

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

In the Matter of)	
)	File No. EB-FIELDWR-15-00019621
Nelson Quintanilla,)	NAL/Acct. No: 201732900002
Panorama City, California)	FRN: 0026071530
)	

MEMORANDUM OPINION AND ORDER

Adopted: May 17, 2017

Released: May 17, 2017

By the Deputy Bureau Chief, Enforcement Bureau:

1. We deny the Petition for Reconsideration filed by Nelson Quintanilla, seeking reconsideration of the *Forfeiture Order* issued by the Enforcement Bureau (Bureau).¹ In the *Forfeiture Order*, the Bureau imposed a forfeiture of \$25,000 against Mr. Quintanilla for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended (Act), through his operation of an unlicensed FM broadcast station in Panorama City, California.

2. In response to the *Forfeiture Order*, Mr. Quintanilla submitted a *pro se* filing comprised of a notarized affidavit containing a series of factual assertions, and a copy of a recent 1099-MISC tax form.² Procedurally, if viewed in a light most favorable to Mr. Quintanilla, these documents could be construed as containing an implicit request that the Bureau reconsider its issuance of the *Forfeiture Order*. Accordingly, we opt to treat the Response as a Petition for Reconsideration filed pursuant to Section 1.106 of the Commission's rules (Rules).³

3. We find no basis for granting reconsideration based on the contents of the Response. Reconsideration is appropriate only when 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.⁴ In the Response, Mr. Quintanilla does not contest the Bureau's finding that he operated an unlicensed radio station in violation of Section 301 of the Act.⁵ Instead, Mr. Quintanilla notes his limited income and asserts that another individual, who is no longer in the United States, is the actual owner of the transmission equipment.⁶ With respect to Mr. Quintanilla's assertions that he lacks the ability to pay the forfeiture imposed in the *Forfeiture Order*, the financial information that Mr. Quintanilla provided in the Response does not qualify as "facts not known or not existing until

¹ *Nelson Quintanilla, Panorama City, California*, Forfeiture Order, 32 FCC Rcd 1043 (EB 2017) (*Forfeiture Order*).

² Nelson Quintanilla, Response to Forfeiture Order (Feb. 28, 2017) (on file in EB-FIELDWR-15-00019621) (Response).

³ 47 CFR § 1.106.

⁴ See 47 CFR § 1.106(c); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (EB 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)); see also *Ely Radio, LLC*, Memorandum Opinion and Order, 27 FCC Rcd 7608, 7610, para. 6 (EB 2012) (articulating the standard of review for Petitions for Reconsideration).

⁵ 47 U.S.C. § 301.

⁶ Response at 1.

after the petitioner's last opportunity to present such matters," under Section 1.106(c) of the Rules.⁷ Specifically, Mr. Quintanilla would have known his income when the Bureau issued the underlying Notice of Apparent Liability for Forfeiture and, had he chosen to do so, could have submitted that information as part of a timely response to it, rather than as a request for reconsideration of the *Forfeiture Order*. Moreover, even if Mr. Quintanilla were providing new facts that qualified under Section 1.106(c) of the Rules, the Response would be insufficient to support a downward adjustment of the forfeiture, as it failed to include the information required to support such an adjustment.⁸ Finally, we find that Mr. Quintanilla's assertions about the *ownership* of the transmission equipment are irrelevant to Mr. Quintanilla's statutory violations stemming from his *operation* of that same equipment. Accordingly, we find that Mr. Quintanilla has not provided us with sufficient grounds to grant reconsideration. We therefore find that the Bureau properly decided the matters raised, and we uphold the *Forfeiture Order* for the reasons stated therein.

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Communications Act of 1934, as amended (Act), and Section 1.106 of the Rules, the Petition for Reconsideration filed by Nelson Quintanilla is hereby **DENIED**.⁹

5. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311, and 1.80 of the Rules, Nelson Quintanilla **IS LIABLE FOR A MONETARY FORFEITURE** of \$25,000 for willfully and repeatedly violating Section 301 of the Act.¹⁰

6. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Memorandum Opinion and Order.¹¹ 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.¹²

7. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Mr. Quintanilla shall send electronic notification of payment to Matthew L. Gibson at matthew.gibson@fcc.gov, with copy to WR-Response@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹³ 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 that should be followed based on the form of payment selected:

⁷ 47 CFR § 1.106(c).

⁸ In the Notice of Apparent Liability for Forfeiture, the Bureau provided specific instructions regarding the information Mr. Quintanilla would need to provide in connection with a request for a reduction of the proposed forfeiture. *Nelson Quintanilla*, Notice of Apparent Liability for Forfeiture, 31 FCC Rcd 12751, 12756, para. 17 (EB 2016). Specifically, the Bureau directed Mr. Quintanilla to support any request for reduction based on an inability to pay with "(1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status." *Id.* Yet, in the Response, Mr. Quintanilla merely stated his annual income and provided an IRS Form 1099-MISC representing a small fraction of that income. *See* Response.

⁹ 47 U.S.C. § 405; 47 CFR § 1.106.

¹⁰ 47 U.S.C. §§ 301, 503(b); 47 CFR §§ 0.111, 0.311, 1.80.

¹¹ 47 CFR § 1.80.

¹² 47 U.S.C. § 504(a).

¹³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- 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 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. 20554.¹⁴ Questions regarding payment procedures should be directed to 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 Memorandum Opinion and Order shall be sent by first class mail and certified mail, return receipt requested, to Nelson Quintanilla at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Phillip Rosario
Deputy Bureau Chief
Enforcement Bureau

¹⁴ See 47 CFR § 1.1914.