

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

In the Matter of	)	
	)	
Gold Coast Broadcasting Company	)	File Number EB-02-LA-091
Santa Monica, California	)	NAL/Acct. No. 200232900003
	)	FRN 0007-0166-52
Antenna Structure Registration No. 1019626	)	
Ventura, California	)	

**Forfeiture Order**

**Adopted: April 29, 2003**

**Released: May 1, 2003**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of ten thousand dollars (\$10,000) to Gold Coast Broadcasting Company (“Gold Coast”), the registered owner of Antenna Structure Registration (“ASR”) number 1019626 in Ventura, California for willful violation of Section 17.50 of the Commission’s Rules (“Rules”).<sup>1</sup> The noted violation involves Gold Coast’s failure to maintain specified painting on its antenna structure.

2. On June 25, 2002, the Commission’s Los Angeles, California Field Office (“Los Angeles Office”) issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) in the amount of ten thousand dollars (\$10,000) to Gold Coast for the noted violation.<sup>2</sup> Gold Coast filed a response to the *NAL* on July 25, 2002.

**II. BACKGROUND**

3. On February 14, 2002, agents from the Los Angeles Office inspected the four tower array for Gold Coast Station KUNX(AM) in Ventura, California. The agents observed that the required painting on the #1 North antenna structure, ASR number 1019626, was faded and oxidized such that it failed to maintain good visibility.

4. On March 6, 2002, the Los Angeles Office issued a *Notice of Violation* (“*NOV*”) to Gold Coast for failure to maintain the required antenna structure painting. On March 19, 2002, Gold Coast submitted a response to the *NOV* stating that, in response to the *NOV*, it had hired an antenna structure contractor to repaint the tower. Gold Coast also stated that work was scheduled to begin on March 20, 2002, and anticipated that the painting would be finished by March 22, 2002. On March 21, 2002, Gold Coast submitted a letter stating that while the work began as scheduled, it was taking longer than anticipated. Gold Coast indicated that the repainting would be finished on March 23, 2002. On March 26, 2002, Gold Coast reported that the repainting of ASR number 1019626 would be completed on March

<sup>1</sup> 47 C.F.R. § 17.50

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232900003 (Enf. Bur. Los Angeles Office, released June 25, 2002).

30, 2002. On June 25, 2002, the Los Angeles Office issued an *NAL* to Gold Coast in the amount of \$10,000 for failure to clean or repaint its antenna structure as often as necessary to maintain good visibility in willful violation of Section 17.50 of the Rules. In its response to the *NAL*, Gold Coast requests elimination or reduction of the proposed forfeiture amount. Specifically, Gold Coast argues that it had already taken steps to correct the problem when the tower was inspected by the agents, that it corrected the problem quickly, and that it has acted in good faith. Further, Gold Coast states that its tower is only 95.5 meters and is “relatively short” and is well lit at two levels. Gold Coast also claims that its tower is located in the midst of three other towers, and consequently, its tower is part of a visible large array. Next, Gold Coast asserts that the oxidization of the paint did not pose any “real world risk.” Finally, Gold Coast contends that KUNX(AM) is a small market AM station using a Spanish news and talk format to provide “an important new radio service,” and that the proposed forfeiture amount would result in a financial burden for the station.

### III. DISCUSSION

5. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended, (“Act”)<sup>3</sup> Section 1.80 of the Rules,<sup>4</sup> and *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999). In examining Gold Coast’s response, Section 503(b) of the Act requires that the Commission take into account 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 other such matters as justice may require.<sup>5</sup>

6. We disagree that the proposed forfeiture amount should be rescinded or reduced on the basis of good faith. Gold Coast’s *NOV* indicates that, after receipt of the *NOV*, it hired an antenna structure contractor to re-paint the tower. In its response to the *NAL*, Gold Coast indicates that it was having discussions with contractors on repainting its tower prior to Gold Coast’s receipt of the *NOV*. However, we do not believe that merely having discussions with contractors regarding the repainting of the tower prior to the agent’s inspection warrants a reduction of the forfeiture amount on the basis of good faith.

7. Moreover, Gold Coast’s remedial efforts to correct the violation, after the violation was discovered by the Commission, while commendable, are not a mitigating factor. *See Station KGVV, Inc.*, 42 FCC 2d 258, 259 (1973). In addition, notwithstanding the tower’s height, lighting, and proximity to other towers, the licensee is still required to clean or repaint its tower as often as necessary to maintain good visibility in compliance with Section 17.50 of the Rules. With respect to Gold Coast’s argument regarding its inability to pay the proposed forfeiture, we note that it does not submit any financial documentation from which we can assess its ability to pay. Therefore, we decline to reduce the forfeiture amount on this basis.

### IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,<sup>6</sup> Gold Coast Broadcasting Company IS LIABLE FOR A MONETARY FORFEITURE in the amount of ten thousand dollars (\$10,000) for failure to maintain specified painting on its antenna structure in willful violation of Section 17.50 of the Rules.

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<sup>3</sup> 47 U.S.C. § 503(b).

<sup>4</sup> 47 C.F.R. § 1.80.

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

9. Payment of the 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*. 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.<sup>7</sup> Payment shall 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. 200232900003 and FRN 0007-0166-52. 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.<sup>8</sup>

10. IT IS FURTHER ORDERED that, a copy of this *Order* shall be sent by Certified Mail, Return Receipt Requested, to Gold Coast Broadcasting Company, 715 Broadway, Suite 320, Santa Monica, California, 90401.

## FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>7</sup> 47 U.S.C. § 504(a).

<sup>8</sup> See 47 C.F.R. § 1.1914.