

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

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| In the Matter of |) | |
| |) | File Number EB-08-KC-004 |
| Friendship Communications, Inc. |) | |
| |) | NAL/Acct. No. 200832560001 |
| Licensee of KWOE-FM |) | |
| Hiawatha, Iowa |) | FRN 0007978752 |
| Facility ID # 85165 |) | |
| |) | |

FORFEITURE ORDER

Adopted: July 21, 2008

Released: July 23, 2008

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 four thousand dollars (\$4,000) to Friendship Communications, Inc. (“*Friendship*”), licensee of non-commercial station KWOE-FM, in Hiawatha, Iowa, for willful and repeated violation of Section 73.3527 of the Commission’s Rules (“*Rules*”).¹ The noted violation involves *Friendship*’s failure to maintain and make available a complete public inspection file.

II. BACKGROUND

2. On March 12, 2008, in response to a complaint, an agent from the Commission’s Kansas City Office of the Enforcement Bureau (“*Kansas City Office*”) requested to inspect station KWOE-FM’s public inspection file at its main studio during normal business hours. Station KWOE-FM was unable to locate or make available any Issues-Programs lists.

3. On May 19, 2008, the Kansas City Office issued a *Notice of Apparent Liability for Forfeiture* to *Friendship* in the amount of four thousand dollars (\$4,000) for the apparent willful and repeated violation of Section 73.3527 of the Rules.² *Friendship* submitted a response to the *NAL* requesting cancellation of the proposed forfeiture.

III. DISCUSSION

4. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (“*Act*”),³ Section 1.80 of the Rules,⁴ and *The*

¹ 47 C.F.R. § 73.3527.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200832560001 (Enf. Bur., Kansas City Office, May 19, 2009) (“*NAL*”).

³ 47 U.S.C. § 503(b).

⁴ 47 C.F.R. § 1.80.

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 Friendship’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 73.3527(a)(2) of the Rules requires every licensee in the non-commercial educational broadcast services to maintain for public inspection, a file containing materials listed in that section.⁶ The Rules require that the public inspection file be available during regular business hours at the main studio of the station.⁷ Section 73.3527(e)(8) of the Rules requires a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period (“Issues/Programs list”) to be placed in the public inspection file. The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. Copies of the lists must be maintained in the file until final action has been taken on the station’s next renewal application.⁸ On March 12, 2008, in response to a request made during regular business hours at the station’s main studio, station KWOF-FM was unable to make available any Issues/Programs lists. There was also no evidence at the main studio that the Issues/Programs lists had ever been maintained.

6. In response to the *NAL*, Friendship admits that it did not compile “Issues/Programs lists” but asserts that the information contained in the public inspection file, the texts of public service announcements (“PSAs”), complied with the Rules. During the inspection, the agent from the Kansas City Office requested to see the station’s Issues/Programs lists, and the station did not provide any documentation. Therefore, because the station failed to make the PSAs available, we are unable to confirm whether the PSAs were contained in the public inspection file. Nevertheless, even if the PSAs were located in the public inspection file, we find that Friendship has provided no basis upon which to reduce or cancel the forfeiture. Copies of PSAs placed in a public inspection file do not constitute issues/programs lists.⁹ PSA texts do not contain a brief narrative describing the issues given significant treatment or the programming that provided this treatment. PSA texts also do not include the time, date, duration, and title of each program in which the issue was treated. Finally, Friendship asserts it is now compiling Issues/Programs lists. However, post-inspection corrective action taken to come into compliance with the Rules is expected, and does not nullify or mitigate any prior forfeitures or violations.¹⁰

7. Thus, based on the evidence before us, we find that Friendship willfully¹¹ and

⁵ 47 U.S.C. § 503(b)(2)(E).

⁶ 47 C.F.R. § 73.3527(a)(2).

⁷ See 47 C.F.R. §§ 73.3527(b) and (c)(1).

⁸ 47 C.F.R. § 73.3527(e)(8).

⁹ See *Cumulus Licensing LLC*, Memorandum Opinion and Order and Notice of Apparent Liability, 22 FCC Rcd 13711 (Media Bur. 2007).

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

¹¹ 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).

repeatedly¹² violated Section 73.3527 of the Rules by failing to maintain a complete public inspection file and willfully violated Section 73.3527 of the Rules by failing to make available a complete public inspection file. We have examined Friendship'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 find no basis to reduce the \$4,000 forfeiture proposed for this violation.

IV. ORDERING CLAUSES

8. 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, Friendship Communications, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of four thousand dollars (\$4,000) for violation of Section 73.3527 of the Rules.¹³

9. 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.¹⁴ 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/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Friendship will also send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

10. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Friendship Communications, Inc. at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

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

¹² As provided by 47 U.S.C. § 312(f)(2), a continuous violation is "repeated" if it continues for more than one day. The *Conference Report* for Section 312(f)(2) indicates that Congress intended to apply this definition to Section 503 of the Act as well as Section 312. See H.R. Rep. 97th Cong. 2d Sess. 51 (1982). See *Southern California Broadcasting Company*, 6 FCC Rcd 4387, 4388 (1991) and *Western Wireless Corporation*, 18 FCC Rcd 10319 at fn. 56 (2003).

¹³ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 73.3527.

¹⁴ 47 U.S.C. § 504(a).