

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

In the Matter of)	
)	
North Chapel Investments, LLC)	File No.: EB-FIELDSCR-12-AT-0000732
Owner of Antenna Structure)	Citation No.: C201232480001
Numbers 1055590, 1055591, 1055593,)	
and 1055594)	
Franklin, TN)	

CITATION AND ORDER

Adopted: April 30, 2012

Released: April 30, 2012

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

I. INTRODUCTION

1. This is an Official Citation and Order (Citation) issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Act),¹ to North Chapel Investments, LLC (North Chapel), owner of antenna structure numbers 1055590, 1055591, 1055593, and 1055594 (collectively the Antenna Structures) located in Franklin, Tennessee, for failing to: (1) notify the Commission immediately of a change in antenna structure ownership; (2) exhibit required obstruction lighting from sunset to sunrise on two antenna structures; (3) notify the Federal Aviation Administration (FAA) immediately of the lighting outages; and (4) maintain the required paint on the Antenna Structures, in violation of Section 303(q) of the Act and Sections 17.57, 17.51, 17.48, and 17.50 of the Commission's rules (Rules), respectively.²

2. North Chapel should take immediate steps to come into compliance and to avoid any recurrence of this misconduct, including maintaining current contact information in the Antenna Structure Registration (ASR) database, repainting the Antenna Structures, repairing the Antenna Structure lighting, and notifying the FAA of the lighting outages until they are repaired. As explained below and as provided in the Communications Act, future violations of the Rules in this regard may subject North Chapel to substantial monetary penalties, seizure of equipment, and criminal sanctions.

¹ 47 U.S.C. § 503(b)(5). Section 503(b)(5) of the Act provides that a Citation is not required in the case of violations of Section 303(q) of the Act, 47 U.S.C. § 303(q), if the person/entity involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by Section 303(q) from the Commission or the permittee or licensee who uses that tower. In this case, however, we are providing a Citation to North Chapel Investments, LLC or its representative, because such notice may not have been previously provided.

² 47 U.S.C. § 303(q); 47 C.F.R. §§ 17.48, 17.50, 17.51, 17.57. Although the Antenna Structures were no longer being used for the transmission of radio energy at the time of the inspection, North Chapel is required to maintain the painting and lighting requirements assigned to the Antenna Structures until the structures are dismantled. *See* 47 U.S.C. § 303(q).

II. BACKGROUND

3. The Antenna Structures are part of a four-tower array formerly used by an AM radio station. Although the Antenna Structures are currently vacant and were not used for the transmission of radio energy at the time of the inspection, North Chapel is required to maintain the painting and lighting requirements assigned to the Antenna Structures until the structures are dismantled.³ Antenna structure numbers 1055591 (Tower 2) and 1055594 (Tower 4) are 91 meters above ground and are required to be painted and lighted.⁴ Antenna structure numbers 1055590 (Tower 1) and 1055593 (Tower 3) are only required to be painted.⁵ According to local property records, North Chapel acquired the Antenna Structures in October 2009.⁶

4. On February 9 and 10, 2012, an agent from the Enforcement Bureau's Atlanta Office (Atlanta Office) observed that the lights on Towers 2 and 4 were not lit after sunset and the paint on all of the Antenna Structures was severely faded, such that the structures did not have good visibility. On February 10, 2012, an agent from the Atlanta Office contacted the FAA and determined that no Notices to Airmen (NOTAMs) for the Antenna Structures had been issued.⁷ As of April 27, 2012, according to the ASR database, another entity is the registered owner of the Antenna Structures.

III. APPLICABLE LAWS AND VIOLATIONS

5. Section 303(q) of the Act states that antenna structure owners shall maintain the painting and lighting of antenna structures as prescribed by the Commission.⁸ Section 17.51(a) of the Rules requires all red obstruction lighting to be exhibited from sunset to sunrise unless otherwise specified.⁹ Section 17.47 of the Rules requires antenna structure owners to observe antenna structure lights visually at least once every 24 hours to insure that all such lights are functioning as required.¹⁰ Section 17.48 of the Rules requires antenna structure owners to notify the FAA immediately of any known extinguishment of any top steady burning light or any flashing obstruction light, regardless of its position, not corrected within 30 minutes.¹¹ Section 17.50 of the Rules states that “[a]ntenna structures requiring painting under this part shall be cleaned or

³ See 47 U.S.C. § 303(q).

⁴ See 47 C.F.R. § 17.21 (requiring all antenna structures more than 60.96 meters in height above ground to be painted and lighted). See also Antenna Structure Registration database for antenna structure number 1055591 and antenna structure registration number 1055594.

⁵ See Antenna Structure Registration database for antenna structure number 1055590 and antenna structure number 1055593.

⁶ See Williamson County Tennessee Property Assessor Database.

⁷ On February 10, 2012, an agent from the Atlanta Office informed the FAA of the lighting outages on Towers 2 and 4, and NOTAMs for those structures were issued on February 10, 2012.

⁸ 47 U.S.C. § 303(q).

⁹ 47 C.F.R. § 17.51(a).

¹⁰ 47 C.F.R. § 17.47.

¹¹ 47 C.F.R. § 17.48.

repainted as often as necessary to maintain good visibility.”¹² Section 17.57 of the Rules states that the “owner of an antenna structure must also immediately notify the Commission using FCC Form 854 upon any change in ... structure ownership information.”¹³

6. On February 9 and 10, 2012, an agent from the Atlanta Office observed that the lights on Towers 2 and 4 were not lighted after sunset and determined that North Chapel had not notified the FAA of the outages. On February 9 and 10, 2012, the agent also observed that the paint on all of the Antenna Structures was severely faded such that the structures no longer had good visibility. Although North Chapel acquired the Antenna Structures in 2009, as of April 27, 2012, the ASR database listed another entity as the Antenna Structures’ owner. Accordingly, we find that North Chapel has violated Section 303(q) of the Act and Sections 17.48, 17.50, 17.51(a), and 17.57 of the Rules by failing to: (1) exhibit required obstruction lighting on Towers 2 and 4 after sunset; (2) notify the FAA of a lighting outage; (3) maintain the required paint on all of the Antenna Structures; and (4) update the ownership information for the Antenna Structures in the ASR database. We therefore issue this Citation to North Chapel for violating the Rules and the Communications Act as discussed above. North Chapel should take immediate steps to ensure that it does not continue to violate these rules.

IV. FUTURE COMPLIANCE

7. If, after receipt of this Citation, North Chapel violates the Communications Act or the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation and up to \$112,500 for any single act or failure to act.¹⁴ Violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,¹⁵ as well as criminal sanctions, including imprisonment.¹⁶

8. In addition to providing the required information described in paragraph 12 below, North Chapel may respond to this Citation within 30 (thirty) calendar days after the release date of this Citation either through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statements should specify the actions taken by North Chapel to ensure that it does not violate the Commission’s rules governing antenna structure painting and lighting. Please reference file number EB-FIELDSCR-12-AT-0000732 when corresponding with the Commission.

9. Under the Privacy Act of 1974, any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.¹⁷ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this

¹² 47 C.F.R. § 17.50.

¹³ 47 C.F.R. § 17.57.

¹⁴ See 47 U.S.C. § 401, 501, 503; 47 C.F.R. § 1.80(b)(3). This amount is subject to further adjustment for inflation (see *id.* § 1.80(b)(5)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

¹⁵ See 47 U.S.C. § 510.

¹⁶ See 47 U.S.C. §§ 401, 501.

¹⁷ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

Citation is punishable by fine or imprisonment.¹⁸ Please also note that Section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.¹⁹

V. CONTACT INFORMATION

10. The closest FCC Office is the Atlanta Office in Atlanta, Georgia. North Chapel may contact Douglas Miller by telephone, (770) 935-3370, to schedule a personal interview, which must take place within thirty (30) calendar days after the release date of this Citation. You should send any written statement within thirty (30) calendar days after the release date of this Citation to:

Douglas Miller
Federal Communications Commission
Enforcement Bureau
Atlanta Office
3575 Koger Blvd. Suite 320
Duluth, GA 30096.

11. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) calendar days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

VI. REPORTING REQUIREMENT

12. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act²⁰ and Section 1.16 of the Rules, we also direct North Chapel to submit within thirty (30) calendar days after the release date of this Citation a statement signed under penalty of perjury stating that it has updated the ownership information in the ASR database for the Antenna Structures, repainted all of the Antenna Structures and repaired any lighting outages on the Antenna Structures. If the Antenna Structure lighting has not been repaired and/or the Antenna Structures have not been repainted,

¹⁸ See 18 U.S.C. § 1001 *et seq.*

¹⁹ 47 C.F.R. § 1.17 (“... no person subject to this rule shall: (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”).

²⁰ 47 U.S.C. §§ 4(i), 4(j), 403; 47 C.F.R. § 1.16.

North Chapel shall describe the steps it has taken to come into compliance and provide a timeframe for when all work will be completed. Moreover, if the Antenna Structure lighting has not been repaired, North Chapel shall certify that it has notified the FAA of any lighting outages and provide any NOTAM numbers. In addition, North Chapel shall certify that it has reviewed the Commission's antenna structure rules contained in Part 17 of the Rules²¹ and that it is in compliance with these rules, including monitoring the antenna structure lighting as required in Section 17.47 of the Rules.

VII. ORDERING CLAUSES

13. **IT IS ORDERED** that pursuant to Sections 4(i), 4(j), and 403 of the Communications Act and Section 1.16 of the Commission's rules,²² North Chapel Investments, LLC must provide the information requested in paragraph 12 to this Citation and Order. This response must be provided to the Federal Communications Commission, Enforcement Bureau, South Central Region, Atlanta Office, 3575 Koger Blvd, Suite 320, Duluth, GA 30096 and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

14. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested to North Chapel Investments, LLC at P.O. Box 420652, Atlanta, GA 30342.

FEDERAL COMMUNICATIONS COMMISSION

Douglas G. Miller
District Director
Atlanta Office
South Central Region
Enforcement Bureau

²¹ See 47 C.F.R. § 17.1 *et. seq.*

²² 47 U.S.C. §§ 4(i), 4(j), 403; 47 C.F.R. § 1.16.