

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

In the Matter of )
AMFM Broadcasting Licenses, LLC )
Licensee of Stations )
WNUA(FM), Chicago, IL )
WGCI-FM, Chicago, IL )
WKSC-FM, Chicago, IL )
WGRB(AM), Chicago, IL )
WLIT-FM, Chicago, IL )
WVAZ(FM), Oak Park, IL )
NAL/Acct. No. MB-201341410020
FRN: 0019360379
Facility I.D. No. 53971
Facility I.D. No. 51165
Facility I.D. No. 74178
Facility I.D. No. 51162
Facility I.D. No. 70042
Facility I.D. No. 6588

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: December 5, 2013

Released: December 5, 2013

By the Chief, Media Bureau

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that AMFM Broadcasting Licenses, LLC ("the Licensee"), licensee of Illinois Stations WNUA(FM), Chicago; WGCI-FM, Chicago; WKSC-FM, Chicago; WGRB(AM), Chicago; WLIT-FM, Chicago; and WVAZ(FM), Oak Park ("the Stations"), apparently willfully and repeatedly violated the Commission's equal employment opportunity ("EEO") Rules<sup>1</sup> by failing to comply with the requirement to notify job referral sources about vacancies and to self-assess EEO performance. 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). To prevent future violations of these requirements, we also impose reporting conditions on the Licensee and any successor licensee of any of the Stations, as well as on the licensee of any stations that become a part of the above Stations' employment unit during the reporting conditions periods listed below.

II. BACKGROUND

2. Sections of the Rules at issue in this case include the following:

<sup>1</sup> See 47 C.F.R. §§73.2080(c)(1)(ii) and 73.2080(c)(3).

- Section 73.2080(c)(1)(ii) requires a licensee to provide notification of each vacancy to any organization that distributes information about employment opportunities to job seekers upon request by such organization; and
- Section 73.2080(c)(3) requires a licensee to analyze the recruitment program for its employment unit on an ongoing basis to ensure that the program is effective in achieving broad outreach to potential applicants, and to address any problems found as a result of its analysis.

3. The Media Bureau audited the Licensee for its compliance at the Stations with Section 73.2080 of the Commission's Rules<sup>2</sup> and we have before us its response to the audit.<sup>3</sup>

### III. DISCUSSION

4. Our review shows that, during the reporting period at issue (August 1, 2009, through July 31, 2011), the Licensee filled 36 full-time vacancies at its Stations and failed to provide notification of 33 of its vacancies to all organizations that had requested vacancy notification, as required by Section 73.2080(c)(1)(ii). For one vacancy, the Licensee failed to provide notification to three organizations that requested vacancy notification. For two vacancies, the Licensee failed to provide notification to 20 organizations that had requested vacancy notification. For two vacancies, the Licensee failed to provide notification to six organizations that requested vacancy notification. For four vacancies, the Licensee failed to provide notification to two organizations that requested vacancy notification. For six vacancies, the Licensee failed to provide notification to four organizations that requested vacancy notification. For 18 vacancies, the Licensee failed to provide notification to 21 organizations that had requested vacancy notification.

5. In addition, the Licensee violated our recruitment requirements repeatedly over a two-year reporting period. We thus find that the Licensee also failed adequately to "analyze the recruitment program for the licensee's unit on an ongoing basis to ensure that it is effective in achieving broad outreach to potential applicants, and address any problems found as a result of its analysis," in violation of Section 73.2080(c)(3).

6. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Communications Act of 1934, as amended (the "Act").<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,<sup>7</sup> and the

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<sup>2</sup> Letter from Lewis Pulley, Assistant Chief, Policy Division, Media Bureau, to AMFM Broadcasting Licenses, LLC (August 1, 2011). The audit information reviewed was based on the period August 1, 2009, through July 31, 2011.

<sup>3</sup> Letter from Elizabeth Goldin, Esq., Counsel to AMFM Broadcasting Licenses, LLC, to Lewis Pulley, Assistant Chief, Policy Division, Media Bureau (September 26, 2011).

<sup>4</sup> 47 U.S.C. § 503(b)(1)(B). *See also* 47 C.F.R. § 1.80(a)(1).

<sup>5</sup> *Id.*

<sup>6</sup> 47 U.S.C. § 312(f)(1).

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

Commission has so interpreted the term in the Section 503(b) context.<sup>8</sup> 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.”<sup>9</sup>

7. The Commission’s *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules do not establish base forfeiture amounts for specific EEO rule violations, such as a failure to notify organizations of job vacancies or to self-assess EEO performance. Accordingly, we must look to pertinent precedent involving similar violations to determine the appropriate proposed forfeiture amount here. In determining the appropriate forfeiture amount, we may adjust the 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.”<sup>10</sup>

8. As discussed *supra*, the Licensee failed to provide notification of each full-time vacancy to organizations requesting vacancy notification in violation of Section 73.2080(c)(1)(ii). This failure reveals a continuing lack of self-assessment, in violation of Section 73.2080(c)(3). Accordingly, based upon the facts before us, the factors noted above, and pertinent precedent,<sup>11</sup> we propose the following forfeiture amounts for the Licensee’s apparent willful and repeated violations of these Rules: \$16,000 for its violation of Section 73.2080(c)(1)(ii) and \$4,000 for its violation of Section 73.2080(c)(3), for a total proposed forfeiture in the amount of \$20,000.<sup>12</sup> We will also impose reporting conditions as set forth below, to ensure that the Licensee and any successor licensee of any of the Stations maintains an adequate EEO program in compliance with the Rules. The reporting conditions will apply to the above-captioned Stations, and to all other stations that are part of their employment unit in the future, if any.

#### IV. ORDERING CLAUSES

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

<sup>9</sup> 47 U.S.C. § 312(f)(2).

<sup>10</sup> 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17100-01, ¶27; 17113-16 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section II.

<sup>11</sup> In *CMP Houston-KC, LLC and CMP KC Licensing, LLC*, we proposed, among other things, a \$1,000 forfeiture for a licensee’s violation of Section 73.2080(c)(1)(ii) and a \$1,000 forfeiture for violation of Section 73.2080(c)(3). The licensee had failed to provide notification of each full-time vacancy to two organizations that had requested vacancy notification over a five-month period. *CMP Houston-KC, LLC and CMP KC Licensing, LLC*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 8900 (2009) (forfeiture paid). Here, the Licensee’s notification and self-assessment failures are more egregious because it failed to provide notification of its vacancies to up to 21 organizations for 18 vacancies over a two-year period. In addition, it failed to provide notifications to various numbers of organizations for 33 of 36 vacancies overall in this period.

<sup>12</sup> The forfeiture amounts do not consider any violations for WGRB(AM), WVAZ(FM), WLIT-FM, and WNUA(FM) because those stations’ renewal applications were granted on November 23, 2012. See File Nos. BR-20120801AOK, BR-20120801AOH, BR-20120801AON, and BR-20120801AON, respectively; see also 47 U.S.C. § 503(b)(6)(A) (Commission is barred from issuing an NAL to broadcast licensees for violations which occurred during the previous license term if the license has already been renewed for the current term.)

9. Accordingly, 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, that AMFM Broadcasting Licenses, LLC is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of twenty thousand dollars (\$20,000) for its apparent willful and repeated violation of Sections 73.2080(c)(1)(ii) and 73.2080(c)(3) of the Commission's Rules.

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

11. 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](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures.

12. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington D.C. 20554, ATTN: Lewis Pulley, Assistant Chief, Policy Division, Media Bureau, and MUST INCLUDE the *NAL*/Acct. No. referenced above.

13. 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.

14. IT IS FURTHER ORDERED that AMFM Broadcasting Licenses, LLC and any successor licensee of any or all of Stations WNUA(FM), WGCI-FM, WKSC-FM, WGRB(AM), WLIT-FM, and WVAZ(FM), SHALL SUBMIT to the Federal Communications Commission, Media Bureau, EEO Staff, an original and one copy of a filing, sworn to by an officer of AMFM Broadcasting Licenses, LLC, containing the following information on September 2, 2014; September 1, 2015; and September 1, 2016, with respect to Stations WNUA(FM), WGCI-FM, WKSC-FM, WGRB(AM), WLIT-FM, and WVAZ(FM), and all other stations in their employment unit:

- (a) the unit's most recent EEO public file report;
- (b) dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing each full-time vacancy for the preceding reporting year;
- (c) the recruitment source that referred the hiree for each full-time vacancy and the job title of each full-time vacancy;

- (d) the total number of interviewees for each full-time vacancy for the preceding reporting year and the referral source for each interviewee;
- (e) a list of all sources that requested job notifications from the employment unit for jobs posted during the reporting periods listed above;
- (f) a list of all sources notified of job openings during the reporting periods listed above; and

IT IS FURTHER ORDERED that, pursuant to Section 73.3526(e)(10) of the Commission's Rules, AMFM Broadcasting Licenses, LLC shall place a copy of this *NAL* in the public inspection files of Stations WNUA(FM), WGCI-FM, WKSC-FM, WGRB(AM), WLIT-FM, and WVAZ(FM).

15. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Earl Jones, Market Manager, AMFM Broadcasting Licenses, 2625 South Memorial Drive, Suite A, Tulsa, Oklahoma 74129 and to its attorney, Elizabeth Goldin, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington D.C. 20006.

**FEDERAL COMMUNICATIONS COMMISSION**

William T. Lake, Chief  
Media Bureau