred and sixty-eight dollars (\$235,668) for willful and repeated violations of Section 1.17(a)(2) of the Commission's rules,<sup>83</sup> and for the failure to respond to a Commission order.

31. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules,<sup>84</sup> within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Aura Holdings of Wisconsin, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraphs 33 and 34 below.

32. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Aura Holdings of Wisconsin, Inc. shall send electronic notification of payment to Leslie Barnes at [Leslie.Barnes@fcc.gov](mailto:Leslie.Barnes@fcc.gov) and [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov) on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>85</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

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<sup>78</sup> See, e.g., *Neon NAL*, 32 FCC Rcd 7974-75, para. 24 (upward adjustment from \$4,000 to \$25,000 for egregiousness and intent); *Fox NAL*, 25 FCC Rcd 7074, 7081, paras. 15-16 (adjusted from \$4,000 to \$25,000 for ability to pay and egregiousness).

<sup>79</sup> 47 CFR § 1.80; *Forfeiture Policy Statement*, 12 FCC Rcd at 17098-99, para. 22.

<sup>80</sup> 47 CFR § 1.17(a)(2).

<sup>81</sup> 47 U.S.C. § 503(b).

<sup>82</sup> 47 CFR § 1.80.

<sup>83</sup> 47 CFR § 1.17(a)(2).

<sup>84</sup> 47 CFR § 1.80.

<sup>85</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

33. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.<sup>86</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

34. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Commission's rules.<sup>87</sup> The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Leslie Barnes at [Leslie.Barnes@fcc.gov](mailto:Leslie.Barnes@fcc.gov) and to the SED mailbox at [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov).

35. 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; 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.

36. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by First-Class mail and certified mail, return receipt requested, to Mr. William M. Nix, CEO, Aura Holdings of Wisconsin, Inc., 7284 Patton Road, Deforest, WI 53532, and W7284 Patton Road, Deforest, WI 53532.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>86</sup> See 47 CFR § 1.1914.

<sup>87</sup> 47 CFR §§ 1.16, 1.80(f)(3).

## APPENDIX

**Section 1.17(a)(2) Violations:  
False and Misleading Material Information in FCC Form 854 – Applications for Antenna Structure  
Registrations Submitted by Aura**

Antenna Structure Registration (ASR) Number	Previous Owner FCC Registration Number (FRN)	Previous Owner Name	Ownership Change File Number	Change in Ownership Application Receipt Date*
1035045	0002716561	Wisconsin Bell Telephone Company	A1070332	4/9/2017
1279574	0002716561	Wisconsin Bell Telephone Company	A1070331	4/9/2017
1029236	0005937974	AT&T CORP	A1070333	4/9/2017
1043460	0005937974	AT&T CORP	A1070334	4/9/2017
1005443	0020052692	CoBridge Telecom, LLC	A1070335	4/9/2017
1007199	0020052692	CoBridge Telecom, LLC	A1070336	4/9/2017
1048445	0020052692	CoBridge Telecom, LLC	A1070337	4/9/2017
1202178	0020052692	CoBridge Telecom, LLC	A1070338	4/9/2017
1035024	0006629497	Subcarrier Communications Inc.	A1070560	4/13/2017
1035038	0006629497	Subcarrier Communications Inc.	A1070561	4/13/2017

## Other Violations

Violation	Date
Section 1.17(a)(2) – False Material Information Communicated to EB Field Agent	5/12/2017
Violation of a Commission Order – Failure to Respond to LOI	10/24/2017

\* Denotes the date Aura filed the change of ownership application for that tower. Thirty-two change of ownership applications filed by Aura are not listed in this table because they were filed outside of the 12-month statute of limitations and, thus, do not underlie findings of apparent violations or the proposed forfeiture amount.