

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

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| In the Matter of |) | |
| |) | |
| Media East, LLC |) | File Number: EB-10-NF-0021 |
| |) | |
| Licensee of Station WLGT (AM) |) | NAL/Acct. No.: 201132640001 |
| Washington, North Carolina |) | FRN: 7636145 |
| Facility ID # 48399 |) | |
| |) | |
| |) | |

FORFEITURE ORDER

Adopted: May 23, 2011

Released: May 24, 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 ten thousand dollars (\$10,000) to Media East, LLC, (“*Media East*”), licensee of Station WLGT(AM), in Washington, North Carolina (“*Media East*”), for willful violation of section 73.3526 of the Commission’s rules (“*Rules*”).¹ The noted violation involves *Media East*’s failure to make available a complete public inspection file.

II. BACKGROUND

2. As discussed in detail in the *Notice of Apparent Liability* (“*NAL*”) in this case,² on March 9, 2010, in response to a request by an agent of the Enforcement Bureau’s Norfolk Office (“*Norfolk Office*”) to inspect Station WLGT’s public inspection file at the station’s main studio in New Bern, North Carolina during regular business hours, *Media East* was unable to produce any public inspection file documents dated after 2006. Station WLGT’s station manager told the agent that the current public inspection file documents were probably kept at *Media East*’s headquarters in Statesville, North Carolina.

3. In view of the record evidence, the *NAL* proposed a forfeiture of \$10,000 against the licensee for violation of section 73.3526 of the Rules. *Media East* submitted a response to the *NAL* denying that its public inspection file was incomplete and requesting cancellation of the proposed forfeiture.³

III. DISCUSSION

4. The proposed forfeiture amount in this case was assessed in accordance with section

¹ 47 C.F.R. § 73.3526.

² *Media East, LLC*, Notice of Apparent Liability for Forfeiture, DA 11-231 (Enf. Bur. rel. Feb. 10, 2011).

³ See Letter from Peter Guttman, Attorney for *Media East, LLC*, to Norfolk Office, Enforcement Bureau (March 11, 2011) (“*NAL Response*”).

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 Media East’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 Media East’s response in light of these statutory factors and impose a \$10,000 forfeiture.

5. Section 73.3526 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.⁸ For example, commercial AM and FM broadcast stations must include every three months a list of programs that have provided the station’s most significant treatment of community issues during the preceding three-month period.⁹ The public inspection file must be maintained at the station’s main studio,¹⁰ and must be available for public inspection at any time during regular business hours.¹¹

6. After the station’s general manager arrived during the March 9, 2010 inspection, the agent from the Norfolk Office asked for the most recent station authorization, ownership report and issues/programs lists. The station’s general manager and secretary were unable to produce the station renewal, ownership report, or any issues/programs lists dated after 2006. When the agent reviewed the station’s issues/programs lists, he asked whether they had anything after 2006. Neither the general manager nor the secretary was able to produce any issues/programs lists after 2006, and the general manager stated that the missing items were probably kept in Statesville.¹²

7. In a declaration attached to Media East’s *NAL Response*, Media East’s general manager states under penalty of perjury that: (1) he was present during the entire inspection on March 9, 2010; (2) that he provided all “public affairs listings” to the agent; (3) the statement that the station was unable to produce any documents after 2006 is “not true;” (4) he told the agent that items before 2006 were probably kept in the Statesville office; and (5) a complete public inspection file was kept at the New Bern main studio.¹³

8. According to the agent’s handwritten notes taken contemporaneous to the March 9, 2010 inspection and the agent’s recollections of the inspection, Media East failed to make available any post-2006 documents during the inspection. Although the general manager claims that he provided “all public

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. § 73.3526(a)(2).

⁹ 47 C.F.R. § 73.3526(e)(12).

¹⁰ 47 C.F.R. § 73.3526(b).

¹¹ 47 C.F.R. § 73.3526(c).

¹² The agent from the Norfolk Office told the general manager that he could fax the most recent issues programs lists to the Norfolk Office when obtained from the Statesville office. The general manager never did so.

¹³ See Statement under Penalty of Perjury of Wesley Hines, attachment to *NAL Response*. Media East also provided a statement by the President of Connor Media Corporation, the sole member of Media East, LLC, that there currently is a complete public inspection file at the main studio of Station WLGT in New Bern.

affairs listings” to the agent, we do not find this self-serving after-the-fact recollection to be credible, particularly in light of other inconsistencies. For example, the agent’s contemporaneous notes state that the inspection began with the assistance of the station’s secretary. After the secretary was unable to locate the complete public inspection file, the general manager was called and did not arrive for approximately 30 minutes. Yet, as noted above, the general manager claims that he was present for the entire station inspection. Accordingly, we reject the general manager’s claims and find that the preponderance of the evidence supports the Norfolk Office agent’s description, namely that on that day, in response to a request made at the station’s main studio during normal business hours, Media East was unable to produce any public inspection file documents dated after 2006. Therefore, based on the evidence before us, we find that Media East willfully violated section 73.3526 of the Rules by failing to make available a complete public inspection file.¹⁴ Accordingly, we deny Media East’s request for cancellation of the proposed \$10,000 forfeiture.

IV. ORDERING CLAUSES

9. 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, Media East, LLC **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violation of section 73.3526 of the Rules.¹⁵

10. 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.¹⁶ 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. Media East will also send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

¹⁴ Because we find that Media East willfully failed to make the public inspection file available, we need not address its claim that a complete public inspection file was maintained at the main studio.

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

¹⁶ 47 U.S.C. § 504(a).

11. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by both First Class and Certified Mail Return Receipt Requested to Media East, LLC at 233 Middle St., Suite 207, New Bern, NC 28560 and to its counsel, Peter Guttman, Womble Carlyle Sandridge & Rice, PLLC, 1401 I Street NW, 7th Floor, Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

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