

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

In the Matter of)	
)	
Rama Communications, Inc.)	File Number: EB-09-TP-0067
)	
Licensee of Station WRHB)	NAL/Acct. No. 201132700001
Leesburg, FL 34748)	
Facility ID # 73913)	FRN: 0005023643
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: November 1, 2010

Released: November 3, 2010

By the District Director, Tampa Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find that Rama Communications, Inc. (“Rama”), licensee of AM station WRHB, in Leesburg, Florida, apparently willfully and repeatedly violated Sections 73.1125(a) and 73.3526 of the Commission’s Rules (“Rules”)¹ by failing to maintain full-time managerial and staff personnel at its main studio and failing to maintain and make available a complete public inspection file. We conclude that Rama is apparently liable for a forfeiture in the amount of twenty-five thousand dollars (\$25,000).

II. BACKGROUND

2. On September 3, 2009, in response to a complaint, agents from the Enforcement Bureau’s Tampa Office (“Tampa Office”) conducted an inspection during normal business hours of AM Station WRHB’s main studio and transmitter location in Leesburg, Florida.² During the inspection, agents from the Tampa Office questioned all of the individuals present at the main studio, and each stated that they were employed by Heartbeat Radio. No managerial or staff personnel employed by Rama were present at the main studio or at the transmitter site. Heartbeat Radio provides programming for Station WRHB pursuant to a time brokerage agreement with Rama.³ During the inspection, the agents also requested to inspect the station’s public inspection file. The staff employed by Heartbeat Radio was unable to produce a complete public inspection file for the station. The public inspection file that was produced did not contain, among other things, any issues/ programs lists after June 12, 2007, or a copy of the time brokerage agreement. While agents were at the station, Rama faxed to the main studio a current copy of its time brokerage agreement with Heartbeat Radio.

3. On October 8, 2009, during normal business hours, agents from the Tampa Office revisited Station WRHB’s main studio in Leesburg, Florida and found two individuals present at the main studio. The owner of Heartbeat Radio stated over the telephone that one of the two individuals present at the main studio was employed by Rama and had begun working at the station less than two weeks prior. The two

¹ 47 C.F.R. §§ 73.1125(a), 73.3526.

² At the time of the inspection, the station’s call sign was WQBQ. The call sign was changed to WRHB effective September 7, 2009. For purposes of this *NAL*, the station will be referred to as Station WRHB.

³ Time Brokerage Agreement between Heartbeat Radio and Rama.

people present were unaware of any other Rama employees working at the main studio prior to the recent addition of this Rama employee. The Rama employee confirmed that she started less than two weeks ago, was unfamiliar with the management and operation of the station, and did not appear to have any managerial authority over the station.

III. DISCUSSION

4. Section 503(b) of the Communications Act of 1934, as amended (“Act”),⁴ provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term “willful” as used in section 503(b) of the Act has been interpreted to mean simply that the acts or omissions are committed knowingly.⁵ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁶

5. Section 73.1125(a) of the Rules requires broadcast stations to maintain a main studio.⁷ The Commission has interpreted section 73.1125 (also known as the “Main Studio Rule”) to require, among other things, that a licensee maintain a “meaningful management and staff presence” at its main studio.⁸ Specifically, the Commission has found that a main studio “must, at a minimum, maintain full-time managerial and full-time staff personnel.”⁹

6. As discussed above, on September 3, 2009, no full-time managerial or full-time staff personnel employed by Rama were present at Station WRHB’s main studio during normal business hours. On October 8, 2009, a full-time staff person employed by Rama was present at the main studio, but all Rama and Heartbeat Radio personnel agreed that Rama maintained no personnel at the main studio prior to September 23, 2009. There is no evidence that Rama ever maintained a full-time managerial presence at the main studio. The transmitter site was also unstaffed on September 3, 2009 and on October 8, 2009. Based on the evidence before us, we find that Rama apparently willfully and repeatedly violated section 73.1125(a) of the Rules by failing to maintain full-time managerial personnel at Station WRHB’s main studio from September 3, 2009 until October 8, 2009, and failing to maintain full-time staff personnel at the main studio from September 3, 2009 until September 23, 2009.

⁴ 47 U.S.C. § 503(b).

⁵ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act....” See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

⁶ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”

⁷ 47 C.F.R. § 73.1125(a).

⁸ *Amendment of Sections 73.1125 and 73.1130 of the Commission’s Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, Memorandum Opinion and Order, 3 F.C.C.R. 5024, 5026 (1988), *erratum issued*, 3 FCC Rcd 5717 (1988) (correcting language in n.29).

⁹ See *Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 (1991) (“*Jones Eastern*”) (noting that, “This is not to say that the same staff person and manager must be assigned full-time to the main studio. Rather, there must be management and staff presence on a full-time basis during normal business hours to be considered ‘meaningful.’”), *clarified*, 7 FCC Rcd 6800 (1992) (“*Jones Eastern II*”). See also *Birach Broadcasting Corporation*, Notice of Apparent Liability, 25 FCC Rcd 2635 (Enf. Bur. 2010).

7. Section 73.3526 of the Rules states that “[e]very permittee or licensee of an AM, FM, TV or a Class A station in the commercial broadcast services shall maintain a public inspection file containing the material” set forth in this section.¹⁰ Section 73.3526(e)(12) of the Rules states that “every three months a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period [must be maintained in the public inspection file]. [. . .] The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.”¹¹ The public inspection file must be maintained at the main studio of the station,¹² and must be available for public inspection at any time during regular business hours.¹³ Section 73.3526(e)(14) of the Rules states that “a copy of every agreement or contract involving time brokerage of the licensee’s station or of another station by the licensee . . . shall be retained as long as the contract or agreement is in force [in the public inspection file].”¹⁴

8. As discussed above, on September 3, 2009, in response to a request to inspect Station WRHB’s public inspection file during regular business hours, the staff of Heartbeat Radio was unable to produce a complete public inspection file. The file produced was missing the most recent eight issues/programs lists as well as a copy of Rama and Heartbeat Radio’s time brokerage agreement. Although Rama ultimately faxed the current copy of its current time brokerage agreement for the station during the inspection, it was unable to produce any of the missing issues/programs lists. There is no evidence that Station WRHB ever had a complete public inspection file. Based on the evidence before us, we find that Rama apparently willfully and repeatedly violated Section 73.3526 of the Rules by failing to maintain a complete public inspection file and apparently willfully violated Section 73.3526 of the Rules by failing to make available a complete public inspection file.

9. Pursuant to the Commission’s *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for violations of the Main Studio Rule is \$7,000, and the base forfeiture amount for not maintaining or making available a public inspection file is \$10,000.¹⁵ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, 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.¹⁶ Rama previously violated Sections 73.1125(a) and 73.3526 of the Rules and has received prior forfeitures and Notices of Violation for these violations.¹⁷ Accordingly, we believe an

¹⁰ 47 C.F.R. § 73.3526(a)(2).

¹¹ 47 C.F.R. § 73.3526(e)(12).

¹² 47 C.F.R. § 73.3526(b).

¹³ 47 C.F.R. § 73.3526(c).

¹⁴ 47 C.F.R. § 73.3526(e)(14).

¹⁵ *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), (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

¹⁶ 47 U.S.C. § 503(b)(2)(E).

¹⁷ *See Rama Communications, Inc.*, Forfeiture Order, 22 FCC Rcd 13796 (Enf. Bur. 2007) (finding Rama violated, among other Rules, Sections 73.1125(a) and 73.3526); *see also Rama Communications, Inc.*, Forfeiture Order, 23 FCC Rcd 14931 (Enf. Bur. 2008), *petition denied*, Memorandum Opinion and Order, 23 FCC Rcd 18209 (Enf. Bur. 2008) (finding Rama violated, among other Rules, Section 73.3526); *Rama Communications, Inc.*, Forfeiture Order, 19 FCC Rcd 24802 (Enf. Bur. 2004), *petition denied*, Memorandum Opinion and Order, 22 FCC Rcd 1104 (Enf. Bur. 2007) (finding Rama violated, among other Rules, Section 73.3526); *Rama Communications, Inc.*, NOV No.

(continued....)

upward adjustment of the forfeiture is warranted. Thus, applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Rama is apparently liable for a forfeiture in the amount of \$25,000. We caution Rama that future violations of Commission rules may result in more severe enforcement penalties, including significantly larger forfeitures.¹⁸

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.311, 0.314 and 1.80 of the Commission's Rules, Rama Communications, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for violations of sections 73.1125(a) and 73.3526 of the Rules.¹⁹

11. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Rama Communications, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the 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. 20554.²⁰ If you have questions, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. Rama Communications, Inc. shall also send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

13. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.80(f)(3) and 1.16 of the Rules. The written statement must be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Tampa Office, 4010 W Boy Scout Blvd, Suite 425, Tampa, FL 33607 and must include the NAL/Acct. No. referenced in the caption. The statement should also be mailed to SCR-Response@fcc.gov.

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V20063270002 (Tampa Office, May 16, 2006) (finding Rama violated, among other Rules, Section 73.3526(e)(13)); *Rama Communications, Inc.*, NOV No. V20053270002 (Tampa Office, November 1, 2004) (finding Rama violated, among other Rules, Sections 73.3526(e)(8) and 73.3526(e)(12)).

¹⁸ We further remind Rama that licensees have a duty to be truthful and candid with the Commission in all written and oral communications. See 47 C.F.R. §1.17. In addition to monetary forfeitures, violations of this duty also may subject licensees to license revocation or non-renewal. See, e.g., 47 U.S.C. §312(a)(1).

¹⁹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 0.314, 1.80, 73.1125(a), 73.3526.

²⁰ See 47 C.F.R. § 1.1914.

14. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

15. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Rama Communications, Inc. at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Ralph Barlow
District Director,
Tampa Office
South Central Region
Enforcement Bureau