

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

In the Matter of)	
)	
Lazer Licenses, LLC)	File No.: EB-09-SD-0156
)	NAL/Acct. No.: 201132940004
Licensee of Broadcast Station KSSB(FM))	FRN: 0015079908
Calipatria, California)	Facility ID No.: 52469
)	

FORFEITURE ORDER

Adopted: February 14, 2013

Released: February 15, 2013

By the Regional Director, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of eight thousand dollars (\$8,000) to Lazer Licenses, LLC (Lazer),¹ licensee of Station KSSB(FM), in Calipatria, California, for willfully and repeatedly violating Section 73.3526 of the Commission's rules (Rules), which requires broadcast stations to maintain a complete public inspection file.² The noted violations involve Lazer's failure to maintain multiple issues/programs list in the Station KSSB(FM) public inspection file. In addition, no later than thirty (30) calendar days from the date of this Forfeiture Order, Lazer must submit a statement signed under penalty of perjury that the Station KSSB(FM) public inspection file is in compliance with Section 73.3526 of the Rules.

II. BACKGROUND

2. On April 21, 2010, agents from the Enforcement Bureau's San Diego Office inspected the main studio of Station KSSB(FM), located in Brawley, California. The agents reviewed the content of the Station KSSB(FM) public inspection file with the general manager of the station and discovered that required issues and programs lists were missing for all quarters of 2007, the second, third, and fourth quarters of 2008, the first quarter of 2009, and the first quarter of 2010. A San Diego agent telephoned the general manager on April 28, 2010 to confirm the missing issues and programs lists, but the general manager advised that she was not familiar with the documents and would have her manager contact the agent later. The San Diego agent did not receive a follow-up call from any representative of Station KSSB(FM).

3. On May 25, 2010, San Diego agents returned to Station KSSB(FM) and reexamined the contents of Station KSSB(FM)'s public inspection file and discovered that, other than the issues/programs lists for the second and third quarters of 2007, the above lists remained missing. However, during this inspection, while the agents were examining the file contents, copies of the issues/programs lists for the first quarter of 2009 and the first quarter of 2010 were electronically sent from Lazer's corporate offices and printed out to be placed into the public inspection file.

¹ The FRN for Lazer has been updated in the caption from 0015149842 to 0015079908.

² 47 C.F.R. § 73.3526.

4. On May 18, 2011, the San Diego Office issued a Notice of Apparent Liability for Forfeiture (*NAL*) in the amount of \$8,000 to Lazer for failing to maintain a complete public inspection file.³ Lazer responded to the *NAL* on June 16, 2011.⁴ In its *Response*, Lazer argues that the proposed forfeiture should be cancelled or reduced, based on precedent and “overall compliance by the licensee.”⁵

III. DISCUSSION

5. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),⁶ Section 1.80 of the Rules,⁷ and the Commission’s *Forfeiture Policy Statement*.⁸ In examining Lazer’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.⁹ We consider Lazer’s *Response* to the *NAL* in light of these statutory factors and find that neither cancellation nor reduction of the forfeiture is warranted for the reasons discussed below.

6. Section 73.3526(a)(2) of the Rules requires that every licensee of an AM or FM station shall maintain a public inspection file containing the material relating to that station described in Section 73.3526(e) of the Rules.¹⁰ Specifically, Section 73.3526(e)(12) requires licensees to place in their public inspection file, for each calendar quarter, a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period.¹¹ This list is known as the radio issues/programs list and copies of the lists must be maintained in the file until final action has been taken on the station’s next renewal application.¹² Further, as required by Section 73.3526(b), the public inspection file shall be maintained at the station’s main studio.¹³ On April 21, 2010, and again on May 25, 2010, San Diego agents found that Lazer failed to maintain a complete public inspection file for Station KSSB(FM), by omitting from the station’s file nine and then seven quarterly issues/programs lists, for each inspection date respectively, of the 13 quarterly issues/programs lists required for the period between January 2007 and the inspection in April of 2010.

7. Lazer does not dispute that quarterly issues/programs lists were missing from the Station KSSB(FM) public inspection file as described above.¹⁴ Rather, Lazer argues that it complied with other aspects of Section 73.3526 of the Rules, including maintaining the other items as required and making the

³ *Lazer Licenses, LLC*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 6850 (Enf. Bur. 2011) (*NAL*).

⁴ See Response of Lazer Licenses, LLC (filed June 16, 2011, in EB-09-SD-0156) (*Response*).

⁵ *Id.* at 1.

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. § 1.80.

⁸ *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), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

⁹ 47 U.S.C. § 503(b)(2)(E).

¹⁰ 47 C.F.R. § 73.3526(a)(2).

¹¹ 47 C.F.R. § 73.3526(e)(12).

¹² *Id.*

¹³ 47 C.F.R. § 73.3526(b).

¹⁴ Lazer states that five lists were missing. *Response* at 1. However, the record shows that nine were missing during the April 21, 2010, inspection and that seven were missing during the May 25, 2010, inspection until Lazer’s corporate offices emailed two of the missing lists to the KSSB(FM) main studio after the San Diego agent began the inspection.

public file accessible, and that the *NAL* should be cancelled, because station KSSB(FM) is an “active member of its community and serves the broad market of listeners in and around its licensed community.”¹⁵ We find no merit to Lazer’s argument. The Commission has consistently held that “licensees are expected to comply with the Commission’s Rules as well as to make continued efforts to serve the community to which they are licensed and will not be relieved of liability for violations of the Rules by the fact they have fulfilled their responsibility to serve their communities.”¹⁶

8. We also disagree with Lazer’s argument that the amount of the forfeiture should be reduced “in light of overall compliance with the rule” and consistent with precedent.¹⁷ We first note that Lazer has no history of compliance with Section 73.3526 of the Rules. To the contrary, the Commission recently affirmed a forfeiture assessed against Lazer, and three other Lazer stations in California, for similar violations of Section 73.3526 of the Rules, specifically for missing quarterly issues/programs lists.¹⁸ Also, while Lazer cites to a 2006 Notice of Apparent Liability against another licensee for a similar violation in which a \$4,000 forfeiture was proposed,¹⁹ we note that other more recent precedent proposed even larger forfeitures for similar numbers of missing issues/programs lists.²⁰ As each case presents a unique set of considerations and facts, we must review this case consistent with the statutory factors listed above.²¹ We also note that the San Diego Office already reduced the proposed base forfeiture amount from \$10,000 to \$8,000.²² Given the facts of this case, that Lazer failed to maintain a complete public inspection file, beginning in 2007, and that the Station KSSB(FM) public inspection file continued to be incomplete over three years later, along with Lazer’s history of violations of Section 73.3526 of the Rules, we see no reason to reduce the forfeiture amount any further.

9. We have examined Lazer’s *Response* to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that Lazer willfully and repeatedly violated Section 73.3526 of the Rules. Considering the entire record and the factors listed above, we find that a forfeiture in the amount of \$8,000 is warranted. We also note that Lazer did not indicate in its *Response* whether the public inspection file for Station KSSB(FM) has come into compliance with the requirements of Section 73.3526 of the Rules. We therefore order Lazer to

¹⁵ *Response* at 2.

¹⁶ *Radio Beaumont, Inc.*, Memorandum Opinion and Order, 50 FCC 2d 904 (1975) (a licensee’s public service to its community will not justify a reduction in the amount of a forfeiture for a licensee); *see Esther Blodgett*, Memorandum Opinion and Order, 18 FCC 2d 6 (1969) (a licensee is not relieved of responsibility for complying with applicable statutes and rules by the fact that it has performed an outstanding public service to the community); *Discussion Radio Incorporated*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 7433 (2004) (a Commission licensee is charged with knowledge of the full range of its obligations pursuant to the Act, the Rules and its authorization).

¹⁷ *Response* at 3.

¹⁸ *See Lazer Licenses, LLC*, Order on Review, 27 FCC Rcd 626 (2012) (forfeiture paid) (upholding an Enforcement Bureau forfeiture against three Lazer stations that were each missing multiple quarterly issues/programs lists in their public inspection files).

¹⁹ *Response* at 4, citing to *Cortaro Broadcasting Corporation*, Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 200632940003 (Enf. Bur., Western Region, San Diego Office, released Mar. 14, 2006) (forfeiture paid).

²⁰ *Crocodile Broadcasting Corp., Inc.*, Notice of Apparent Liability for Forfeiture and Order, 26 FCC Rcd 1173 (Enf. Bur. 2011) (proposing a \$10,000 forfeiture for missing eight issues/programs list from a public inspection file); *Entertainment Media Trust, Dennis J. Watkins, Trustee*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 6877 (Enf. Bur. 2011) (proposing a \$12,000 forfeiture for eight issues/programs lists missing from a public inspection file).

²¹ *See, e.g., Twenty-One Sound Communications, Inc.*, Order on Review, 23 FCC Rcd 2436, 2439 (2008) (affirming an Enforcement Bureau decision that an incomplete public inspection file, missing only three items, could subject a licensee to monetary forfeitures regardless of why or for how long the items were missing).

²² *NAL*, 26 FCC Rcd at 6852.

submit a written statement pursuant to Section 1.16 of the Rules²³ signed under penalty of perjury by an officer or director of Lazer within thirty (30) calendar days of the release date of this Forfeiture Order that Station KSSB(FM) is now in compliance with Section 73.3526 of the Rules.

IV. ORDERING CLAUSES

10. **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(f)(4) of the Commission's Rules, Lazer Licenses, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully and repeatedly violating Section 73.3526 of the Commission's Rules.²⁴

11. **IT IS FURTHER ORDERED** that Lazer Licenses, LLC, **SHALL SUBMIT** a written statement, as described in paragraph 9, within thirty (30) calendar days of the release date of this Forfeiture Order. The statement must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, San Diego Office, 4542 Ruffner Street - Suite 370, San Diego, CA 92111. Lazer Licenses, LLC, shall also e-mail the written statement to WR-Response@fcc.gov.

12. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.²⁵ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.²⁶ Lazer Licenses, LLC, shall send electronic notification of payment to WR-Response@fcc.gov on the date said payment is made.

13. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁷ 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 –

²³ 47 C.F.R. § 1.16.

²⁴ 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 73.3526.

²⁵ 47 C.F.R. § 1.80.

²⁶ 47 U.S.C. § 504(a).

²⁷ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

14. Any request for full payment 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. 20554.²⁸ 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.

15. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested to Lazer Licenses, LLC, 200 South A Street, Suite 400, Oxnard, CA, 93030, and to Harry C. Martin, its counsel of record, at Fletcher, Heald & Hildreth, P.L.C., 11th Floor, 1300 North 17th St., Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Rebecca L. Dorch
Regional Director, Western Region
Enforcement Bureau

²⁸ See 47 C.F.R. § 1.1914.