

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

In the Matter of )
)
Sorensen Communications Systems, Inc. ) Facility ID No. 29232
Licensee of Station KTGM(TV) ) NAL/Acct. No. 201541420032
Tamuning, Guam ) FRN: 0013877352

FORFEITURE ORDER

Adopted: April 18, 2016

Released: April 18, 2016

By the Chief, Video Division, Media Bureau

I. INTRODUCTION

1. In this Forfeiture Order, issued pursuant to Sections 0.61(f)(1) and 1.80(a)(1),(2) of the Commission's rules (Rules), we find that Sorensen Television Systems, Inc. (Licensee), licensee of Station KTGM(TV), Tamuning, Guam (Station or KTGM): (1) willfully and/or repeatedly violated Section 73.3526(e)(11)(iii) of the Rules by failing to file with the Commission in a timely manner Children's Television Programming Reports (FCC Form 398) for nine quarters; and (2) willfully and/or repeatedly violated Section 73.3514(a) of the Rules by failing to report those late filings in its renewal application. Based upon our review of the facts and circumstances before us, we conclude that the Licensee is liable for a monetary forfeiture in the amount of Nine Thousand Dollars (\$9,000).

II. BACKGROUND

2. The Video Division issued a Notice of Apparent Liability (NAL) for Forfeiture on November 10, 2015. The NAL notified the Licensee that its failure to timely file the Station's Children's Television Programming Reports (FCC Form 398) for nine quarters constituted an apparent willful and/or repeated violation of Section 73.3526(e)(11)(iii) of the Rules. Furthermore, the Licensee's failure to report these violations in its renewal application constituted an apparent willful and/or repeated violation of Section 73.4514(a) of the Rules. The Division concluded that the Licensee was apparently liable for a forfeiture in the amount of \$9,000. The NAL also admonished the Licensee for apparently willfully and/or repeatedly violating Section 73.3526(b)(2) of the Rules by failing to upload (i.e. file) in

1 47 C.F.R. §§ 0.61(f)(1), 1.80(a)(1),(2).

2 47 C.F.R. § 73.3526(e)(11)(iii).

3 47 C.F.R. § 73.3514(a).

4 Sorensen Television Systems, Inc., Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 12466 (Vid. Div. 2015) (Sorensen TV System).

5 Licensee filed its Children's Television Programming Reports late for the following quarters: first quarter 2007 (months late); second quarter 2007 (days late); fourth quarter 2007 (years late); first quarter 2008 (months late); second quarter 2008 (months late); third quarter 2008 (months late); third quarter of 2009 (days late); first quarter 2010 (weeks late); and second quarter 2010 (days). Sorensen TV Systems, 30 FCC Rcd at 12467, n.6.

6 File No. BRCT-20140929AKD (granted Nov. 17, 2015).

the Station's electronic public file (e-pif) copies of its quarterly TV issues/programs lists<sup>7</sup> for twelve quarters.<sup>8</sup>

3. In its Response submitted on December 10, 2015, the Licensee admits to the violations set forth in the NAL.<sup>9</sup> The Licensee, citing the *Forfeiture Policy Statement* and Section 1.80(b) of the rules,<sup>10</sup> requests that the Commission reduce the forfeiture amount by taking into account its "unblemished record" with no history of prior offences during its tenure as licensee of KTGM.<sup>11</sup> The Licensee does not request reduction on any other basis (e.g., Division error, inability to pay, or other compelling circumstances).

### III. DISCUSSION

4. The Commission is authorized to license radio and television broadcast stations and is responsible for enforcing the Commission's rules and applicable statutory provisions concerning the operation of those stations. Under section 503(b)(1) of the Act, 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>12</sup> In order to impose a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such penalty should be imposed.<sup>13</sup> The Commission will then issue a forfeiture order if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.<sup>14</sup> As we set forth in greater detail below, we conclude that the Licensee is liable for a forfeiture in the amount of \$9,000 for its repeated and/or willful violations of Sections 73.3526(e)(11)(iii) and 73.4514(a) of the Rules.

5. The Licensee does not dispute that it failed to timely file electronically the Station's Children's Television Programming Reports with the Commission for nine quarters, or that it failed to report those violations in its license renewal application. The Commission's *Forfeiture Policy Statement* and Section 1.80(b) of the rules establishes a base forfeiture amount of \$3,000 for failure to file a required form or information.<sup>15</sup> In determining the appropriate forfeiture amount, the Commission may adjust the

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<sup>7</sup> 47 C.F.R. § 73.3526(e)(11)(i).

<sup>8</sup> Licensee untimely uploaded its TV issues/programs lists to its e-pif for the following quarters: first, second, third, and fourth quarters of 2007; first, second, and third quarters of 2008; first and second quarters of 2009; third quarter of 2010; third quarter of 2012; and third quarter of 2013. *Sorensen TV System*, 30 FCC Rcd at 12467, n.10.

<sup>9</sup> Licensee Response to Notice of Apparent Liability for Forfeiture at 2 (Dec. 10, 2015) (Licensee Response).

<sup>10</sup> *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) (stating that in determining the appropriate forfeiture amount, the Commission may take into consideration "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."); 47 C.F.R. § 1.80(b), note to paragraph (b)(8), Section I.

<sup>11</sup> Licensee Response at 2.

<sup>12</sup> 47 U.S.C. § 503(b)(1),(A),(B); 47 C.F.R. § 1.80(a)(1),(2). The Commission may assess a forfeiture order for violations that are merely repeated, and not willful. *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, (2001) (issuing a Notice of Apparent Liability for a cable television operator's repeated violations of the Commission's signal leakage rules). "Repeated" means that the act was committed or omitted more than once. *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

<sup>13</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

<sup>14</sup> *See, e.g., SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002).

<sup>15</sup> *See Forfeiture Policy Statement*, 12 FCC Rcd at 17113-15; 47 C.F.R. § 1.80(b), note to paragraph (b)(8), Section I

base amount upward or downward by considering the factors in Section 503(b)(2)(E), which include “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.” In the *NAL*, the Division considered such factors and proposed a forfeiture amount of \$9,000.<sup>16</sup> During the prior license term the Licensee committed multiple rule violations. It was not only found to have apparently violated Sections 73.3526(e)(11)(iii) and 73.3514(a) of the Rules, but also admonished for its violation of Section 73.3526(b)(2) of the Rules. While the Licensee may not have any prior offences, our forfeiture evaluation is based on a totality of the circumstances, which takes into account numerous factors. In light of the specific facts and circumstances before us, we find the Licensee’s violations warrant the forfeiture proposed in the *NAL*. Accordingly, we find that the Licensee is liable in the amount of \$9,000 for its willful and/or repeated violations of Sections 73.3526(e)(11)(iii) and 73.3514(a) of the Rules.

#### IV. ORDERING CLAUSES

6. ACCORDINGLY, IT IS ORDERED THAT, pursuant to section 503(b) of the Communications Act of 1934, as amended, and Sections 0.61(f)(1) and 1.80(a)(1) and (2) of the Commission’s rules,<sup>17</sup> Sorensen Television Systems, Inc. SHALL FORFEIT to the United States the sum of Nine Thousand Dollars (\$9,000) for its willful and/or repeated violation Sections 73.3526(e)(11)(iii) and 73.3514(a) of the Rules.<sup>18</sup>

7. Payment of the forfeiture SHALL be made in the manner provided for in Section 1.80(h) of the Commission’s rules within thirty (30) calendar days after the release date of this *Forfeiture Order*.<sup>19</sup> 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 Communications Act of 1934, as amended.<sup>20</sup>

8. Payments of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the FRN referenced above. An FCC Form 159 (Remittance Advice) must be submitted with payment unless payment is made online at the Commission’s Fee Filer website.<sup>21</sup> 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:<sup>22</sup>

- 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.

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<sup>16</sup> *Sorensen TV System*, 30 FCC Rcd at 12468-69.

<sup>17</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.61(f)(1) & 1.80(a)(1),(2).

<sup>18</sup> 47 C.F.R. §§ 73.3526(e)(11)(iii) and 73.3514(a).

<sup>19</sup> 47 C.F.R. § 1.80(h).

<sup>20</sup> 47 U.S.C. § 504(a).

<sup>21</sup> Payment may be made at the Commission’s online Fee Filer website: <https://www.fcc.gov/encyclopedia/fee-filer>. Payment may also be made by FCC Form 159; detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>22</sup> For questions regarding payment procedures, contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 or e-mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

- 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.

9. Requests for full payment of the forfeiture proposed in this *Forfeiture Order* 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.<sup>23</sup>

10. IT IS FURTHER ORDERED THAT a copy of this *Forfeiture Order* shall be sent by Certified Mail Return Receipt Requested to Sorensen Television Systems, Inc., 111 Chalen Santo Papa, Suite 800, Hagatna, Guam 96910, and to its counsel, Allan G. Moskowitz, Esq., 10845 Tuckahoe Way, North Potomac, MD 20878.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>23</sup> See 47 C.F.R. § 1.1914.