

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

In the Matter of)	
)	
Alpha Broadcasting Corporation)	Facility I.D. No. 2370
Licensee of Station WSVI(TV))	NAL/Acct. No. 0741420001
Christiansted, Virgin Islands)	FRN: 0003773553

**NOTICE OF APPARENT
LIABILITY FOR FORFEITURE**

Adopted: December 28, 2006

Released: December 29, 2006

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture ("NAL")* issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Commission's Rules (the "Rules"),¹ by the Chief, Media Bureau pursuant to authority delegated under Section 0.283 of the Rules,² we find that Alpha Broadcasting Corporation (the "Licensee"), licensee of Station WSVI(TV), Christiansted, Virgin Islands (the "Station"), apparently willfully violated Section 73.3539(a) of the Rules by failing to file the Station's license renewal application in a timely manner.³ Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of one thousand five hundred dollars (\$1,500).

II. BACKGROUND

2. Section 73.3539(a) of the Rules provides that a license renewal application shall be filed by the first day of the fourth full calendar month before the expiration date of the license to be renewed.⁴ Thus, license renewal applications for stations located in the Virgin Islands were due to be filed no later than October 1, 2004, four months prior to the February 1, 2005 expiration date.⁵

3. On November 24, 2004, the Licensee filed its license renewal application (FCC Form 303-S) for Station WSVI(TV) (the "Application") (File No. BRCT-20041124ABN). As stated above, license renewal applications for stations located in the Virgin Islands were due to be filed by October 1, 2004, four months prior to the February 1, 2005 expiration date. The Application for Station WSVI(TV) was filed on November 24, 2004, more than one month after the due date. The Application provides no explanation for the untimely filing.

III. DISCUSSION

¹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

² See 47 C.F.R. § 0.283.

³ See 47 C.F.R. § 73.3539(a).

⁴ See 47 C.F.R. § 73.3539(a).

⁵ See 47 C.F.R. §§ 73.1020(a)(3)(ii), 73.3539(a).

4. The Licensee's failure to file its Application in a timely manner constitutes a willful violation of Section 73.3539(a) of the Rules. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.⁶ Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.⁷ The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,⁸ and the Commission has so interpreted the term in the Section 503(b) context.⁹ 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."¹⁰

5. The Commission's *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of \$3,000 for failure to file a required form.¹¹ As stated above, the Licensee failed to file the Application for the station in a timely manner. We also note, however, that the Application was filed prior to expiration of the Station's license. Accordingly, we find that the Licensee is apparently liable for a forfeiture in the amount of \$1,500 for its apparent willful violation of Section 73.3539(a).

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules, that Alpha Broadcasting Corporation is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of one thousand five hundred dollars (\$1,500) for its apparent willful violation of Section 73.3539(a) of the Commission's Rules.

7. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that, within thirty (30) days of the release date of this *NAL*, Alpha Broadcasting Corporation SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the proposed 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, Pennsylvania 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, Pennsylvania 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

⁶ 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a)(1).

⁷ 47 U.S.C. § 312(f)(1).

⁸ *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

⁹ *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

¹⁰ 47 U.S.C. § 312(f)(2).

¹¹ *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (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. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau, and MUST INCLUDE the NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent 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 respondent’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹²

12. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Kimberly Alexander, Alpha Broadcasting Corporation, P.O. Box 6000, Christiansted, Virgin Islands 00823-6000.

FEDERAL COMMUNICATIONS COMMISSION

Donna C. Gregg
Chief, Media Bureau

¹² See 47 C.F.R. § 1.1914.