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

In the Matter of	)	
	)	
Iglesia Cristiana Ebenezer of Greenville, TX	)	File No.: EB-FIELDSCR-12-00004371[1]
	)	NAL/Acct. No.: 201332500003
Licensee of Station KYLP-LP	)	FRN: 0015575970
Greenville, Texas	)	Facility ID No.: 135673
	)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: May 6, 2013 Released: May 6, 2013

By the District Director, Dallas Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture and Order (NAL), we find that Iglesia Cristiana Ebenezer of Greenville, TX (Iglesia), licensee of Station KYLP-LP (Station), in Greenville, Texas, apparently willfully and repeatedly violated Section 11.35(a) of the Commission's rules (Rules),[2] by failing to install Emergency Alert System (EAS) equipment and maintain EAS logs. We conclude that Iglesia is apparently liable for a forfeiture in the amount of nine thousand dollars ($9,000). In addition, we direct Iglesia to submit, no later than thirty (30) calendar days from the release date of this NAL, a statement signed under penalty of perjury stating that Station KYLP-LP has installed operational EAS equipment and otherwise complies with the EAS rules.

II. BACKGROUND

2. On March 7, 2012, in response to an unrelated complaint about the Station, an agent from the Dallas Office of the Enforcement Bureau (Dallas Office) inspected the main studio for Station KYLP-LP and observed that the station had no EAS equipment installed at the studio. On March 16, 2012, the agent also confirmed that the Station had not installed any EAS equipment at its transmitter site. Moreover, Station KYLP had no EAS logs demonstrating that EAS equipment had ever been installed or operational at the station.[3]

III. DISCUSSION

3. Section 503(b) of the Communications Act of 1934, as amended (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

[1] File No. EB-FIELDSCR-12-00004371 incorporates the contents of File No. EB-11-DL-0053.

[2] 47 C.F.R. § 11.35(a).

[3] *See* 47 C.F.R. §§ 11.35(b) (requiring licensees to log when EAS equipment is removed for repair or replacement), 73.1820(a)(1)(iii) (requiring licensees to maintain a log for each test and activation of EAS equipment).

order issued by the Commission thereunder, shall be liable for a forfeiture penalty.[4] 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.[5] 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 Act,[6] and the Commission has so interpreted the term in the Section 503(b) context.[7] The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.[8] The term "repeated" means the commission or omission of such act more than once or for more than one day.[9]

A. Failure to Install EAS Equipment and Maintain EAS Logs

4. Every broadcast station is part of the nationwide EAS network and is categorized as a participating national EAS source unless the station affirmatively requests authority to refrain from participation, and that request is approved by the Commission.[10] The EAS enables the President and the state and local governments to provide immediate and emergency communications and information to the general public.[11] State and local area plans identify local primary sources responsible for coordinating carriage of common emergency messages from the sources such as the National Weather Service or local emergency management officials.[12] Required monthly and weekly tests originate from EAS Local or State Primary sources and must be retransmitted by the participating station. As the nation's emergency warning system, the Emergency Alert System is critical to the public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its licensees.

5. The evidence in this case is sufficient to establish that Iglesia violated Section 11.35(a) of the Rules. Section 11.35(a) of the Rules requires all broadcast stations to ensure that EAS encoders, EAS

[4] 47 U.S.C. § 503(b).

[5] 47 U.S.C. § 312(f)(1).

[6] 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 . . . .").

[7] *See, e.g., Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recons. denied,* 7 FCC Rcd 3454 (1992).

[8] *See, e.g., Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator's repeated signal leakage).

[9] 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." *See Callais Cablevision, Inc.*, 16 FCC Rcd at 1362.

[10] 47 C.F.R. §§ 11.11, 11.19, 11.41.

[11] 47 C.F.R. §§ 11.1, 11.21.

[12] 47 C.F.R. § 11.18. State EAS plans contain guidelines that must be followed by broadcast and cable personnel, emergency officials and National Weather Service personnel to activate the EAS for state and local emergency alerts. The state plans include the EAS header codes and messages to be transmitted by the primary state, local and relay EAS sources. 47 C.F.R. § 11.21.

decoders, and attention signal generating and receiving equipment are installed and operational so that the monitoring and transmitting functions are available during the times the station is in operation.[13] On March 7, 2012, and March 16, 2012, an agent from the Dallas Office observed that Station KYLP-LP had no installed EAS equipment at either its main studio or transmitter site. The Station also had no EAS logs showing that the Station ever had any operational EAS equipment. Based on the evidence before us, we find that Iglesia apparently willfully and repeatedly violated Section 11.35(a) of the Rules by failing to install EAS equipment and maintain EAS logs.

B. Proposed Forfeiture and Reporting Requirement

6. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for failing to install EAS equipment is $8,000.[14] 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, any history of prior offenses, ability to pay, and other such matters as justice may require.[15] We find that Iglesia's failure to maintain any EAS logs for the Station warrants an upward adjustment of $1,000. Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Iglesia is apparently liable for a forfeiture in the amount of $9,000.

7. We further order Iglesia to submit a written statement, pursuant to Section 1.16 of the Rules,[16] signed under penalty of perjury by an officer or director of Iglesia, stating that Station KYLP-LP has installed operational EAS equipment as required, and otherwise complies with the EAS rules. This statement must be provided to the Dallas Office at the address listed in paragraph 10 within thirty (30) calendar days of the release date of this NAL.

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, 0.311, 0.314, and 1.80 of the Commission's rules, Iglesia Cristiana Ebenezer of Greenville, TX is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of nine thousand dollars ($9,000) for violations of Section 11.35(a) of the Rules.[17]

9. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order, Iglesia Cristiana Ebenezer of Greenville, TX **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 Iglesia Cristiana Ebenezer of Greenville, TX **SHALL SUBMIT** a written statement, as described in paragraph 7, within thirty (30) calendar days of the release

[13] 47 C.F.R. § 11.35(a). *See also supra* note 3.

[14] *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*), *recons. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

[15] 47 U.S.C. § 503(b)(2)(E).

[16] 47 C.F.R. § 1.16.

[17] 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 11.35(a).

date of this Notice of Apparent Liability for Forfeiture and Order. The statement must be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Dallas Office, 9330 LBJ Freeway, Suite 1170, Dallas, Texas 75243. Iglesia shall also e-mail the written statement to SCR-Response@fcc.gov.

11. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Iglesia Cristiana Ebenezer of Greenville, TX shall also send electronic notification on the date said payment is made to SCR-Response@fcc.gov. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.[18] When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

12. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.[19] If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

13. 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 1.16 and 1.80(f)(3) of the Rules.[20] Mail the written statement to Federal Communications Commission, Enforcement Bureau, South Central Region, Dallas Office, 9330 LBJ Freeway, Suite 1170, Dallas, Texas 75243, and include the NAL/Acct. No. referenced in the caption. Iglesia Cristiana Ebenezer of Greenville, TX also shall e-mail the written response to SCR-Response@fcc.gov.

[18] An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

[19] *See* 47 C.F.R. § 1.1914.

[20] 47 C.F.R. §§ 1.16, 1.80(f)(3).

14. 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 principles (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.

15. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by both Certified Mail, Return Receipt Requested, and First Class Mail to Iglesia Cristiana Ebenezer of Greenville, TX at 3207 Forest Lane, Garland, Texas 74042**.**

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director
Dallas Office
South Central Region
Enforcement Bureau