

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

In the Matter of)	
)	
World Media Broadcast Company)	File No: EB-10-NF-0003
)	
Licensee of Station WCLM(AM))	NAL/Acct. No.: 201032640002
Highland Springs, Virginia)	
Facility ID # 73728)	FRN: 5016308
)	

FORFEITURE ORDER

Adopted: May 17, 2011

Released: May 17, 2011

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“*Order*”), we issue a monetary forfeiture in the amount of five thousand five hundred dollars (\$5,500) to World Media Broadcast Company, (“World Media”), licensee of Station WCLM(AM), in Highland Springs, Virginia for willful and repeated violation of sections 11.35(a), 73.1400(a)(1)(ii) and 73.3526 of the Commission’s Rules (“Rules”).¹ The noted violations involve World Media’s failure to maintain: (1) functioning Emergency Alert System (“EAS”) equipment; (2) functioning transmission system remote control equipment; and (3) a public inspection file at its main studio, and make that file available upon request.

II. BACKGROUND

2. As discussed in detail in the Notice of Apparent Liability (“*NAL*”) in this case,² on January 26, 2010, during an inspection of the main studio and transmitter site for Station WCLM in Richmond, Virginia, an agent of the Enforcement Bureau’s Norfolk Office (“Norfolk Office”) observed that the station’s EAS encoder/decoder unit installed at the main studio was not operational. Both the station manager and the “technical representative” for the station admitted that neither of them knew if an EAS Encoder/Decoder unit was installed at the main studio or when the last EAS test was sent. In addition, World Media was unable to produce any evidence that required EAS weekly or monthly tests had ever been sent or received.

3. In response to a request to inspect Station WCLM’s public inspection file during regular business hours, the station manager was unable to make the public inspection file or any of the required contents of the file available for inspection. The station manager stated that Station WCLM’s public inspection file was maintained at World Media’s headquarters in Washington, DC. The agent also observed that the installed transmitter dial-up remote control system at the Station WCLM transmitter site was inoperative. According to the station manager and “technical representative,” the transmitter remote control unit was “hit by lightning” sometime in November 2009 and had not been repaired or replaced.

¹ 47 C.F.R. §§ 11.35(a), 73.1400(a)(1)(ii), 73.3526.

² *World Media Broadcast Company*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 4758 (Enf. Bur., 2010).

4. In view of the record evidence, including World Media's admissions, the *NAL* proposed a forfeiture of \$21,000 against the licensee for violation of sections 11.35(a), 73.1400(a)(1)(ii), and 73.3526 of the Rules. World Media submitted a response to the *NAL* requesting reduction or cancellation of the proposed forfeiture based on its history of compliance with the Rules, its prompt action to repair its EAS equipment, and its inability to pay the forfeiture.³ World Media's response does not dispute the violations identified in the *NAL*.

III. DISCUSSION

5. The proposed forfeiture amount in this case was assessed in accordance with section 503(b) of the Communications Act of 1934, as amended ("Act"),⁴ section 1.80 of the Rules,⁵ and the *Forfeiture Policy Statement*.⁶ In examining World Media's response, section 503(b) of the Act requires that the Commission 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 other such matters as justice may require.⁷ As discussed below, we have considered World Media's response in light of these statutory factors and reduce the proposed forfeiture to \$5,500, based on its documented inability to pay.

6. Section 11.35(a) of the Rules⁸ requires all broadcast stations to ensure that EAS encoders, EAS decoders, and attention signal generating and receiving equipment are installed and operational so that the EAS monitoring and transmitting functions are available when a station is in operation. Section 73.1400(a)(1)(ii) of the Rules states that if a remote control system of the transmission system is used, the "remote control system must provide sufficient transmission system monitoring and control capability so as to ensure compliance with §73.1350."⁹

7. Section 73.3526(a)(2) 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 The public inspection file must be maintained at the main studio of the station,¹¹ and must be available for public inspection at any time during regular business hours.¹²

³ See Letter from George C. Lacey, President, World Media Broadcast Company, to Norfolk Office, Enforcement Bureau (June 3, 2010) ("*NAL Response*").

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) ("*Forfeiture Policy Statement*").

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ 47 C.F.R. § 11.35(a).

⁹ 47 C.F.R. § 73.1400(a)(1)(ii).

¹⁰ 47 C.F.R. § 73.3526(a)(2).

¹¹ 47 C.F.R. § 73.3526(b).

¹² 47 C.F.R. § 73.3526(c).

8. World Media does not deny any of facts stated in the *NAL* and “appreciates the seriousness of the violations in this matter.”¹³ We agree that its violations are serious, particularly with respect to the EAS violations.¹⁴ Thus, based on the evidence before us, we find that World Media willfully¹⁵ and repeatedly¹⁶ violated sections 11.35(a), 73.1400(a)(1)(ii), and 73.3526 of the Rules by failing to: (1) maintain functioning EAS equipment; (2) provide functioning transmission system remote control equipment from November 2009 until January 26, 2010; and (3) maintain a public inspection file at its main studio. We also find that World Media willfully failed to make available a public inspection file on January 26, 2010.

9. World Media asserts that its prompt action to correct the violations and its record of compliance with the Commission’s rules warrants mitigation of the forfeiture. The Commission has long held that post-notification corrective action taken to come into compliance with the Rules is expected, however, and such corrective action does not nullify or mitigate any prior forfeitures or violations.¹⁷ Moreover, the Commission may take into account the duration of a violation in considering whether a licensee has a history of overall compliance.¹⁸ Here, station management was unaware that EAS equipment was even located in the main studio, and there is no evidence that World Media’s EAS equipment was ever operational.¹⁹ Given the duration and seriousness of the violation, we do not believe that World Media has demonstrated a history of overall compliance with the Commission’s Rules and therefore find that no reduction of the forfeiture based on this factor is warranted.

10. Finally, World Media asserts that the forfeiture would pose a financial hardship and requests reduction or cancellation of the forfeiture on this basis. With regard to an individual’s or entity’s inability to pay, the Commission has determined that, in general, gross revenues are the best indicator of an ability to pay a forfeiture.²⁰ We have reviewed our records and World Media’s submitted

¹³ *NAL Response* at 1.

¹⁴ As the nation’s emergency warning system, the EAS is critical to public safety, and broadcasters play a vital role in ensuring the success of the EAS. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its licensees.

¹⁵ 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 *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

¹⁶ As provided by 47 U.S.C. § 312(f)(2), a violation is “repeated” if it continues for more than one day. The *Conference Report* for section 312(f)(2) indicates that Congress intended to apply this definition to section 503 of the Act as well as section 312. See H.R. Rep. 97th Cong. 2d Sess. 51 (1982). See *Southern California Broadcasting Company*, 6 FCC Rcd 4387, 4388 (1991) and *Western Wireless Corporation*, 18 FCC Rcd 10319 at fn. 56 (2003).

¹⁷ See *International Broadcasting Corporation*, Order on Review, 25 FCC Rcd 1538, 1540, para. 6 (2010); *Seawest Yacht Brokers*, Forfeiture Order, 9 FCC Rcd 6099 (1994); *Rama Communications, Inc.*, Memorandum Opinion and Order, 24 FCC Rcd 4981 (Enf. Bur. 2009); *Bethune-Cookman College, Inc.*, Forfeiture Order, 24 FCC Rcd 4513 (South Central Region 2009).

¹⁸ See *Commercial Radio Service Corp.*, Forfeiture Order, 16 FCC Rcd 3543, 3545 (Enf. Bur. Tech. & Pub. Safety Div., 2001) (denying a reduction for a history of overall compliance where the licensee operated eleven specialized mobile radio stations without authorization for five months).

¹⁹ See *TV 45 Productions, Inc.*, Forfeiture Order, 17 FCC Rcd 11259 (Enf. Bur. 2002) (denying a reduction for a history of overall compliance where the licensee operated without operational EAS for one year).

²⁰ See *PJB Communications of Virginia, Inc.*, Forfeiture Order, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator’s gross revenues); *Local Long Distance, Inc.*, Forfeiture Order, 16 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented

documentation and conclude that the forfeiture should be reduced to \$5,500, based on its documented inability to pay the forfeiture amount proposed in the *NAL*.

IV. ORDERING CLAUSES

11. 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 and 1.80(f)(4) of the Commission's Rules, World Media Broadcast Company **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of five thousand five hundred dollars (\$5,500) for violations of section 11.35(a), 73.1400(a)(1)(ii), and 73.3526 of the Rules.²¹

12. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Rules within 30 days of the release of this 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.²² 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*/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. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. World Media will also send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

13. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to World Media at 3165 Hull St., Richmond, VA 23224.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director, South Central Region
Enforcement Bureau

approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, Forfeiture Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

²¹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 1.80(f)(4), 11.35(a), 73.1400(a)(1)(ii), 73.3526.

²² 47 U.S.C. § 504(a).