

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

In the Matter of	)	
	)	
Jamie Patrick Broadcasting, Ltd.	)	File Number EB-01-OR-212
KTRY-FM	)	
Bastrop, Louisiana	)	NAL/Acct. No. 200232620002
	)	FRN 0006-2802-42

**MEMORANDUM OPINION AND ORDER**

**Adopted: December 26, 2002**

**Released: December 30, 2002**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Memorandum Opinion and Order* (“*Order*”), we cancel the proposed monetary forfeiture in the amount of twenty two thousand dollars (\$22,000) issued to Jamie Patrick Broadcasting, Ltd., (“Patrick”), licensee of KTRY-FM, Bastrop, Louisiana, for failure to respond to Commission correspondence, failure to install and operate Emergency Alert System (“EAS”) equipment, and failure to maintain a public inspection file in apparent willful violation of Sections 1.89(b), 11.35(a), and 73.3526(a)(2) of the Commission’s Rules (“Rules”).<sup>1</sup> However, we conclude that Patrick willfully violated Sections 1.89(b) and 11.35(a) of the Rules and admonish Patrick for these violations.

**II. BACKGROUND**

2. On July 11, 2001, an agent from the Commission’s New Orleans, Louisiana Field Office (“New Orleans Office”) inspected KTRY-FM in Bastrop, Louisiana. During the inspection, the agent determined that no EAS equipment was installed and that there was no public inspection file available. On July 27, 2001, the New Orleans Office issued a *Notice of Violation* (“*NOV*”) citing Patrick for violations of Sections 11.35(a), 17.4(a), 17.50, 73.1230(a), 73.1400, 73.1800(a), and 73.3526(a)(2) of the Rules. On September 19, 2001, the New Orleans Office sent a letter by Certified Mail, Return Receipt Requested to Patrick, stating that no reply to the *NOV* had been received. The letter also cautioned the licensee concerning failure to reply to Commission correspondence. The New Orleans Office received a signed Certified Mail Receipt dated September 21, 2001. The New Orleans Office did not receive a reply to the letter or to the *NOV*.

3. On November 27, 2001, the New Orleans Office issued a *Notice of Apparent Liability* (“*NAL*”) to Patrick in the amount of \$22,000 for failure to respond to Commission correspondence in willful violation of Section 1.89(b) of the Rules, failure to install operational EAS equipment in willful violation of Section 11.35(a) of the Rules, and failure to maintain a public inspection file in willful violation of Section 73.3526(a)(2) of the Rules.<sup>2</sup> Patrick did not file a response to the *NAL*, and on April

<sup>1</sup> 47 C.F.R. §§ 1.89(b), 11.35(a), 73.3526(a)(2).

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232620002 (Enf. Bur., New Orleans Office, rel. Nov. 27, 2001).

25, 2002, the Enforcement Bureau issued a *Forfeiture Order*<sup>3</sup> to Patrick for willful violations of Sections 1.89(b), 11.35(a), and 73.3526(a)(2) of the Rules. On May 28, 2002, Patrick filed a petition for reconsideration. In its petition, Patrick requests that we cancel or reduce the forfeiture. Patrick argues that it is unable to pay the forfeiture due to financial hardship. In addition, Patrick requests additional time to address the violations enumerated in the *NOV*. Patrick also argues that the violations, if any, were not willful, and that it was confused as to the Commission's requirements. Further, Patrick contends that it has always maintained a public inspection file, but that on the day of the inspection, it was not at the main studio. Specifically, the licensee claims that the desk in which the public inspection file is kept had been moved to another location that was being used as a sales office. Patrick also states that the station was "manned" 24 hours a day by allowing a homeless person to occupy the facility, and that this person monitored the station's Emergency Broadcast System ("EBS") unit, the lead EAS station in Northeast Louisiana, and the transmitting equipment of the station. Finally, Patrick argues that it took several corrective actions after the agent's inspection.

### III. DISCUSSION

4. 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. Use of EBS equipment and the other efforts provided in Patrick's petition for reconsideration to demonstrate compliance do not meet the requirements of this section.<sup>4</sup> Moreover, in violation of Section 1.89(b) of the Rules, Patrick did not respond to the *NOV* issued by the New Orleans Office.

5. Section 73.3526(a)(2) of the Rules requires broadcast licensees to maintain a public inspection file. Patrick asserts that the station has always maintained a public inspection file, but it was not at the main studio on the day of the inspection. Based on Patrick's claim, which is supported by a certification, we find it appropriate to cancel the \$10,000 forfeiture for violation of Section 73.3526(a)(2) of the Rules.

6. Further, based on the financial documentation provided by Patrick, we conclude that payment of the remaining \$12,000 forfeiture for violations of Sections 1.89(b) and 11.35(a) of the Rules would impose a financial hardship on Patrick. Therefore, we will cancel the forfeiture for the remaining violations. Nevertheless, we find it appropriate to admonish Patrick for its willful violations of Sections 1.89(b) and 11.35(a) of the Rules.

### IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act,<sup>5</sup> and Section 1.106 of the Rules,<sup>6</sup> Patrick's petition for reconsideration of the *Forfeiture Order* in this proceeding **IS** hereby **GRANTED** to the extent noted herein.

8. **IT IS FURTHER ORDERED** that, pursuant to Sections 0.111, 0.311 and 1.80(i) of the Rules,<sup>7</sup> the forfeiture in the amount of twenty two thousand dollars (\$22,000) issued to Jamie Patrick Broadcasting, Ltd. **IS CANCELLED**.

<sup>3</sup> *Jamie Patrick Broadcasting, Ltd.*, 17 FCC Rcd 7301 (EB 2002).

<sup>4</sup> See e.g., 47 C.F.R. § 11.12 (EBS equipment type accepted for use under Part 73 of the rules was permissible for use by broadcast stations only until January 1, 1998).

<sup>5</sup> 47 U.S.C. § 405.

<sup>6</sup> 47 C.F.R. § 1.106.

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(i).

9. **IT IS FURTHER ORDERED** that, Patrick **IS ADMONISHED** for its failure to respond to Commission correspondence and for its failure to install EAS equipment at Station KTRY-FM in willful violation of Sections 1.89(b) and 11.35(a) of the Rules.

10. **IT IS FURTHER ORDERED** that, a copy of this *Order* shall be sent by first class and Certified Mail, Return Receipt Requested, to Jamie Patrick Broadcasting, Ltd., 328 West Madison Avenue, Bastrop, Louisiana, 71220.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau