

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

In the matter of)	
)	
Channel 32 Montgomery LLC)	Facility ID No. 72307
Licensee of WNCN(TV), Montgomery, AL)	NAL/Acct. No. 0641420013
)	FRN: 0005021662

**NOTICE OF APPARENT
LIABILITY FOR FORFEITURE**

Adopted: December 6, 2005**Released: December 9, 2005**

By the Chief, Media Bureau:

I. INTRODUCTION

1. The Commission, by the Chief, Media Bureau, pursuant to delegated authority, has before it for consideration a license renewal application for the captioned television station in Montgomery, Alabama. We find that Channel 32 Montgomery LLC (Channel 32), licensee of station WNCN(TV), Montgomery, Alabama willfully and repeatedly violated Section 73.3615 of the Commission's Rules (Rules) by failing to file Ownership Reports (FCC Form 323).¹ For the reasons set forth below, we find Channel 32 apparently liable in the amount of three thousand dollars (\$3,000) for its violation of Section 73.3615 of the Rules.

II. BACKGROUND

2. Section 73.3615 of the Rules requires broadcast licensees to file an Ownership Report (FCC Form 323) when filing the station's application for renewal of license and every two years thereafter on the anniversary of the date its renewal application is due to be filed.² Section 73.3526(e)(5) of the Rules also requires each licensee of a commercial broadcast station to place in the public inspection file for its station, a copy of the most recent, complete ownership report filed with the Commission.

3. On December 1, 2004, the licensee filed a license renewal application (FCC Form 303-S) for station WNCN(TV), Montgomery, Alabama (File No. BRCT-20041201AGF). In response to Section IV, Question 1 of that application, the licensee certified that, during the previous license term, it failed to file with the Commission station WNCN(TV)'s Biennial Ownership Report. In Exhibit 14 of that application, the licensee states that due to oversight, it did not file Biennial Ownership Reports in 2001 and 2003. The licensee maintains that when it discovered the violation, it filed an ownership report to reflect the ownership as of December

¹ 47 C.F.R. § 73.3615.

² 47 C.F.R. § 73.3615(a).

2003, the last time a biennial ownership report was due. The licensee stated that another ownership report, providing current information, would be filed in connection with the instant renewal application.

III. DISCUSSION

4. Channel 32's failure to file Biennial Ownership Reports for 2001 and 2003 constitutes a willful and repeated violation of Section 73.3615(a) of the Rules. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.³ In determining the appropriate forfeiture amount, we must consider the factors enumerated in Section 503(b)(2)(D) of the Act, including "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 such other matters as justice may require."⁴

5. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines (Forfeiture Policy Statement)* and Section 1.80 of the Rules set a base forfeiture amount of \$3,000 for failure to file a required form.⁵ As explained above, Channel 32 has apparently failed to comply with Section 73.3615 of the Rules by not filing Biennial Ownership Reports for 2001 and 2003.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of Act, and Sections 0.283 and 1.80 of the Rules, Channel 32 Montgomery LLC is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willfully and repeatedly violating Section 73.3615(a) of the Rules.

7. IT IS FURTHER ORDERED that, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this Notice,⁶ Channel 32 Montgomery LLC SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement

³ 47 U.S.C. § 503(b).

Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by the Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

Section 312(f)(2) of the Act provides that "[t]he term 'repeated,' when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁴ 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement*, 12 FCC Rcd 17087, 17100 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4).

⁵ 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section I. Base Amounts for Section 503 Forfeitures; *Forfeiture Policy Statement*, 12 FCC Rcd at 17114, Appendix A, Section I.

⁶ 47 C.F.R. §§ 0.283 and 1.80.

seeking reduction or cancellation of the proposed forfeiture. 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 Federal Communications Commission, at P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under the installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

8. Finally, IT IS ORDERED that, a copy of this Notice of Apparent Liability shall be sent by First Class and Certified Mail, Return Receipt Requested to Channel 32 Montgomery LLC at 3251 Harrison Road, Montgomery, Alabama, 36109, and to its counsel, Todd M. Stansbury, Esq., Wiley Rein & Fielding LLP, 1776 K Street, N.W., Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

Donna C. Gregg
Chief, Media Bureau

⁷ See 47 C.F.R. § 1.1914.