

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

In the Matter of)	
)	
Bold Gold Media WBS, L.P.)	File No.: EB-09-PA-0286; EB-FIELDNER-
)	12-00004582
Licensee of Station WWRR)	NAL/Acct. No.: 201132400004
Scranton, Pennsylvania)	FRN: 0014795496

MEMORANDUM OPINION AND ORDER

Adopted: December 8, 2014

Released: December 8, 2014

By the Chief, Enforcement Bureau:

1. We dismiss as untimely a Petition for Reconsideration (Petition) filed by Bold Gold Media WBS, L.P. (Bold Gold) and affirm a forfeiture of \$6,000 against it for failing to install required Emergency Alert System (EAS) equipment. Bold Gold failed to file the Petition with the Commission’s Secretary by the applicable deadline. The Enforcement Bureau’s (Bureau) finding of violations by Bold Gold was supported by sufficient evidence and warranted the fine that has been imposed.

2. Specifically, in this Memorandum Opinion and Order, issued pursuant to Section 405 of the Communications Act of 1934, as amended (Act),¹ we dismiss the Petition² filed by Bold Gold, licensee of FM Station WWRR in Scranton, Pennsylvania, of the *Forfeiture Order* issued by the Bureau on June 10, 2014.³ The *Forfeiture Order* imposed a monetary forfeiture in the amount of \$6,000 against Bold Gold for willfully and repeatedly violating Section 11.35(a) of the Commission’s Rules (Rules),⁴ by failing to install and maintain operational EAS equipment from the time it purchased Station WWRR in 2006 until February 2010.⁵

3. Section 405(a) of the Act⁶ and Section 1.106(f) of the Rules⁷ require the filing of a petition for reconsideration with the Commission’s Secretary in Washington, D.C. within thirty days from the date of public notice of the final action.⁸ In this case, public notice of the *Forfeiture Order* occurred upon release on June 10, 2014.⁹ The due date for a petition for reconsideration, taking into account holidays, was July

¹ See 47 U.S.C. § 405.

² See *Bold Gold Media WBS, L.P.*, Petition for Reconsideration of Forfeiture Order (filed July 14, 2014) (Petition).

³ *Bold Gold Media WBS, L.P.*, Forfeiture Order, 29 FCC Rcd 6016 (Enf. Bur. 2014) (*Forfeiture Order*), *aff’g*, *Bold Gold Media Group, Inc.*, Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 201132400004 (Enf. Bur. Jan. 31, 2011) (*NAL*). As explained in the *Forfeiture Order*, the *NAL* was mistakenly issued to Bold Gold Media Group, Inc. and not to Bold Gold Media WBS, L.P., the licensee of Station WWRR. *Forfeiture Order*, 20 FCC Rcd at 6016 n. 1. However, at the time the *NAL* was issued, the license for Station WWRR listed Bold Gold Media Group, Inc. as the licensee and Bold Gold Media had an opportunity to respond to the *NAL*. *Id.*

⁴ 47 C.F.R. § 11.35(a).

⁵ *Forfeiture Order*, 29 FCC Rcd at 6019–20, para. 10.

⁶ 47 U.S.C. § 405(a).

⁷ 47 C.F.R. § 1.106(f).

⁸ See 47 C.F.R. § 1.106(i).

⁹ See 47 C.F.R. § 1.4(b).

11, 2014.¹⁰ Thus, Bold Gold should have filed its Petition with the Commission's Secretary in Washington, D.C. no later than July 11, 2014.¹¹ While Bold Gold submitted a copy of its Petition to the Bureau's Philadelphia Office on July 14, 2014, there is no evidence that a copy was ever received by the Secretary of the Commission. As Section 1.106(i) of the Rules explicitly states, "[p]etitions submitted only by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed."¹² Accordingly, because Bold Gold failed to both properly and timely file its Petition, we dismiss the Petition on procedural grounds.¹³

4. Were we to reach the merits of Bold Gold's Petition, we would find no basis for reconsideration.¹⁴ We agree that the forfeiture was supported by sufficient evidence that Bold Gold failed to install and maintain operational EAS equipment for Station WWRR in violation of Section 11.35(a) of the Rules.¹⁵ However, we need not reach this issue given that Bold Gold's Petition is procedurally defective and must be dismissed for failing to comply with the requirements of the Act and the Rules.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act¹⁶ and Section 1.106 of the Rules,¹⁷ the Petition for Reconsideration filed by Bold Gold Media WBS, L.P. **IS DISMISSED** and the *Forfeiture Order*, issued June 10, 2014, **IS AFFIRMED**.

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 fifteen (15) calendar days after the release date of this Memorandum Opinion and Order.¹⁸ If the forfeiture is not paid within the period specified, this case, which has been referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act,¹⁹ will proceed. Bold Gold Media WBS, L.P. shall send electronic notification of payment to NER-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.²⁰ When completing the

¹⁰ See 47 C.F.R. § 1.4(j).

¹¹ See 47 C.F.R. §§ 1.4(j), 1.106(f).

¹² 47 C.F.R. § 1.106(i).

¹³ See *Wash. Broad. Mgmt. Co., Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 6607 (2000) (dismissing a petition for reconsideration filed eight days late).

¹⁴ 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. See 47 C.F.R. § 1.106(c); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (Enf. Bur. 2000) (citing *WWIZ, Inc.*, Memorandum Opinion and Order, 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)). A petition for reconsideration that simply reiterates arguments that were previously considered and rejected will be denied. *EZ Sacramento, Inc.*, 15 FCC Rcd at 18257, para. 2; 47 C.F.R. § 1.106(p).

¹⁵ *Forfeiture Order*, 29 FCC Rcd at 6016, para. 8.

¹⁶ 47 U.S.C. § 405.

¹⁷ 47 C.F.R. § 1.106.

¹⁸ 47 C.F.R. § 1.80.

¹⁹ 47 U.S.C. § 504(a).

²⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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 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. 20554.²¹ 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 Bold Gold Media WBS, L.P., at 1049 North Sekol Road, Scranton, Pennsylvania 18504, and to Mark B. Denbo, Counsel for Bold Gold Media WBS, L.P., at Smithwick & Belendiuk PC, 5028 Wisconsin Avenue, NW, #310, Washington, D.C. 20016.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

²¹ See 47 C.F.R. § 1.1914.