

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

In the Matter of)	
)	
S G Communications)	Facility ID No. 681
)	NAL/Acct. No. MB-201341410015
Licensee of Station WHEW(AM))	FRN: 006320048
Franklin, Tennessee)	File No. BR-20120829AEX

FORFEITURE ORDER

Adopted: February 3, 2015

Released: February 3, 2015

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of seven thousand dollars (\$7,000) to S G Communications (“Licensee”), licensee of Station WHEW(AM), Franklin, Tennessee (“Station”), for willfully violating Section 73.3539 of the Commission’s Rules (“Rules”)¹ by failing to timely file a license renewal application for the Station, and willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended (“Act”),² by engaging in unauthorized operation of the Station after its authorization had expired.

II. BACKGROUND

2. On September 18, 2013, the Bureau issued a *Notice of Apparent Liability for Forfeiture* (“NAL”) in the amount of seven thousand dollars (\$7,000) to Licensee for these violations.³ As noted in the *NAL*, Licensee’s renewal application for the Station’s previous license term was due on April 1, 2012, four months prior to the August 1, 2012, expiration date.⁴ No such application was filed, and the Station’s license expired on August 1, 2012. Accordingly, on August 27, 2012, the staff wrote to Licensee, indicating that the Station’s license had expired and that: (1) all authority to operate the Station was terminated; and (2) the Station’s call letters had been deleted from the Commission’s data base. Licensee was advised that any operation of the station was then unauthorized and must cease immediately.⁵

3. Upon receipt of the *License Expiration Letter*, on August 30, 2012, Licensee tendered the captioned renewal application and a request for Special Temporary Authority (“STA”) to continue station operations pending consideration of the license renewal application.⁶ The staff granted the STA Request on October 1, 2012, and it expired on March 30, 2013.⁷ Licensee did not seek an extension of its STA,

¹ See 47 C.F.R. § 73.3539.

² See 47 U.S.C. § 301.

³ *S G Communications*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 13371 (MB 2013).

⁴ See 47 C.F.R. §§ 73.1020, 73.3539(a).

⁵ *Letter to SG Communications, from James Bradshaw* (MB Aug. 27, 2012) (“*License Expiration Letter*”).

⁶ See File No. BLSTA-20120831AAO (“STA Request”).

⁷ *Letter to S G Communications*, Ref. 1800B3 (MB Oct. 1, 2012).

nor did it request an additional STA to maintain Station operations.⁸ Licensee did not provide an explanation for its failure to file a timely renewal application for the Station. No response to the *NAL* has been filed.

III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,⁹ Section 1.80 of the Rules,¹⁰ and the Commission's *Forfeiture Policy Statement*.¹¹ In 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.¹²

5. We conclude that Licensee willfully¹³ violated Section 73.3539 of the Rules,¹⁴ and willfully and repeatedly¹⁵ violated Section 301 of the Act,¹⁶ and that no circumstances warrant reduction or cancellation of the forfeiture. We will withhold grant of the renewal application until Licensee has completed payment of the forfeiture.

IV. ORDERING CLAUSES

6. 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,¹⁷ that S G Communications SHALL FORFEIT to the United States the sum of seven thousand dollars (\$7,000) 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.

7. Payment of the forfeiture must be made by a check or similar instrument, wire transfer or credit card and include the Account Number and FRN referenced in the caption above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account Number in block number 23A (callsign/other ID) and enter the

⁸ Licensee filed an STA extension request on October 1, 2013, after the Bureau issued the *NAL*. See File No. BELSTA-20130930AYY.

⁹ 47 U.S.C. § 503(b).

¹⁰ 47 C.F.R. § 1.80.

¹¹ *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).

¹² 47 U.S.C. § 503(b)(2)(E).

¹³ 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.

¹⁴ 47 C.F.R. § 73.3539

¹⁵ 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).

¹⁶ 47 U.S.C. § 301.

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

letters "FORF" in block number 24A (payment type code). Licensee will also send electronic notification on the date said payment is made to Penelope Dade at Penelope.Dade@FCC.GOV and Alexander Sanjenis at Alexander.Sanjenis@FCC.GOV. Below are additional instructions that should be followed based on the form of payment selected:

- 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.

8. IT IS FURTHER ORDERED that a copy of this *NAL* shall be sent, by First Class and Certified Mail-Return Receipt Requested, to S G Communications, 1429 Governors Ridge Court, Franklin, TN 37064.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau