

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

In the Matter of)	
)	
Louisiana Christian Broadcasting, Inc.)	Facility I.D. No. 38584
)	NAL/Acct. No. 0641420017
Licensee of Station KMCT-TV)	FRN: 0006920177
West Monroe, Louisiana)	

FORFEITURE ORDER

Adopted: February 1, 2010

Released: February 2, 2010

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“Order”) we issue a monetary forfeiture in the amount of seven thousand dollars (\$7,000) to Louisiana Christian Broadcasting, Inc. (“Licensee”), licensee of Station KMCT-TV, West Monroe, Louisiana (“Station”), for its willful and repeated violation of Section 73.3526(e)(11)(ii) of the Commission’s Rules (“Rules”)¹ by failing to place in the Station’s public inspection file all required records concerning its compliance with the children’s programming commercial limits.

II. BACKGROUND

2. On February 1, 2005, Licensee filed an application to renew the license of the Station (“Application”) (File No. BRCT-20050201BCX). Section IV, Item 3 of the license renewal application form, FCC Form 303-S, requests that the licensee certify that the documentation required by Section 73.3526 of the Rules has been placed in the station’s public inspection file at the appropriate times. Licensee indicated “No” to that certification, explaining in an Exhibit that the Station’s public file was missing records concerning its compliance with the children’s programming commercial limits. Specifically, Licensee indicated that its children’s television commercial limits records from the fourth quarter of 1997 through the third quarter of 1999 were placed in the Station’s public file, but were subsequently removed. Licensee also reported that from the fourth quarter of 1999 to the first quarter of 2002, it inadvertently did not place the appropriate records in the public inspection file. Licensee contended that it placed all missing items in the public file upon discovery of these deficiencies.

3. On December 19, 2005, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of ten thousand dollars (\$10,000) to Licensee for its violations.² In response to the NAL, Licensee filed a Request for Reduction of Forfeiture (“Request”) on January 18, 2006. In support of its Request, Licensee states that: (1) the proposed forfeiture is excessive in comparison with the extent of the violations; (2) it voluntarily disclosed its public file deficiencies when it filed its Application and three years earlier in a letter to the Enforcement Bureau; and (3) it has a history of overall compliance with the Rules. Licensee asserted that these reasons warrant a reduction of the assessed forfeiture to \$4,000.

¹ 47 C.F.R. § 73.3526(e)(11)(ii).

² See *Louisiana Christian Broadcasting, Inc.*, 20 FCC Rcd 20056 (MB 2005).

III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,³ Section 1.80 of the Rules,⁴ and the Commission's *Forfeiture Policy Statement*.⁵ In assessing forfeiture, 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 other such matters as justice may require.⁶

5. Licensee asserted that in light of the forfeitures proposed for other public file violations, reduction of the proposed forfeiture amount is warranted in this case because it is excessive in comparison with the extent of the violation. Specifically, with regard to the commercial limits records that were removed from the public file, Licensee indicated that we should take into account that these records were in the public file at some point and were later inadvertently removed from the public file. Licensee contended that its "eight quarters that were removed should have been fined less than the 10 quarters that were never placed in the public file because the eight quarters of documents were in the public file at some time."⁷ Licensee also cited a decision involving "more violations" in which the licensee was fined a \$10,000 forfeiture.⁸ In addition, Licensee argued that the Station's public file was "partially complete" since it was missing only the children's television commercial limits records, and consequently, reduction of the forfeiture amount is justified.⁹

6. Further, Licensee averred that we should reduce the proposed forfeiture given its voluntary disclosure of its violations. Specifically, Licensee asserted that it voluntarily disclosed its public file violations when it filed its Application. Additionally, Licensee stated that it disclosed these violations to the Commission three years earlier in a letter to the Enforcement Bureau. Licensee attached a date-stamped copy of its letter to the Enforcement Bureau. Finally, Licensee asserted that a forfeiture reduction is warranted because of its history of compliance with the Commission's Rules.

7. We reject Licensee's claim that the proposed forfeiture is excessive in comparison with the extent of the violations. Although the *Atlantic Media* case involved a greater number of missing children's television commercial limits records, we note that the \$10,000 forfeiture amount in this case is consistent with other decisions involving 18 items missing from the public inspection file.¹⁰ With respect to the violations at issue in the *Ohio/Oklahoma* case cited by Licensee, we note that licensee in that case reported only three children's television commercial limits records missing from its public inspection file,

³ 47 U.S.C. § 503(b).

⁴ 47 C.F.R. § 1.80.

⁵ *The Commission's Forfeiture Policy Statement and Amendment of Section 180 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁶ 47 U.S.C. § 503(b)(2)(E).

⁷ In support of its argument, Licensee cited to *Ohio/Oklahoma Hearst-Argyle Television, Inc.*, Letter (MB rel. December 29, 2005) (*Ohio/Oklahoma*) (admonishing the licensee for three missing children's television commercial limits records).

⁸ *See Atlantic Media Group, Inc. from Donna C. Gregg*, (MB December 16, 2005) ("*Atlantic Media*") (issuing a \$10,000 forfeiture for 28 missing children's television commercial limits records).

⁹ In support of its assertion, Licensee cited to *Snow Hill Broadcasting, L.L.C.*, Forfeiture Order, 20 FCC Rcd 14415 (EB 2005); *Twenty-One Sound Communications, Inc.*, Forfeiture Order, 20 FCC Rcd 12497 (EB 2005).

¹⁰ *See, e.g., Nexstar Broadcasting, Inc.*, 22 FCC Rcd 17586 (MB 2007) (*Nexstar Broadcasting*) (issuing a \$10,000 forfeiture for nine missing issues/programs lists and nine commercial limits records); *P.D. Communications, LLC*, 20 FCC Rcd 16557 (MB 2005) (*P.D. Communications*) (issuing a \$10,000 forfeiture for six missing children's television programming reports, six missing commercial limits records, and six missing issues/programs lists).

whereas Licensee in this case report a total of 18 missing children's television programming reports. Licensee argued that the proposed forfeiture amount should be reduced because its public file was "partially complete." However, it is undisputed that 18 children's television commercial limits records were missing from the public file. The proposed forfeiture amount in this case is consistent with forfeitures issued for similar violations in the past.¹¹

8. We accept Licensee's representation that the requisite children's television commercial limits records from the fourth quarter of 1997 through the third quarter of 1999 – a total of eight lists – were generated and timely placed in the Station's public inspection file. However, the Licensee admits that the completeness of the Station's public file was not maintained thereafter. Moreover, Licensee also reported that its children's television commercial limits records from the fourth quarter of 1999 to the first quarter of 2002 – a total of ten lists - were not placed in the public file. Therefore, consistent with past decisions, a \$10,000 forfeiture amount is warranted for the missing commercial limits records.¹²

9. We disagree with the assertion that Licensee's disclosure in its license renewal application of the public file violations was voluntary. Although Licensee admitted to violating Section 73.3526, it did so only in the context of the question contained in its license renewal application that compelled such disclosure. We note that our decision is consistent with the Rules and the Commission's Forfeiture Policy Statement and encourages companies to voluntarily disclose violations and promptly correct violations.¹³ However, upon reviewing the Licensee's Request and date-stamped letter to the Enforcement Bureau disclosing its violations, we credit Licensee's representation that it had disclosed the violations prior to filing its license renewal application three years later. Under these circumstances, we reduce the \$10,000 forfeiture by \$1,000.

10. We have considered Licensee's response to the NAL in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that Licensee willfully¹⁴ and repeatedly¹⁵ violated Sections 73.3526(e)(11)(ii) of the Rules. However, given Licensee's history of compliance with the Rules, we further reduce the forfeiture amount to \$7,000.¹⁶

¹¹ See *Nexstar Broadcasting and P.D. Communications, supra*.

¹² See, e.g., *KHQ, Incorporated*, 23 FCC Rcd 6582 (MB 2008) (issuing a \$10,000 forfeiture for ten missing children's television commercial limits records).

¹³ See 47 C.F.R. § 1.80, Note to Paragraph(b)(4), Guidelines for Assessing Forfeitures. See also *Local Phone Services, Inc.*, Order of Forfeiture, 23 FCC Rcd 8952 (2008) (finding that the issuance of a forfeiture despite petitioner's voluntary disclosure of its Rule violations was appropriate and would not discourage other parties from voluntarily disclosing violations of the Act or Rules).

¹⁴ 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 Section 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), *recon. denied*, 7 FCC Rcd 3454 (1992) ("*Southern California*").

¹⁵ 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).

¹⁶ See, e.g., *Wayne State College*, Forfeiture Order, 24 FCC Rcd 2484 (MB 2009) (issuing forfeiture for licensee's public file violations, but reducing forfeiture amount based on licensee's history of compliance); *Christian Center, Inc.*, Forfeiture Order, 24 FCC Rcd 1128 (MB 2009) (same); *John Brown University*, Forfeiture Order, 24 FCC Rcd 1536 (MB 2009) (same). See also 47 C.F.R. § 1.80, Note to Paragraph (b)(4), Downward Adjustment Criteria.

IV. ORDERING CLAUSES

11. 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,¹⁷ that Louisiana Christian Broadcasting, Inc., SHALL FORFEIT to the United States the sum of \$7,000 for willfully and repeatedly violating Section 73.3526(e)(11)(ii) of the Commission's Rules.

12. 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.¹⁸ Payment of the proposed 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).¹⁹

13. IT IS FURTHER ORDERED that copies of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested and by First Class Mail, to Louisiana Christian Broadcasting, Inc., 701 Parkwood Drive, West Monroe, Louisiana 71291, and to its counsel, Joseph C. Chautin, III, Esquire, Hardy, Carey & Chautin, L.L.P., 110 Veterans Blvd., Suite 300, Metairie, LA, 70005.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

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

¹⁸ 47 U.S.C. § 504(a).

¹⁹ See 47 C.F.R. § 1.1914.