

Before the

Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Southern Media Communications, Inc.,)	
Licensee of Station WBCA(AM) and,)	File No. EB-02-AT-304
Owner of Antenna Structure located at)	NAL/Acct. No. 200232480021
30°52'10" North Latitude by)	FRN 0004-9603-58
87°46'09" West Longitude in,)	
Bay Minnette, Alabama)	

MEMORANDUM OPINION AND ORDER

Adopted: September 15, 2004

Released: September 17, 2004

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* (“*Order*”), we grant, to the extent noted, the petition for reconsideration of the *Forfeiture Order*,¹ filed by Southern Media Communications, Inc. (“Southern Media”), licensee of Station WBCA(AM), and owner of an antenna structure located at 30°52'10" North Latitude by 87°46'09" West Longitude, located in Bay Minnette, Alabama. The *Forfeiture Order* imposed a monetary forfeiture in the amount of eleven thousand dollars (\$11,000) for willful violation of the Emergency Alert System (“EAS”) and antenna structure registration requirements of Sections 11.35(a) and 17.4(a) of the Commission’s Rules (“Rules”). In this *Order*, we lower the forfeiture to \$9,000.

2. In its petition for reconsideration, Southern Media does not deny that, when the Commission’s Atlanta, Georgia Field Office (“Field Office”) inspected the station’s facilities in August of 2002, its EAS equipment was not operational and its antenna structure was not registered. Southern Media nevertheless seeks cancellation or reduction of the imposed forfeiture on the basis of its remedial and good faith efforts. In this regard, Southern Media claims, and provides supporting documentation to show, that after the Field Office’s inspection, it promptly ordered a replacement part and repaired its EAS equipment so that it was fully operational. Additionally, Southern Media claims, and provides supporting documentation to show, that prior to the Field Office’s inspection, it had initiated efforts to register its antenna structure.

3. It is expected that violations observed during inspections and/or subject to enforcement actions will be corrected.² Such post-corrective actions, however, do not mitigate or negate past violations and do not warrant reduction or cancellation of forfeitures.³ We thus do not find that Southern

¹*Southern Media Communications, Inc.*, 18 FCC Rcd 24008 (Enf. Bur. 2003).

²See *AT&T Wireless Services, Inc.*, 17 FCC Rcd 7891 (2002), *forfeiture ordered*, 17 FCC Rcd 21866, 21875-76 ¶¶ 26-28 (2002); *Seawest Yacht Brokers*, 9 FCC Rcd 6099, 6099 ¶ 7 (1994); see also *TCI Cablevision of Maryland, Inc.*, 7 FCC Rcd 6013, 6014 ¶ 8 (1992).

³*Id.*

Media's subsequent equipment repairs warrant cancellation or reduction of the \$8,000 base forfeiture imposed for its violation of the EAS requirements.

4. In contrast, good faith efforts undertaken to comply with applicable requirements, *prior* to on-site inspections, have been considered mitigating factors that warrant reduction or cancellation of forfeitures.⁴ In the instant case, we find that the record establishes that Southern Media sought to register its antenna structure *prior* to the Commission's on-site inspection of its facilities. Specifically, the record contains Southern Media's president's sworn declaration, as well as paid invoices, which establish that Southern Media engaged a contractor to coordinate reports and register the antenna structure more than a year *prior* to the Commission's on-site inspection.⁵ Under the circumstances, we believe a reduction of the \$3,000 base forfeiture for that violation to \$1,000 is warranted.⁶

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 503(a) and (b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,⁸ Southern Media Communications, Inc., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of nine thousand dollars (\$9,000) for its willful violation of the EAS and antenna registration requirements set forth in Sections 17.4(a) and 11.35(a) of the Rules.

6. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

⁴See, e.g., *Radio One Licenses, Inc.*, 18 FCC Rcd 15964, 15965 ¶ 4 (2003), *recon. denied*, 18 FCC Rcd 25481 (2003); *Petracom of Texarkana, LLC*, 19 FCC Rcd 8096, 8097-97 ¶¶ 5-6 (Enf. Bur. 2004); *Barinowski Investment Co.*, 18 FCC Rcd 25067, 25069 ¶ 7 (Enf. Bur. 2003); *Max Media of Montana, LLC*, 18 FCC Rcd 21375, 21378 ¶ 11 (Enf. Bur. 2003); *Rotifeco, Inc.*, 18 FCC Rcd 14629, 14631 ¶ 7 (Enf. Bur. 2003); *Tidewater Communications, Inc.*, 18 FCC Rcd 5524, 5525 ¶¶ 5-6 (Enf. Bur. 2003).

⁵As licensee, Southern Media is responsible for compliance with the antenna registration requirements, and thus is not absolved from liability because its contractor failed to complete the antenna registration in 2001. See, e.g., *Eure Family Partnership*, 17 FCC Rcd 21861, 21863-64 ¶¶ 6-7 (2002); *Sonderling Broadcasting Corp.*, 69 FCC 2d 289, 290-91 ¶ 6 (1977); *Wagenvoord Broadcasting Co.*, 35 FCC 2d 361, 361-62 ¶ 3 (1972); *Charter Communications VI, LLC*, 17 FCC Rcd 16516, 16518-19 ¶¶ 8-9 (Enf. Bur. 2002).

⁶In this connection, Southern Media also claims that, *after* the on-site inspection, it undertook efforts to and ultimately did register the antenna structure. Commission records reflect that Southern Media's antenna structure, in fact, is registered (Antenna Structure No. A0370195, 30°52'12.2" North Latitude by 87°46'08.1" West Longitude in, Bay Minnette, Alabama). However, as discussed herein, post-inspection corrective actions do not mitigate a past violation, and thus do not warrant a further reduction in the assessed forfeiture amount.

⁷47 U.S.C. §§ 503(a) and (b).

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

⁹See 47 C.F.R. § 1.1914.

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Southern Media Communications, Inc., 1318 South Main Street, Atmore, Alabama 36502 and its counsel, John C. Trent, Esq., Putbrese, Hunsaker & Trent, P.C., 100 Carpenter Drive, Suite 100, Sterling, Virginia 20167.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

