

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

In the Matter of)	
)	
Entravision Communications Corporation)	File Number EB-02-LA-402
Registered Owner of ASR Number 1066158)	NAL/Acct. No. 200332900003
Newport Beach, California)	FRN 0006-1662-19
)	
)	

FORFEITURE ORDER

Adopted: August 6, 2004

Released: August 10, 2004

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of three thousand dollars (\$3,000) to Entravision Communications Corporation (“Entravision”), the registered owner of the antenna structure (Antenna Structure Registration (“ASR”) number 1066158) of broadcast station KSSD-FM¹ in Newport Beach, California, for repeated violation of Section 17.57 of the Commission’s Rules (“Rules”).² The noted violation involves Entravision’s failure to notify the Commission of a change in the antenna structure’s ownership information.

2. On February 14, 2003, the Commission’s Los Angeles, California, Field Office (“Los Angeles Office”) issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) to Entravision for a forfeiture in the amount of three thousand dollars (\$3,000).³ Entravision responded to the *NAL* on March 17, 2003.

II. BACKGROUND

3. On November 26, 2002, agents from the Los Angeles Office inspected antenna structure 1066158, located at 33-37-55 north latitude and 117-56-18 west longitude in Newport Beach, California. At the time of the inspection, the Commission’s ASR database indicated that Citicasters Co. (“Citicasters”) was the registered owner of the antenna structure.

¹ KSSD-FM is now licensed to Entravision Holdings LLC, a subsidiary of Entravision Communications Corporation. At the time of the violation, Entravision Communications Corporation owned the antenna structure but the station was licensed to Big City Radio-LA, L.L.C., under the call sign KSYY-FM.

² 47 C.F.R. § 17.57.

³ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332900003 (Enf. Bur., Los Angeles Office, released February 14, 2003).

4. On December 19, 2002, the Los Angeles Office issued an Official Notice of Violation (“NOV”) to Citicasters for violation of Section 17.6(a) of the Rules⁴ (antenna structure’s painting chipped and faded). On January 6, 2003, Citicasters informed the Los Angeles Office that Citicasters had sold antenna structure 1066158 to Entravision several years before. On January 13, 2003, Entravision responded to the NOV indicating that it had made arrangements to repaint the tower and had filed updated ownership information for antenna structure 1066158.⁵

5. On February 14, 2003, the Commission’s Los Angeles Office issued a *NAL* to Entravision for a forfeiture in the amount of three thousand dollars (\$3,000) for apparent willful and repeated violation of Section 17.57 of the Rules. In its response, Entravision admits that its tower registration information was not current at the time of the inspection but seeks reduction or cancellation of the proposed monetary forfeiture. Entravision argues that its failure to report the change in ownership resulted from unusual circumstances and was not willful. Additionally, Entravision claims that the forfeiture should be reduced or cancelled because of its “good faith efforts to bring the station into compliance” and history of overall compliance.

III. DISCUSSION

6. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (“Act”),⁶ Section 1.80 of the Rules,⁷ 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) (“*Policy Statement*”). Section 503(b) of the Act requires that the Commission, in examining Entravision’s response, 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 such other matters as justice may require.⁸

7. Section 17.57 of the Rules requires the owner of an antenna structure for which an ASR number has been obtained to notify the Commission of any change in the ownership information. Entravision concedes that it did not do so following its acquisition of the antenna structure and that this circumstance persisted for more than one day. We find, therefore, that Entravision repeatedly violated Section 17.57 of the Rules.⁹

⁴ 47 C.F.R. § 17.6(a).

⁵ The FCC ASR database indicates that the ownership information was updated on January 3, 2003.

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. § 1.80.

⁸ 47 U.S.C. § 503(b)(2)(D).

⁹ As provided by 47 U.S.C. § 312(f)(2), a continuous violation is “repeated” if it continues for more than one day. The *Conference Report* for Section 312(f)(2) indicates that Congress intended to apply this definition to Section 503 of the Act as well as Section 312. See H.R. Rep. 97th Cong. 2d Sess. 51 (1982). See *Southern California Broadcasting Company*, 6 FCC Rcd 4387, 4388 (1991).

8. Section 503(b) of the Act gives the Commission authority to assess a forfeiture penalty against any person if the Commission determines that the person has “willfully or repeatedly” failed to comply with the provisions of the Act or with any rule, regulation or order issued by the Commission. In light of our determination that Entravision’s violation was repeated, it is not necessary to determine whether it was also willful.¹⁰

9. No mitigation is warranted on the basis of a history of overall compliance. The Enforcement Bureau issued Official Notices of Violation to Entravision’s subsidiary,¹¹ Entravision Holdings LLC, on the following dates: September 6, 2000 (KUET); November 3, 2000 (KMIX-FM); February 1, 2001 (WVEN); March 14, 2001 (KBNT-LP); January 7, 2002 (KZLZ-FM); April 17, 2002 (KSMS-TV); and October 10, 2002 (KNCV-LP). We, therefore, conclude that Entravision does not have a history of overall compliance.¹²

10. Entravision provides no evidence to support any finding that it acted in good faith to correct the problem prior to learning of the FCC inspection. Accordingly, we make no reduction on this basis.

11. We have examined Entravision’s response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Policy Statement* as well. As a result of our review, we conclude that Entravision repeatedly violated Section 17.57 of the Rules. We also conclude that neither cancellation nor reduction of the proposed \$3,000 monetary forfeiture is warranted.

IV. ORDERING CLAUSES

12. 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,¹³ Entravision Communications Corporation, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of three thousand dollars (\$3,000) for failure to notify the Commission of a change in the antenna structure’s ownership information, in repeated violation of Section 17.57 of the Rules.

13. 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.¹⁴ 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,

¹⁰ *KOKE, Inc.*, 23 FCC 2d 191 (1970).

¹¹ The violations of its subsidiary companies are part of a parent company’s violation record. *See, e.g., Rio Grande Transmission, Inc.*, 16 FCC Rcd 17040 (Enf. Bur. 2001) and *Mega Communications of St. Petersburg Licensee, L.L.C.*, 16 FCC Rcd 15948 (Enf. Bur. 2001).

¹² In the cases cited by Entravision – *Cherokee Broadcasting Company, Inc.*, 16 FCC Rcd 4688, 4689 (Enf. Bur. 2001) and *Courtesy Communications, Inc.*, 14 FCC 4198, 4202 (1999) – the licensees, unlike Entravision, did have histories of overall compliance.

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

¹⁴ 47 U.S.C. § 504(a).

Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200332900003 and FRN 0006-1662-19. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁵

14. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Entravision Communications Corporation, Suite 6000 West, 2425 Olympic Boulevard, Santa Monica, CA 90404, and its counsel, Barry A. Friedman, Esq., and John C. Butcher, Esq., Thompson Hine LLP, 1920 N Street, N.W., Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

¹⁵ See 47 C.F.R. § 1.1914.