

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

In the Matter of)	
)	
Rainbow Honolulu,)	File No. EB-03-HL-072
Licensee of Station WPKK857,)	NAL/Acct No. 200432860001
Honolulu, Hawaii)	FRN: 0006-0816-73

MEMORANDUM OPINION AND ORDER

Adopted: September 2, 2004

Released: September 8, 2004

By the Chief, Enforcement Bureau:

1. By this *Memorandum Opinion and Order* (“*Order*”), we cancel the *Notice of Apparent Liability for Forfeiture* (“*NAL*”) released against Rainbow Honolulu (“*Rainbow*”), licensee of Station WPKK857, Honolulu, Hawaii.¹ The *NAL* found that Rainbow repeatedly operated its wireless radio station on an unauthorized frequency from an unauthorized site in apparent violation of Section 1.903(a) of the Commission’s Rules (“*Rules*”),² and proposed a forfeiture in the amount of eight thousand dollars (\$8,000).

2. In its response to the *NAL*, Rainbow stated that it is “a very small business,” that it does “not make much money over expenses,” and that it therefore is unable to pay the proposed forfeiture.³ In support, Rainbow federal and state tax returns for 2000, 2001 and 2002.

3. After reviewing Rainbow’s supporting documentation, we conclude that cancellation of the proposed \$8,000 forfeiture is warranted based on the company’s inability to pay.⁴ While we cancel the forfeiture, we admonish Rainbow for its repeated violation of Section 1.903(a) of the Rules.

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications

¹*Rainbow Honolulu*, NAL/Acct. No. 200432860001 (Enf. Bur., Honolulu Office, released February 2, 2004).

²47 C. F.R. § 1.903(a). Section 1.903(a) requires that a wireless radio station “be used and operated” in accordance with the terms and conditions of its Commission authorization and applicable service rules.

³Additionally, Rainbow indicated that failing to file for a license modification was an oversight. Commission records reflect that, after release of the *NAL*, Rainbow filed and was granted a license modification. See File No. 0001622171. Corrective measures are expected, and thus do not mitigate or negate past violations and do not warrant cancellation or reduction of forfeitures. See *AT&T Wireless Services, Inc.*, 17 FCC Rcd 7891 (2002), *forfeiture ordered*, 17 FCC Rcd 21866, 21875-76 at ¶¶ 26-28 (2002), *Seawest Yacht Brokers*, 9 FCC Rcd 6099, 6099 ¶ 7 (1994); see also *TCI Cablevision of Maryland, Inc.*, 7 FCC Rcd 6013, 6014 ¶ 8 (1992). The cancellation of the proposed forfeiture herein is based solely upon Rainbow’s generated gross revenues.

⁴See, e.g., *William L. Needham and Lucille Needham*, 19 FCC Rcd 8184 (Enf. Bur. 2004); *Thomas A. Brothers*, 17 FCC Rcd 26125 (Enf. Bur. 2002); *Jeffrey Alan Pettrey*, 16 FCC Rcd 22088 (Enf. Bur. 2001).

Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,⁵ the proposed forfeiture in the amount of one thousand dollars (\$8,000.00) for apparent repeated violation of Section 1.903(a) of the Rules **IS CANCELLED**.

5. **IT IS FURTHER ORDERED** that Rainbow Honolulu **IS ADMONISHED** for its repeated violation of Section 1.903(a) of the Rules.

6. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by shall be sent by First Class and Certified Mail Return Receipt Requested to Rainbow Honolulu, 308 Ainakea Way, Apt. No. 305, Honolulu, Hawaii 96815.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

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

