

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

In the Matter of)	
)	Facility ID No. 57802
Brazos Valley Broadcasting, LLC)	NAL/Acct. No. MB20051810075
)	FRN: 0008719536
Licensee of Station KZTR(FM))	File No. BRH-20050323AEO
Franklin, Texas)	

FORFEITURE ORDER

Adopted: June 27, 2006

Released: June 29, 2006

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of one thousand dollars (\$1,000), to Brazos Valley Broadcasting, LLC (“Brazos”), licensee of Station KZTR(FM), Franklin, Texas (the “Station”), for its willful and repeated violation of Section 73.3526 of the Commission’s Rules (the “Rules”).¹ The violations involve Brazos’ failure to properly maintain the Station’s public inspection file.

2. On August 10, 2005, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of nine thousand dollars (\$9,000) to Brazos for this violation.² Brazos filed a Request for Reduction of Proposed Forfeiture (“Request”) on September 9, 2005.

II. BACKGROUND

3. As noted in the NAL, on March 23, 2005, Brazos filed an application to renew the license of KZTR(FM). Section III, Item 3 of the license renewal application form, FCC Form 303-S, requests that the licensee certify that the documentation required by Section 73.3526 of the Rules has been placed in the station’s public inspection file at the appropriate times. Brazos indicated “No” to that certification, attaching as an exhibit a letter by Jim Ray, the President of Brazos, dated September 9, 2002, explaining that the Station’s issues/programs lists prior to July 1, 2002, were inadvertently destroyed during a Station move and that the lists cannot be replaced.³ Brazos advised that this letter was placed in the Station’s public file to alert the public that the issues/programs lists were missing. On August 10, 2005, the staff advised Brazos of its apparent liability for a forfeiture of \$9,000 for willfully and repeatedly violating Section 73.3526 of the Rules, based on the fact that, by its admission, all issues/programs lists prior to July 1, 2002 – a total of 19 lists, according to the staff – were missing from KZTR(FM)’s public inspection file. In response, Brazos filed the subject Request.⁴

¹ 47 C.F.R. § 73.3526.

² *Letter to Kathleen Victory from Peter Doyle*, reference 1800B3-SS (MB Aug. 10, 2005).

³ See Exhibit 11 of the captioned application.

⁴ Brazos also filed a Request for Expedited Processing on April 18, 2006.

4. In support of its Request, Brazos states that that the issues/programs lists prior to July 1, 2002, were, in fact, prepared and timely placed in the Station's public file, but that during a move to a new location in the Spring of 2002, the lists were "accidentally thrown away." Brazos submits that (1) the violation occurred for less than three years, rather than the five years cited in the NAL; and (2) upon discovering the lists were missing, it showed an "abundance of caution" by placing Jim Ray's September 9, 2002, letter in the Station's public file. Brazos asserts these reasons warrant a reduction of the assessed forfeiture.

III. DISCUSSION

5. Section 73.3526 of the Rules requires that certain items be retained in the public file, including quarterly issues/programs lists. We determine that Brazos willfully and repeatedly violated Section 73.3526(e)(12) of the Rules⁵ based on its admission that issues/programs lists were destroyed during a studio move in 2002 and that these lists could not be recreated. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (the "Act"),⁶ Section 1.80 of the Rules,⁷ and the Commission's *Forfeiture Policy Statement*.⁸ In examining Brazos' Request, Section 503(b) of the Act⁹ and the other cited authority require that we take into account 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 other such matters as justice may require.

6. We have examined Brazos' Request pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that Brazos' violation occurred for approximately three years, rather than the previously specified five years. We also credit the licensee's representation that the requisite issues/programs lists were generated and timely placed in Station KZTR(FM)'s public inspection file, but subsequently were accidentally discarded. Under these circumstances, we reduce the \$9,000 forfeiture proposed against Brazos to \$1,000.¹⁰

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules,¹¹ that Brazos Valley Broadcasting, LLC SHALL FORFEIT to the United States the sum of \$1,000 for willfully and repeatedly violating Section 73.3526 of the Commission's Rules.

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's Rules within 30 days of the release of this Forfeiture Order. If the forfeiture is not paid

⁵ 47 C.F.R. § 73.3526(e)(12).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. § 1.80.

⁸ See *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17100 (1997) ("*Forfeiture Policy Statement*"), recon. denied, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section I.

⁹ 47 U.S.C. § 503(b)(2)(D).

¹⁰ See, e.g., *The Trustees of Davidson College*, Forfeiture Order, 20 FCC Rcd 17190 (MB 2005) (\$1,000 forfeiture appropriate when licensee generated and timely placed issues/programs lists into the station's public inspection file but subsequently misplaced them and the lists could neither be located nor reconstructed).

¹¹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹² 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, 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 an installment plan should be sent to: Associate Managing Director - Financial Operations, 445 12th St, SW, Room 1-A625, Washington, DC 20554.¹³

9. IT IS FURTHER ORDERED, that copies of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested and by First Class Mail to Brazos Valley Broadcasting, LLC, 1240 Villa Maria, Bryan, Texas, 77802 and to its counsel, Kathleen Victory, Esq., Fletcher, Heald & Hildreth, PLC, 11th Floor, 1300 North 17th Street, Arlington, Virginia, 22209.

FEDERAL COMMUNICATIONS COMMISSION

Donna C. Gregg
Chief, Media Bureau

¹² 47 U.S.C. § 504(a).

¹³ See 47 C.F.R. § 1.1914.