

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

In the Matter of)	
)	
Pilot Media, LLC)	File Number: EB-10-CG-0293
)	
Licensee of FM Station WIBL)	NAL/Acct. No.: 201132320001
Fairbury, Illinois)	
Facility ID 86178)	FRN: 0016314320

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 2, 2011

Released: May 3, 2011

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

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Pilot Media, LCC (“Pilot Media”), licensee of FM Station WIBL, in Fairbury, Illinois, 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 quarterly issues/programs lists in the local public inspection file. We conclude that Pilot Media is apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000).

II. BACKGROUND

2. On October 26, 2010, agents from the Enforcement Bureau's Chicago Office conducted an inspection with Station WIBL's chief operator at the station's main studio, located at 108 Boeykens Place in Normal, Illinois. The agents reviewed the materials in Station WIBL's public inspection file and found that the file did not contain any issues/programs lists since the 3rd quarter of 2009, *i.e.*, it was missing a total of four quarters of issues/programs lists.

III. DISCUSSION

3. Section 503(b) of the Act 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.² 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.³ The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act⁴ and the Commission has so interpreted the term in the section 503(b)

¹ 47 C.F.R. § 73.3526(e)(12).

² 47 U.S.C. § 503(b).

³ 47 U.S.C. § 312(f)(1).

⁴ 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 (continued....)”).

context.⁵ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.⁶ “Repeated” means that the act was committed or omitted more than once, or lasts more than one day.⁷

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.⁸ 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,⁹ and section 73.3526(e)(12) of the Rules specifically requires licensees to place in their public inspection file, for 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.¹⁰ This list is known as the issues/programs list and must include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs must include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. 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 October 26, 2010, an agent reviewed Station WIBL’s public inspection file and found that it was missing four quarters of issues/programs lists. Accordingly, based on the evidence before us, we conclude that Pilot Media apparently willfully and repeatedly violated section 73.3526(e)(12) by failing to maintain the issues/programs lists and make them available in Station WIBL’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 the public file rule is \$10,000.¹¹ Because Station WIBL’s public file was mostly complete, we conclude a reduction in the base forfeiture amount for the public file violation to \$4,000 is appropriate.¹² In assessing the monetary

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(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 ...”).

⁵ 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.*”).

⁶ 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).

⁷ *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, ¶ 5; *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, ¶ 9.

⁸ 47 C.F.R. § 73.3526(a)(2).

⁹ 47 C.F.R. § 73.3526(c)(1).

¹⁰ 47 C.F.R. § 73.3526(e)(12).

¹¹ *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.

¹² See *Daniel D. Smith*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 15874 (Enf. Bur., (continued....))

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.¹³ Applying the *Forfeiture Policy Statement*, section 1.80, and the statutory factors to the instant case, we conclude that Pilot Media is apparently liable for a forfeiture in the amount of \$4,000 for its failure to maintain its quarterly issues/program lists during the current license term.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204, 0.311, 0.314 and 1.80 of the Commission's Rules, Pilot Media, LCC is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of four thousand dollars (\$4,000) for apparently willfully and repeatedly violating section 73.3526(e)(12) of the Rules.¹⁴

8. **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, Pilot Media, LCC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. 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 NAL/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. 20554.¹⁵ Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Pilot Media, LLC will also send electronic notification to NER-Response@fcc.gov on the date said payment is made.

10. The written statement seeking reduction or cancellation of the proposed forfeiture,

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District Director, Kansas City Office 2010) (proposed \$4,000 forfeiture for failure to maintain issues/programs lists); *James L. Chladek*, Forfeiture Order, 24 FCC Rcd 9337 (Enf. Bur., Regional Director, Northeast Region 2009) (assessed \$4,000 forfeiture for failure to maintain issues/programs lists); *Hensley Broadcasting, Inc.*, Forfeiture Order, 24 FCC Rcd 115 (Enf. Bur., Regional Dir., Northeast Region 2009) (assessed \$4,000 forfeiture for failure to maintain issues/programs lists).

¹³ 47 U.S.C. § 503(b)(2)(E).

¹⁴ 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 73.1570, 73.3526.

¹⁵ See 47 C.F.R. § 1.1914.

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, Northwest Region, Chicago Field Office, 1550 N. Northwest Highway, Room 306, Park Ridge, Illinois 60068 and must include the NAL/Acct. No. referenced in the caption. An electronic copy shall be sent to NER-Response@fcc.gov.

11. 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.

12. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to Pilot Media, LLC at P.O. Box 1628, Cape Girardeau, MO 63702-1608.

FEDERAL COMMUNICATIONS COMMISSION

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