

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

In the Matter of	)	
	)	
Rama Communications, Inc.	)	File No.: EB-02-TP-550
Licensee of Radio Station WLAA (AM)	)	NAL/Acct. No. 200432700011
Winter Garden, Florida	)	FRN 0005-0080-16

**MEMORANDUM OPINION AND ORDER**

**Adopted: January 26, 2007****Released: January 30, 2007**

By the Assistant Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Memorandum Opinion and Order* ("Order") we deny the petition for reconsideration filed by Rama Communications, Inc. ("Rama"), licensee of Station WLAA(AM), Winter Garden, Florida. Rama seeks reconsideration of the *Forfeiture Order*<sup>1</sup> in which the Enforcement Bureau ("Bureau") found Rama liable for a monetary forfeiture in the amount of eighteen thousand dollars (\$18,000), for willful and repeated violations of Sections 11.35(a) and 73.3526(c)(1) of the Commission's Rules ("Rules").<sup>2</sup> The noted violations involve Rama's failure to ensure operational Emergency Alert System ("EAS") equipment, and its failure to make available a complete public file. We reject Rama's arguments and therefore affirm the assessment of a forfeiture of \$18,000.

**II. BACKGROUND**

2. On March 5, 2004, the Commission's Tampa, Florida Field Office ("Tampa Office") issued a *Notice of Apparent Liability for Forfeiture* ("NAL") in the amount of \$18,000 to Rama for apparent willful and repeated violations of Sections 11.35(a) (\$8,000) and 73.3526(c)(1) of the Rules (\$10,000).<sup>3</sup> Rama filed a response to the NAL on April 5, 2004, seeking elimination or a reduction of the forfeiture, arguing that the violations were technical and unintentional in nature.<sup>4</sup> On December 23, 2004, the Bureau issued a *Forfeiture Order*, which imposed a monetary forfeiture in the amount of \$18,000 to Rama, and which found the violations to be willful and repeated. Rama subsequently filed a petition for reconsideration ("petition") of the *Forfeiture Order*, again asking for cancellation or reduction of the forfeiture.<sup>5</sup> Rama claims that WLAA's EAS system was functioning, and that WLAA's public inspection file was available at the inspection. Rama also asks permission to pay any monetary forfeiture on an installment plan.

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<sup>1</sup> *Rama Communications, Inc.*, 19 FCC Rcd. 24802 (Enf. Bur. 2004).

<sup>2</sup> 47 C.F.R. §§ 11.35(a) and 73.3526(c)(1).

<sup>3</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200432700011 (Enf. Bur., Tampa Office, rel. March 5, 2004).

<sup>4</sup> Letter to the Office of the Secretary, Federal Communications Commission, from Sabetta Persuad, President, Rama Communications, Inc. (Apr. 5, 2004) ("response").

<sup>5</sup> *Petition for Reconsideration*, Rama Communications, Inc. (filed Jan. 24, 2005) ("petition").

### III. DISCUSSION

#### A. Violation of Section 11.35(a) of the Rules

##### 1. Background

3. Section 11.35(a) of the Rules requires that broadcast stations ensure that EAS generating and receiving equipment is installed so that the monitoring and transmitting functions are available during times that stations and systems are in operation. Additionally, stations are required to determine the cause of any failure to receive the required tests, and to make appropriate entries in the station's logs indicating the reasons why any tests were not received or transmitted. According to the *NAL*, on June 13, 2003, agents from the Commission's Tampa Office inspected WLAA, and during the inspection observed that EAS tests conducted by station personnel over co-located and co-owned Station WOKB(AM) failed to be transmitted over WLAA.<sup>6</sup> Also, the agents' review of the station logs showed no entries of EAS tests since December 30, 2002. Further, the logs contained no entries showing the EAS equipment had been removed for repairs. The *Forfeiture Order* found that Rama failed to maintain its EAS equipment so that the monitoring and transmitting functions are available during the station's operating hours, in willful and repeated violation of Section 11.35(a) of the Rules.

##### 2. Discussion

4. Rama contends that the violation should be cancelled or the forfeiture reduced because Rama was in compliance with Section 11.35(a) of the Rules. Rama operates two stations, WOKB and WLAA, and uses the same EAS unit for both stations. Rama's chief engineer submitted a statement with Rama's response to the *NAL* which addressed several of the alleged violations. He explained that he was in charge of installing new studios for the radio stations' relocation, and that in the process of the installation, he inadvertently cut or disconnected some of the audio wiring. He stated that, as a result, the signal for the EAS for WLAA was faint. The engineer stated he rewired the EAS equipment after the inspection to make it easier to hear.<sup>7</sup> In its response to the *NAL*, Rama claimed that although the signal was weak, it did exist. Also, instead of having an EAS log book for each station, Rama had one EAS log book for both WOKB and WLAA, but denominated it as WOKB only. Rama recognized this as an error and stated in its response that the log book should have been marked to reflect that it contained EAS records for both stations. The *Forfeiture Order* rejected Rama's arguments and determined that the equipment was not operational.<sup>8</sup>

5. In its petition, Rama submits no new evidence. Instead, it argues again that because its engineer reported hearing a faint signal during the inspection, the EAS equipment therefore was operational.<sup>9</sup> We reject this argument, due to the conflicting evidence observed by Commission agents reported in the *NAL* and affirmed in the *Forfeiture Order*, that the EAS equipment was twice tested

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<sup>6</sup> *NAL* at ¶ 3. The *NAL* stated that station personnel twice attempted to perform the EAS testing.

<sup>7</sup> Notarized letter from Steven L. Delay, Chief Engineer, Rama Communications, to the Office of the Secretary, Federal Communications Commission (Apr. 5, 2004).

<sup>8</sup> It should be noted that although the agents found that the station logs showed no entries of EAS tests for WLAA since December 30, 2002, Rama was not charged in the *NAL* with a violation of Section 11.61 of the Rules, 47 C.F.R. § 11.61, for what was believed to be an apparent failure to test the EAS equipment.

<sup>9</sup> Rama again argues that its logging error resulted from its failure to properly label the combined log for WOKB and WLAA. Petition at ¶ 8. We do not dispute this contention (*see* note 10, *infra*), and point out that the forfeiture amount specified for the violation of Section 11.35(a) in the *NAL* was based on the finding by the Tampa Office that Rama failed to maintain operational EAS equipment. *See NAL* at ¶ 8. As such, though noted, the failure to log the tests had no impact on the forfeiture amount, as alleged in the petition, for the violation of Section 11.35(a).

during the inspection, and the tests “failed to be transmitted over WLAA.”<sup>10</sup> Further, we caution Rama that it should properly label its log book to reflect that it maintains one EAS log book for both its stations, WOKB and WLAA. Accordingly, we deny Rama’s request for reconsideration of this violation and affirm the issuance of the monetary forfeiture of \$8,000.

## **B. Violation of Section 73.3526(c)(1)**

### **1. Background**

6. Section 73.3526(c)(1) of the Rules requires that AM and FM broadcast stations maintain a public inspection file containing the material, relating to that station, as described in that section, which must be available for public inspection at any time during business hours. The Commission has found that reasonable access to the public inspection file serves the important purpose of facilitating a citizen’s monitoring of a station’s operations and public interest performance, and fostering community involvement with local stations. This requirement helps to ensure that stations are responsive to the needs and interests of their local communities.<sup>11</sup> As noted in the *NAL* and affirmed in the *Forfeiture Order*, WLAA could not produce many of the required documents at the first inspection, and at the second inspection on July 25, 2003, the entire file was unavailable at the station’s main studio. Instead, there was a notation at the main studio that the file was located at its new address in Orlando, Florida.

### **2. Discussion**

7. Rama contends that it maintains a public file, but in its response to the *NAL* acknowledged that items were missing from the file and that the public inspection file was not at the studio and had been relocated to its new offices.<sup>12</sup> In its petition, Rama adds that two of the missing documents were “inadvertently stapled to the back of the License Renewal Application,” and that two more of the missing documents were “corrected by the Station Manager.”<sup>13</sup> Rama criticizes the inspectors during the second inspection for narrowly interpreting Section 73.3526(b) of the Rules,<sup>14</sup> by ignoring the fact that Rama was moving its offices and that it had noted by a sign where the public file was located. Rama cites two *NAL* cases, *Church Point Ministries, Inc.*,<sup>15</sup> and *Jason Konarz*<sup>16</sup> wherein the Bureau reduced the forfeiture in both cases because the licensees made a portion of the public file available for inspection.

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<sup>10</sup> *Forfeiture Order* at 24802. See also, *NAL* at ¶ 3.

<sup>11</sup> *Review of the Commission’s Rules regarding the Main Studio Rule and Local Public Inspection Files of Broadcast Television and Radio Stations*, 13 FCC Rcd 15691, 15700 (1998). See also, *Union Broadcasting, Inc.*, 19 FCC Rcd. 18588, 185890 (Enf. Bur. 2004).

<sup>12</sup> Response at 2. See also, *Forfeiture Order* at 24804.

<sup>13</sup> Petition at ¶ 11.

<sup>14</sup> 47 C.F.R. § 73.3526(b). Section 73.3526(b) of the Rules requires that the public file be kept at the main studio; an applicant for a change of community must maintain the file at an accessible place in the proposed community or at its proposed main studio. The Bureau did not cite Rama for a violation of Section 73.3526(b).

<sup>15</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. X3262008 (Enf. Bur., New Orleans, Louisiana Field Office, rel. Aug. 21, 2000) (“*Church Point Ministries*”) (proposed forfeiture amount specified \$5,000 instead of \$10,000 base forfeiture amount for public file violations).

<sup>16</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200432620004 (Enf. Bur., New Orleans, Louisiana Field Office, rel. July 21, 2004) (“*Jason Konarz*”) (proposed forfeiture amount specified for \$8,000 instead of \$10,000 base forfeiture amount for public file violations); *forfeiture ordered*, 19 FCC Rcd. 19562 (Enf. Bur. 2004) (affirmed *NAL* based on Konarz’s failure to file a response to the *NAL*).

8. Although Rama has supplied new information in its petition that two of the missing seven documents actually were available for the first inspection, and that two more were added later by the Station Manager, this new information does not change the fact that Rama did not have the public inspection file accessible at the first inspection as required by Section 73.3526(c)(1) of the Rules. This case is distinguishable from the first case Rama cites, *Church Point Ministries*, which concerned an alleged violation of a different section of the Rules, Section 73.3526(a)(2)<sup>17</sup> (emphasis added), generally outlining the materials that should be included in a commercial station's public inspection file as described in other subparts of Section 73.3526. Church Point Ministries was unable to locate any of the required materials during the inspection; the documents were found later at the station, and thus presumably had been present at the first inspection. The Bureau reasoned that because many of the missing documents in question were available, but were not assembled, the forfeiture should be reduced from the base forfeiture amount for such violations to \$5,000. *Jason Konarz* involved the same rule section violation as in *Rama*. There, the Bureau reduced the proposed forfeiture for the public file violation from \$10,000 to \$8,000 because the station had some of the required items in the public inspection file. In the instant case, most of the documents simply were not included in the station's public inspection file. Thus, a complete file was not available for inspection in violation of Section 73.3526(c)(1). With respect to corrective efforts by Rama, the *Forfeiture Order* correctly pointed out that such corrective action does not nullify or mitigate any prior forfeitures or violations.<sup>18</sup>

9. Moreover, while there have been a few instances when the Commission has reduced the forfeiture amount for a licensee's apparent good faith attempts to comply with Section 73.3526(c)(1), like *Jason Konarz*,<sup>19</sup> the greater weight of the case law reflects that the forfeiture was not reduced in similar circumstances.<sup>20</sup> Rama has admitted that most of the missing documents were not shown to the FCC inspectors during the first inspection, and even if the inspectors had found the file at the new location, the file was still incomplete. Thus, based on the evidence, we find that Rama willfully and repeatedly violated Section 73.3526(c)(1) of the Rules by failing to make available a complete public inspection file. Rama's request to cancel or reduce the forfeiture amount of ten thousand dollars (\$10,000) imposed for a violation of Section 73.3526(c)(1) is thereby denied.

### C. Request for Payment Plan

10. Finally, Rama contends that the imposition of an \$18,000 fine would put undue hardship on the company and that if the forfeiture is not cancelled, it has asked for a payment plan, also stating that it can provide tax information to the Commission upon request. Requests for full payment under an installment plan should be sent to: Associate Managing Director – Financial Operations, 445 12<sup>th</sup> Street, S.W., Room 1A625, Washington, D.C. 20554.

11. We have examined Rama's Petition for Reconsideration pursuant to the statutory factors above, and in conjunction with *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.<sup>21</sup> In examining Rama's petition, Section

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<sup>17</sup> 47 C.F.R. § 73.3526(a)(2).

<sup>18</sup> *Forfeiture Order* at 24804.

<sup>19</sup> *WGUL-FM, Inc.*, 15 FCC Rcd. 24366 (2000) (involving an instance where owner of building where radio station's file was located inexplicably closed the building the day of the inspection, thus making accessibility beyond the licensee's control).

<sup>20</sup> See *Jesse C. and Ernestine A. Ross*, 19 FCC Rcd. 20823 (Enf. Bur. 2004), *aff'd on other grounds*, 21 FCC Rcd. 7913 (Enf. Bur. 2006); *Victory & Power Ministries, Inc.*, 19 FCC Rcd. 19761 (Enf. Bur. 2004); *ELCB-TV, LLC.*, 19 FCC Rcd. 18611 (Enf. Bur. 2004); *Marion R. Williams*, 19 FCC Rcd. 15324 (Enf. Bur. 2004); and *Willis Broadcasting Corp.*, 17 FCC Rcd. 7053 (Enf. Bur. 2002).

<sup>21</sup> 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*").

503(b) of the Communications Act of 1934, as amended (“Act”)<sup>22</sup> requires that the Commission 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 such other matters as justice may require.<sup>23</sup>

12. As a result of our review, we conclude that Rama willfully and repeatedly violated Sections 11.35(a) and 73.3526(c)(1) of the Rules and find no basis for reducing or eliminating the \$18,000 forfeiture.

#### IV. ORDERING CLAUSES

13. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 405 of the Act,<sup>24</sup> and Section 1.106 of the Rules,<sup>25</sup> Rama’s petition for reconsideration of the Bureau *Forfeiture Order* **IS DENIED**.

14. 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.<sup>26</sup> 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. As noted above, requests for payment of the full amount of the NAL under an installment plan should be sent to: Associate Managing Director – Financial Operations, 445 12<sup>th</sup> Street, S.W., Room 1A625, Washington, D.C. 20554.<sup>27</sup>

15. **IT IS FURTHER ORDERED THAT** a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to John C. Trent, counsel for Rama Communications, Inc., Putbrese, Hunsaker & Trent, P.C., 200 S. Church Street, Woodstock, Virginia 22664. A copy also will be sent to Rama Communications, Inc., 3765 N. John Young Parkway, Orlando, Florida 32804.

#### FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon  
Assistant Chief, Enforcement Bureau

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<sup>22</sup> 47 U.S.C. § 503.

<sup>23</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>24</sup> 47 U.S.C. § 405.

<sup>25</sup> 47 C.F.R. § 1.106.

<sup>26</sup> 47 U.S.C. § 504(a).

<sup>27</sup> 47 C.F.R. § 1.1914.