

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

In the Matter of)	
)	
Capital Broadcasting Corporation)	Facility I.D. No. 24303
Licensee of Station KSKJ-CA)	NAL/Acct. No.: 201341420053
Van Nuys, California)	FRN: 0005014527

**NOTICE OF APPARENT
LIABILITY FOR FORFEITURE**

Adopted: October 17, 2013**Released: October 18, 2013**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION:

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL") issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Commission's Rules (the "Rules"),¹ we find that Capital Broadcasting Corporation, licensee of Station KSKJ-CA, Van Nuys, California, apparently willfully and repeatedly violated (i) Section 73.3526(e)(11)(iii)² of the Rules by failing to timely file with the Commission its Children's Television Programming Reports. Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of Twenty Thousand Dollars (\$20,000).

II. BACKGROUND:

2. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.³ As set forth in subsection 73.3526(e)(11)(iii), each commercial television licensee is required to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it made during that quarter to serve the educational and informational needs of children.⁴ That subsection also requires licensees to file the reports with the Commission and to publicize the existence and location of the reports.

3. On May 2, 2013, the Video Division sent a letter of inquiry to the Licensee regarding, among other issues, its failure to file Children's Television Programming Reports in a timely manner for 22 quarters during the license term covered by its pending 2006 renewal application and for 23 quarters during its continued operation of the Station subsequent to filing that application. In a June 11, 2013 response, the Licensee admitted that the reports were filed late.

¹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

² 47 C.F.R. § 73.3526(e)(11)(iii).

³ 47 C.F.R. § 73.3526.

⁴ 47 C.F.R. § 73.3526(e)(11)(iii).

III. DISCUSSION

4. The Licensee apparently failed to file with the Commission the Children's Television Programming Reports for the Station in a timely manner for 45 quarters. These late filings constitute apparent willful and/or repeated violations of Section 73.3526(e)(11)(iii).

5. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.⁵ 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.⁶ 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,⁷ and the Commission has so interpreted the term in the Section 503(b) context.⁸ Section 312(f)(2) 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."⁹

6. The Commission's *Forfeiture Policy Statement* and Section 1.80(b) of the Rules establish a base forfeiture amount of \$3,000 for failure to file a required form.¹⁰ In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the Act, including "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."¹¹ Based on our review of the facts and circumstances here, we find that the Licensee is liable for a forfeiture in the amount of \$20,000 for its apparent willful and repeated violations of Sections 73.3526 of the Commission's Rules.¹²

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules, that Capital Broadcasting Corporation is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of twenty thousand dollars (\$20,000) for its apparent willful and repeated violations of Section 73.3526 of the Commission's Rules.

8. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that within thirty (30) days of the release date of this *NAL*, Capital Broadcasting Corporation SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or

⁵ 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a)(1).

⁶ 47 U.S.C. § 312(f)(1).

⁷ *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

⁸ *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

⁹ 47 U.S.C. § 312(f)(2).

¹⁰ *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) ("*Forfeiture Policy Statement*"), *recon. denied*, 15 FCC Rcd. 303 (1999); 47 C.F.R. § 1.80(b), Section I.

¹¹ 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(5); 47 C.F.R. § 1.80(b), Section II.

¹² *Victory Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd. 10056 (Vid. Div. 2013) (assessing \$20,000 forfeiture).

cancellation of the proposed forfeiture.

9. Payment of the proposed 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).

10. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Peter Saharko, Attorney Adviser, Video Division, Media Bureau, and MUST INCLUDE the NAL/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent 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) some other reliable and objective documentation that accurately reflects the respondent'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.

12. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹³

13. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Capital Broadcasting Corporation, 5220 Campo Road, Woodland Hills, California, 91364-1927, and to its counsel, Peter Tannenwald, Fletcher Heald & Hildreth, P.L.C., 1300 North 17th Street, 11th Floor, Arlington, Virginia, 22209.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹³ See 47 C.F.R. § 1.1914.