

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

In the Matter of	)	File No. EB-01-NY-490
	)	
Rev. Yvon Louis	)	NAL/Acct. No. 200232380002
Brooklyn, NY	)	
	)	FRN 0006-2631-72

**FORFEITURE ORDER**

**Adopted: August 1, 2003**

**Released: August 5, 2003**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of ten thousand dollars (\$10,000) to Rev. Yvon Louis (“Rev. Louis”) for willful and repeated violation of Section 301 of the Communications Act of 1934, as amended, (“*Act*”).<sup>1</sup> The noted violation involves Rev. Louis’s operation of an unlicensed radio transmitter on frequencies 93.7 MHz, 88.1 MHz, and 90.1 MHz.

2. On July 23, 2002, the District Director of the Commission’s New York, New York Field Office (“*New York Office*”) issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) in the amount of \$10,000 to Rev. Louis.<sup>2</sup> Rev. Louis filed a response to the *NAL* on July 30, 2002.

**II. BACKGROUND**

3. On November 16, 2001, in connection with an investigation of the operation of unlicensed FM broadcast stations in Brooklyn, New York, agents from the New York Office observed unauthorized radio broadcast on 93.7 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., a church located at 1653 Nostrand Avenue, Brooklyn, New York, 11226. There was no evidence of a Commission authorization for this operation in Brooklyn, New York.

4. On November 17, 2001, Commission agents again observed unauthorized radio broadcast on 93.7 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, New York, 11226. The agents requested and were given permission by the church’s pastor, Rev. Louis, to inspect Calvary Tabernacle Inc.’s radio station and studio equipment. While performing the inspection, the agents hand delivered a Warning Letter to Rev. Louis for the operation of the unlicensed station. The Warning Letter warned Rev. Louis that operation of the unlicensed radio station on 93.7 MHz violated 47 U.S.C. § 301, outlined the potential penalties for the unlicensed operation, and directed Rev. Louis to take steps to terminate the unlicensed

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<sup>1</sup> 47 U.S.C. § 301.

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232380002 (Enf. Bur., New York Office, released July 23, 2002).

operation. On November 23, 2001, the New York Office also sent a Warning Letter regarding the unlicensed operation to Rev. Louis.

5. On December 5, 2001, the New York Office received a letter from Rev. Louis in which Rev. Louis acknowledged and confirmed the operation of a radio station at 1653 Nostrand Avenue, Brooklyn, New York 11226. On December 14, 2001, Commission agents observed radio broadcast on 88.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, New York, 11226. There was no evidence of a Commission authorization for this operation in Brooklyn, New York.

6. On December 17, 2001, Commission agents requested and were given permission to inspect the Calvary Tabernacle, Inc. radio station by Rev. Louis. In response to questions by the agents, Rev. Louis told the agents that he operated the station on weekends, first on 93.7 MHz, and later on 88.1 MHz. The agents noted that Rev. Louis had a copy of the Warning Letter dated November 23, 2001, in his possession. On January 4, January 5, January 11, and January 18, 2002, Commission agents again observed radio broadcast on 88.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, New York, 11226. The measurements taken on January 5, and January 18, 2002 exceeded the field strength limits for non-licensed low-power Part 15 transmitters by 2,479 and 3,391 times respectively.

7. On January 18, 2002, Commission agents again observed radio broadcast on 88.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, New York, 11226. The agents conducted a station inspection and determined that Rev. Louis was the person operating the station.

8. On January 22, 2002 the New York Office received a letter from Rev. Louis in which he stated that during the December 17, 2001 inspection the agents found a one watt transmitter and informed him that the unlicensed operation of the transmitter violated Section 301 of the Act. Rev. Louis further states that the agents told him he could operate a low-power transmitter under Part 15 of the Rules.<sup>3</sup> Based on the agents' statements, Rev. Louis asserts that he exchanged the one watt transmitter for one that complied with Part 15 of the Rules. Rev. Louis claims that the transmitter inspected by the agents on January 18, 2002 was the new Part 15 compliant transmitter.

9. On January 27, 2002, a Commission agent observed radio broadcast on 90.1 MHz, and positively identified the source of the unauthorized transmissions to Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, New York, 11226. There was no evidence of a Commission authorization for this operation in Brooklyn, New York.

10. On June 22, 2002, Commission agents again observed radio broadcast on 88.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, New York, 11226. The agents made field strength measurements of the station's signal. The agents' measurements indicated that the field strength of the signal exceeded the permissible level for a non-licensed low-power transmitter by 847 times. The agents conducted a station inspection and determined that Rev. Louis was the person responsible for the station operation.

11. On July 23, 2002, the New York Office issued a *NAL* in the amount of \$10,000 to Rev. Louis for operating an unlicensed radio transmitter on frequencies 93.7 MHz, 88.1 MHz, and 90.1 MHz in willful and repeated violation of Section 301 of the Act. In his response to the *NAL*, Rev. Louis requests cancellation of the forfeiture, and enclosed copies of letters he sent the New York Office which were received on December 5, 2001 and January 22, 2002. Rev. Louis argues that he allowed a

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<sup>3</sup> 47 C.F.R. §§ 15.1 *et seq.* permits the use of certain non-licensed low-power transmitters.

Commission agent to inspect the church on November 16, 2001, and that the Commission agent did not find a transmitter during that inspection. Rev. Louis alleges that he thereafter replaced the one watt transmitter with a Part 15 transmitter, after being informed by the agent that its operation would be permitted without a license, and that during a subsequent inspection, only a non-operating Part 15 transmitter was observed by the agent. Rev. Louis concludes that the Commission never found a “good functioning radio transmitter” at the church, and that he did not violate Section 301 of the Act.

### III. DISCUSSION

12. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended, (“Act”),<sup>4</sup> Section 1.80 of the Rules,<sup>5</sup> 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). In examining Rev. Louis’s response, Section 503(b) of the Act requires that the Commission 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 other such matters as justice may require.<sup>6</sup>

13. Section 301 of the Act prohibits radio operation “except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.”<sup>7</sup> Rev. Louis does not dispute that he operated radio transmitting equipment at 1653 Nostrand Avenue, Brooklyn, New York 11226 from November 2001 through January 2002, without a Commission license or authorization; however, Rev. Louis argues that his operations are permitted under Part 15 of the Rules because he exchanged his one watt transmitter for a Part 15 compliant transmitter after the December 17, 2001 inspection. We reject Rev. Louis’s argument that no operable transmitting equipment was located at 1653 Nostrand Avenue, Brooklyn, New York 11226, and that his transmissions complied with Part 15 of the Rules after the December 17, 2001 inspection. We note that Commission agents located an operable signal at the location on numerous occasions and detected a measurable field strength signal on January 5, 2002, January 18, 2002 and June 22, 2002. From the field strength measurements taken, the agents determined that the signals exceeded the permissible level for a non-licensed Part 15 transmitter by 2,479, 3,391, and 847 times respectively. Hence, we conclude that Rev. Louis’ unlicensed operation was unauthorized and is therefore a repeated violation of Section 301 of the Act.<sup>8</sup>

14. We further conclude that this repeated violation of Section 301 of the Act is also a willful violation within the meaning of the Act inasmuch as Rev. Louis admits that he continually operated the station without a license.<sup>9</sup> Moreover, he did so despite repeated warnings from FCC staff. In light of the foregoing, we decline to cancel or reduce the forfeiture amount.

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<sup>4</sup> 47 U.S.C. § 503(b).

<sup>5</sup> 47 C.F.R. § 1.80.

<sup>6</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>7</sup> 47 U.S.C. § 301.

<sup>8</sup> Section 312(f)(2) 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.” 47 U.S.C. § 312(f)(2).

<sup>9</sup> Section 312(f)(1) of the Act provides that “[t]he term ‘willful,’ ... 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....” 47 U.S.C. § 312(f)(1). This definition also applies to Section 503(b). See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

**IV. ORDERING CLAUSE**

15. **ACCORDINGLY, IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,<sup>10</sup> and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,<sup>11</sup> Rev. Yvon Louis **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for operating an unlicensed radio transmitter in willful and repeated violation of Section 301 of the Act.

16. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules<sup>12</sup> 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.<sup>13</sup> 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 should note the NAL/Acct. No. 200232380002 and FRN 0006-2631-72 referenced above. 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.<sup>14</sup>

17. **IT IS FURTHER ORDERED THAT** a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Rev. Yvon Louis, 1653 Nostrand Avenue, Brooklyn, NY 11226.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>10</sup> 47 U.S.C. § 503(b).

<sup>11</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>12</sup> 47 C.F.R. § 1.80.

<sup>13</sup> 47 U.S.C. § 504(a).

<sup>14</sup> See 47 C.F.R. § 1.1914.