

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

In the Matter of	)	File No. EB-02-AT-050
	)	
Sycamore Valley Broadcasting, Inc.	)	NAL/Acct. No. 200232480001
	)	
Ashland City, TN	)	FRN 0003-7542-56

**FORFEITURE ORDER**

**Adopted: August 13, 2002**

**Released: August 15, 2002**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of four thousand (\$4,000) to Sycamore Valley Broadcasting, Inc. (“Sycamore”), Ashland City, Tennessee, for repeated and willful violation of Sections 11.52(d), 11.61(a), 17.50, 73.1400 and 73.1745(a) of the Commission’s Rules (“Rules”),<sup>1</sup> The noted violations involve Sycamore’s failure: to monitor two Emergency Alert System (“EAS”) sources; to send and receive the required EAS tests; to repaint its antenna structure as often as necessary to maintain good visibility; to maintain sufficient transmission system monitoring and control; and to reduce transmitter power after sunset.

2. On April 30, 2002, the Commission’s Atlanta, Georgia, District Office (“Atlanta Office”) issued a *Notice of Apparent Liability for Forfeiture* (“NAL”) to Sycamore for a forfeiture in the amount of twenty-five thousand dollars (\$25,000).<sup>2</sup> Sycamore filed a response to the NAL dated May 14, 2002.

**II. BACKGROUND**

3. Sycamore is the licensee of AM radio station WQSV, Ashland City, Tennessee, and is the owner of that station’s antenna structure. On or about October 26, 1995, and on January 7, 1998, the Atlanta Office received complaints indicating that Sycamore did not reduce WQSV’s transmitter power after sunset. The Atlanta Office sent letters concerning those complaints to Sycamore on October 26, 1995, and on March 16, 1998, respectively.

4. On January 26, 1999, an agent from the Atlanta Office monitored station WQSV’s signal and made field strength measurements which showed that Sycamore did not reduce WQSV’s power after sunset.<sup>3</sup> On January 27, 1999, the agent conducted an inspection of station WQSV and found that, among

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<sup>1</sup> 47 C.F.R. §§ 11.52(d), 11.61(a), 17.50, 73.1400, and 73.1745(a).

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232680002 (Enf. Bur., Atlanta Office, released April 30, 2002).

<sup>3</sup> WQSV’s license authorized it to operate with a power of 500 watts during daylight hours and 35 watts between sunset and sunrise. It is not possible to comply with these requirements unless power is reduced after

other violations, Sycamore had: failed to monitor two EAS sources; failed to send and receive the required EAS tests; failed to repaint its antenna structure as often as necessary to maintain good visibility; and failed to maintain sufficient transmission system monitoring and control.

5. On February 5, 1999, the Atlanta Office issued an Official Notice of Violation (“NOV”) to Sycamore for violations detected on January 26 and 27, 1999. In a response received February 17, 1999, Sycamore stated that it had corrected or would correct all of the violations specified in the NOV.

6. On November 19, 2001, the Atlanta Office received a new complaint indicating that Sycamore did not reduce WQSV’s power after sunset. On the same day the Atlanta Office sent Sycamore a letter concerning this complaint. On February 4 and 5, 2002, an agent from the Atlanta Office monitored station WQSV’s signal and made field strength measurements which showed that Sycamore did not reduce WQSV’s power after sunset. On February 5, 2002, the agent conducted an inspection of station WQSV and found that station WQSV was capable of monitoring only one EAS source; that station WQSV could neither send nor receive EAS tests and had no logs or other records indicating that the station had ever sent or received the required EAS tests; that WQSV’s antenna structure had over 60% of its orange and white paint flaked off, resulting in poor visibility; and that WQSV’s transmitter remote control equipment had an inoperative meter, causing the station operator to be incapable of determining the operating power.

7. On April 30, 2002, the Atlanta Office issued a *NAL* to Sycamore in the amount of \$25,000 for the violations set forth above. In its May 14, 2002, response to the *NAL*, Sycamore argues that it is financially unable to pay the proposed forfeiture. As support, Sycamore encloses copies of its Tennessee State “Franchise, Excise” tax returns for 1999, 2000 and 2001. Sycamore also argues that the forfeiture should not be imposed because “we have corrected all the problems referenced and we have made every attempt to operate in compliance with the Commission’s rules and regulations.”

### III. DISCUSSION

8. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended, (“Act”),<sup>4</sup> Section 1.80 of the Rules,<sup>5</sup> 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*”). Section 503(b) of the Act requires that, in examining Sycamore’s response, 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.<sup>6</sup>

9. Section 11.52(d) of the Rules requires broadcast stations to monitor two EAS sources. Section 11.61(a) requires broadcast stations to perform weekly and monthly EAS tests. Section 17.50 of

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sunset.

<sup>4</sup> 47 U.S.C. § 503(b).

<sup>5</sup> 47 C.F.R. § 1.80.

<sup>6</sup> 47 U.S.C. § 503(b)(2)(D).

the Rules requires owners to clean and repaint their antenna structures as often as necessary to maintain good visibility. Section 73.1400 of the Rules requires broadcast station licensees to maintain transmission system monitoring and control which is sufficient to assure that, at all times, the station operates within the tolerances specified by the applicable technical rules. Section 73.1745(a) of the Rules prohibits broadcast stations from operating with any power other than that specified by their licenses.

10. Sycamore does not deny the violations alleged in the *NAL*. In view of the facts set forth above, we conclude that Sycamore failed to monitor two Emergency Alert System (“EAS”) sources, in repeated and willful violation of Section 11.52(d) of the Rules; failed to send and receive the required EAS tests, in repeated and willful violation of Section 11.61(a) of the Rules; failed to repaint its antenna structure as often as necessary to maintain good visibility, in repeated and willful violation of Section 17.50 of the Rules; failed to maintain sufficient transmission system monitoring and control, in repeated and willful violation of Section 73.1400 of the Rules; and did not operate station WQSV with the power specified by its license, in repeated and willful violation of Section 73.1745(a) of the Rules.

11. Sycamore’s remedial action subsequent to notification of the violations does not warrant cancellation or reduction of the proposed forfeiture.<sup>7</sup> However, after reviewing the tax returns submitted by Sycamore, we find that a reduction of the proposed forfeiture to \$4,000 is appropriate on the basis of financial hardship.

12. We have examined Sycamore’s response to the *NAL* in light of the above statutory factors and the factors set forth in the *Policy Statement*. Taking all of these factors into account, we conclude that the proper forfeiture amount is \$4,000.

#### IV. ORDERING CLAUSES

13. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,<sup>8</sup> Sycamore Valley Broadcasting, Inc., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$4,000 for repeated and willful violation of the provisions of Sections 11.52(d), 11.61(a), 17.50, 73.1400 and 73.1745(a) of the Rules.

14. 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.<sup>9</sup> 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. 200232480001, and the FRN No. 0003-7542-56. 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.<sup>10</sup>

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<sup>7</sup> See *KGVB, Inc.*, 42 FCC 2d 258, 259 (1973).

<sup>8</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>9</sup> 47 U.S.C. § 504(a).

<sup>10</sup> See 47 C.F.R. § 1.1914.

15. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to, Sycamore Valley Broadcasting, Inc., WQSV Radio, P.O. Box 619, Ashland City, TN 37015.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau