

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

In the Matter of	)	
	)	Facility ID No. 7902
<b>Robert John Williamson</b>	)	NAL/Acct. No. MB-200741410319
	)	FRN: 0010296325
Licensee of Station WGYV(AM)	)	File No. BR-20040224AAC
Greenville, Alabama	)	

**FORFEITURE ORDER**

**Adopted: December 9, 2010**

**Released: December 10, 2010**

By the Chief, Audio Division, Media Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of one thousand, five hundred dollars (\$1,500) to Robert John Williamson (“Licensee”), licensee of Station WGYV(AM), Greenville, Alabama (“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.

**II. BACKGROUND**

2. On March 4, 2008, 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 this violation.<sup>1</sup> As noted in the NAL, Licensee’s renewal application for the current Station license term should have been filed on December 1, 2003, four months prior to the Station’s April 1, 2004, license expiration date, but was not.<sup>2</sup> Licensee did not file his renewal application until February 24, 2004, approximately one month before the Station’s license expired. Licensee filed a Request for Cancellation or Reduction of Proposed Forfeiture (“Request”) on April 1, 2008.

3. In his Request, Licensee states that cancellation or reduction of the forfeiture amount is warranted because: (1) his failure to timely file the renewal application was inadvertent, and (2) payment of the proposed forfeiture will cause him financial hardship.

**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>3</sup> Section 1.80 of the Rules,<sup>4</sup> and the

<sup>1</sup> *Robert John Williamson*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 3690 (MB 2008). The Commission granted the above-referenced license renewal application on March 4, 2008.

<sup>2</sup> See 47 C.F.R. §§ 73.1020, 73.3539(a).

<sup>3</sup> 47 U.S.C. § 503(b).

<sup>4</sup> 47 C.F.R. § 1.80.

Commission's *Forfeiture Policy Statement*.<sup>5</sup> In determining the appropriate forfeiture amount, 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>6</sup>

5. Licensee does not dispute that he failed to file a timely renewal application for the Station, but states that this violation was unintentional.<sup>7</sup> Licensee claims that as a new licensee, he mistakenly thought that "the renewal wasn't necessary until April 1, 2004."<sup>8</sup> 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>9</sup> We have declined to reduce or cancel forfeitures in similar circumstances.<sup>10</sup> Accordingly, we find this argument to be without merit.

6. Next, Licensee argues that the forfeiture should be reduced or cancelled because paying the forfeiture amount would cause him significant financial hardship. The Commission will not consider reducing or canceling a forfeiture in response to inability to pay unless the licensee 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 reflect the licensee's current financial status. Here, Licensee did not submit federal tax returns, financial statements or any documentation setting forth his finances in support of his Request. Accordingly, in the absence of sufficient information to support a decision to the contrary, we decline to cancel or reduce the proposed forfeiture on the basis of inability to pay.<sup>11</sup>

7. 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 willfully<sup>12</sup> violated Section 73.3539 of the Rules, and that no mitigating circumstances warrant cancellation or reduction of the proposed forfeiture amount.

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<sup>5</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>6</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>7</sup> Request at 1.

<sup>8</sup> *Id.*

<sup>9</sup> *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 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, 358 (1986) (stating that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations").

<sup>10</sup> *Centerville City Schools Board of Education*, Forfeiture Order, 25 FCC Rcd 3855 (MB 2010) (rejecting licensee's unfamiliarity with the renewal process as a basis for forfeiture reduction or cancellation). *See also Domtar Industries, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 13811, 13815 (EB 2006) ("ignorance of or unfamiliarity with the Commission's requirements is not a mitigating factor and does not warrant a forfeiture reduction").

<sup>11</sup> *See Colby Community College*, Forfeiture Order, 24 FCC Rcd 3568 (MB 2010) (rejecting licensee's financial hardship argument, finding that licensee failed to provide any documentation in support of an inability to pay claim); *Oberlin College Student Network, Inc.*, Forfeiture Order, 25 FCC Rcd 8240 (MB 2010) (same).

<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.

**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>13</sup> that Robert John Williamson SHALL FORFEIT to the United States the sum of one thousand, five hundred dollars (\$1,500) for willfully violating Section 73.3539 of the Commission's Rules.

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>14</sup> 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).<sup>15</sup> Licensee will also send electronic notification on the date said payment is made to [Kelly.Donohue@fcc.gov](mailto:Kelly.Donohue@fcc.gov) and [Shannon.Hyatt@fcc.gov](mailto:Shannon.Hyatt@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>16</sup>

10. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by Certified Mail Return, Receipt Requested, and by First-Class Mail, to: Robert John Williamson, P.O. Box 585, Greenville, AL 36037, and to its counsel, Mark N. Lipp, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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

<sup>14</sup> 47 U.S.C. § 504(a).

<sup>15</sup> See 47 C.F.R. § 1.1914.

<sup>16</sup> *Id.*