

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

In the Matter of
EMMIS TELEVISION LICENSE CORP.
Licensee of Station WTHI-TV
Terre Haute, Indiana
File No. EB-03-IH-0741
Facility ID No. 70655

MEMORANDUM OPINION AND ORDER

Adopted: November 23, 2004

Released: November 23, 2004

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we admonish Emmis Television License Corporation ("Emmis"), licensee of Station WTHI-TV, Terre Haute, Indiana (the "Station"), for violating the provision in our broadcast public inspection file rule involving letters from the public. As discussed below, we have carefully reviewed the record before us, and conclude that Emmis violated the rule by failing to maintain copies of two letters from a member of the public in the Station's public inspection file. While we believe that no monetary sanction is warranted at this time, we find that an admonition is necessary to redress this rule violation.

II. BACKGROUND

2. On June 20 and July 28, 2003, Mr. Rich Azar sent letters to the Station expressing concern about its news coverage of an alleged domestic violence case. On November 20, 2003, Mr. Azar visited the Station to review its public inspection file. He was provided full access to the file, but he noted that his letters were not in the file. On December 8, 2003, Mr. Azar filed a complaint with the Enforcement Bureau, stating that although he was given full access to the Station's public inspection file, he did not find copies of his letters in the file. On August 10, 2004, the Enforcement Bureau sent Emmis a letter of inquiry concerning the matters raised in the complaint. On September 9, 2004, Emmis responded to the letter of inquiry. In its Response, Emmis admits that the letters were missing from the

1 See 47 C.F.R. § 73.3526(e)(9) (letters and e-mails from the public to be available for public inspection for a period of three years).

2 Letter from Rich Azar to Enforcement Bureau of Federal Communications Commission, dated November 29, 2003. Mr. Azar provided copies of the missing letters with his complaint.

3 Letter from Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Emmis, dated August 10, 2004.

4 Letter from J. Scott Enright, Vice-President, Associate General Counsel and Secretary of Emmis, to Secretary, Federal Communications Commission, dated September 9, 2004 (the "Response").

public inspection file. Emmis explains that the Station's General Manager, David Bailey, had forwarded the letters to the Station's news department for review. During that process, the Station misplaced the letters. Emmis explains that it has since placed copies of the letters in the public inspection file, reviewed the public inspection file for completeness, and reminded all staff members of the proper procedures for forwarding public file materials to the individuals responsible for updating the public file.⁵ Mr. Azar filed a reply in which he does not take issue with the factual assertions in the *Response*.⁶

III. DISCUSSION

3. The facts in this case are not in dispute. Emmis admits that it violated the rule by omitting Mr. Azar's letters from its public inspection file. Accordingly, the only issue to be resolved is whether a forfeiture is warranted here. In view of the totality of the circumstances of this case, including the narrow scope of the violation, we conclude that an admonition, and not a monetary sanction, is appropriate.⁷

IV. ORDERING CLAUSES

4. ACCORDINGLY, IT IS ORDERED THAT Emmis Television License Corporation, licensee of Station WTHI-TV, Terre Haute, Indiana, IS ADMONISHED for violating section 73.3526(e)(9) of the Commission's rules, 47 C.F.R. § 73.3526(e)(9).

5. IT IS FURTHER ORDERED that the complaint filed in this matter IS GRANTED to the extent indicated herein, and IS OTHERWISE DENIED, and the complaint proceeding IS HEREBY TERMINATED.

6. IT IS FURTHER ORDERED that a copy of this *Memorandum Opinion and Order* shall be sent, by Certified Mail/Return Receipt Requested, to J. Scott Enright, Esq., Vice-President, Associate General Counsel and Secretary, Emmis Television License Corp., One EMMIS Plaza, 40 Monument Circle, Suite 700, Indianapolis, Indiana 46204, and to Mr. Rich Azar, 3704 Wabash Avenue, Terre Haute, Indiana 47803.

FEDERAL COMMUNICATIONS COMMISSION

William H. Davenport
Chief, Investigations and Hearings Division
Enforcement Bureau

⁵ *Response* at 2.

⁶ Letter from Rich Azar to Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, dated September 22, 2004.

⁷ See *EZ New Orleans, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 7164 (1999); *Jamie Patrick Broadcasting, Ltd.*, Memorandum Opinion and Order, 17 FCC Rcd 26277 (EB 2002).