

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

In the Matter of)	
)	
Entertainment Media Trust)	EB-10-CG-0080
Dennis J. Watkins, Trustee)	
)	NAL/Acct. No. 201132320003
Licensee of Station WQQX)	
East St. Louis, Illinois)	FRN: 0014655476
Facility ID # 72815)	
)	
Licensee of Station WQQW)	
Highland, Illinois)	
Facility ID # 90598)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 18, 2011

Released: May 19, 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 Entertainment Media Trust, Dennis J. Watkins, Trustee, (“Entertainment Media Trust”), licensee of AM Stations WQQX, East St. Louis, Illinois and WQQW, Highland, Illinois, apparently willfully and repeatedly violated section 73.3526 of the Commission’s Rules (“Rules”)¹ by failing to maintain and make available local public inspection files for Stations WQQW and WQQX. We conclude that Entertainment Media Trust is apparently liable for a forfeiture in the amount of twenty-four thousand dollars (\$24,000).

II. BACKGROUND

2. On April 20, 2010, in response to a complaint regarding possible rule violations, an agent from the Enforcement Bureau’s Chicago Office conducted an inspection of co-located Stations WQQX and WQQW at the stations’ main studio in Belleville, Illinois. The agent conducted the inspection with the stations’ general manager and broadcast consultant. The agent found that neither station was maintaining a local public inspection file. When asked about the stations’ public inspection files, station personnel were only able to produce ownership reports from 2008.

III. DISCUSSION

3. Section 503(b) of the Communications Act of 1934, as amended (“Act”),² 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. Section 312(f)(1) of the Act defines willful as the “conscious and deliberate commission or omission of [any] act, irrespective of any

¹ 47 C.F.R. § 73.3526(e)(12).

² 47 U.S.C. § 503(b).

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 section 312 and 503(b) of the Act⁴ and the Commission has so interpreted the term in the section 503(b) context.⁵ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.⁶ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁷

4. Section 73.3526(a)(2) of the Rules states that “[e]very permittee or licensee of an AM, FM, TV or a Class A TV station in the commercial broadcast services shall maintain a public inspection file containing the material” set forth in this section.⁸ The public inspection file must be maintained at the main studio of the station,⁹ and must be available for public inspection at any time during regular business hours.¹⁰ During regular business hours on April 21, 2010, an agent inspected Stations WQQX and WQQW and found that neither station was maintaining a public inspection file, and, accordingly, could not make such file available for inspection. Based on the evidence before us, we find that Entertainment Media Trust apparently willfully violated section 73.3526 of the Rules by failing to make available public inspection files for Stations WQQX and WQQW and willfully and repeatedly violated section 73.3526 of the Rules by failing to maintain complete public inspection files for those stations.

5. Pursuant to the Commission’s *Forfeiture Policy Statement* and section 1.80 of the Rules, the base forfeiture amount for each violation of the public file rules is \$10,000.¹¹ 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.¹² Applying the *Forfeiture Policy Statement*, section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Entertainment Media Trust is apparently liable for a forfeiture in

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 (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.*”), recon. denied, 7 FCC Rcd 3454 (1992).

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 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.”

⁸ 47 C.F.R. § 73.3526(a)(2).

⁹ 47 C.F.R. § 73.3526(b).

¹⁰ 47 C.F.R. § 73.3526(c).

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 47 U.S.C. § 503(b)(2)(E).

the amount of \$24,000 (\$12,000 for Station WQQX and \$12,000 for WQQW). Our decision to upwardly adjust the base forfeiture amount by \$2,000 for each station is influenced by our finding in another enforcement action issued today involving an inspection of two other stations owned by Entertainment Media Trust on the same day as the inspection here.¹³ That inspection found additional public inspection file violations at both stations, raising concerns that Entertainment Media Trust may have a systematic compliance issue with the Commission's public inspection file rules. We strongly encourage Entertainment Media Trust to review those rules closely and ensure that all of its facilities are in compliance.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.311, 0.314 and 1.80 of the Commission's Rules, Entertainment Media Trust, Dennis J. Watkins, Trustee, is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-four thousand dollars (\$24,000) for violations of section 73.3526 of the Rules.¹⁴

7. **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, Entertainment Media Trust, Dennis J. Watkins, Trustee, **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

8. 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 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. 20554.⁸ 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, Entertainment Media Trust shall send electronic notification on the date said payment is made to NER-Response@fcc.gov.

9. 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. The written statement, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Northeast Region, Chicago Office, 1550 North Northwest Highway, Room 306, Park Ridge, Illinois 60068 and must include the NAL/Acct. No. referenced in the caption. The statement should also be emailed to NER-Response@fcc.gov.

10. 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)

¹³ *Entertainment Media Trust, Dennis J. Watkins, Trustee*, Notice of Apparent Liability, DA 11- 900 (Enf. Bur. rel. May 19, 2011).

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

⁸ See 47 C.F.R. § 1.1914.

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.

11. **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 Entertainment Media Trust, Dennis J. Watkins, Trustee, at 6500 W. Main Street, Suite 315, Belleville, IL 62223.

FEDERAL COMMUNICATIONS COMMISSION

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