

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

In the Matter of)	
)	
WCVC, Inc.)	File No. EB-02-TP-314
Licensee of Station WCVC(AM),)	NAL/Acct. No. 200332700001
Tallahassee, Florida)	FRN # 0003-7830-40

MEMORANDUM OPINION AND ORDER

Adopted: December 14, 2004

Released: December 16, 2004

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* (“*Order*”), we deny the petition for reconsideration filed by WCVC, Inc. (“WCVC”), licensee of Station WCVC(AM), Tallahassee, Florida. WCVC seeks reconsideration of the *Forfeiture Order*,¹ in which the Chief, Enforcement Bureau (“Bureau”), found it liable for a monetary forfeiture in the amount of seven thousand dollars (\$7,000) for willful violation of Section 73.49 of the Commission’s Rules (“Rules”).² The noted violation involves WCVC’s failure to effectively fence its antenna structure.

2. On August 7, 2002, agents from the Commission’s Tampa, Florida Office (“Tampa Office”) conducted an on-site inspection of Station WCVC and observed a violation of Section 73.49 of the Rules. On October 22, 2002, the Tampa Office released a *Notice of Apparent Liability for Forfeiture* (“NAL”)³ in the amount of seven thousand dollars (\$7,000) against WCVC for the noted violation. In its response to the *NAL*, WCVC admitted that part of the fence around its antenna structure was down but argued that it did not willfully violate Section 73.49 of the Rules and sought cancellation of the proposed forfeiture. On February 4, 2004, the Bureau rejected WCVC’s argument and issued a \$ 7,000 *Forfeiture Order* to WCVC for the noted violation. In the petition for reconsideration of the *Forfeiture Order*, WCVC “does not contest the \$7,000 fine for the offense” but contends that it is unable to pay the forfeiture and provides financial information to support that claim.

3. As we stated in the *NAL*, the Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the

¹ 19 FCC Rcd 1916 (Enf. Bur. 2004).

² 47 C.F.R. § 73.49.

³ See *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332700001 (Enf. Bur., Tampa Office, released October 22, 2002).

petitioner's current financial status. We find nothing in the financial data submitted⁴ which would support cancellation of the forfeiture or a reduction based upon financial hardship.⁵

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of Act and Section 1.106 of the Rules, WCVC's petition for reconsideration of the Bureau's *Forfeiture Order* issued on February 4, 2004, **IS DENIED** and the issuance of the \$7,000 forfeiture **IS AFFIRMED**.

5. 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.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 Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

6. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Wendell Borrink, President, WCVC, Inc., 117 ½ Henderson Road, Tallahassee, Florida 32312.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁴ The Commission has determined that, in general, a licensee's gross revenues are the best indicator of its ability to pay a forfeiture. See *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088, 2089 (1992).

⁵ *Id.* at 2089 (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, 15 FCC Rcd 8640, 8641 (Enf. Bur. 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues); *Afton Communications Corp.*, 7 FCC Rcd 6741 (Com. Car. Bur. 1992) (forfeiture not deemed excessive where it represented approximately 3.9 percent of the violator's gross revenues).

⁶ 47 U.S.C. § 504(a).

⁷ See 47 C.F.R. § 1.1914.