

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

In the Matter of)	NAL/Acct. No. MB-20064141001
)	FRN: 0004052569
Morgan County Broadcasting Co., Inc.)	Facility ID No. 43778
Licensee of Stations WECO(AM) and WECO-FM)	File No. BR-20040614AAC
Wartburg, Tennessee)	Facility ID No. 43775
		File No. BRH-20040614AAB

FORFEITURE ORDER

Adopted: September 16, 2009

Released: September 17, 2009

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order we issue a monetary forfeiture in the amount of three thousand dollars (\$3,000), to Morgan County Broadcasting Co., Inc. (“Morgan County Broadcasting”), licensee of Stations WECO(AM) and WECO-FM (the “Stations”), for its willful and repeated violations of Section 73.3539 of the Commission’s Rules (“Rules”)¹ by failing to timely file license renewal applications for the Stations.

II. BACKGROUND

2. On January 30, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of three thousand dollars (\$3,000) to Morgan County Broadcasting for these apparent violations.² In response to the NAL, Morgan County Broadcasting submitted a Statement Seeking Reduction of Proposed Forfeiture (“Statement”) on February 20, 2007.

3. As noted in the NAL, Morgan County Broadcasting’s renewal applications for the Stations were due on April 1, 2004, four months prior to the August 1, 2004, expiration date.³ Morgan County Broadcasting did not file the applications until June 14, 2004, and provided no explanation for the untimely filing of the renewal applications. On January 30, 2007, the staff advised Morgan County Broadcasting of its apparent liability for a forfeiture in the total amount of \$3,000 for willfully violating Section 73.3539 of the Rules, based on the fact that it failed to timely file renewal applications for the Stations.

4. In its Statement, Morgan County Broadcasting states that it has an overall history of compliance with the Rules and is entitled to a reduction of the forfeiture amount.

¹ 47 C.F.R. § 73.3539.

² *Morgan County Broadcasting Co., Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 1463 (MB 2007).

³ See 47 C.F.R. §§ 73.1020, 73.3539(a).

III. DISCUSSION

5. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (the “Act”),⁴ Section 1.80 of the Rules,⁵ and the Commission’s *Forfeiture Policy Statement*.⁶ 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.⁷

6. We reject Morgan County Broadcasting’s argument that it deserves a reduction based on its history of compliance with the rules. It is undisputed that Morgan County Broadcasting failed to file properly its applications for both Stations WECO(AM) and WECO-FM. Based on these combined offenses, we cannot find that Morgan County Broadcasting’s history of compliance warrants reduction of the forfeiture amount.⁸

7. We have considered Morgan County Broadcasting’s Statement and the record of this case in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that Morgan County Broadcasting willfully⁹ and repeatedly¹⁰ violated Section 73.3539 of the Rules, and that no mitigating circumstances warrant cancellation or reduction of the proposed forfeiture amount.

IV. ORDERING CLAUSES

8. 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,¹¹ that Morgan County

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. § 1.80.

⁶ *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).

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ *See MFR, Inc.*, Forfeiture Order, 2009 WL 1392548 (MB 2009), *citing Paulino Bernal Evangelism*, Memorandum Opinion and Order, 21 FCC Rcd 9532 (EB 2006) (In determining whether a licensee has a history of overall compliance, offenses need not be “prior” to be considered, and for stations having the same owner at the time of the violations, it is appropriate to consider such violations. Commission can consider violations occurring in cases where there has been no final determination.). *See also Petracom of Texarkana, L.L.C.*, Forfeiture Order, 19 FCC Rcd 8096 (EB 2004) (*citing CCN, Inc.*, Order to Show Cause and Opportunity for Hearing, 13 FCC Rcd 13599, 13599-600 ¶ 1 (1998)); *Hill Country Real Estate Development Corp.*, Forfeiture Order, 18 FCC Rcd 21079, 21080 ¶ 5 (EB 2003); *Rio Grande Transmission, Inc.*, Forfeiture Order, 16 FCC Rcd 17040, 17042-43 ¶ 10 (EB 2001); *Mega Communications of St. Petersburg, Licensee, L.L.C.*, Forfeiture Order, 16 FCC Rcd 15948, 15949 ¶ 6 (EB 2001)).

⁹ 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 Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 (1991).

¹⁰ Section 312(f)(2) 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 Broadcasting Co.*, 6 FCC Rcd at 4388 (applying this definition of repeated to Sections 312 and 503(b) of the Act).

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

Broadcasting Co., Inc. SHALL FORFEIT to the United States the sum of three thousand dollars (\$3,000) for willfully and repeatedly violating Section 73.3539 of the Commission's Rules.

9. 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.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 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).¹³

10. 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 Morgan County Broadcasting Co., Inc., P.O. Box 100, Wartburg, Tennessee 37887, and its counsel, Peter Gutmann, Womble Carlyle Sandridge & Rice, PLLC, 1401 I Street, NW, Seventh Floor, Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

¹² 47 U.S.C. § 504(a).

¹³ See 47 C.F.R. § 1.1914.