

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

In the Matter of	)	
	)	File Number: EB-06-TP-169
Hispanic-Multicultural Broadcasting Association	)	
	)	NAL/Acct. No. 200732700007
Licensee of Station WJRN-LP	)	
Summerfield, FL	)	
Facility ID # 133510	)	FRN: 0010330488
	)	
	)	

**FORFEITURE ORDER**

**Adopted:** March 5, 2008

**Released:** March 7, 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 six thousand four hundred dollars (\$6,400) to Hispanic-Multicultural Broadcasting Association (“Hispanic”), licensee of station WJRN-LP, Summerfield, Florida, for repeated violation of Section 11.35(a) of the Commission's Rules (“Rules”).<sup>1</sup> The noted violations involve Hispanic’s failure to install an Emergency Alert System (“EAS”) decoder.

**II. BACKGROUND**

2. On August 30, 2006, agents from the Commission’s Tampa Office of the Enforcement Bureau (“Tampa Office”) conducted an inspection of station WJRN-LP at its main studio in Summerfield, Florida. The agents found the station had not installed an EAS decoder. At the time of inspection, the station manager admitted that the station did not have an EAS decoder and stated he was not aware that the station was required to have one.

3. On January 23, 2007, the Tampa Office issued a *Notice of Apparent Liability for Forfeiture* to Hispanic in the amount of eight thousand dollars (\$8,000), for the apparent repeated violation of Section 11.35(a) of the Rules.<sup>2</sup> Hispanic submitted a response the *NAL* requesting a reduction of the proposed forfeiture.

**III. DISCUSSION**

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

<sup>1</sup> 47 C.F.R. § 11.35(a).

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732700007 (Enf. Bur., Tampa Office, January 23, 2007) (“*NAL*”).

<sup>3</sup> 47 U.S.C. § 503(b).

<sup>4</sup> 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 Hispanic'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.<sup>5</sup>

5. Section 11.35(a) of the Rules requires Broadcast stations to be responsible for ensuring that ... EAS Decoders ... used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations are in operation.<sup>6</sup> Section 11.11(a) of the Rules states that as of January 1, 1997, low power FM stations are required to have an EAS decoder.<sup>7</sup> During an inspection when the station was in operation, station WJRN-LP did not have an installed EAS decoder. Station personnel were not aware at the time of the inspection that the station was required to have an installed EAS decoder.<sup>8</sup> There was no evidence that the station had ever installed an EAS decoder at the station, and the station's license was granted May 2, 2005. In response to the *NAL*, Hispanic reiterates that it wasn't aware of the EAS decoder requirement and that previously it did not have the financial resources to purchase an EAS decoder. Hispanic states that it has since purchased and installed an EAS decoder. Thus, based on the evidence before us, we find that Hispanic repeatedly<sup>9</sup> violated Section 11.35(a) of the Rules by failing to install an EAS decoder.

6. Hispanic also states that imposition of the \$8000 forfeiture would pose a financial hardship for the station, but it failed to provide financial documentation of its finances with its response to the *NAL*. Hispanic was provided another opportunity to provide corroborating documentation of its finances and requested additional time to do so.<sup>10</sup> Hispanic subsequently told the Tampa Office that it would pay the forfeiture in installments. However, as of March 4, 2008, Hispanic has neither provided documentation of its finances nor entered into an installment payment plan for the proposed forfeiture. Because Hispanic has not provided any documentation of its finances, we are unable to determine whether a reduction of the proposed forfeiture on the basis of inability to pay would be appropriate.

7. Finally, Hispanic requests a reduction of the proposed forfeiture because it has not received a prior violation. We have reviewed our records and reduce the forfeiture to \$6,400, based on Hispanic's history of compliance with the Rules.

8. We have examined Hispanic'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

---

<sup>5</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>6</sup> 47 C.F.R. § 11.35(a).

<sup>7</sup> 47 C.F.R. § 11.11(a).

<sup>8</sup> We do not need to address whether this apparent violation was willful, because we find that the apparent violation was repeated. However, "prior knowledge or understanding of the law is unnecessary to a determination of whether a violation existed [and] ... [t]he Commission also does not consider ignorance of the law a mitigating factor." *Profit Enterprises, Inc.*, 8 FCC Rcd 2846, 2846 (1993), *cancelled on other grounds*, 12 FCC Rcd 14999 (1997); *see also Southern California Broadcasting Company*, 6 FCC Rcd 4387 (1991).

<sup>9</sup> 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. 97<sup>th</sup> 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).

<sup>10</sup> *See* Letter from Juan Nieves, Hispanic-Multicultural Broadcasting, to Ralph Barlow, District Director, Tampa Office, dated March 29, 2007.

that a reduction of the proposed forfeiture to \$6,400 is warranted, based on its history of compliance with the Rules.

#### IV. ORDERING CLAUSES

9. 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, Hispanic-Multicultural Broadcasting Association **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of six thousand four hundred dollars (\$6,400) for violation of Section 11.35(a) of the Rules.<sup>11</sup>

10. 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[s] 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](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures.

11. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Hispanic-Multicultural Broadcasting Association at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

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

---

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