

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

In the Matter of)	
)	
Casey Network, LLC)	File No. EB-03-AT-084
Licensee of AM Broadcast Station WRFS)	NAL/ACCT No. 200332480023
Auburn, Alabama)	FRN: 0005-0273-13

FORFEITURE ORDER

Adopted: July 30, 2004

Released: August 4, 2004

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In a May 6, 2003 *Notice of Apparent Liability for Forfeiture* (“NAL”),¹ the District Director-Atlanta Office proposed a monetary forfeiture of seven thousand dollars (\$7,000) for Casey Network, LLC (“Casey”) based on an apparent willful and repeated violation of Section 73.49 of the Commission’s Rules (“Rules”).² That section requires that antenna towers with radio frequency potential at the base must be enclosed within an effective locked fence. On June 27, 2003, Casey filed a Response to the NAL.³ In this *Forfeiture Order*, we affirm the monetary forfeiture in the amount of \$7,000.

II. DISCUSSION

2. Casey does not contest the subject violation, but alleges that it promptly (“within three days” of the Commission’s agent’s inspection) and in good faith constructed a new fence.⁴ We find that no mitigation is warranted on the basis of the alleged correction of the violation. As the Commission stated in *Seawest Yacht Brokers*, “corrective action taken to come into compliance with Commission rules or policy is expected, and does not nullify or mitigate any prior forfeitures or violations.”⁵

3. Casey claims that the fine would place a “great financial strain on WRFS.” As evidence of an inability to pay the forfeiture amount, Casey submits that its stand-alone AM station – whose competition comprises three FM stations – is located in a shrinking Alabama town whose only industry has mostly shifted to Mexico. Casey avers that this “severe economic depression” has resulted in the

¹ *Notice of Apparent Liability for Forfeiture*, NAL/Act. No. 200332480023 (Enf. Bur., Atlanta Office, rel. Jan. 29, 2003).

² 47 C.F.R. § 73.49.

³ Letter from Jimmy Jarrell, President, Casey Radio Network, to Federal Communications Commission (June 25, 2003) (“Response”).

⁴ Response at 1.

⁵ See *Seawest Yacht Brokers*, 9 FCC Rcd 6099, 6099 (1994), see also *Callais Cablevision, Inc.*, 17 FCC Rcd 22626, 22629 (2002); *Radio Station KGV, Inc.*, 42 FCC 2d 258, 259 (1973); and *Executive Broadcasting Corp.*, 3 FCC 2d 699, 700 (1966).

station operating in the red, with billings of less than \$25,000 per year over the last four years. Because Casey has presented financial information only with respect to this station and not his company overall,⁶ and has not provided any supporting documentation, we are not in a position to make a downward adjustment based on inability to pay.⁷

III. ORDERING CLAUSES

4. 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,⁸ Casey Network, LLC **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$7,000 for willfully and repeatedly violating Section 73.49 of the Rules.

5. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules⁹ 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.¹⁰ 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 must include the FCC Registration Number (FRN) and the NAL/Act. No. referenced in the caption. 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. 20554.¹¹

6. **IT IS FURTHER ORDERED THAT** this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Casey Network, LLC, 908 Opelika Road, Auburn, Alabama, 36830.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁶ See, e.g., *KASA Radio Hogar, Inc.*, 17 FCC Rcd 6256, 6258-59 (2002).

⁷ As indicated in the *NAL*, 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; 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.

⁸47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

⁹47 C.F.R. §1.80.

¹⁰47 U.S.C. § 504(a).

¹¹47 U.S.C. § 1.1914.