

Federal Communications Commission

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

In the Matter of)	
)	File Number EB-04-DL-066
Steve Williams)	
d.b.a. American Broadcasting of Texas)	NAL/Acct. No.200432500003
Owner of Three Unregistered Antenna Structures)	
in)	FRN 0005-0038-68
Waco, TX)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: July 9, 2004

By the District Director, Dallas Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Steve Williams d.b.a. American Broadcasting of Texas (“Williams”), owner of three antenna structures located at or near geographical coordinates 31° 34’ 10”N and 097° 00’01”W, Waco, Texas, apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Commission’s Rules (“Rules”).¹ Specifically, we find Williams apparently liable for failure to register his three antenna structures with the Commission.

II. BACKGROUND

2. On March 2, 2004, two agents from the Commission’s Dallas Field Office (“Dallas Office”) inspected three antenna structures located at or near geographical coordinates 31° 34’ 10”N and 097° 00’01”W (three towers) in Waco, Texas. The agents noted that the structures were painted and fitted with red lighting. A sign was posted on the property entrance which stated “Tower Registration Number Pending” and “KBBW–AM radio Facility #1322.”

3. On April 8, 2004, agents from the Dallas Office checked the Commission’s Antenna Structure Registration (ASR) database and found that these towers were not registered.

4. On April 13, 2004, a Letter of Inquiry was sent to Steve Williams d.b.a American Broadcasting of Texas, licensee of Station KBBW(AM), concerning the three towers. In his April 27, 2004 response, Williams stated he acquired the towers and Station KBBW(AM) on June 11, 1986. Williams also stated that he completed the registration paperwork for the three towers when the ASR system was implemented, but failed to submit the registration for filing.

5. On June 18, 2004, the Dallas Office asked Williams to inform the office when he submits his ASR registration. As of July 7, 2004, the Dallas Office had not received notice that Williams submitted the ASR registration application. Moreover, as of July 7, 2004, the ASR database showed no registration for the three towers.

¹47 C.F.R. § 17.4(a).

III. DISCUSSION

6. Section 17.4(a) of the Rules provides that the owner of any proposed or existing antenna structure that requires notice of proposed construction to the FAA must register the structure with the Commission. Williams' antenna structures required notification to the FAA because each of the structures exceeded 200 feet in height.² Therefore, Williams' antenna structures required Commission registration. As of July 7, 2004, Steve Williams d.b.a. American Broadcasting of Texas failed to register his antenna structures with the Commission.

7. Based on the evidence before us, we find Steve Williams d.b.a. American Broadcasting of Texas willfully³ and repeatedly⁴ violated Section 17.4(a) of the Rules by failing to register the antenna structures with the Commission.

8. 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(b)(4) of the Rules,⁵ the base forfeiture amount for failure to register the antenna structures is \$3,000 (failure to file required forms or information). 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 Communications Act of 1934, as amended ("Act"), which include 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.⁶ Considering the entire record and applying the factors listed above, this case warrants a \$3,000 forfeiture.

9. We require Williams to report to the Enforcement Bureau no more than thirty days after the release of this *NAL* whether he has come into compliance with Section 17.4(a) of the Rules by registering the three towers. Williams' report must be submitted in the form of an affidavit or declaration, under penalty of perjury, signed by an officer or director of Williams. Williams should note that continued noncompliance could result in additional enforcement actions.

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended,⁷ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁸ Steve

²See 47 C.F.R. § 17.7(a).

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" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁴The 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." 47 U.S.C. § 312(f)(2).

⁵47 C.F.R. § 1.80(b)(4).

⁶47 U.S.C. § 503(b)(2)(D).

⁷47 U.S.C. § 503(b).

⁸47 C.F.R. §§ 0.111, 0.311, 1.80.

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Williams d.b.a. American Broadcasting of Texas is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Rules.

11. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Steve Williams d.b.a. American Broadcasting of Texas **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. 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 should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

13. The response, if any, must be mailed to Federal Communications Commission, Dallas Office, 9330 LBJ Freeway, Suite 1170, Dallas, Texas 75243 within thirty days of the release date of this *NAL* and **MUST INCLUDE THE *NAL*/Acct. No.** referenced above.

14. 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.

15. 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 Regional Counsel, FCC, EB, South Central Region, 520 NE Colbern Road, Second Floor, Lee’s Summit, MO 64086. 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.

16. **IT IS FURTHER ORDERED** that, pursuant to Section 308(b) of the Act,¹⁰ Steve Williams d.b.a. American Broadcasting of Texas must submit the report described in paragraph 9 above, no more than thirty (30) days following the release of this *Notice of Apparent Liability for Forfeiture*, to the Federal Communications Commission, Enforcement Bureau, South Central Region, 520 NE Colbern Road, Lee’s Summit, MO 64086, Attention: Regional Counsel.

17. **IT IS FURTHER ORDERED** that a copy of this *NAL* shall be sent by regular mail and

⁹See 47 C.F.R. § 1.1914.

¹⁰47 U.S.C. § 308(b).

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Certified Mail Return Receipt Requested to Steve Williams d.b.a. American Broadcasting of Texas, Radio Station KBBW-AM, 1019 Washington St., Waco, Texas 76701.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director
Dallas Office, South Central Region
Enforcement Bureau

Enclosure: FCC List of Small Entities