

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

In the Matter of)	
)	
Calvary Chapel of Costa Mesa, Inc.)	File No. EB-09-SE-137
FM Radio Station KWVE)	NAL/Acct. No. 200932100077
San Clemente, California)	FRN No. 0006377303
)	

ORDER

Adopted: November 13, 2009

Released: November 13, 2009

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this *Order*, we reconsider on our own motion and set aside pursuant to Section 1.113 of the Commission's Rules ("Rules")¹ the *Notice of Apparent Liability for Forfeiture* ("NAL")² issued to Calvary Chapel of Costa Mesa, Inc. ("Calvary Chapel"), licensee of FM radio station KWVE, in the above-captioned proceeding on September 17, 2009. The *NAL* was issued to Calvary Chapel for transmitting an unauthorized Required Monthly Test ("RMT") of the Emergency Alert System ("EAS") in a manner that was not in accordance with the procedures specified in the EAS Operating Handbook,³ in violation of Section 11.61 of the Rules.⁴

2. In taking this action, we are mindful of the unique circumstances at issue, including the voluntary and critical nature of the service provided by local primary stations in enabling statewide EAS activity, as well as the isolated nature of the particular violation, which occurred while Calvary Chapel was conducting regularly scheduled mandatory testing designed to identify problems prior to a real emergency or natural disaster. Thus, while we seek strict compliance in the EAS arena given the national interests at stake, and while no one factor standing alone would justify modification of the proposed *NAL*, we conclude after further consideration of the totality of the evidence that a different approach is warranted in this limited instance.⁵

3. Therefore, in lieu of the *NAL*, we hereby admonish Calvary Chapel for its violation of Section 11.61 of the Rules. We also reiterate the significance of ensuring public safety through strict compliance with EAS testing regulations and remind Calvary Chapel of its obligation to execute these vital tests in accordance with the EAS Handbook and Commission rules.⁶ To ensure that the multiple

¹ 47 C.F.R. § 1.113.

² *Calvary Chapel of Costa Mesa, Inc.*, Notice of Apparent Liability for Forfeiture, DA 09-2053 (Enf. Bur., Spectrum Enf. Div., released September 17, 2009).

³ The Emergency Alert System 2007 AM and FM Handbook ("EAS Operating Handbook") can be found at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-278628A3.pdf.

⁴ 47 C.F.R. § 11.61.

⁵ On September 18, 2009, Calvary Chapel filed a pleading styled as a Petition for Reconsideration. Given the action we take herein, we dismiss this petition as moot and therefore need not address the specific arguments raised by the licensee.

⁶ See *In the Matter of Amendment of Part 73, Subpart G, and the Commission's Rules Regarding the Emergency Broadcast System*, First Report and Order, 10 FCC Rcd 1786, 1825-26, 1837 (1994).

errors that led to the violations have been addressed, we direct Calvary Chapel to submit within ninety (90) days from the release of this Order a compliance report (i) describing all EAS compliance measures undertaken since October 18, 2008 (*e.g.*, any employee training or changes in station protocols) designed to prevent a recurrence of the violations at issue here, along with (ii) a certification by an officer of the company to the accuracy of such report.

4. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Sections 0.111, 0.311 and 1.113 of the Rules,⁷ the *Notice of Apparent Liability for Forfeiture* released on September 17, 2009 **IS HEREBY SET ASIDE**.

5. **IT IS FURTHER ORDERED** that in lieu of the September 17, 2009 *Notice of Apparent Liability for Forfeiture*, Calvary Chapel of Costa Mesa, Inc. **IS ADMONISHED** for transmitting an unauthorized RMT of the EAS and failing to transmit the End of Message code as well as the message advising that the test had been concluded as set forth in Section 11.61 of the Rules and the EAS Operating Handbook and **SHALL SUBMIT** a compliance report as set forth herein.

6. **IT IS FURTHER ORDERED** that the Petition for Reconsideration filed by Calvary Chapel of Costa Mesa, Inc. **IS hereby DISMISSED AS MOOT**.

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Charles W. Smith, President, Calvary Chapel of Costa Mesa, Inc., 3000 W. Macarthur Blvd., Suite 500, Santa Ana, CA 92704, and to Lauren A. Colby, Esq., 10 East 4th Street, Frederick, MD 21701.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

⁷ 47 C.F.R. §§ 0.111, 0.311 and 1.113.