

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

In the Matter of)	
)	
Ackerley Media Group, Inc.)	File Number: EB-03-AN-040
)	
Registrant of Antenna Structure)	NAL/Acct. No. 200432780001
Fairbanks, Alaska)	FRN 0001587039
ASR #1040111)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 29, 2004

By the Anchorage Resident Agent Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Ackerley Media Group, Inc. ("Ackerley"), owner of antenna structure #1040111, in Fairbanks, Alaska, apparently willfully and repeatedly violated Section 17.57 of the Commission's Rules ("Rules")¹ by failing to immediately notify the Commission of a change in ownership of an antenna structure. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),² that Ackerley is apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000).

II. BACKGROUND

2. On May 21, 2003, agents from the Anchorage Resident Agent Office inspected the main studio of television broadcast station KTVF, located in Fairbanks, Alaska. Ackerley is the licensee of television station KTVF. According to Commission records, Ackerly was assigned the license for KTVF from Northern Television, Inc. ("Northern") on June 23, 1999. During the inspection, Ackerley produced an Antenna Structure Registration ("ASR"), which showed Northern as the owner of antenna structure #1040111, an antenna structure associated with KTVF. Ackerley confirmed to the agents that it had acquired ownership of antenna structure #1040111. The agents advised KTVF's General Manager of the requirement to change the ownership information for antenna structure #1040111.

3. On May 22, 2003, agents from the Anchorage Office inspected antenna structure #1040111, located on the rooftop of the Northward Building, at the corner of 3rd and Lacey Streets in Fairbanks, Alaska. The agents found ASR #1040111 posted at the site. At the time of inspection, Commission records indicated Northern as the owner of the antenna structure. On June 3, 2003, and August 18, 2003, a search of the Commission's ASR database by an Anchorage agent indicated that Northern was the owner of antenna structure #1040111. On April 7, 2004, another search of the Commission's ASR database by an Anchorage agent

¹47 C.F.R. § 17.57.

²47 U.S.C. § 503(b).

indicated that Northern was the owner of antenna structure #1040111.

III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully fails to comply substantially with the terms and conditions of any license, or willfully fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.³ The term "repeated" means the commission or omission of such act more than one or for more than one day.⁴

5. Section 17.57 of the Rules requires the owner of an antenna structure to immediately notify the Commission, using FCC Form 854, upon any change in structure height or change in ownership information.⁵ Ackerley is the owner of antenna structure #1040111, located in Fairbanks, Alaska. Agents from the Anchorage Resident Agent Office advised Ackerley on May 21, 2003 of the requirement to submit to the Commission information for ASR #1040111 to reflect Ackerley's ownership. Additional searches of Commission's ASR records by an Anchorage agent on June 3 2003, and August 18, 2003, revealed the owner of antenna structure #1040111 as Northern. Another search of the ASR records on April 7, 2004, continued to indicate that Northern was the current owner of the antenna structure.

6. Ackerley was given notice by the Anchorage agents on May 21, 2003 that it was required to change the ownership information filed with the Commission concerning antenna structure #1040111. Ackerley has failed to change this information, therefore it appears that its violation of Section 17.57 is willful. Further, it appears that this violation has occurred on more than one day, thus, it is repeated. Based on the evidence before us, we find that Ackerley willfully and repeatedly violated Section 17.57 of the Rules by failing to immediately notify the Commission of a change in ownership information for antenna structure #1040111.

7. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("*Forfeiture Policy Statement*"), and Section 1.80 of the Rules, the base forfeiture amount for failure to file required forms or information with the Commission is \$3000.⁶ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.⁷ Applying the *Forfeiture Policy Statement* and the statutory factors, we conclude that a \$3,000 forfeiture is warranted.

³Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

⁵47 C.F.R. § 17.57.

⁶12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

⁷47 U.S.C. § 503(b)(2)(D).

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Ackerly Media Group, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for violations of Section 17.57 of the Rules.⁸

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Ackerly Media Group, Inc. shall pay the full amount of the proposed forfeiture or shall file a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FCC Registration Number (FRN) and the NAL/Acct. No. referenced in the caption.

11. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, Anchorage Resident Agent Office, P.O. Box 221849, Anchorage, AK, 99522-1849 and must include the NAL/Acct. No. referenced in the caption.

12. 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 practices ("GAAP"); 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.

13. Requests for payment of the full amount of this Notice of Apparent Liability for Forfeiture under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

14. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street S.W., Washington, D.C. 20554. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

⁸47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 1.80, 17.57.

⁹See 47 C.F.R. § 1.1914.

15. IT IS FURTHER ORDERED THAT a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Ackerley Media Group, Inc., 2625 South Memorial Drive, Suite B, Tulsa Oklahoma 74129.

FEDERAL COMMUNICATIONS COMMISSION

Marlene Windel
Resident Agent,
Anchorage Resident Agent Office, Western Region
Enforcement Bureau

Enclosure: FCC List of Small Entities