

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

In the Matter of)	
)	
Rev. Dr. Philius Nicolas)	File No. EB-01-NY-493
)	NAL/Acct. No. 200232380001
Brooklyn, New York)	FRN: 0006-0775-23

MEMORANDUM OPINION AND ORDER

Adopted: November 22, 2002

Released: November 26, 2002

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* (“*Order*”), we grant in part and deny in part a Petition for Reconsideration filed by Rev. Dr. Philius Nicolas (“Rev. Dr. Nicolas”) of a *Forfeiture Order* issued to him,¹ imposing a \$10,000 forfeiture for willful violation of Section 301 of the Communications Act of 1934, as amended (“Act”).² The noted violation involved Rev. Dr. Nicolas’s operation of a radio transmitter on frequency 88.1 MHz without a license.

2. On January 10, 2002, the District Director of the Commission’s New York, New York Field Office (“New York Office”) issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”)³ in the amount of \$10,000 to Rev. Dr. Nicolas. The *NAL* was based on a finding by the New York Office that on September 12, 2000; November 16, 2001; and November 17, 2001, Rev. Dr. Nicolas was responsible for the operation of radio transmission equipment on 88.1 MHz, without a Commission authorization in willful and repeated violation of Section 301 of the Act. Rev. Dr. Nicolas did not respond to the *NAL*, and on June 5, 2002, we issued a *Forfeiture Order* affirming the \$10,000 forfeiture issued to Rev. Dr. Nicolas for the violation of Section 301 of the Act. On July 5, 2002, Rev. Dr. Nicolas filed a Petition for Reconsideration of our *Forfeiture Order*.

3. Posing no challenge to our finding that his unlicensed operation violated Section 301 of the Act, Rev. Dr. Nicolas, in his Petition for Reconsideration requests cancellation of the forfeiture. Rev. Dr. Nicolas contends that imposition of all or part of the forfeiture would cause a severe financial hardship. In support of this contention, Rev. Dr. Nicolas submits federal income tax returns for tax years 1998, 1999, and 2000. After reviewing the financial documentation presented, in accord with the discretion provided to us by Section 504(b) of the Act,⁴ and

¹ *Rev. Dr. Philius Nicolas*, 17 FCC Rcd 10530 (Enf. Bur. 2002).

² 47 U.S.C. § 301.

³ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232380001 (Enf. Bur., New York Field Office, released January 10, 2002).

⁴ 47 U.S.C. 504(b).

implemented by Section 1.80(i) of the Rules,⁵ we conclude that reduction of the \$10,000 forfeiture to \$1,000 is warranted in this case. We have reviewed Rev. Dr. Nicolas's remaining arguments and conclude that they do not support further mitigation or cancellation of the forfeiture.

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act⁶ and Section 1.106 of the Rules,⁷ Rev. Dr. Philius Nicolas's Petition for Reconsideration **IS GRANTED TO THE EXTENT NOTED HEREIN AND DENIED IN ALL OTHER RESPECTS**.

5. Payment of the \$1,000 forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*.⁸ If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁹ Payment may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note "NAL/Acct. No. 200232380001" and "FRN: 0006-0775-23" referenced above. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

6. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by certified mail, return receipt requested, to Rev. Dr. Philius Nicolas, 1488 New York Avenue, Brooklyn, New York 11210, and to his counsel, Louis H. Goldman, Esq., 45 Dudley Court, Bethesda, Maryland 20814.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁵ 47 C.F.R. § 1.80(i).

⁶ 47 U.S.C. § 405.

⁷ 47 C.F.R. § 1.106.

⁸ 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 504(a).

¹⁰ See 47 C.F.R. § 1.1914.