

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

In the Matter of)	
)	
Greenwood Acres Baptist Church)	File No. EB-02-OR-302
Licensee of AM Broadcast Station KASO located)	NAL/Acct No. 200332620004
in Minden, Louisiana)	FRN 0007-7594-00

MEMORANDUM OPINION AND ORDER

Adopted: January 29, 2007

Released: January 31, 2007

By the Assistant Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this *Memorandum Opinion and Order* (“*Order*”), we deny a Petition for Reconsideration, filed on July 1, 2004, by Greenwood Acres Baptist Church (“Greenwood”), licensee of AM broadcast station KASO, Minden, Louisiana. Greenwood seeks reconsideration of a *Forfeiture Order*¹ in which Greenwood was assessed the amount of thirteen thousand six hundred dollars (\$13,600) for willful violation of Sections 73.49 and 73.3526(a)(2) of the Commission’s (“Rules”).² The noted violations involve Greenwood’s failure to maintain an effective locked fence enclosing its antenna structure and failure to maintain all required material in its public inspection file. For the reasons discussed below, we affirm the monetary forfeiture amount of \$13,600.

II. BACKGROUND

2. On September 12, 2002, an agent (“field agent”) from the Commission’s New Orleans, Louisiana Field Office (“New Orleans Office”) inspected AM broadcast station KASO in Minden, Louisiana, and observed that the fence enclosing KASO’s tower was unlocked and had a large opening in it. The field agent also noted that most of the required materials were missing from the station’s public inspection file. On December 5, 2002, the New Orleans Office issued an *NAL*, proposing a forfeiture in the amount of seventeen thousand dollars (\$17,000) for the fence and public inspection file violations.³ In its Response,⁴ Greenwood denied the fence violation, arguing that it remains locked at all times except for maintenance purposes.⁵ Greenwood conceded to an incomplete public inspection file, but argued that the violation warranted merely an admonishment. Greenwood also sought a substantial reduction or cancellation of the forfeiture based on an inability to pay.

¹ *Greenwood Acres Baptist Church*, Forfeiture Order, 19 FCC Rcd 9838 (Enf. Bur. 2004) (“*Forfeiture Order*”).

² 47 C.F.R. §§ 73.49 and 73.3526(a)(2).

³ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332620004 (Enf. Bur. New Orleans Office, Dec. 5, 2002) (“*NAL*”).

⁴ Greenwood Response to Notice of Apparent Liability for Forfeiture (“Response”) (filed Jan. 9, 2003).

⁵ *Id.* at 3.

3. On June 2, 2004, the Enforcement Bureau (“Bureau”) released a *Forfeiture Order*. The Bureau upheld the field agent’s determination that a broken hasp, padlock and chain did not secure the gate to the fence to prohibit unauthorized access and noted that a hole in the fence also rendered the enclosure ineffective.⁶ The Bureau also upheld the public inspection file violation, refuting Greenwood’s contention that the subject violation is minor.⁷ The Bureau pointed out that Greenwood’s public inspection files contained deficits in five categories of mandatory documents.⁸ The Bureau declined to reduce the forfeiture assessment for Greenwood’s correction of the violations, because remedial actions are expected of licensees, and do not constitute mitigating factors that warrant reduction of a forfeiture. Further, the Bureau rejected Greenwood’s claim of inability to pay the forfeiture, because Greenwood did not provide sufficient information with which to evaluate its financial condition.⁹ Finally, the Bureau reduced the proposed forfeiture of \$17,000 to \$13,600 for Greenwood’s history of overall compliance.¹⁰

4. On July 1, 2004, Greenwood filed a Petition for Reconsideration of the *Forfeiture Order* asking the Bureau to dismiss or withdraw the *Forfeiture Order*. Greenwood made substantially the same arguments that it had in its Response to the *NAL*. Greenwood asked that no forfeiture should be imposed or that if a forfeiture is imposed, it should be reduced from \$13,600 to an amount of less than five hundred dollars (\$500).¹¹

III. DISCUSSION

A. Fence Violation

1. Background.

5. Section 73.49 of the Rules provides that antenna structures that have radio frequency potential (voltage) at their base must be enclosed within an effective locked fence. The Commission has imposed forfeitures for violations of this rule in numerous cases, primarily because of the safety concerns to the public that unsecured fences represent.¹²

2. Discussion.

6. We reaffirm the determination that the field agent’s findings establish that Greenwood violated Section 73.49 of the Rules. We find that Greenwood’s arguments are without merit and, accordingly, we reject them for the reasons listed below.

7. First, Greenwood disputes the credibility of the field agent’s finding that the antenna was not enclosed with an effective locked fence. Greenwood opines that “this case was instigated by the false representations of a disgruntled former employee, . . . [and] is the bad-faith product of a biased

⁶ *Forfeiture Order*, 19 FCC Rcd at 9839.

⁷ *Id.* at 9839-40.

⁸ *Id.* at 9840.

⁹ *Id.* at 9840-41.

¹⁰ *Id.* at 9841.

¹¹ Petition for Reconsideration at 9.

¹² See, e.g., *Buchanan Broadcasting Company, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 24363 (2000); see also *M.B. Communications, Inc.*, 20 FCC Rcd 9536 (Dir., NE Region Enf. Bur. 2005), *aff’d M.B. Communications, Inc.*, 21 FCC Rcd 9073 (Enf. Bur., 2006); and *East Texas Broadcasting Company, Inc.*, Forfeiture Order, 19 FCC Rcd 22491 (Enf. Bur. 2004).

inspection.”¹³ Greenwood argues that in order for an inspection to be valid, the licensee or its representative must accompany a field agent at the time of the inspection.¹⁴

8. Greenwood’s argument is without merit. Section 1 of the Communications Act of 1934, as amended (“Act”)¹⁵ states that the Commission “shall execute and enforce the provisions of this Act” and does not require supervision of Commission enforcement activities by the Commission’s regulatees. Consistent with the statutory mandate, Section 73.1225 of the Rules¹⁶ does not require that a Commission inspection be witnessed by the subject of the inspection. Moreover, no advance notice or appointment is necessary for the Commission to conduct an inspection.¹⁷ Instead, the rule requires that “the licensee of a broadcast station [shall] make the station available for inspection by representatives of the FCC during the station’s business hours, or at any time it is in operation.” In this case, the field agent conducted properly his inspection during business hours. Greenwood does not claim otherwise.

9. Second, Greenwood argues that except for maintenance, the fence “was never left unlocked. . . . There is, and continues to be, a chain wrapped tightly around the gate with a padlock. . . . [We] flatly den[y] the existence of any hole in the fence.”¹⁸ There is no question that the inspector found the gate unsecured. His report included clear color photographs of the unsecured gate and the large hole in the fence. There was a broken hasp that did not secure the gate to the fence. A padlock dangled from the end of a chain that hung uselessly down the side of the fence instead of securing the fence to prohibit unauthorized access.¹⁹ In addition, there was a hole in the fence that was large enough for a small person to easily step through, rendering the enclosure doubly ineffective.²⁰ These facts were observed and photographed by the field agent, consistent with established procedure, and noted by the Bureau in the *Forfeiture Order*.²¹ We reject Greenwood’s unsupported claims that it was not in violation.²²

10. Third, Greenwood asserts that the assessed \$7,000 forfeiture amount “equates this situation with a circumstance in which there is no fence at all. . . .”²³ Neither the tower fencing rule set forth in Section 73.49 of the Rules, nor the forfeiture amount set forth in Section 1.80(b)(4) of the Rules²⁴ distinguishes between an antenna structure that is enclosed within an ineffective locked fence, and one

¹³ Petition for Reconsideration at 4, n.2.

¹⁴ *Id.* at 5, n.3.

¹⁵ 47 U.S.C. § 151.

¹⁶ 47 C.F.R. § 73.1225.

¹⁷ *Norfolk Southern Railway Company*, Order, 11 FCC Rcd 519 (CIB 1996) (any delay in an inspection can shelter a serious violation).

¹⁸ Petition for Reconsideration at 5.

¹⁹ *Forfeiture Order*, 19 FCC Rcd at 9839.

²⁰ *Id.* at 9838-39.

²¹ *Id.*

²² See *JMK Communications*, Forfeiture Order, 19 FCC Rcd 16111, 16113 (Enf. Bur. 2004) (agent’s observations and accompanying contemporaneous photographs successfully rebut licensee claims and later-submitted offerings disputing fence violation). Moreover, even if the gate were unlocked for maintenance purposes, this would not be a defense to the subject violation, and would not excuse the hole in the fence in any event. *MAPA Broadcasting*, Forfeiture Order, 16 FCC Rcd 22403 (Enf. Bur. 2001) (gate open for maintenance at time of inspection is not a defense to the violation of Section 73.49 of the Rules), *recon. denied*, 17 FCC Rcd 10519 (Enf. Bur. 2002).

²³ Petition for Reconsideration at 6.

²⁴ 47 C.F.R. § 1.80(b)(4) (“*Guidelines for Assessing Forfeitures, Section I Base Amounts for Section 503 Forfeitures*”). The Forfeiture Guidelines established a \$7,000 forfeiture amount for AM tower fencing violations.

that has no fence at all. In both cases the base forfeiture amount of \$7,000 is not the maximum amount that may be assessed, but merely the starting point from which the forfeiture amount is derived. In assessing forfeiture amounts, Section 503(b)(2)(D) of the Act²⁵ and Section 1.80(b)(4) of the Rules, require 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. The Commission has explained that forfeiture amounts reflect “the degree of harm or potential for harm that may arise from the violation.”²⁶ Failure to maintain an effective locked fence in accordance with Section 73.49 of the Rules constitutes a serious public safety issue because it exposes the public to hazardous electrical charge.²⁷ In view of the danger to the public represented by the unsecured fence and apparent prolonged lack of adequate inspection of the fence by the licensee, we find no grounds to reduce the forfeiture amount based on the hazard to the public that Greenwood’s unsecured fence represented.

B. Public Inspection File

1. Background.

11. Section 73.3526(a)(2) of the Rules requires broadcast licensees to maintain a public inspection file containing specified information related to station operations. The public inspection file rules require broadcast stations to maintain this information for members of the community of license so that its residents may monitor a station's performance.²⁸ These rules are essential to ensure that a station remains responsive to the programming needs of its community.²⁹ Accordingly, the base forfeiture amount for violation of this rule is at the highest dollar level that the Commission imposes for a single violation. On the date of inspection, Greenwood’s public inspection file lacked the following information: (1) Greenwood’s most recent application to the Commission;³⁰ (2) a copy of the service contour map,³¹ (3) a copy of the current ownership report,³² (4) requests from candidates for political office,³³ and (5) the issues/programs lists.³⁴

²⁵ 47 U.S.C. § 503(b)(2)(D).

²⁶ *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17098 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”).

²⁷ *See, e.g., Pilgrim Communications, Inc.*, Forfeiture Order, 19 FCC Rcd 12251, 12252 (Enf. Bur. 2004).

²⁸ *Review of the Commission’s Rules regarding the Main Studio and Local Public Inspection files of Broadcast Television and Radio Stations*, Report and Order, 13 FCC Rcd 15691, 15691 (1998).

²⁹ *Id.*

³⁰ *Applications and related materials* category, 47 C.F.R. § 73.3526(e)(2).

³¹ *Contour maps* category, 47 C.F.R. § 73.3526(e)(4).

³² *Ownership and related materials* category, 47 C.F.R. § 73.3526(e)(5).

³³ *Political File* category, 47 C.F.R. § 73.3526(e)(6).

³⁴ *Radio issues/programs lists* category, 47 C.F.R. § 73.3526(e)(12).

2. Discussion.

12. In its Petition for Reconsideration, Greenwood revisits its previous argument that *Tabback* and *Sarkes Tarzian* – which resulted in admonishments and not monetary forfeitures – are “virtually identical” to the facts in Greenwood.³⁵

13. This argument is without merit. The *Forfeiture Order* included an extensive discussion that distinguished *Tabback* and *Sarkes Tarzian* from the instant proceeding.³⁶ We reaffirm the distinction between the referenced cases and the instant case, and the appropriate sanction, below.

14. *Tabback* is a case that arose not from a Commission station inspection, but from an application for renewal of Station KAZM(AM) (“KAZM”), Sedona, Arizona. The claims made regarding rule violations were made not by a field agent conducting an inspection, but by a party opposing the station’s renewal. A rule violation discovered by a field agent is, when the inspection is conducted pursuant to correct procedures, firm evidence of a rule violation.³⁷ The respondent may provide further evidence of the circumstances surrounding its violation, but the facts observed during the field agent’s inspection are not in doubt. On the other hand, a rule violation alleged by a complainant in a renewal proceeding is treated as an allegation rather than as fact. The instant case is thus distinguishable from *Tabback* by the nature of the case, because we have a field agent inspection rather than an allegation by a complainant.

15. Greenwood further argues that *Tabback* applies because Mr. Tabbac, president and general manager of the subject radio station, “admitted that issues and programs lists, letters from the public, and ownership reports were missing,”³⁸ yet the Media Bureau (formerly the Mass Media Bureau) found only one violation of the rules. To the contrary, Mr. Tabbac disputed each allegation with an affidavit.³⁹ The Media Bureau accepted Mr. Tabbac’s affidavit as evidence. Mr. Tabbac stated, however, that he believed that he was not required to keep copies of annual ownership reports in the public inspection file. The Media Bureau determined this omission was more significant. Accordingly, while three categories of documents were alleged by commenters to be missing, and were discussed in the Letter Ruling, based upon Mr. Tabbac’s sworn statement and representations, the Media Bureau admonished the licensee for only one public inspection file violation: failing to place a copy of an annual ownership report in the public inspection file.⁴⁰ The Commission upheld this decision.⁴¹

³⁵ Response at 4 citing *Tabback Broadcasting Co.*, Memorandum Opinion and Order, 15 FCC Rcd 11899 (2000) (“*Tabback*”); *Sarkes Tarzian, Inc.*, Memorandum Opinion and Order, 65 FCC 2d 127 (1977) (“*Sarkes Tarzian*”); Petition for Reconsideration at 6-7. Greenwood erroneously asserts that both *Tabback* and the instant case concern multiple minor public inspection file violations.

³⁶ *Forfeiture Order*, 19 FCC Rcd at 9839-40.

³⁷ See *Access.1 Communications Corp.-NY*, Forfeiture Order, 18 FCC Rcd 22289, 22292 (Enf. Bur. 2003) (upholding the field agent’s finding, despite the owner’s assertion that the tower complied with the Rules); *William L. Needham and Lucille Needham*, Forfeiture Order, 18 FCC Rcd 5521 (Enf. Bur. 2003) (upholding the field agent’s determination of a rule violation, despite tower owner’s assertion to the contrary), *recon. granted in part*, 19 FCC Rcd. 8184 (Enf. Bur. 2004).

³⁸ Response at 7.

³⁹ Letter from Linda Blair, Chief, Audio Services Division, Mass Media Bureau, Federal Communications Commission, to Tabbac Broadcasting Company at 6, n.7 (Mar. 10, 1999) (“Letter Ruling”).

⁴⁰ Letter Ruling at 6.

⁴¹ *Tabback*, 15 FCC Rcd at 11901.

16. *Sarkes Tarzian* concerned multiple renewal applications for station licenses in Indianapolis, Indiana. In a petition to deny the renewal applications, the complainant alleged, among other things, that two annual employment reports were missing from the licensee's public inspection file. The Commission determined that this "isolated and inadvertent rule violation" raised no question of the fitness of the applicants for renewal, and admonished the licensees to henceforth "scrupulously" observe the public inspection file rule.⁴² Unlike the instant case involving five public inspection file violations, *Sarkes Tarzian* involved only one violation.

17. Greenwood further argues that the Bureau's public inspection file determinations were discriminatory, pointing out that "white males in [an]affluent community" were assessed a lower forfeiture than "a Church whose clergy, parishioners and staff are largely minorities, in a non-affluent community." Greenwood also believes that the forfeiture of \$10,000 for lack of public inspection file information is "stunningly harsh" because "\$10,000 is the maximum fine."⁴³

18. These arguments are without merit. We have discussed the relevant factors that led to the holdings in the instant proceeding as well as in *Tabback* and *Sarkes Tarzian*, and none of them were discriminatory. Greenwood provides no evidence for its baseless allegation of discrimination, nor do we find any. Where, as here, a field agent discovers rule violations, the Commission will follow the codified standards for assessing a forfeiture.

19. The Bureau has given a downward adjustment in assessed forfeitures in some cases where there were a limited number or quantity of missing public inspection files.⁴⁴ In the instant proceeding, however, we find that a lack of all issues/programs lists, the service contour map, a copy of the most recent application Greenwood filed with the Commission, a current ownership report and political file, represents such an extensive failure to provide essential information to the public that no downward adjustment is appropriate.⁴⁵

⁴² *Sarkes Tarzian*, 65 FCC 2d at 132.

⁴³ Petition for Reconsideration at 7. We note that \$10,000 is not the "maximum fine" but rather the base amount for the forfeiture that could be assessed for each day the violation by a broadcast licensee continues. Using the adjustment criteria, this amount could be increased to \$32,500 for each day of a continuing violation, not to exceed a total of \$325,000 for any single violation. See 47 C.F.R. §§ 1.80(b)(1) and (b)(4).

⁴⁴ *Lebanon Educational Broadcasting Foundation*, Memorandum Opinion and Order, 21 FCC Rcd 1442 (Enf. Bur. 2006) (licensee assessed a \$4000 forfeiture for three missing public file information categories: the station's contour map, the Public and Broadcasting manual, and six quarters of issues/programs lists); *JMK Communications, Inc.*, Memorandum Opinion and Order, 21 FCC Rcd 1427 (Enf. Bur. 2006) (licensee assessed a \$1250 forfeiture for failure to include the most current ownership report and a \$4000 forfeiture for failure to include an adequately detailed issues/programs log in its public information file); *Snow Hill Broadcasting, LLP*, Forfeiture Order, 20 FCC Rcd. 14415 (Enf. Bur. 2005) (licensee assessed a \$4000 forfeiture for failure to retain in its public inspection file a political file, "The Public and Broadcasting" manual, a file of letters and email from the public, and a file with quarterly issues/programs lists for the year 2003.)

⁴⁵ Greenwood appears to acknowledge that its remedial efforts with respect to the fencing violation and public inspection file violations should not result in a downward adjustment in the forfeiture amount. It is well settled that curative remedial efforts neither mitigate violations nor serve to decrease forfeiture amounts because such efforts are expected of licensees in order to comply with the rules. See *AT&T Wireless Services, Inc.*, Forfeiture Order, 17 FCC Rcd 21866, 21870 (2002) (remedial action to correct tower painting violation was not a mitigating factor warranting reduction of forfeiture); *Seawest Yacht Brokers*, Forfeiture Order, 9 FCC Rcd 6099, 6099 (1994) (corrective action taken to comply with the rules is expected, and does not mitigate any prior forfeitures or violations); *Station KGV L, Inc.*, Memorandum Opinion and Order, 42 FCC 2d 258, 259 (1973) (licensees not excused for past violations by reason of subsequent corrective action); *c.f.*, *Radio One Licenses, Inc.*, Memorandum Opinion and Order, 18 FCC Rcd 15964, 15965 (2003), *recon. denied*, 18 FCC Rcd 25481 (2003) (reducing a forfeiture from \$9,200 to \$8,000

(continued....)

C. Inability to Pay

1. Background.

20. In assessing forfeiture amounts, Section 503(b)(2)(D) of the Act and Section 1.80(b)(4) of the Rules require that the Commission take into account, among other things, the party's ability to pay a forfeiture. A successful claim to reduce a forfeiture for inability to pay requires specific supporting financial documentation.⁴⁶ Thus, 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 petitioner's current financial status.

2. Discussion

21. Greenwood proffers an unattested profit and loss statement covering the nine-month period from January 2002 to September 2002 as evidence of an inability to pay the forfeiture amount.⁴⁷ Greenwood argues that this document represents "every financial statement that existed" and is sufficient to successfully support its claim of an inability to pay the forfeiture amount.⁴⁸ The document – which covers only a fraction of the station's financial activity since the station was acquired in September of 2000 – shows a net loss for the referenced time period.

22. Greenwood's inability to pay claim is without merit.⁴⁹ In the *NAL*,⁵⁰ the *Forfeiture Order*⁵¹ and now in the instant *Order*, we repeat: the Commission requires licensees claiming an inability to pay a forfeiture to provide tax returns or financial statements prepared in accordance with generally accepted accounting principles, or other reliable and objective documentation that accurately reflects the licensee's current financial status.⁵² For Greenwood to successfully pursue its claim of inability to pay, it must prove that it does not have access to the resources necessary to pay the forfeiture. Since Greenwood has not proven this, we are unable to determine that it cannot pay the forfeiture amount and we will not reduce the forfeiture on the basis of Greenwood's unsubstantiated claim of inability to pay.⁵³

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for emergency alert system ("EAS") rule violations because the licensee had identified the problems and had ordered replacement equipment *prior* to the New Orleans Office's on-site inspection).

⁴⁶ See *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089 (1992) ("*PJB Communications*"); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17106-07.

⁴⁷ Response at 5, Exhibit A.

⁴⁸ Petition for Reconsideration at 8.

⁴⁹ The argument may also be disingenuous. We note that Greenwood has failed to provide any evidence of its revenues during the fourth quarter of any year in which it has operated: the fourth quarter includes the Christmas Holiday season and end-of-tax-year cycles, a traditionally significant time period for tax-deductible donations to non-profit institutions.

⁵⁰ *NAL* at 3 ¶ 11.

⁵¹ *Forfeiture Order*, 19 FCC Rcd at 9840-41.

⁵² *Advanced Telecom, Inc.*, Forfeiture Order, 15 FCC Rcd 23430 (Enf. Bur. 2000) citing *Barry A. Stevenson*, Order, 12 FCC Rcd 1976, 1977 (CIB 1997).

⁵³ We note further that where a licensee's gross revenues are sufficiently great, the mere fact that it is operating at a loss does not, by itself, mean that it cannot afford to pay a forfeiture. *PJB Communications*, 7 FCC Rcd at 2089; see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17106-07.

23. Next, Greenwood argues that its income is derived “largely from donations.”⁵⁴ To the extent that Greenwood argues that because it relies on charitable contributions, it should not be subject to a monetary forfeiture, we reject this argument. Treating Greenwood differently from all other licensees would be inappropriate and not in keeping with precedent. Any group – including a religious group – may buy and operate a licensed radio or television station, and takes, along with its franchise, enforceable public duties.⁵⁵ Greenwood, by conducting its ministry through use of a radio license, “has elected to occupy a forum that is not only distinctly public in character, but one of a limited number of such public forums,” and “subjects itself to public interest obligations.”⁵⁶ These public interest obligations include the responsibility to comply with our rules and incurring the consequences of not doing so.

24. With respect to inability to pay determinations, the Commission does not distinguish among the sources of a licensee’s revenues; it is well established that we begin with consideration of the documented gross revenues of the entity when determining whether the violator may be granted a reduction in forfeiture for inability to pay.⁵⁷ So long as the gross revenues are adequately documented, the Commission does not require identification of the sources of revenue.⁵⁸ Thus, the sources of Greenwood’s revenue are immaterial to our consideration of any request for reduction in the forfeiture we impose for Greenwood’s violation of our rules.

25. We have examined Greenwood’s Petition for Reconsideration of the *Forfeiture Order* pursuant to the statutory factors prescribed by Section 503(b)(2)(D) of the Act, and in conjunction with the *Commission’s Forfeiture Policy Statement*.⁵⁹ As a result of our review, we conclude that no further reduction in the forfeiture is warranted.

IV. ORDERING CLAUSES

26. Accordingly, **IT IS ORDERED** that, pursuant to Section 1.106 of the Rules, the Petition for Reconsideration filed by Greenwood Acres Baptist Church of the Enforcement Bureau’s *Forfeiture Order* for the NAL/Acct. referenced above **IS DENIED**.

27. **IT IS ALSO ORDERED THAT**, pursuant to Section 503(b)(2)(D) of the Act and Section 1.80(f)(4) of the Rules, Greenwood Acres Baptist Church **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$13,600 for willfully violating Sections 73.49 and 73.3526(a) of the Rules.

28. 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.⁶⁰ Payment of the forfeiture must be made by check, money order 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 the 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.

⁵⁴ Response at 5; Petition for Reconsideration at 8.

⁵⁵ *King’s Garden, Inc. v. FCC*, 498 F.2d 51, 60 (D.C. Cir. 1974), *cert. denied*, 419 U.S. 996 (1974).

⁵⁶ *Faith Center, Inc.*, Memorandum Opinion and Order, 82 FCC 2d 1, 13 (1980), *cert. denied*, 465 U.S. 1007 (1984).

⁵⁷ *Forfeiture Policy Statement*, 12 FCC Rcd at 17106.

⁵⁸ *Id.* at 17107.

⁵⁹ *Id.* at 17087.

⁶⁰ 47 U.S.C. § 504(a).

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 Street, S.W., Room 1A625, Washington, D.C. 20554.⁶¹

29. **IT IS FURTHER ORDERED** that copies of this *Order* shall be sent by Certified Mail Return Receipt Requested and by First Class Mail to Greenwood Acres Baptist Church and to its counsel, Christopher D. Imlay, Booth, Freret, Imlay & Tepper, P.C., 14356 Cape May Road, Silver Spring, Maryland 20904-6011.

FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon
Assistant Chief, Enforcement Bureau

⁶¹ See 47 C.F.R. § 1.1914.