

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

In the Matter of)	
)	
Rama Communications, Inc.)	File No. EB-08-TP-033
)	
Licensee of station WOKB)	NAL/Acct. No. 200932700002
Winter Garden, FL 34787)	
)	
Facility ID Number: 87164)	FRN: 000-50080-16
)	
Owner of Antenna Structure Numbers)	
1045401, 1045403 and 1045404)	

MEMORANDUM OPINION AND ORDER

Adopted: April 29, 2009

Released: April 30, 2009

By the Assistant Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order* (“MO&O”), we grant in part and deny in part the petition for reconsideration filed by Rama Communications, Inc. (“Rama”) of the *Forfeiture Order* issued December 9, 2008.¹ The *Forfeiture Order* imposed a monetary forfeiture in the amount of \$25,000 for Rama’s willful and repeated violations of Sections 17.50, 73.49, 73.1745(a) and 73.3526 of the Commission’s Rules (“Rules”).² The noted violations involved Rama’s failure to clean or repaint its antenna structures as often as necessary to maintain good visibility, failure to enclose the antenna tower within an effective locked fence or enclosure, operation at times with power other than those specified in its the license, and failure to maintain and make available a complete public inspection file.

II. BACKGROUND

2. On May 1, 2 and 8, 2008, agents from the Commission’s Tampa Office of the Enforcement Bureau (“Tampa Office”), monitored station WOKB’s transmissions before and after local sunset and observed no reduction in the transmissions’ field strength.

3. On May 3, 2008, agents from the Tampa Office drove to the WOKB transmitter site in Ocoee, Florida and inspected the paint on antenna structure numbers 1045401 and 1045403. According to the Antenna Structure Registration (“ASR”) database, “Rama Communications, Inc. DBA = WOKB AM” is the owner of these structures. According to the ASR database, these antenna structures are required to be painted and lit.³ The agents observed that the paint on the structures was extremely faded

¹ *Rama Communications, Inc.*, Forfeiture Order, 23 FCC Rcd 17820 (Enf. Bur. South Central Region, 2008) (“*Forfeiture Order*”).

² 47 C.F.R. §§ 17.50, 73.49, 73.1745(a), 73.3526.

³ Pursuant to Section 17.21 of the Rules, antenna structures shall be painted and lighted when they exceed 60.96 meters in height above ground. 47 C.F.R. § 17.21. Antenna structure numbers 1045401 and 1045403 are 88.7 meters in height above ground.

and had washed away completely in many areas, leaving the metal exposed and reducing the towers' visibility.

4. On May 9, 2008, agents from the Tampa Office, accompanied by the station's operations manager, conducted an inspection of AM radio station WOKB's transmitter and main studio location in Ocoee, Florida, during normal business hours. WOKB was transmitting at the time of the inspection. No meter readings were available from the WOKB transmitter. There were no station logs available at the time of inspection to indicate any problems with WOKB's transmitter.

5. On May 9, 2008, during normal business hours, agents from the Tampa Office also requested to inspect the station's public inspection file. Although the station maintained a public inspection file, the Issues-Program Lists were not available. The station provided an incomplete list for January, February, and March 2007. The list did not include the time or duration of the program or a narrative describing what issues were given significant treatment. The station had no information in the public inspection file for any other quarters.

6. Still during the inspection on May 9, 2008, the agents from the Tampa Office observed that the licensee was currently using only two of its antenna structures, antenna structure numbers 1045402 and 1045404, in its directional array. When the agents inspected antenna structure number 1045404, they observed that the lock on the tower fence was in place but the gate was not secured. The lock was placed in the wrong position on the gate handle. The agents pulled on the door handle, and it was able to be opened, thus providing the agents complete access to the base of the tower. They found the door of the tower antenna feed wire circuit box on the ground, which left the high voltage transmitting equipment exposed. The weeds and vegetation were overgrown at the base of the tower, indicating that it had been in this condition for some time. The agents observed that there was no perimeter property fence around the property. The agents also inspected the paint on antenna structure numbers 1045401 and 1045403 and found it to be in the same condition as on May 3, 2008. The paint on the structures was extremely faded and had left the metal exposed reducing the towers' visibility.

7. On May 15, 2008, the agents from the Tampa Office re-inspected antenna structure number 1045404 and found it to be in the same condition as on May 9, 2008. The gate to the tower fence was still not secured, because the lock was still placed in the wrong position on the gate handle. The agents were still able to pull on the door handle to gain complete access to the base of the tower. However, the tower antenna feed wire circuit box was closed, and the grass and weeds were mowed.

8. On October 16, 2008, the Tampa Office issued a *Notice of Apparent Liability for Forfeiture* to Rama in the amount of twenty five thousand dollars (\$25,000), for the apparent willful and repeated violation of Sections 17.50, 73.49, 73.1745(a) and 73.3526 of the Rules.⁴ Rama failed to submit a response to the *NAL*. On December 9, 2008, the Bureau released a no response *Forfeiture Order*, imposing a \$25,000 forfeiture. On January 12, 2009, Rama filed a petition for reconsideration requesting reduction or cancellation of the forfeiture.

⁴ *Rama Communications, Inc.*, Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 200932700002 (Enf. Bur., Tampa Office, October 16, 2008) ("*NAL*").

III. DISCUSSION

9. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁵ Section 1.80 of the Rules,⁶ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.⁷ In examining Rama's petition, 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 any other such matters as justice may require.⁸

10. A petition for reconsideration, which relies on facts not previously presented to the designated authority, may be granted only if: (1) the designated authority determines that consideration of the facts relied on is required in the public interest; (2) the petition relies on facts which relate to events which occurred or circumstances which have changed since the last opportunity to present such matters; or (3) the petition relies on facts unknown to petitioner until after his last opportunity to present such matters.⁹ All of the information presented in the petition for reconsideration was available and known to Rama when it was provided an opportunity to respond to the *NAL*. Moreover, Rama "does not dispute the alleged violations cited in the Commission's *NAL* or Forfeiture Order released on December 9, 2008."¹⁰ Accordingly, we deny in part Rama's petition for reconsideration.

11. In its petition for reconsideration, Rama claims that it did not respond to the *NAL*, because it either did not receive it or confused it with another Notice of Apparent Liability for Forfeiture that it received.¹¹ The Tampa Office, however, received a return receipt signed by Rama's owner for the *NAL*. Moreover, Rama failed to respond to its other Notice of Apparent Liability for Forfeiture, which was dated October 16, 2008.¹² Rama claims that one of the inspections underlying the violations at issue was also "partly the basis of the third *NAL* issued ... for violations at station WLAA, Ocoee, FL."¹³ Although agents from the Tampa Office inspected Rama-owned stations WOKB and WLAA on the same day, the agents found separate violations for each station, and each station is required to comply with the Rules. Rama also states that it has since corrected all of the noted violations. However, corrective action taken to come into compliance with the Rules after an inspection is expected, and does not nullify or mitigate any prior forfeitures or violations.¹⁴ Rama cites *Surrey Front Range Ltd. Partnership*, 71 RR 2d

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. § 1.80.

⁷ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁸ 47 U.S.C. § 503(b)(2)(E).

⁹ 47 C.F.R. § 1.106(c).

¹⁰ *See* Rama petition for reconsideration at 2.

¹¹ *See id.*

¹² *See Rama Communications, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 18209 (Enf. Bur., 2008).

¹³ *See* Rama petition for reconsideration at 2. *See also Rama Communications, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 18209 (Enf. Bur., 2008).

¹⁴ *See e.g., Syntax-Brilliant Corporation*, Forfeiture Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6323 (2008); *AT&T Wireless Services, Inc.*, Forfeiture Order, 17 FCC Rcd 21866 (2002); *Seawest Yacht Brokers*, Forfeiture Order, 9 FCC Rcd 6099 (1994).

882 (FOB 1992) in support of its request for reduction, based on its post-inspection corrective actions. The proposed forfeiture in that case was reduced based on the violator's history of compliance with the Rules. In the instant case, Rama willfully and repeatedly violated the Rules and does not have a history of compliance with the Rules, so we do not find the cited case dispositive.

12. Finally, Rama requests a reduction of the forfeiture, based on its inability to pay. Rama also states that it is already paying a previous forfeiture in installments and that this additional forfeiture would pose an even greater financial hardship. However, the Commission has determined that, in general, an entity's gross revenues are the best indicator of its ability to pay a forfeiture.¹⁵ We have reviewed the financial documentation provided by Rama setting forth its gross revenues and conclude that a reduction of the forfeiture to \$22,500 is warranted based on its inability to pay. Thus, we grant Rama's petition for reconsideration in part, by reducing the forfeiture to \$22,500.

IV. ORDERING CLAUSES

13. Accordingly, **IT IS ORDERED**, pursuant to Section 405 of the Communications Act of 1934, as amended,¹⁶ and Section 1.106 of the Commission's Rules,¹⁷ that the Petition for Reconsideration filed by Rama Communications, Inc. **IS GRANTED IN PART AND DENIED IN PART**.

14. **IT IS ALSO ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,¹⁸ Rama Communications, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty two thousand five hundred dollars (\$22,500) for violation of Sections 17.50, 73.49, 73.1745(a) and 73.3526 of the Rules.

15. 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.¹⁹ 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.

¹⁵ See *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Local Long Distance, Inc.*, Forfeiture Order, 15 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, Memorandum Opinion and Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

¹⁶ 47 U.S.C. § 405.

¹⁷ 47 C.F.R. § 1.106.

¹⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 11.35(a), 73.3526.

¹⁹ 47 U.S.C. § 504(a).

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. Rama will also send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

16. **IT IS FURTHER ORDERED** that this Order shall be sent by regular mail and by certified mail, return receipt requested, to Rama Communications, Inc. at its address of record and to its counsel, Todd A. Steiner, Law Offices of Putbrey, Hunsaker & Trent, P.C., 200 South Church Street, Woodstock, VA 22664.

FEDERAL COMMUNICATIONS COMMISSION

Priya Shrinivasan
Assistant Chief, Enforcement Bureau