

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

In the Matter of)	NAL/Acct. No. MB-200741410415, MB-
)	200741410414
Christian Radio Fellowship)	FRN: 0013161880
)	
Licensee of Station WFTF(FM))	Facility ID No. 11099
Rutland, Vermont)	File No. BRFT-20060821ABK
)	
and)	
)	
FM Translator Station W220AX)	Facility ID No. 11095
Ludlow, Vermont)	File No. BRED-20060822AJB

FORFEITURE ORDER

Adopted: April 13, 2010

Released: April 14, 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 five hundred dollars (\$7,500) to Christian Radio Fellowship (“Licensee”), licensee of Station WFTF(FM), Rutland, Vermont, and FM translator station W220AX, Ludlow, Vermont (“Stations”), for willfully violating Section 73.3539 of the Commission’s Rules (“Rules”), by failing to timely file license renewal applications for the Stations, and willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended (“Act”), by engaging in unauthorized operation of the Stations after their authorizations had expired.¹

II. BACKGROUND

2. On November 15, 2007, the Bureau issued two separate Notices of Apparent Liability for Forfeiture (“*NALs*”) in the amount of seven thousand dollars (\$7,000) and five hundred dollars (\$500), respectively, to Licensee for these violations.² As noted in the *NALs*, Licensee’s renewal applications for the Stations’ license term were due on December 1, 2005, four months prior to the April 1, 2006, expiration date.³ Licensee did not file the application for Station WFTF(FM) until August 21, 2006 and did not file the application for Station W220AX until August 22, 2006. Licensee provided no explanation for the untimely filing of the renewal applications or its failure to request special temporary authorization (“*STA*”) to continue the Stations’ operations after its licenses had expired. In response to the *NALs*, Licensee submitted two letters (collectively, “*Requests*”) on December 10, 2007.

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

² *Christian Radio Fellowship*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 19857 (MB 2007) (for Station WFTF(FM)); *Christian Radio Fellowship*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 19853 (MB 2007) (for Station W220AX). The Commission granted the license renewal applications on November 15, 2007.

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

III. DISCUSSION

3. 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

4. Licensee requests that the forfeiture be cancelled on the grounds that it thought it had correctly filed the renewal applications on October 19, 2005. It asserts that the renewal applications for the Stations were created on that date and mistakenly assumed that "Pending" status in the Commission's online filing system indicated that the applications had been successfully filed.⁸ 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 In the context of a forfeiture action, "willful" does not require a finding that the rule violation was intentional. Rather, the term "willful" means that the violator knew that it was taking (or, in this case, not taking) the action in question, irrespective of any intent to violate the Rules.¹⁰ Moreover, the Commission has specifically ruled that confusion or difficulties with the Commission's electronic filing system are not grounds for reduction or cancellation of a forfeiture.¹¹ Accordingly, we find this argument without merit.

5. We have considered Licensee's Requests and the record of this case in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that, in each of these situations, Licensee willfully¹² violated Section 73.3539 of the Rules and willfully and repeatedly¹³

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 Requests at 1.

⁹ *See PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2088 (1992); *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").

¹⁰ *See Five Star Parking d/b/a Five Star Taxi Dispatch*, Forfeiture Order, 23 FCC Rcd 2649, 2651 (EB 2008) (declining to reduce or cancel forfeiture for late-filed renewal based on licensee's administrative error); *Southern California*, 6 FCC Rcd at 4387. *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"); *National Weather Networks, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 3922, 3925 (EB 2006) ("negligence does not mitigate a Commission rule violation").

¹¹ *See Muskegon Training and Educational Center*, Forfeiture Order, 23 FCC Rcd 11241, 11242-43 (MB 2008).

¹² 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.

violated Section 301 of the Act¹⁴ and that no mitigating circumstances warrant cancellation or further reduction of the proposed forfeiture amount.¹⁵

IV. ORDERING CLAUSES

6. 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,¹⁶ that Christian Radio Fellowship SHALL FORFEIT to the United States the sum of seven thousand five hundred dollars (\$7,500) for willfully violating Section 73.3539 of the Commission's Rules and for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended.

7. 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.¹⁷ 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).¹⁸ 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. 20554.¹⁹

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¹³ Section 312(f)(2) 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)(2). *See also Southern California*, 6 FCC Rcd at 4388 (applying this definition of repeated to Sections 312 and 503(b) of the Act).

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

¹⁵ A forfeiture amount of five hundred dollars (\$500) is proper for Station W220AX, given the Commission's recent decisions assessing forfeitures in the amount of \$500 against licensees of translator stations for violations of Section 73.3539 of the Rules and Section 301 of the Act, based on the station's status as a provider of secondary FM translator service. *See, e.g., KSOP, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 20950, 20952 (MB 2007) (issuing NAL in the amount of \$500 for licensee's failure to timely file a license renewal application and for unauthorized operation of its translator station).

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

¹⁷ 47 U.S.C. § 504(a).

¹⁸ *See* 47 C.F.R. § 1.1914.

¹⁹ *Id.*

8. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested to Mr. Ronald Systo, Christian Radio Fellowship, 2 Meadow Lane, Rutland, Vermont 05701.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau