

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

In the Matter of)	
)	
Meade County Communications, Inc.)	File No. EB-10-CG-0638
)	NAL/Acct. No. 201232320001
Licensee of Station WMMG)	FRN: 0003762333
Brandenburg, Kentucky)	
Facility ID # 40927)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: October 12, 2011

Released: October 14, 2011

By the District Director, Chicago Office, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture and Order (“*NAL*”), we find that Meade County Communications, Inc. (“Meade”), licensee of AM Station WMMG, in Brandenburg, Kentucky, apparently willfully and repeatedly violated section 73.3526(e)(12) of the Commission’s Rules (“Rules”)¹ by failing to maintain and make available the issues/program lists in the public inspection file. We conclude that Meade is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000). We further direct Meade to submit a written statement signed under penalty of perjury stating that Station WMMG is now in compliance with section 73.3526 of the Rules.

II. BACKGROUND

2. On August 18, 2010, an agent from the Enforcement Bureau’s Chicago Office conducted an inspection at Station WMMG’s main studio, located at 1715 Bypass Drive in Brandenburg, Kentucky. The agent reviewed the materials in Station WMMG’s public inspection file and found that the file did not contain any quarterly issues/programs lists for the current license term, *i.e.*, it was missing 24 quarters of issues/programs lists.² Station staff was able to locate several documents that they claimed reflected local issues that were addressed in their programming, but those documents were not in the public inspection file and were not in the format required by the Commission’s Rules.

III. DISCUSSION

3. Section 503(b) of the Communications Act of 1934, as amended (“Act”),³ provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license,

¹ 47 C.F.R. § 73.3626(e)(12).

² The current license term began when the license renewal application was granted on July 26, 2004. *See* BR-20040331ANF.

³ 47 U.S.C. § 503(b).

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. 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.⁴ The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both section 312 and 503(b) of the Act⁵ and the Commission has so interpreted the term in the section 503(b) context.⁶ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.⁷ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁸

4. Section 73.3526(a)(2) of the Rules requires broadcast stations to maintain for public inspection a file containing materials listed in that section.⁹ Section 73.3526(c)(1) of the Rules specifies that the file shall be available for public inspection at any time during regular business hours,¹⁰ and section 73.3526(e)(12) of the Rules specifically requires licensees to place in their public inspection file each calendar quarter a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period (known as the issues/programs list).¹¹ The issues/programs lists must include “a brief narrative describing what issues were given significant treatment and the programming that provided this treatment,” including, but not limited to, the time, date, duration, and title of each program in which the issue was treated.¹² Copies of the issues/programs list must be retained in the public inspection file until final action has been taken on the station’s next license renewal application.

5. On August 18, 2010, an agent reviewed Station WMMG’s public inspection file and found that it did not have any quarterly issues/programs lists for the current license term. The documents provided to the agent during the inspection did not constitute issues/programs lists and, in any event, were not in the public file. Accordingly, based on the evidence before us, we find that Meade apparently willfully and repeatedly violated section 73.3526(e)(12) of the Rules by failing to maintain the

⁴ 47 U.S.C. § 312(f)(1).

⁵ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) (“This provision [inserted in section 312] defines the terms ‘willful’ and ‘repeated’ for purposes of section 312, and for any other relevant section of the act (e.g., section 503)... As defined ... ‘willful’ means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. ‘Repeated’ means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be ‘continuous’ would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in sections 312 and 503, and are consistent with the Commission’s application of those terms ...”).

⁶ See, e.g., *Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) (“*Southern California Broadcasting Co.*”).

⁷ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362 ¶ 10 (2001) (“*Callais Cablevision, Inc.*”) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

⁸ 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.”

⁹ 47 C.F.R. § 73.3526(a)(2).

¹⁰ 47 C.F.R. § 73.3526(c)(1).

¹¹ 47 C.F.R. § 73.3526(e)(12).

¹² *Id.*

issues/programs lists and make them available in Station WMMG's public inspection file.

6. Pursuant to the Commission's *Forfeiture Policy Statement* and section 1.80 of the Rules, the base forfeiture amount for violation of public files rules is \$10,000.¹³ 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, and history of prior offenses, ability to pay, and other such matters as justice may require.¹⁴ Applying the *Forfeiture Policy Statement*, section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Meade is apparently liable for a forfeiture of \$10,000.

7. We direct Meade to submit a statement signed under penalty of perjury by an officer or director of Meade stating: (1) the Radio issues/program lists are being compiled, and (2) the Radio issues/program lists are being placed in the public inspection file by the tenth day of the succeeding calendar quarter. This statement must be provided to the Chicago Office at the address listed in paragraph 12 within thirty days of the release date of this Notice of Apparent Liability for Forfeiture and Order.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204(b), 0.311, 0.314 and 1.80 of the Commission's Rules, Meade County Communications, Inc., is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violation of section 73.3526(e)(12) of the Rules.¹⁵

9. **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 and Order, Meade County 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.

10. **IT IS FURTHER ORDERED** that Meade County Communications, Inc. **SHALL SUBMIT** a sworn statement as described in paragraph 7 to the Enforcement Bureau Office listed in paragraph 12 within thirty (30) days of the release date of this Notice of Apparent Liability for Forfeiture and Order.

11. 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

¹³ *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.

¹⁴ 47 U.S.C. § 503(b)(2)(E).

¹⁵ 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.204(b), 0.311, 0.314, 1.80, 73.3516(e)(12).

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. 20554.¹⁶ If you have questions, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. If payment is made, Meade County Communications, Inc. will send electronic notification on the date said payment is made to NER-Response@fcc.gov.

12. 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. Mail the written statement to Federal Communications Commission, Enforcement Bureau, Northeast Region, Chicago Office, 1550 North Northwest Highway, Room 306, Park Ridge, IL 60068 and include the NAL/Acct. No. referenced in the caption. Meade County Communications, Inc. also shall email the written response to NER-Response@fcc.gov.

13. 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.

14. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Meade County Communications, Inc., at P.O. Box 505, Brandenburg, KY 40108-0505.

FEDERAL COMMUNICATIONS COMMISSION

James M. Roop
District Director
Chicago District Office
Northeast Region
Enforcement Bureau

¹⁶ See 47 C.F.R. § 1.1914.