

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

In the Matter of)	
)	
TRUSTEES OF MOUNT HOLYOKE)	Facility ID No. 68245
COLLEGE)	NAL/Acct. No. MB-200741410416
)	FRN: 003626660
Licensee of Station WMHC(FM))	File No. BRED-20070221AAX
South Hadley, Massachusetts)	

FORFEITURE ORDER

Adopted: October 21, 2010

Released: October 22, 2010

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order we issue a monetary forfeiture in the amount of seven thousand dollars (\$7,000) to Trustees of Mount Holyoke College (“Licensee”), licensee of WMHC(FM), South Hadley, Massachusetts (“Station”), for its willful violation of Section 73.3539 of the Commission’s Rules (“Rules”) by failing to timely file a license renewal application for the Station and its willful and repeated violation of Section 301 of the Communications Act of 1934, as amended (the “Act”), by engaging in unauthorized operation of the Station after its authorization had expired.¹

II. BACKGROUND

2. On November 15, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of seven thousand dollars (\$7,000) to Licensee for these apparent violations.² As noted in the NAL, Licensee’s renewal application for the Station’s license term was due on December 1, 2005, four months prior to the April 1, 2006 expiration date.³ Licensee did not file the application until February 21, 2007, more than 10 months after the Station’s license had expired, and provided no explanation for the untimely filing of the renewal application. Licensee submitted a response (“Response”) to the NAL on December 14, 2007.

3. In its Response, Licensee asserts that the proposed forfeiture should be cancelled or reduced because the Station is a completely student-run organization, and the student administrators at the Station were “completely unaware” of the deadline for filing the application or the Station’s license expiration date. Also, Licensee states that it did not receive notice from the Commission regarding the license renewal due date or the lapse of the license.

¹ 47 C.F.R. § 73.3539; 47 U.S.C. § 301.

² *Trustees of Mount Holyoke College*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 19861 (MB 2007). The Commission granted the license renewal application on November 15, 2007.

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

III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of 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

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 is a completely student-run organization. As such, the individuals responsible for running the Station change frequently as students graduate and leave the university. Additionally, Licensee claims that student administrators of the Station and the Licensee apparently received no notice from the Commission regarding the license renewal due date or the lapse of the license.⁸

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.⁹ 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. Additionally, licensees are responsible for seeking timely renewal regardless of whether they receive a renewal notification, and a failure to do so is considered a willful violation.¹⁰

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 willfully¹¹

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 Response at 1.

⁹ 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"). See also *Corning Community College*, Forfeiture Order, 24 FCC Rcd 14285, 14286, (MB 2009) (rejecting argument to reduce forfeiture based on student-run status); *University of Montana-Western*, Forfeiture Order, 24 FCC Rcd 3127, 3128-29 (MB 2009) (same).

¹⁰ See *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7437-38 (2004) (stating that Commission licensees are charged with knowledge of the full range of its obligations, including its duty to timely seek renewal of its license to maintain operating authority and that this obligation attaches even if it fails to receive Commission notification regarding license renewal). See also *Friends of Christian Radio*, Forfeiture Order, 25 FCC Rcd 2580, 2581 (fact that licensee "was incorrectly under the impression that the Commission would send out a license renewal due date reminder" did not excuse licensee's failure to timely file renewal application).

¹¹ 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 (1991).

violated Section 73.3539 of the Rules, willfully and repeatedly¹² violated Section 301 of the Act, 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,¹³ that Trustees of Mount Holyoke College SHALL FORFEIT to the United States the sum of seven thousand dollars (\$7,000) for willfully violating Section 73.3539 of the Commission's Rules and willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended.

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.¹⁴ 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).¹⁵ Licensee will also send electronic notification on the date said payment is made to Michael.Wagner@fcc.gov and Marjorie.Thurston@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. 20554.¹⁶

10. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested, to Mr. Douglas Vanderpoel, Director of Auxiliary Services, Trustees of Mount Holyoke College, Card Services Office, Central Services Complex, 50 College Street, South Hadley, MA 01075-6485.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

¹² 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).

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

¹⁴ 47 U.S.C. § 504(a).

¹⁵ *See* 47 C.F.R. § 1.1914.

¹⁶ *Id.*