

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

In the Matter of)	
)	
Califormula, Inc.)	File No. EB-00-SD-248
Chula Vista, California)	NAL Acct. No. 200132940001

FORFEITURE ORDER

Adopted: February 8, 2001

Released: February 12, 2001

By the Chief, Enforcement Bureau:

1. In this Forfeiture Order (“Order”), we issue a \$10,000 forfeiture to Califormula Broadcasting¹ (“Califormula”) for violating Section 301 of the Communications Act of 1934, as amended (“Act”).² In July of 2000, Califormula operated an unlicensed private microwave radio station from Chula Vista, California.

2. On July 26, 2000, investigating a complaint about interference, agents from the Federal Communications Commission’s (“FCC”) San Diego, California Field Office inspected a private operational fixed microwave radio station broadcasting on 23,225 MHz from 1690 Frontage Road, Chula Vista, California. The agents met with the radio station’s owner and manager. He said that Califormula operated the radio station and showed the agents its FCC license. The agents found, however, that the FCC license for the radio station authorized Noventa FM 90, Inc. to operate the radio station from 1229 Third Avenue, Suite C, Chula Vista, California. Consequently, the Field Office District Director issued a Notice of Apparent Liability (“NAL”) to Califormula.³

3. In its response to the NAL, Califormula presents a copy of the Restated Articles of Incorporation of Noventa FM 90, Inc. (“Noventa”) to support its claim that Noventa changed its name in July of 1996 to Califormula. Califormula also attaches a copy of its FCC Form 601,⁴ in which Noventa asked the FCC to approve, among other things, Noventa’s proposed move of its radio station transmitter from 1229 Third Avenue to 1696 Frontage Road, Chula Vista, California.⁵

¹ According to the response to the NAL, “Califormula, Inc.” is the proper name for the entity.

² 47 U.S.C. § 301.

³ NAL Acct. No. 200132940001 (Enf. Bur., San Diego Field Office, rel. Oct. 13, 2000).

⁴ FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

⁵ For purposes of this Order, we find inconsequential the discrepancy between the 1690 Frontage Road address in the NAL and Califormula’s response and the 1696 Frontage Road address in Noventa’s FCC Form 601.

4. Citing Section 101.31(b)(1) of the Commission's Rules ("Rules"), Califormula contends that it had conditional FCC authorization to operate its radio station because its FCC Form 601, which it submitted on March 2, 1999, was pending before the FCC.⁶ Califormula is correct that its FCC Form 601 was still pending in July of 2000, but is mistaken in believing that its radio station qualified for conditional FCC authorization.⁷

5. Califormula's radio station does not qualify for conditional FCC authorization for two reasons. Section 101.31(b)(1) of the Rules sets forth eight separate criteria for conditional FCC authorization, *each of which the applicant must meet*. Sections 101.31(b)(1)(v) and (vii) are relevant here.

(v) The station site does not lie within 56.3 kilometers of any international border, within a radio "Quiet Zone" identified in § 1.924 of this chapter or, if operated on frequencies in the 17.8—19.7 GHz band, within any of the areas identified in § 1.924 of this chapter;

...

(vii) The filed application(s) does not propose to operate in the 21.2—23.6 GHz band with an E.R.P. greater than 55 dBm pursuant to § 101.147(s)[.]

6. Califormula's radio station, located at 1690 Frontage Road, lies within approximately 6.5 kilometers of the Mexican border.⁸ Section 101.31(b)(1)(v) of the Rules sets 56.3 kilometers as the minimum distance between Califormula's radio station and the Mexican border. Califormula's radio station did not comply with Section 101.31(b)(1)(v) of the Rules because it was closer to the Mexican border than the minimum 56.3 kilometer separation. Califormula's radio station also fails to meet the 55 dBm Effective Radiated Power ("ERP") limit set forth in Section 101.31(b)(1)(vii) of the Rules. In its FCC Form 601, Califormula states that its radio station's Equivalent Isotropically Radiated Power ("EIRP") is 63.4 dBm. Converting the radio station's EIRP of 63.4 dBm to an equivalent ERP results in an ERP of 61.3 dBm, which is greater than the 55 dBm ERP limit set by Section 101.31(b)(1)(vii) of the Rules.⁹

7. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,¹⁰ and Sections 0.111, 0.311, and 1.80(f)(4) of the Rules,¹¹ Califormula **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$10,000 for willfully and repeatedly violating Section 301 of the Act.

⁶ 47 C.F.R. § 101.31(b)(1).

⁷ The Wireless Telecommunications Bureau dismissed Califormula's FCC Form 601 on August 27, 2000.

⁸ Using 1696 Frontage Road as part of the measurement calculus, *see* n.5, would not materially change the separation between the radio station and the Mexican border.

⁹ To convert from EIRP to ERP, we subtracted 2.15 dB from the known EIRP dBm value.

¹⁰ 47 U.S.C. § 503(b).

¹¹ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules,¹² within 30 days of the release of this Forfeiture 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.¹³ Payment may be made by mailing a check or similar instrument, payable to the order of the “Federal Communications Commission,” to

Federal Communications Commission
P.O. Box 73482
Chicago, Illinois 60673-7482.
RE: NAL Acct. No. 200132940001

The payment should note NAL Acct. No. 200132940001 referenced above. 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. 20554.¹⁴

9. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested to David M. Silverman, Esq., counsel for Califormula, at Cole, Raywid & Braverman, L.L.P., 1919 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

¹² 47 C.F.R. § 1.80.

¹³ 47 U.S.C. § 504(a).

¹⁴ See 47 C.F.R. § 1.1914.