

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

In the Matter of	)	
	)	
<b>Communications Systems, Inc.</b>	)	Facility ID No. 12733
	)	NAL/Acct. No. MB-2006414140109
Licensee of Station WFMI(FM)	)	FRN: 0004282307
Southern Shores, North Carolina	)	File No. BRH-20031121AKP

**FORFEITURE ORDER**

**Adopted: August 26, 2010**

**Released: August 27, 2010**

By the Chief, Audio Division, Media Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order*, we issue a monetary forfeiture in the amount of one thousand, two hundred dollars (\$1,200) to Communications Systems, Inc. (“Licensee”), licensee of Station WFMI(FM), Southern Shores, North Carolina (“Station”), for willfully violating Section 73.3539 of the Commission’s Rules (“Rules”) by failing to timely file a license renewal application for the Station.<sup>1</sup>

**II. BACKGROUND**

2. On February 22, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of one thousand, five hundred dollars (\$1,500) to Licensee for willfully violating Section 73.3539 of the Rules, based on the fact that it failed to timely file a renewal application for the Station.<sup>2</sup> As noted in the *NAL*, Licensee’s renewal application for the Station’s license term was due on August 1, 2003, four months prior to the December 1, 2003, expiration date.<sup>3</sup> Licensee did not file the application until November 21, 2003, and provided no explanation for the untimely filing of the renewal application. Licensee submitted a response (“Response”) to the NAL on March 23, 2007.<sup>4</sup>

3. In its Response, Licensee asserts that the proposed forfeiture should be cancelled because: (1) its failure to timely file its renewal application was inadvertent, and (2) it has a history of compliance with the Commission’s Rules.

**III. DISCUSSION**

4. 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”),<sup>5</sup> Section 1.80 of the Rules,<sup>6</sup> and the

<sup>1</sup> 47 C.F.R. § 73.3539.

<sup>2</sup> *Communications Systems, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 3718 (MB 2007). The Commission granted the license renewal application on February 22, 2007.

<sup>3</sup> See 47 C.F.R. §§ 73.1020, 73.3539(a).

<sup>4</sup> With its Response, Licensee also provided copies of various invoices and bills. As Licensee has not provided any explanation for these documents, we will not consider them.

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. § 1.80.

Commission's *Forfeiture Policy Statement*.<sup>7</sup> 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.<sup>8</sup>

5. Licensee does not dispute that it failed to file a timely renewal application for the Station, but explains that this violation was unintentional. Licensee states that the Station's initial covering license application had been recently granted on March 6, 2003, with an expiration date of December 1, 2003.<sup>9</sup> It claims that it did not receive any notification from the Commission about the renewal deadline and was unaware that Station's renewal application was due four months prior to the license expiration.<sup>10</sup>

6. As the Commission has held, however, violations resulting from inadvertent error or failure to become familiar with the FCC's requirements are willful violations.<sup>11</sup> Therefore, Licensee's unfamiliarity with the Commission's license renewal application filing deadline does not excuse its failure to timely file the license renewal application.

7. We have considered Licensee's Response and the record of this case in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that Licensee willfully<sup>12</sup> violated Section 73.3539 of the Rules. However, given Licensee's history of compliance with the Rules, we reduce the forfeiture amount to \$1,200.<sup>13</sup>

#### 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,<sup>14</sup> that Communications Systems, Inc. SHALL FORFEIT to the United States the sum of one thousand, two hundred dollars (\$1,200) for willfully violating Section 73.3539 of the Commission's Rules.

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<sup>7</sup> *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).

<sup>8</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>9</sup> Response at 1.

<sup>10</sup> *Id.*

<sup>11</sup> See *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088 (1992); *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 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 (1986) (stating that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations").

<sup>12</sup> 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.

<sup>13</sup> See, e.g., *WLTV, Inc.*, Forfeiture Order, 24 FCC Rcd 7715, 7717 (MB 2009) (reducing forfeiture amount based on licensee's history of compliance); *Wayne State College*, Forfeiture Order, 24 FCC Rcd 2484, 2486 (MB 2009) (same); *Christian Center, Inc.*, Forfeiture Order, 24 FCC Rcd 1128, 1129 (MB 2009) (same); *John Brown University*, Forfeiture Order, 24 FCC Rcd 1536, 1537 (MB 2009) (same). See also 47 C.F.R. § 1.80, Note to Paragraph (b)(4), Downward Adjustment Criteria.

<sup>14</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

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.<sup>15</sup> 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).<sup>16</sup> Licensee will also send electronic notification on the date said payment is made to Kelly.Donohue@fcc.gov and Alexander.Sanjenis@fcc.gov. Requests for payment of the full amount of the forfeiture under an installment plan should be sent to: Associate Managing Director-Financial Operations, Room 1-A625, 445 12th Street, S.W., Washington, D.C. 20554.<sup>17</sup>

10. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by Certified Mail, Return Receipt Requested, to Communications Systems, Inc., c/o Michael Chandler, 4801 Columbus Street, Suite 400, Virginia Beach, Virginia 23462.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>15</sup> 47 U.S.C. § 504(a).

<sup>16</sup> See 47 C.F.R. § 1.1914.

<sup>17</sup> *Id.*