

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

In the Matter of

William S. Mills
Licensee of Paging Station KNKO605,
Telluride, Colorado

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**Case No.: EB-00-TS-019
NAL/Acct. No.: X20EF0004**

FORFEITURE ORDER

Adopted: October 12, 2000

Released: October 16, 2000

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of one thousand five hundred dollars (\$1,500) against William S. Mills (“Mills”), for willful violation of Section 1.949 of the Commission’s Rules (“Rules”).¹ The noted violation involved Mills’ failure to file a license renewal application for Station KNKO605 prior to the expiration of the authorization for the station.

2. On November 5, 1999, the Chief of the former Enforcement and Consumer Information Division of the Wireless Telecommunications Bureau (“Wireless Bureau”) issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of one thousand five hundred dollars (\$1,500) to Mills for the noted violation.² Mills filed a response to the NAL on November 18, 1999.

II. BACKGROUND

3. The authorization for Station KNKO605 expired on April 1, 1999. Mills did not file an application for renewal of the authorization until June 28, 1999. On September 20, 1999, the Wireless Bureau granted the late-filed renewal application. On November 5, 1999, the Wireless Bureau, pursuant to Section 503(b) of the Communications Act of 1934, as amended (“Act”), and Section 1.80 of the Rules,³ issued an NAL in the amount of \$1,500 to Mills for the late filing of its license renewal application.

4. On November 18, 1999, Mills filed a response with the Commission in which it requests cancellation or reduction of the forfeiture amount because Mills provides a “valuable service” that “is needed in the community,” and “fulfills the goals of universal service by providing telecommunications to consumers in rural and/or insular areas.” Mills further contends that he did not receive notice from the Commission that his license was about to expire, as provided in the *ULS Report & Order*,⁴ and it would

¹ 47 C.F.R. § 1.949.

² *William S. Mills*, 15 FCC Rcd 8436 (Wireless Bur. 1999).

³ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

⁴ 13 FCC Rcd 21027, 21071, ¶ 96 (1998); *recon. granted in part and denied in part*, 14 FCC Rcd 11476 (1999).

thus be unfair for him to be penalized in this instance. Mills claims that assessment of a forfeiture against him, where the Commission failed to issue expiration notification “as it was required to do,” would be a retroactive application of the Commission’s proposed rules in the *ULS Report & Order*.

III. DISCUSSION

5. Section 1.949 of the Rules states, in pertinent part, that “[a]pplications for renewal of authorizations in the Wireless Radio Services must be filed no later than the expiration date of the authorization for which renewal is sought”⁵ We find that Mills violated Section 1.949 of the Rules by filing the renewal application for Station KNKO605 after the expiration of the authorization.

6. We reject Mills’ “valuable service” and “goals of universal service” arguments. Neither of these factors justifies reduction or cancellation of the forfeiture in this case.

7. We also reject the argument that Mills’ failure to timely file a renewal application should be excused because the Commission did not send him a renewal notice prior to expiration of the license. Mills’ obligation to renew his license was not contingent upon being reminded of that obligation by the Commission. The *ULS Report & Order* explicitly stated:

[T]he ULS notification procedure does not replace the license renewal provisions set forth in the Commission’s rules. Accordingly, even if a licensee does not receive a renewal reminder notice, the licensee still must timely file its renewal application. Also, not receiving a renewal reminder notice does not excuse the licensee’s failure to seek a timely renewal.⁶

It was thus Mills’ responsibility to file an application for license renewal within the time period specified in the Rules,⁷ and he has offered no mitigating evidence that would excuse his failure to do so.

8. Regarding the fine, Mills claims that the Commission is giving retroactive effect to its statement in the *ULS Order on Reconsideration*, released on June 28, 1999, the same day that Mills filed his late-filed renewal application, that the Wireless Bureau,

after reviewing all facts and circumstances concerning the late filing of the renewal applications, may, in its discretion, also initiate enforcement action against the licensee for untimely filing and unauthorized operation between the expiration of the license and the late renewal filing, including, if appropriate, the imposition of fines or forfeitures for these rule violations.⁸

Mills’ argument lacks merit. At the time of Mills’ violation, the Rules required licensees to file renewal applications prior to the expiration of their licenses. Nothing in the Rules or the *ULS Report and Order* suggested that licensees who failed to comply with this requirement would be free from enforcement action. Consequently, we reject Mills’ claim that the Wireless Bureau’s action represents a retroactive application of a new policy, and affirm the \$1,500 forfeiture.

⁵ 47 C.F.R. § 1.949.

⁶ 13 FCC Rcd at 21073 (footnote omitted).

⁷ See *ULS Order On Reconsideration*, 14 FCC Rcd 11476, 11485 ¶ 21 (1999); see also *Vincent Communications, Inc.*, 15 FCC Rcd 18263 (Enf. Bur. 2000); *Berkshire Communicators, Inc.*, 15 FCC Rcd 18242 (Enf. Bur. 2000).

⁸ *ULS Order On Reconsideration*, 14 FCC Rcd at 11485-86.

IV. ORDERING CLAUSES

9. 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,⁹ William S. Mills **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of one thousand five hundred dollars (\$1,500) for violating Section 1.949 of the Rules by failing to file a license renewal application for Station KNKO605 prior to the expiration of the authorization for the station.

10. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules,¹⁰ 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.¹¹ Payment may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or 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 NAL/Acct. No. X20EF0004. Requests for full payment under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.¹²

11. **IT IS FURTHER ORDERED** that, a copy of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested to Audrey P. Rasmussen, O'Connor & Hannan, L.L.P., 1666 K Street N.W., Suite 500, Washington D.C. 20006-2803.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

¹⁰ 47 C.F.R. § 1.80. Licensees that claim an inability to pay a forfeiture should provide tax returns or financial statements for the most recent three year period, prepared in accordance with generally accepted accounting principles, or some other reliable and objective documentation that accurately reflects the licensees' current financial condition. *Advanced TelCom, Inc.*, 2000 WL 1028783 at ¶ 7 (Enf. Bur. 2000).

¹¹ 47 U.S.C. § 504(a).

¹² See 47 C.F.R. § 1.1914.