

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

In the Matter of)	
)	
Davidson Media Station WREJ Licensee, LLC	)	NAL/Acct. No. MB-201441410002
Licensee of Station	)	FRN: 0012982526
WREJ(AM), Richmond, VA	)	Facility I.D. No. 21434
	)	File No. BR-20110601ABB
)	
Davidson Media Station WVNZ Licensee, LLC	)	NAL/Acct. No. MB-201441410003
Licensee of Station	)	FRN: 0012982781
WVNZ(AM), Richmond, VA	)	Facility I.D. No. 52050
	)	File No. BR-20110601ABE
)	
Davidson Media Station WLEE Licensee, LLC	)	NAL/Acct. No. MB-201441410004
Licensee of Station	)	FRN: 0012982922
WLEE(AM), Richmond, VA	)	Facility I.D. No. 50401
	)	File No. BR-20110601ABG
)	
Davidson Media Station WTOX Licensee, LLC	)	NAL/Acct. No. MB-201441410005
Licensee of Station	)	FRN: 0012982567
WTOX(AM), Glen Allen, VA	)	Facility I.D. No. 129524
	)	File No. BR-20110601ABH

FORFEITURE ORDER

Adopted: December 17, 2015

Released: December 17, 2015

By the Chief, Media Bureau

I. INTRODUCTION

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of five thousand dollars (\$5,000) and reporting conditions to Davidson Media Station WREJ Licensee, LLC, Davidson Media Station WVNZ Licensee, LLC, Davidson Media Station WLEE Licensee, LLC, and Davidson Media Station WTOX Licensee, LLC (collectively referred to as the “Licensees” or “Davidson”),¹ licensees of Stations WREJ(AM), Richmond, Virginia; WVNZ(AM), Richmond, Virginia; WLEE(AM), Richmond, Virginia; and WTOX(AM), Glen Allen, Virginia, respectively (the “Stations”). The Licensees agree² that they willfully and repeatedly violated the Commission’s equal employment

¹ Davidson Media Station WREJ Licensee, LLC, Davidson Media Station WVNZ Licensee, LLC, Davidson Media Station WLEE Licensee, LLC, and Davidson Media Station WTOX Licensee, LLC are wholly-owned subsidiaries of Davidson Media Virginia Stations, LLC. See FCC File No. BOA-20100706AMW. On November 5, 2015, Davidson Media Station WVNZ Licensee, LLC and Davidson Media Station WTOX Licensee, LLC respectively assigned the licenses of Stations WVNZ and WTOX to TBLC Virginia Holdings, LLC. See FCC File Nos. BAL-20150715ABD and BAL-20150715ABC, respectively.

² Request for Cancellation or Removal of Reporting Conditions by Davidson, Jan. 16, 2015, p.2 (“NAL Response”) (“Davidson does not deny the actions underlying the imposition of this forfeiture...”).

opportunity (“EEO”) rules³ by failing to comply with the recruitment and self-assessment requirements, and therefore do not contest the monetary forfeiture of \$5,000 assessed in the underlying order.⁴ The Licensees contest only the reporting conditions assessed in the underlying order. For reasons discussed herein, we affirm the NAL and deny the Licensees’ request for cancellation or removal of the reporting conditions.

II. BACKGROUND

2. We reviewed the Licensees’ captioned license renewal applications for Stations WREJ(AM), WVNZ(AM), WLEE(AM), and WTOX(AM), and accompanying Broadcast EEO Program Report (Form 396).⁵ In particular, we reviewed the applications and accompanying EEO public file reports for the Licensees’ compliance at the Stations with Section 73.2080 of the Rules. The EEO public file reports covered the reporting periods from June 1, 2009 through May 31, 2010, and June 1, 2010 through May 31, 2011.

3. Our review revealed that during the reporting period, the Licensees filled six full-time vacancies at its Stations and failed to recruit publicly for three of them, relying solely on walk-ins to fill one vacancy⁶ and client/employee referrals to fill two vacancies,⁷ in violation of Section 73.2080(c)(1) of the Commission’s Rules. Our review also revealed that the Licensees failed to recruit publicly for these three vacancies over 18 months of a two-year reporting period. We thus found that the Licensees 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).

4. Accordingly, on December 19, 2014, the Media Bureau (“Bureau”) issued a Notice of Apparent Liability for Forfeiture against the Licensees⁸ for their apparent willful and repeated violations of these Rules: \$4,500 for their violation of Section 73.2080(c)(1) and \$500 for their violation of Section 73.2080(c)(3), for a total proposed forfeiture in the amount of \$5,000.⁹

5. In order to help deter future violations, we also imposed reporting conditions whereby Stations WREJ(AM), WVNZ(AM), WLEE(AM), and WTOX(AM), are required to submit to the Bureau’s EEO Staff annual reports for three years starting on July 1, 2015, that include the unit’s most recent EEO public file report and dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing each full-time vacancy for the preceding reporting year.¹⁰ These conditions were imposed to ensure that the Licensees and any successor licensee of any of the Stations maintain an adequate EEO program in compliance with the Rules. The reporting conditions apply to the

³ See 47 C.F.R. §§ 73.2080(c)(1) and 73.2080(c)(3).

⁴ *Davidson Media Station*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 15532 (2014) (“NAL”).

⁵ See FCC File No. B396-20110601ABA.

⁶ The Licensees hired one unrecruited walk-in applicant on August 17, 2009.

⁷ The Licensees hired two unrecruited applicants through employee/client referrals on June 8, 2009 and December 6, 2010.

⁸ See NAL.

⁹ We did not assess a forfeiture for the violations involving WREJ(AM) because the station’s renewal application was granted on June 17, 2014. See File No. BR-20110601ABB; 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.).

¹⁰ NAL, 29 FCC Rcd at 15534.

above-captioned Stations, and to all other stations that are part of their employment unit in the future, if any.

6. The Licensees thereafter requested cancellation or removal of the reporting conditions,¹¹ explaining that they had already submitted similar information in an EEO audit begun in February 2014 and that those submissions “demonstrate full compliance with the Commission’s EEO rules.”¹²

7. On July 1, 2015, the Licensees filed their latest EEO public file report and supporting documentation as required by the terms of the reporting conditions, and again requested removal of the reporting conditions for future years.¹³ On July 17, 2015, in response to EEO Staff inquiries as to why the Licensees had failed to notify three recruitment sources of vacancies when their filing showed that these sources had requested vacancy notifications, the Licensees filed a Supplement to Submission of Required Materials to clarify that the sources “had not requested notification of the type of positions which were filled during the period covered by the Report.”¹⁴

III. DISCUSSION

8. In their Response, the Licensees do not dispute that they willfully and repeatedly violated the Commission’s EEO rules by failing to comply with the recruitment and self-assessment requirements in Sections 73.2080(c)(1) and 73.2080(c)(3) as described in the NAL. The Licensees nonetheless request cancellation or removal of the reporting conditions imposed in the NAL. In support of their request, the Licensees argue that their submission of EEO Public File Reports and supporting documentation in response to a 2014 EEO audit demonstrates that they have been fully complying with the Commission’s EEO rules and that, therefore, continued reporting conditions are unnecessary.

9. We reject the Licensees’ claim that reporting conditions are unwarranted. The condition serves a remedial function of ensuring that the Licensee is operating in compliance with the EEO rules.¹⁵ The Commission has consistently imposed reporting conditions on licensees who have violated any of the EEO Rules in order to deter future violations and to enable it to investigate whether a licensee that has violated the Rules has corrected its non-compliant EEO program and is adhering to the Rules.¹⁶ These two factors alone warrant affirmation of the imposition of reporting conditions in this case. In addition, however, the Licensees’ first report under the requirement for reporting conditions revealed incorrect information concerning the Licensees’ recruiting program records. In light of these facts and circumstances, we find that the imposition of reporting conditions is appropriate to ensure that the Licensees and any successor licensee of any of the Stations maintain an adequate EEO program and accurate recruiting program records in compliance with the Rules. Accordingly, we affirm the NAL’s imposition of reporting conditions.

¹¹ See NAL Response.

¹² *Id.* at 2. These submissions included the Licensee’s EEO public file reports for the reporting periods ending on May 31, 2012 and May 31, 2013.

¹³ Submission of Required Materials by Davidson, July 1, 2015.

¹⁴ Supplement to Submission of Required Materials by Davidson, July 17, 2015.

¹⁵ *Gulf Dunes Broadcasting Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 1593 (1992).

¹⁶ *Inland Empire Broadcasting Corp. and SBR Broadcasting Corp.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 2656 (2007) (forfeiture paid) (\$5,000 forfeiture and reporting conditions per licensee proposed for two EEO violations – failure to recruit for four of 10 vacancies and to self-assess its EEO program); *AMFM Broadcasting Licenses, LLC*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 16330 (2013) (forfeiture paid) (\$20,000 forfeiture and reporting conditions proposed for two EEO violations – failure to provide notification of vacancies and to self-assess its EEO program).

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended,¹⁷ and Sections 0.61, 0.283, and 1.80(f)(4) of the Commission's Rules,¹⁸ that Davidson IS LIABLE FOR A MONETARY FORFEITURE in the amount of five thousand dollars (\$5,000) and reporting conditions for violations of Sections 73.2080(c)(1) and 73.2080(c)(3) of the Commission's Rules.¹⁹

11. 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. 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. Davidson shall send electronic notification on the date said payment is made to Lewis Pulley, Assistant Chief, Policy Division, Media Bureau, Federal Communications Commission, at Lewis.Pulley@fcc.gov.

12. 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.²⁰ 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.

Any requests 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. 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. IT IS FURTHER ORDERED that Davidson and any successor licensee of any or all of Stations WREJ(AM), WVNZ(AM), WLEE(AM), and WTOX(AM), SHALL SUBMIT to the Federal Communications Commission, Media Bureau, EEO Staff, an original and one copy of a filing, sworn to

¹⁷ See 47 U.S.C. § 503(b).

¹⁸ See 47 C.F.R. §§ 0.61, 0.283, and 1.80.

¹⁹ See 47 C.F.R. §§ 73.2080(c)(1) and 73.2080(c)(3).

²⁰ FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

by an officer of Davidson, containing the following information on July 1, 2016 and July 3, 2017, with respect to Stations WREJ(AM), WVNZ(AM), WLEE(AM), and WTOX(AM), and all other stations in their employment unit:

(a) the unit's most recent EEO public file report and

(b) dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing each full-time vacancy for the preceding reporting year.

14. IT IS FURTHER ORDERED that, pursuant to Section 73.3526(e)(10) of the Commission's Rules, Davidson shall place a copy of this Forfeiture Order in the public inspection files of Stations WREJ(AM), WVNZ(AM), WLEE(AM), and WTOX(AM).

15. IT IS FURTHER ORDERED that copies of this Forfeiture Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Davidson Media Station, 1945 J N Pease Place, Suite 101, Charlotte, North Carolina 28262, and to its attorney, Francisco Montero, Esquire, Fletcher Heald & Hildreth, PLC, 1300 North 17th Street, 11th Floor, Arlington, Virginia 22209, and to TBLC Virginia Holdings, LLC, 4601 Nolensville Road, Nashville, Tennessee 37221, and to its attorney, Anthony Lepore, Esquire, 4101 Albemarle Street, NW, #324, Washington DC 20016-2151.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake, Chief
Media Bureau