

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

In the Matter of)	
)	
Kevin W. Bondy)	File No.: EB-09-LA-0026
)	NAL/Acct. No.: 200932900004
Licensee of Station WQGX752)	FRN: 0016490633
Encino, California)	

MEMORANDUM OPINION AND ORDER

Adopted: December 18, 2013

Released: December 19, 2013

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order (*MO&O*), issued pursuant to Section 405 of the Communications Act of 1934, as amended (Act),¹ we deny the petition for reconsideration² filed by Kevin W. Bondy (Mr. Bondy), licensee of General Mobile Radio Service (GMRS) Station WQGX752, in Encino, California, of the *First MO&O* issued on February 15, 2013.³ The *First MO&O* affirmed a monetary forfeiture in the amount of twenty-four thousand dollars (\$24,000) for: (1) willful and repeated violation of Section 301 of the Act,⁴ for engaging in unlicensed radio operation; (2) willful and repeated violation of Section 333 of the Act⁵ and Section 95.183(a)(5) of the Commission's rules (Rules),⁶ for intentional interference to licensed radio operations; and (3) willful violation of Section 303(n) of the Act,⁷ and Section 95.115 of the Rules,⁸ for refusing to allow an inspection of radio equipment by FCC personnel.

II. BACKGROUND

2. The *Forfeiture Order* and *First MO&O* fully stated the facts of this proceeding so we will not repeat them here.⁹ In the *First MO&O*, the Bureau determined that Mr. Bondy's initial petition for reconsideration (2011 Petition) was procedurally defective,¹⁰ but also found that even if the 2011 Petition

¹ See 47 U.S.C. § 405.

² See *Kevin W. Bondy*, Petition for Reconsideration (filed March 13, 2013) (Petition).

³ *Kevin W. Bondy*, Memorandum Opinion & Order, 28 FCC Rcd 1170 (Enf. Bur. 2013) (*First MO&O*), *aff'g* Forfeiture Order, 26 FCC Rcd 7840 (Enf. Bur. Western Region 2011) (*Forfeiture Order*), *aff'g* Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 200932900004 (Enf. Bur. Western Region, Los Angeles Office, rel. May 14, 2009).

⁴ 47 U.S.C. § 301.

⁵ 47 U.S.C. § 333.

⁶ 47 C.F.R. § 95.183(a)(5).

⁷ 47 U.S.C. § 303(n).

⁸ 47 C.F.R. § 95.115.

⁹ *Forfeiture Order*, 26 FCC Rcd at 7840–43, paras. 2–11; *First MO&O*, 28 FCC Rcd at 1170–72, paras. 2–4.

¹⁰ *First MO&O*, 28 FCC Rcd at 1172, para. 5.

had been timely filed, it provided “no basis for further reduction or cancellation of the monetary forfeiture assessed against Mr. Bondy.”¹¹ The Bureau affirmed findings made by the Bureau’s Western Region (Region) concerning Mr. Bondy’s violations of the Act for engaging in unlicensed radio operation,¹² for intentional interference to licensed radio operations,¹³ and for refusing to allow an inspection of his radio equipment by FCC personnel.¹⁴

III. DISCUSSION

3. Reconsideration is appropriate only where the petitioner either demonstrates a material error or omission in the underlying order or raises additional facts not known or not existing until after the petitioner’s last opportunity to present such matters.¹⁵ A petition for reconsideration that reiterates arguments that were previously considered and rejected will be denied.¹⁶ We find that Mr. Bondy’s Petition fails to demonstrate a material error or omission in the *First MO&O* and reiterates arguments previously presented to and rejected by the Region¹⁷ and then the Bureau.¹⁸ We further find that Mr. Bondy raises no new facts and presents no new or previously unknown facts in his Petition, but merely reiterates unsworn arguments of mistaken identity and alleged cooperation with the inspection of his radio equipment, which the Region and Bureau previously addressed and dismissed as unsupported.¹⁹ The Bureau found that the *Forfeiture Order* was supported by sufficient evidence that Mr. Bondy transmitted on frequencies that he had no authorization for and engaged in intentional interference to licensed operations on those frequencies, thereby willfully and repeatedly violating Sections 301 and 333 of the Act and Section 95.183(a)(5) of the Rules.²⁰ The Bureau also found that there was sufficient evidence that Mr. Bondy willfully violated Section 303(n) of the Act and Section 95.115 of the Rules by refusing to allow an inspection of his radio equipment by FCC personnel.²¹ In addition, the Bureau determined that Mr. Bondy’s claim that he did not own or lease equipment or land on a particular mountain was irrelevant to the sufficiency of the evidence against him.²² As noted by the Bureau, the Los Angeles Office determined that Mr. Bondy’s transmissions were unquestionably the source of the interference. At the time of the intentional interference, Mr. Bondy was sitting in his car, as located by the Los Angeles Office, explaining to shopping center personnel why he was jamming them and why they had to vacate the frequencies being interfered with from the mountain.²³ The Bureau also determined irrelevant Mr. Bondy’s claim that the entity that was the target of his intentional interference was operating on

¹¹ *Id.* at 1173, para. 9.

¹² 47 U.S.C. § 301. *First MO&O*, 28 FCC Rcd at 1173, para. 7.

¹³ 47 U.S.C. § 333; *see also* 47 C.F.R. § 95.183(a)(5). *First MO&O*, 28 FCC Rcd at 1173, para. 7.

¹⁴ 47 U.S.C. § 303(n); *see also* 47 C.F.R. § 95.115. *First MO&O*, 28 FCC Rcd at 1173, para. 8.

¹⁵ *See* 47 C.F.R. § 1.106(c); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257 (Enf. Bur. 2000) (citing *WWIZ, Inc.*, 37 FCC 685, 686 (1964), *aff’d sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966)).

¹⁶ *EZ Sacramento, Inc.*, 15 FCC Rcd at 18257, para. 2.

¹⁷ *Forfeiture Order*, 26 FCC Rcd at 7842–45, paras. 9–17.

¹⁸ *First MO&O*, 28 FCC Rcd at 1173, paras. 7–8.

¹⁹ *Id.*; *Forfeiture Order*, 26 FCC Rcd at 7842–44, paras. 9–15. *See* Petition at 1–2.

²⁰ *First MO&O*, 28 FCC Rcd at 1173, para. 7. *See* Petition at 1–2.

²¹ *First MO&O*, 28 FCC Rcd at 1173, para. 8. *See* Petition at 2.

²² *First MO&O*, 28 FCC Rcd at 1173, para. 7 n.27.

²³ *Id.* *See Forfeiture Order*, 26 FCC Rcd at 7841, paras. 5–6. *See also* Petition at 2.

unauthorized frequencies while assisting the FCC agent investigating Mr. Bondy.²⁴ Therefore, we find that the Petition provides no basis for reconsideration or for further reduction or cancellation of the monetary forfeiture assessed against Mr. Bondy, and affirm the *First MO&O*.

IV. ORDERING CLAUSES

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Communications Act of 1934, as amended,²⁵ and Section 1.106 of the Rules,²⁶ that the Petition for Reconsideration filed by Kevin W. Bondy **IS DENIED** and the *Memorandum Opinion and Order*, 28 FCC Rcd 1170, issued February 15, 2013, **IS AFFIRMED**.

5. **IT IS ALSO ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.204, 0.311 and 1.80(f)(4) of the Rules, Kevin W. Bondy **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty-four thousand dollars (\$24,000) for willfully and repeatedly violating Sections 301 and 333 of the Act, and Section 95.183(a)(5) of the Rules, and for willfully violating Section 303(n) of the Act and Section 95.115 of the Rules.²⁷

6. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules immediately and no later than thirty (30) calendar days after the release date of this Memorandum Opinion and Order.²⁸ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.²⁹ Kevin W. Bondy shall send electronic notification of payment to WR-Response@fcc.gov on the date said payment is made.

7. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³⁰ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure

²⁴ *First MO&O*, 28 FCC Rcd at 1173, para. 7 n.26. The Bureau stated that this fact was noted in the *Forfeiture Order*, along with the explanation for the usage. *Forfeiture Order*, 26 FCC Rcd at 7841, para. 5 n.5. See Petition at 2.

²⁵ 47 U.S.C. § 405.

²⁶ 47 C.F.R. § 1.106.

²⁷ 47 U.S.C. §§ 301, 303(n), 333, 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 1.80(f)(4), 95.115, 95.183(a)(5).

²⁸ 47 C.F.R. § 1.80.

²⁹ 47 U.S.C. § 504(a).

³⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

8. Any request for full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.³¹ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

9. **IT IS FURTHER ORDERED** that this Memorandum Opinion and Order shall be sent by both regular mail and by certified mail, return receipt requested, to Kevin W. Bondy, at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

³¹ See 47 C.F.R. § 1.1914.