

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

In the Matter of)	
)	Facility ID No. 10893
Christian Radio Translator)	NAL/Acct. No. MB200741410168
Association/Salmon, Inc.)	FRN: 0010354926
)	File No. BRFT-20051018ACW
Former Licensee of)	
FM Translator Station K257DJ)	
Salmon, Idaho)	

FORFEITURE ORDER

Adopted: August 28, 2009

Released: August 31, 2009

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of five hundred dollars (\$500) to Christian Radio Translator Association/Salmon, Inc. (“Christian Radio”), former licensee¹ of FM Translator Station K257DJ, Salmon, Idaho (“Station”), for willfully violating Section 73.3539 of the Commission’s Rules (“Rules”) by failing to timely file a license renewal application and for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended (“Act”), by engaging in unauthorized operation of the Station.²

II. BACKGROUND

2. On February 15, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of seven thousand dollars (\$7,000) to Christian Radio for these violations.³ Christian Radio filed a Request for Cancellation or Reduction of Proposed Forfeiture (“Request”) on March 7, 2007.

3. As noted in the NAL, Christian Radio’s renewal application for the current Station license term should have been filed on June 1, 2005, four months prior to the October 1, 2005, expiration date, but was not.⁴ In fact, Christian Radio did not file the renewal application until October 18, 2005, more than two weeks after the Station’s license expiration, and it did not seek special temporary authorization (“STA”) to continue Station operations pending consideration of the late-filed renewal

¹ Christian Radio assigned the Station to Faith Communications Corp. in 2007 (*see* File No. BALFT-20070314ACE (granted May 9, 2007)). The assignment was consummated on May 11, 2007. Despite this assignment, Christian Radio remains liable for forfeiture for those violations occurring when the Station was under its stewardship. *See, e.g., Vista Point Communications, Inc.*, Memorandum Opinion and Order and Forfeiture Order, 14 FCC Rcd 140, 140 n.2 (MMB 1999) (finding licensee liable for forfeiture for violations of the Commission’s rules that took place when station was under its stewardship).

² 47 C.F.R. § 73.3539; 47 U.S.C. § 301.

³ *Christian Radio Translator Association/Salmon, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 3217 (MB 2007).

⁴ *See* 47 C.F.R. §§ 73.1020, 73.3539(a).

application. On February 15, 2007, the staff advised Christian Radio of its apparent liability for a forfeiture of \$7,000 for its failure to timely file the Station's renewal application and for unauthorized operation of the Station.⁵ In response, Christian Radio filed the subject Request.

4. In support of its Request, Christian Radio states that: (1) its failure to timely file the renewal application was inadvertent; and (2) it is financially unable to pay the proposed forfeiture. Christian Radio asserts these reasons warrant a cancellation or reduction of the assessed forfeiture.

III. DISCUSSION

5. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,⁶ Section 1.80 of the Rules,⁷ and the Commission's *Forfeiture Policy Statement*.⁸ In assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we 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.⁹

6. Christian Radio does not dispute that it failed to file a timely renewal application for the Station, but states that these violations were unintentional. Specifically, it states that it was not aware of the filing deadline and mistakenly assumed that it would receive a reminder of the filing date from the Commission.¹⁰ As the Commission has held, however, violations resulting from inadvertent error or failure to become familiar with the FCC's requirements are willful violations.¹¹ In the context of a forfeiture action, "willful" does not require a finding that the rule violation was intentional. Rather, the term "willful" means that the violator knew that it was taking (or in this case, not taking) the action in question, irrespective of any intent to violate the Rules.¹²

7. Regarding Christian Radio's claim of financial hardship, the Commission will not consider reducing or canceling a forfeiture in response to inability to pay unless the licensee 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 reflect the licensee's current financial status. Here, Christian Radio has provided us with monthly bank statements of its checking account for the three-year period from January 1, 2003, through December 31, 2006. These statements reflect a high balance of \$1,199.57 and a low

⁵ The Commission granted the above-referenced license renewal application on February 15, 2007.

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. § 1.80.

⁸ *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 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁹ 47 U.S.C. § 503(b)(2)(E).

¹⁰ Request at 2.

¹¹ See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) ("*Southern California*") (stating that "inadvertence ... is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance"); *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, 358 (1986) (stating that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations").

¹² See *Five Star Parking d/b/a Five Star Taxi Dispatch*, Forfeiture Order, 23 FCC Rcd 2649, 2651 (EB 2008) (declining to reduce or cancel forfeiture for late-filed renewal based on licensee's administrative error); *Southern California*, 6 FCC Rcd at 4387. See also *Domtar Industries, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 13811, 13815 (EB 2006); *National Weather Networks, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 3922, 3925 (EB 2006).

balance of \$799.57. However, because these statements do not provide us with reliable, objective information reflecting Christian Radio's financial status,¹³ we find this information alone is an insufficient basis on which to assess Christian Radio's inability to pay.¹⁴ Accordingly, in the absence of sufficient information to support a decision to the contrary, we decline to cancel or reduce the proposed forfeiture on the basis of inability to pay.

8. We have considered Christian Radio's response to the NAL in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that Christian Radio willfully¹⁵ violated Section 73.3539 of the Rules and willfully and repeatedly¹⁶ violated Section 301 of the Act.¹⁷ However, given the Commission's recent decisions assessing forfeitures in the amount of \$500 against licensees of translator stations for violations of Section 73.3539 of the Rules and Section 301 of the Act,¹⁸ we reduce the forfeiture amount *sua sponte* to \$500.¹⁹

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules,²⁰ that Christian Radio Translator Association/Salmon, Inc., SHALL FORFEIT to the United States the sum of five hundred dollars (\$500) for willfully violating Section 73.3539 of the Commission's Rules and for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended.

10. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's Rules within 30 days of the release of this Forfeiture 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.²¹ Payment of the proposed forfeiture must be made by check or similar

¹³ See *Jason Konarz*, Memorandum Opinion and Order, 21 FCC Rcd 10082, 10083 (EB 2006) (finding that bank statements provided by licensee failed to provide an objective basis to support a financial hardship claim).

¹⁴ See *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 20 FCC Rcd 756, 759 (2005) (finding that licensee failed to provide sufficient information needed to evaluate an inability to pay claim); *Frank Neely*, Memorandum Opinion and Order, 22 FCC Rcd 1434, 1434 (EB 2007) (same); *Pang Cheng*, Memorandum Opinion and Order, 20 FCC Rcd 2351, 2353 (EB 2005) (same).

¹⁵ Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to Sections 312 and 503(b) of the Act, H.R. REP. No. 97-765, 51 (Conf. Rep.), and the Commission has so interpreted the terms in the Section 503(b) context. See *Southern California*, 6 FCC Rcd at 4387-88.

¹⁶ Section 312(f)(1) of the Act defines "repeated" as "the commission or omission of [any] act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(1). See also *Southern California*, 6 FCC Rcd at 4388 (applying this definition of repeated to Sections 312 and 503(b) of the Act).

¹⁷ 47 U.S.C. § 301.

¹⁸ See *KSOP, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 20950, 20952 (MB 2007) (issuing NAL in the amount of \$500 for translator station licensee's failure to timely file a license renewal application and for unauthorized operation of its station).

¹⁹ See, e.g., *Best Media, Inc.*, Forfeiture Order, 24 FCC Rcd 4140, 4143 (MB 2009) (reducing forfeiture amount from \$7,000 to \$500 for translator station's late renewal filing and unauthorized operation); *Valley Baptist Church and Christian School*, Forfeiture Order, 23 FCC Rcd 8740, 8742 (MB 2008) (reducing *sua sponte* forfeiture amount from \$1,500 to \$250 for translator station's late renewal filing).

²⁰ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

²¹ 47 U.S.C. § 504(a).

instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at 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, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If 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).²²

11. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by Certified Mail Return, Receipt Requested, and by First Class Mail to: Christian Radio Translator Association/Salmon Inc., c/o Timothy Hunt, Faith Communications Corp., 2201 S. 6th Street, Las Vegas, Nevada 89104, and to its counsel, Richard A. Helmick, Esq., Cohn and Marks LLP, 1920 N Street N.W., Suite 300, Washington, D.C. 20036-1622.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

²² See 47 C.F.R. § 1.1914.