

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

In the Matter of)	
)	
Iglesia Cristiana Ebenezer of Greenville, TX)	File No.: EB-FIELDSCR-12-00004371 ¹
)	NAL/Acct. No.: 201332500003
Licensee of Station KYLP-LP)	FRN: 0015575970
Greenville, Texas)	Facility ID No.: 135673
)	

FORFEITURE ORDER

Adopted: January 24, 2014

Released: January 24, 2014

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of five thousand dollars (\$5,000) to Iglesia Cristiana Ebenezer of Greenville, TX (Iglesia), licensee of Station KYLP-LP (Station), in Greenville, Texas, for willful and repeated violation of Section 11.35(a) of the Commission's rules (Rules).² The noted violations involved Iglesia's failure to install Emergency Alert System (EAS) equipment and maintain EAS logs.

II. BACKGROUND

2. On May 6, 2013, the Enforcement Bureau's Dallas Office (Dallas Office) issued a Notice of Apparent Liability for Forfeiture and Order (NAL)³ to Iglesia for EAS violations. Iglesia submitted a response to the NAL stating that the Station ordered EAS equipment immediately after it became aware of the EAS requirements and installed it in April 2012.⁴ Iglesia requested reduction or cancellation of the proposed forfeiture due to its "extremely limited revenues" and "no history of prior violations."⁵

¹ File No. EB-FIELDSCR-12-00004371 incorporates the contents of File No. EB-11-DL-0053.

² 47 C.F.R. § 11.35(a).

³ *Iglesia Cristiana Ebenezer of Greenville, TX*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6300 (Enf. Bur. 2013). A comprehensive recitation of the facts and history of this case can be found in the NAL and is incorporated herein by reference.

⁴ Letter from Dan J. Alpert, Counsel for Iglesia Cristiana Ebenezer of Greenville, TX, to District Director, Dallas Office, South Central Region, Enforcement Bureau at 1 (June 5, 2013) (on file in EB-FIELDSCR-12-0004371). Although this letter was labeled a "Petition for Reconsideration," we are treating it as a response to the NAL, because the NAL was not a final Bureau decision.

⁵ *Id.* at 2.

III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),⁶ Section 1.80 of the Rules,⁷ and the *Forfeiture Policy Statement*.⁸ In examining Iglesia's response, Section 503(b)(2)(E) 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.⁹ As discussed below, we have considered Iglesia's response in light of these statutory factors, and find that a reduction of the forfeiture is warranted based on Iglesia's inability to pay.

4. We conclude that the evidence supports the Bureau's undisputed findings that Iglesia violated Sections 11.35(a) of the Rules. Section 11.35(a) of the Rules states that EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation.¹⁰ As reflected in the *NAL*, on March 7, 2012, and March 16, 2012, an agent from the Dallas Office observed that Station KYLP-LP had no installed EAS equipment at either its main studio or transmitter site. The Station also had no EAS logs showing that the Station ever had any operational EAS equipment.¹¹ Based on the undisputed evidence before us, we find that Iglesia willfully¹² and repeatedly¹³ violated Sections 11.35(a) of the Rules by failing to install EAS equipment and maintain EAS logs.

5. In response to the *NAL*, Iglesia requested cancellation or reduction of the proposed \$9,000 forfeiture based on its inability to pay and its history of compliance with the Rules. When faced with claims alleging an inability to pay, the Commission has determined that, in general, gross income or revenues are the best indicator of an individual or entity's ability to pay a forfeiture.¹⁴ Based on the financial documents provided by Iglesia, we find that there is a sufficient basis to reduce (but not cancel) the forfeiture to \$5,000.¹⁵ We caution Iglesia, however, that a party's inability to pay is only one factor in

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. § 1.80.

⁸ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

⁹ 47 U.S.C. § 503(b)(2)(E).

¹⁰ 47 C.F.R. § 11.35(a).

¹¹ See 47 C.F.R. §§ 11.35(b) (requiring licensees to log when EAS equipment is removed for repair or replacement), 73.1820(a)(1)(iii) (requiring licensees to maintain a log for each test and activation of EAS equipment).

¹² Section 312(f)(1) of the Act defines "willful" as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1).

¹³ Section 312(f)(2) of the Act provides that the term "repeated" means the "commission or omission of such act more than once or for more than one day." 47 U.S.C. § 312(f)(2).

¹⁴ See *Local Long Distance, Inc.*, Forfeiture Order, 16 FCC Rcd 24385 (Enf. Bur. 2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broad. Corp.*, Forfeiture Order, 15 FCC Rcd 8640 (Enf. Bur. 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

¹⁵ This forfeiture amount falls within the percentage range that the Commission has previously found acceptable. See *supra* para. 5, note 14. If Iglesia finds it financially infeasible to make full payment of this amount within 30 days, it can request an installment plan, as described in paragraph 8, *infra*, of this Forfeiture Order. Iglesia also

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our forfeiture calculation analysis, and is not dispositive.¹⁶ In this regard, we have previously rejected inability to pay claims in cases of repeated or otherwise egregious violations.¹⁷ Therefore, future violations of this kind may result in significantly higher forfeitures that may not be reduced due to Iglesia's financial circumstances.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's rules, Iglesia Cristiana Ebenezer of Greenville, TX **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of five thousand dollars (\$5,000) for violations of Section 11.35(a) of the Commission's rules.¹⁸

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's rules within thirty (30) calendar days after the release date of this Forfeiture Order.¹⁹ 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.²⁰ Iglesia Cristiana Ebenezer of Greenville, TX shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made. 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.²¹ 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-

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argues for a reduced forfeiture because of its history of compliance. Because we are already reducing the forfeiture based on the Licensee's inability to pay well beyond any reduction Iglesia would receive for the other argument, we need not address this other claim.

¹⁶ See 47 U.S.C. § 503(b)(2)(E) (requiring Commission to 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 such other matters as justice may require).

¹⁷ See, e.g., *Whisler Fleurinor*, Forfeiture Order, 28 FCC Rcd 1087 (Enf. Bur. 2013) (affirming \$25,000 forfeiture and rejecting inability to pay claim because violator was previously afforded a reduction based on inability to pay, but later committed the same violation). *Accord Kevin W. Bondy*, Forfeiture Order, 26 FCC Rcd 7840 (Enf. Bur. 2011) (holding that violator's repeated acts of malicious and intentional interference outweigh evidence concerning his ability to pay claim), *aff'd*, Memorandum Opinion and Order, 28 FCC Rcd 1170 (Enf. Bur. 2013), *aff'd* File No. EB-09-LA-0026, Memorandum Opinion and Order, DA 13-2411, 2013 WL 6705802 (Enf. Bur. Dec. 19, 2013); *Hodson Broadcasting Corp.*, Forfeiture Order, 24 FCC Rcd 13699 (Enf. Bur. 2009) (holding that permittee's continued unauthorized operation outweighed its inability to pay claim).

¹⁸ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 11.35(a).

¹⁹ 47 C.F.R. § 1.80.

²⁰ 47 U.S.C. § 504(a).

²¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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 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 making 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. 20554.²² 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 a copy of this Order shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Iglesia Cristiana Ebenezer of Greenville, TX at at 3207 Forest Lane, Garland, Texas 74042 and to its counsel, Dan J. Alpert at 2120 N. 21st Rd, Arlington, VA 22201.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director, South Central Region
Enforcement Bureau

²² See 47 C.F.R. § 1.1914.