

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

In the Matter of)	
)	Facility ID No. 11248
Reier Broadcasting Company, Inc.)	NAL/Acct. No. MB-201141410021
)	FRN: 0005073184
Licensee of K265AS)	File Nos. BRFT-20011220ABI; BRFT-
Livingston, Montana)	20041201AWV

FORFEITURE ORDER

Adopted: June 25, 2013

Released: June 26, 2013

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of one thousand, two hundred dollars (\$1,200) to Reier Broadcasting, Inc. (“Licensee”), licensee of FM translator station K265AS, Livingston, Montana (“Station”), for willfully violating Section 73.3539 of the Commission’s Rules (“Rules”) by failing to timely file a license renewal application for the Station, and for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended (“Act”), by engaging in unauthorized operation of the Station after its authorization had expired.¹

II. BACKGROUND

2. On October 7, 2011, the Bureau issued a *Notice of Apparent Liability for Forfeiture* (“NAL”) in the amount of one thousand, two hundred dollars (\$1,200) to Licensee for these violations.² As noted in the NAL, Licensee’s renewal application for the Station’s previous license term was due on April 1, 1998, four months prior to the October 1, 2005, expiration date.³ In fact, Licensee did not file a renewal application until December 20, 2001, nearly four years after the filing deadline, and did not request Special Temporary Authority to continue operations. Licensee provided no explanation for the untimely filing of the application. No response to the NAL was filed.

III. DISCUSSION

3. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,⁴ Section 1.80 of the Rules,⁵ and the Commission’s *Forfeiture Policy Statement*.⁶ In

¹ 47 C.F.R. § 73.3539; 47 U.S.C. § 301.

² *Reier Broadcasting Company, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 14270 (MB 2011).

³ See 47 C.F.R. §§ 73.1020, 73.3539(a).

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).

assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we 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 such other matters as justice may require.⁷

4. We conclude that Licensee willfully⁸ violated Section 73.3539 of the Rules and willfully and repeatedly⁹ violated Section 301 of the Act¹⁰ and that no circumstances warrant reduction or cancellation of the proposed forfeiture.¹¹

IV. ORDERING CLAUSES

5. IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules,¹² that Reier Broadcasting Company, Inc., SHALL FORFEIT to the United States the sum of one thousand, two hundred dollars (\$1,200) for willfully violating Section 73.3539 of the Commission's Rules and willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended.

6. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's Rules within 30 days of the release of this Forfeiture 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.¹³ 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/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at 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, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If 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).¹⁴ Licensee will also send electronic notification on the date said payment is made to

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ 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. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to Sections 312 and 503(b) of the Act, H.R. REP. No. 97-765, 51 (Conf. Rep.), and the Commission has so interpreted the terms in the Section 503(b) context. *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 (1991) ("*Southern California*").

⁹ Section 312(f)(2) of the Act defines "repeated" as "the commission or omission of [any] act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2). *See also Southern California*, 6 FCC Rcd at 4388 (applying this definition of repeated to Sections 312 and 503(b) of the Act).

¹⁰ 47 C.F.R § 73.3539; 47 U.S.C. § 301.

¹¹ As noted in the *NAL*, in recent decisions, the Bureau has assessed forfeitures in the amount of \$250 against licensees of translator stations for violations of Section 73.3539 of the Rules and Section 301 of the Act. However, the staff determined that Licensee's extended unauthorized operation of the Station – lasting over three years – warranted increasing the proposed forfeiture from \$250 to \$600 for each violation, for a total of \$1,200. *NAL*, 26 FCC Rcd at 14273.

¹² 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

¹³ 47 U.S.C. § 504(a).

¹⁴ *See* 47 C.F.R. § 1.1914.

Tom.Hutton@fcc.gov and Alexander.Sanjenis@fcc.gov. Requests for payment of the full amount of the forfeiture under an installment plan should be sent to: Associate Managing Director-Financial Operations, Room 1-A625, 445 12th Street, S.W., Washington, DC 20554.¹⁵

7. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by First Class and Certified Mail-Return Receipt Requested, to Mr. William R. Reier, President, Reier Broadcasting Company, Inc., P.O. Box 20, Bozeman, MT, 59718-2041; and to its counsel, Matthew H. McCormick, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street, 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

¹⁵ *Id.*