

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

In the Matter of)	
)	File Number: EB-05-TP-450
Rama Communications, Inc.)	
)	NAL/Acct. No.: 200732700005
Licensee of Station WTIR)	
Cocoa Beach, FL)	FRN: 0005008016
Facility ID # 55005)	

FORFEITURE ORDER

Adopted: February 28, 2007

Released: March 2, 2007

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of fifteen thousand dollars (\$15,000) to Rama Communications, Inc. (“Rama”), licensee of station WTIR, in Cocoa Beach, Florida, for willful and repeated violation of Sections 11.35(a) and 73.49 of the Commission’s Rules (“Rules”).¹ The noted violations involve Rama’s failure to maintain operational Emergency Alert System (“EAS”) equipment and failure to maintain effective locked fences or enclosures around the bases of its antenna structures.

II. BACKGROUND

2. In response to two complaints received in November 2005, agents from the Commission’s Tampa Office of the Enforcement Bureau (“Tampa Office”) inspected the main studio of station WTIR in Cocoa Beach, Florida on January 10 and 11, 2006. On both dates, the agents observed that the entrance gate to the perimeter property fence was torn down, leaving a wide opening that was adjacent to the station’s studio parking lot. There were no individual fences around any of the antenna structures. During the January 11, 2006 inspection, the agents observed that the station’s EAS unit was installed, but not operational. The wiring from the EAS unit had been removed. The station did not maintain an EAS log, which stated when the equipment became damaged or when required EAS tests were conducted. The station’s most recent required EAS test receipt was dated August 3, 2005.

3. On December 19, 2006, the Tampa Office issued a *Notice of Apparent Liability for Forfeiture* to Rama in the amount of fifteen thousand dollars (\$15,000) for the apparent willful and repeated violation of Sections 11.35(a) and 73.49 of the Rules.² Rama submitted a response to the NAL requesting a reduction of the proposed forfeiture based on its remedial good faith efforts to comply with the Rules.

III. DISCUSSION

¹ 47 C.F.R. §§ 11.35(a), 73.49.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732700005 (Enf. Bur., Tampa Office, December 19, 2006) (“NAL”).

4. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended,³ Section 1.80 of the Rules,⁴ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), recon. denied, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"). In examining Rama's response, Section 503(b) of the Act 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 other such matters as justice may require.⁵

5. Section 11.35(a) of the Rules requires all broadcast stations to ensure that EAS encoders, EAS decoders, attention signal generating, and receiving equipment is installed and operational so that the monitoring and transmitting functions are available during the times the station is in operation. Broadcast stations must also determine the cause of any failure to receive required monthly and weekly EAS tests, and must indicate in the station's log why any required tests were not received and when defective equipment is removed and restored to service.⁶ On January 11, 2006, during an inspection during normal business hours, Rama's EAS equipment was installed, but not operational. The wiring had been removed from the EAS unit. The station engineer was aware that the equipment was damaged but did not know when it was damaged or when it would be repaired. The station did not maintain a log that stated when the EAS equipment became damaged or when required EAS tests were conducted. The station's most recent required EAS test receipt was dated August 3, 2005. There was no evidence that the EAS equipment was operational after August 3, 2005. In its response to the *NAL*, Rama states that it has since installed an operational EAS system and trained its employees on EAS log keeping. It asserts it is now in compliance with Section 11.35(a) of the Rules.

6. Section 73.49 of the Rules requires antenna towers having radio frequency potential at the base (series fed, folded, unipole and insulated base antennas) to be enclosed with effective locked fences or other enclosures. Individual tower fences need not be installed if the towers are contained within a protective property fence. On January 10 and 11, 2006, there were no individual fences around the station's antenna towers that had radio frequency potential at their bases. The station maintained a perimeter property fence, but the gate to that fence was torn down. The opening in the perimeter fence was located adjacent to the WTIR studio parking lot and allowed direct access to the property. Thus, the perimeter property fence was not protective. In response to the *NAL*, Rama states that the perimeter fence was damaged in a storm and that it has since repaired the perimeter fence and erected new fences around the bases of the antenna structures. It asserts it is now in compliance with Section 73.49 of the Rules.

7. Based on the evidence, we find that Rama willfully⁷ and repeatedly⁸ violated Sections 11.35(a) and 73.49 of the Rules by failing to maintain operational EAS equipment and failing to maintain effective locked fences or enclosures around the bases of its antenna structures.

³ 47 U.S.C. § 503(b).

⁴ 47 C.F.R. § 1.80.

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 C.F.R. § 11.35(b).

⁷ 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,' ... 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 this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁸ The 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).

8. In its response to the *NAL*, Rama requests that the \$15,000 forfeiture be reduced based on its remedial good faith efforts to comply with the Rules.⁹ However, corrective action taken to come into compliance with the Rules after an inspection and cooperation with agents is expected, and does not nullify or mitigate any prior forfeitures or violations.¹⁰

9. We have examined Rama's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that Rama willfully and repeatedly violated Sections 11.35(a) and 73.49 of the Rules and that no reduction of the proposed \$10,000 forfeiture is warranted.

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules, Rama Communications, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for violation of Sections 11.35(a) and 73.49 of the Rules.¹¹

11. 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.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 Street, S.W., Room 1A625, Washington, D.C. 20554.¹³

⁹ Rama cites *Surrey Front Range Ltd Partnership* in support of its request for a reduction. *Surrey Front Range Ltd Partnership*, 7 FCC Rcd 6361(1992). However, in that case, the notice of apparent liability was amended and the proposed forfeiture reduced from \$7,500 to \$6,000 because the Field Operations Bureau found the station was missing fewer issues/programs lists than originally alleged. The Bureau denied Surrey's request for a further reduction based on its corrective action, stating "[c]orrective action likewise is not a downward adjustment criterion. Remedial action, although commendable, does not nullify a forfeiture penalty."

¹⁰ See *Seawest Yacht Brokers*, Forfeiture Order, 9 FCC Rcd 6099 (1994).

¹¹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 11.35(a), 73.49.

¹² 47 U.S.C. § 504(a).

¹³ See 47 C.F.R. § 1.1914.

12. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Rama Communications, Inc. at its address of record and to its counsel, Todd Steiner, Putbrese, Hunsaker & Trent, P.C., 200 S. Church St., Woodstock, VA 22664.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director, South Central Region
Enforcement Bureau