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

In the Matter of	)	
	)	
Rego, Inc.	)	File No. EB-01-CG-139
Licensee of Station WGEZ(AM)	)	NAL/Acct. No. 200132320002
Beloit, Wisconsin	)	

FORFEITURE ORDER

Adopted: September 17, 2001 **Released: September 19, 2001**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* ("*Order*"), we issue a monetary forfeiture in the amount of six thousand five hundred dollars ($6,500) to Rego, Inc. ("Rego"), licensee of Station WGEZ(AM), Beloit, Wisconsin, for willful violations of Sections 11.35(a), 73.1400(a)(1)(ii) and 73.1800(a) of the Commission's Rules ("Rules").[1] The noted violations involve Rego's failure to install and maintain operational Emergency Alert System ("EAS") equipment, failure to have a remote control system at the main studio able to provide sufficient transmission system monitoring and control capability, and failure to maintain a station log.

2. On July 13, 2001, the Commission's Chicago, Illinois, Field Office ("Chicago Office") issued a *Notice of Apparent Liability for Forfeiture* ("*NAL*") to Rego for a forfeiture in the amount of six thousand five hundred dollars ($6,500).[2] Rego filed a response to the *NAL* on July 27, 2001.

II. BACKGROUND

3. On March 21, 2001, agents from the Commission's Chicago Office inspected WGEZ. During the inspection, the agents observed, among other rule violations, that WGEZ did not have operational EAS equipment installed and was unable to monitor EAS transmissions; did not have a remote control system at the main studio able to provide sufficient transmission system monitoring and control capability; and did not have a station log.

4. On March 27, 2001, the Chicago Office issued a Notice of Violation ("NOV") citing Rego for these and other violations observed during the inspection. On May 1, 2001, Rego responded to the NOV. In its response, Rego acknowledged the violations, but stated that at the time of the inspection it was in the process of correcting deficiencies that existed when it purchased the station in July 2000. Specifically, Rego stated that it was not aware that the station lacked operational EAS equipment and

[1] 47 C.F.R. §§ 11.35(a), 73.1400(a)(1)(ii) and 73.1800(a).

[2] *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200132320002 (Enf. Bur., Chicago Office, released July 13, 2001).

remote control equipment until it hired an operational manager in February 2001, and that it immediately took steps to acquire and install the necessary equipment. Rego further stated that at the time of the inspection the EAS and remote control equipment had been ordered and was awaiting delivery and installation. Rego also indicated that immediately after the inspection, it established the requisite station logs, that the remote control equipment was installed on March 24, 2001, and that the EAS equipment was installed on April 14, 2001.

5. On July 13, 2001, the Chicago Office issued an *NAL* in the amount of $6,500 to Rego for failure to have operational EAS equipment installed, failure to have a remote control system at the main studio that provided sufficient transmission system monitoring and control capability, and failure to maintain a station log in willful violation of Sections 11.35(a), 73.1400(a)(1)(ii) and 73.1800(a) of the Rules. The *NAL* noted that the aggregate base forfeiture amount for these three violations is $12,000,[3] but determined that a 50% reduction in the base forfeiture amounts for the two equipment-related violations was appropriate because Rego had ordered new EAS and remote control equipment prior to the inspection. On July 26, 2001, the Commission received Rego's response to the *NAL*. In the response, Rego's President, Betsy Trimble, states that she was not aware that the EAS and remote control equipment was not operational when she took control of the station in July 2000 and that she did not learn the equipment was not operational until she hired an operational manager in February 2001. Ms. Trimble further states that she never owned any business before and lives over an hour from the station, that she relied upon her general managers to run the station, and that she fired them when she learned that they were neglecting their jobs. In addition, Ms. Trimble asserts that the EAS and remote control equipment had been ordered and were awaiting installation at the time of the inspection. Finally, Rego has submitted the first page of its federal tax return for 2000, presumably to demonstrate that it is unable to pay the proposed forfeiture.

III. DISCUSSION

6. The forfeiture amount in this case was assessed in accordance with Section 503 of the Communications Act of 1934, as amended ("Act"),[4] Section 1.80 of the Rules,[5] and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Policy Statement*"). In examining Rego's response, Section 503(b) 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.[6]

[3] Under *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999), the base forfeiture amount for EAS equipment not installed or operational is $8,000, the base forfeiture amount for violation of transmitter control and metering requirements is $3,000, and the base forfeiture amount for failure to maintain required records is $1,000.

[4] 47 U.S.C. § 503(b).

[5] 47 C.F.R. § 1.80.

[6] 47 U.S.C. § 503(b)(2)(D).

7. Section 11.35(a) of the Rules requires that broadcast stations install EAS encoders, EAS decoders and attention signal generating and receiving equipment so that the monitoring and transmitting functions are available during the times the stations are in operation. Section 73.1400(a)(1)(ii) of the Rules requires that the remote control system at the main studio provide sufficient transmission system monitoring and control capability so as to ensure compliance with Section 73.1350 of the Rules.[7] Section 73.1800(a) of the Rules requires that licensees of all broadcast stations maintain a station log.

8. Rego acknowledges that it did not have operational EAS equipment from July 2000, when it took control of the station, until April 14, 2001. Section 11.35(b) of the Rules provides temporary authority to operate for 60 days pending repair or replacement of EAS equipment.[8] If the equipment cannot be repaired or replaced within 60 days, an informal request must be made to the District Director of the FCC Field Office serving the area in which the broadcast station is located for additional time to repair or replace the equipment.[9] Therefore, Rego was required to replace WGEZ's EAS system within 60 days of the time it took control of the station or make an informal request to the District Director of the Chicago Office for additional time to replace the EAS system. Rego did neither. Instead, it operated WGEZ without functional EAS equipment for approximately eight months. Rego also acknowledges that it did not have operational remote control equipment or maintain a station log from July 2000 until March 2001. Accordingly, we conclude that Rego willfully violated Sections 11.35(a), 73.1400(a)(1)(ii) and 73.1800(a) of the Rules.[10]

9. While Rego's President states that she has never owned a business before and that she relied upon her general managers to run the station, we do not believe that the licensee's inexperience as a broadcaster or its reliance on its employees supports mitigation of the forfeiture. The Commission has long held that it is the responsibility of a licensee to familiarize itself and comply with the applicable statutes and Commission rules and policies, regardless of the length of time it has been engaged in broadcasting. *See Bay Television, Inc.*, 10 FCC Rcd 11509, 11511 (1995); *J.B. Broadcasting of Augusta, Ltd.*, 41 FCC 2d 507, 508 (1973). In addition, it is well established that licensees are responsible for the acts and omissions of their employees. *See MTD, Inc.*, 6 FCC Rcd 34, 35 (1991); *Gaffney Broadcasting, Inc.*, 23 FCC 2d 912, 913 (1970). Moreover, we have already taken Rego's good faith efforts to comply with the rules into account in setting the forfeiture amount. As stated in the *NAL*, we reduced the base forfeiture amounts for the two equipment-related violations 50% because Rego had ordered new EAS and remote control equipment prior to the inspection. We do not believe that any further reduction of the forfeiture amount on this basis is warranted.

10. Finally, we do not believe that Rego has demonstrated that it is unable to pay the proposed $6,500 forfeiture. Rego's financial documentation is incomplete insofar as it has provided only

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[7] 47 C.F.R. §73.1350.

[8] 47 C.F.R. § 11.35(b).

[9] 47 C.F.R. § 11.35(c).

[10] Section 312(f)(1) of the Act provides that "the term 'willful,' when used with reference to the commission or omission of any act, means the conscious or deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission …." 47 U.S.C. § 312(f)(1). This definition applies to the term "willful" as used in Section 503(b) of the Act. *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

the first page of its federal tax return for 2000. Without a complete tax return, we are unable to accurately assess Rego's ability to pay the forfeiture.[11] In any event, the Commission has held that a licensee's gross income is generally the best indicator of its ability to pay a forfeiture. *See PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088 (1992). In view of the gross revenues indicated by the first page of Rego's tax return, we cannot conclude that Rego is unable to pay the $6,500 forfeiture.

11. We have examined Rego's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Policy Statement* as well. As a result of our review, we conclude that Rego has provided no basis for rescission or mitigation of the proposed monetary forfeiture and that $6,500 is the appropriate forfeiture amount.

IV. ORDERING CLAUSES

12. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act,[12] and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,[13] Rego, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of six thousand five hundred dollars ($6,500) for failure to install and maintain operational EAS equipment, failure to have a remote control system at the main studio able to provide sufficient transmission system monitoring and control capability, and failure to maintain a station log in willful violation of Sections 11.35(a), 73.1400(a)(1)(ii) and 73.1800(a) of the Rules.

13. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *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.[14] Payment shall be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. referenced above. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.[15]

[11] Normally, tax returns for the most recent three-year period would be required. *See NAL* at ¶ 13. However, Rego just purchased the station in July 2000.

[12] 47 U.S.C. § 503(b).

[13] 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

[14] 47 U.S.C. § 504(a).

[15] *See* 47 C.F.R. § 1.1914.

14. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to Rego, Inc., c/o Betsy Trimble, 6161 N. Berkeley Blvd, Milwaukee, Wisconsin 53217, and to its counsel, Jack Richards, Esq., Keller and Heckman, LLP, 1001 G Street, N.W., Suite 500 West, Washington, D.C. 20001.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau