

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

In the Matter of	)	
	)	
Rufus Resources, LLC	)	Facility ID No. 52048
	)	NAL/Acct. No. MB-201841410010
Licensee of Station KMFR(AM),	)	FRN: 0023542277
Pearsall, Texas	)	File No. BR-20170303AAN

**FORFEITURE ORDER**

**Adopted: July 18, 2018**

**Released: July 19, 2018**

By the Chief, Audio Division, Media Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of five thousand six hundred dollars (\$5,600) to Rufus Resources, LLC (Rufus), licensee of Station KMFR(AM), Pearsall, Texas (Station), for willfully violating Section 73.3539 of the FCC's rules (Rules)<sup>1</sup> 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),<sup>2</sup> by engaging in unauthorized operation of the Station after its authorization had expired.

**II. BACKGROUND**

2. On April 17, 2018, the Bureau issued a *Notice of Apparent Liability for Forfeiture* in the amount of seven thousand dollars (\$7,000) to Rufus for these violations.<sup>3</sup> As noted in the *NAL*, Rufus failed to file a timely license renewal application four months prior to its license expiration on January 26, 2017.<sup>4</sup> Rufus continued operating the Station without authorization, then filed a request for STA on February 15, 2017, seeking authority to remain on the air despite the expiration of its license. Rufus subsequently filed the Application on March 3, 2017.<sup>5</sup> The STA expired on September 2, 2017, but Rufus did not request an extension of it until May 17, 2018, a month after the *NAL* was issued.<sup>6</sup>

3. Rufus responded to the *NAL* on May 17, 2018, requesting a reduction of the proposed monetary forfeiture.<sup>7</sup> Rufus bases this request on the unusual expiration date of the Station's license attributed to the short-term renewal period, and explains that because the Station was licensed to San Antonio Radioworks (SAR) when the *Renewal Letter* was issued, "Rufus had not participated in the

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<sup>1</sup> 47 CFR § 73.3539.

<sup>2</sup> 47 U.S.C. § 301.

<sup>3</sup> *Rufus Resources, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 18-384 (MB Apr. 17, 2018) (*NAL*).

<sup>4</sup> *NAL* at 1-2, para. 2. As discussed in the *NAL*, the Station's license was renewed for a term of two years instead of a full term of eight years pursuant to Section 309(k)(2) of the Act. *See Broadcast Actions*, Public Notice, Report No. 48415 (MB Jan. 29, 2015); *San Antonio Radioworks, LLC*, Letter Order, Ref. 1800B3-TH (MB Jan. 26, 2015) (*Renewal Letter*); 47 USC § 309(k)(2).

<sup>5</sup> BLSTA-20170215AAU.

<sup>6</sup> BLSTA-20180517AFA.

<sup>7</sup> *See* Response to Notice of Apparent Liability for Forfeiture (May 17, 2018) (*NAL Response*).

license renewal process [and] the issues related to a prior license term were not matters that would be brought to the attention of the licensee or its principals.”<sup>8</sup> Rufus further explains that it filed the STA Request when it realized that it had missed the renewal filing deadline, and failed to request an extension of that STA because it was focused on the operation of its other stations during and after Hurricane Harvey.<sup>9</sup> Rufus avers that these circumstances make its violations “more understandable and less culpable” and that the forfeiture amount should consider these factors.<sup>10</sup> Rufus finally notes that it has no history of prior violations and requests that the Commission reduce or rescind the proposed forfeiture accordingly.<sup>11</sup>

### III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,<sup>12</sup> Section 1.80 of the Rules,<sup>13</sup> and the Commission’s *Forfeiture Policy Statement*.<sup>14</sup> 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.<sup>15</sup>

5. We reject Rufus’s argument that the unusual expiration date is grounds for a reduction of the proposed forfeiture. It is well settled that ignorance of the Rules does not excuse a violation.<sup>16</sup> Additionally, the License Renewal Authorization for the Station’s prior term clearly stated that the Station’s license would expire on January 26, 2017.<sup>17</sup> The proposed forfeiture is consistent with forfeitures issued to similarly situated licensees that were granted a short-term license renewal pursuant to Section 309(k)(2), failed to file a timely license renewal application, and continued operation of their station after the license expired without STA.<sup>18</sup> We thus reject the short-term license period as a reason to reduce the proposed forfeiture amount set forth in *NAL*.

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<sup>8</sup> *Id.* at 1-3.

<sup>9</sup> *Id.* at 3-4

<sup>10</sup> *Id.* at 4-5.

<sup>11</sup> *Id.* at 5.

<sup>12</sup> 47 U.S.C. § 503(b).

<sup>13</sup> 47 CFR § 1.80.

<sup>14</sup> *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).

<sup>15</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>16</sup> See *Lake County Cmty. Radio*, Forfeiture Order, 31 FCC Rcd 7659, 7660, para. 6 (MB 2016) (violations resulting from inadvertent error are willful violations); *Southern Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, para. 3 (1991) (*Southern Cal.*), *recon. den.*, 7 FCC Rcd 3454 (1992) (stating that “inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”); see also *Commil USA, LLC v. Cisco Systems, Inc.*, 135 S. Ct. 1920, 1930 (2015) (“In the usual case, ‘I thought it was legal,’ is no defense.”).

<sup>17</sup> A copy of the License Renewal Authorization was mailed by the Bureau staff to SAR. Additionally, the document can be retrieved electronically at any time on the FCC’s website at [http://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/view\\_auth.pl?Application\\_id=1546074&File\\_number=BR-20130401AHK&Callsign=KMFR&Facility=52048](http://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/view_auth.pl?Application_id=1546074&File_number=BR-20130401AHK&Callsign=KMFR&Facility=52048). See also *Veral Pennington, Morehead, Kentucky and Michael Williamson, Morehead, Kentucky*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 4206, 4210, para. 16 (2017) (rejecting ignorance of expiration date argument where license renewal authorization, publicly available on FCC website, clearly indicated expiration date).

<sup>18</sup> *Chisholm Trail Commc’n, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 107 (MB 2018) (proposing \$7,000 forfeiture where licensee was granted short-term renewal, failed to timely file license renewal application, and operated station after license expiration without STA for one month);

6. However, we do find that Rufus's history of compliance warrants a forfeiture reduction.<sup>19</sup> Accordingly, based on the record before us and in light of the applicable statutory factors, we impose a penalty of five thousand six hundred dollars (\$5,600) against Rufus for willfully<sup>20</sup> violating Section 73.3539 of the Rules,<sup>21</sup> and willfully and repeatedly<sup>22</sup> violating Section 301 of the Act.<sup>23</sup> We will withhold grant of the Application until Rufus has completed payment of the forfeiture.

#### IV. ORDERING CLAUSES

7. 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 FCC's Rules,<sup>24</sup> that Rufus Resources, LLC, SHALL FORFEIT to the United States the sum of five thousand six hundred dollars (\$5,600) for willfully violating Section 73.3539 of the FCC's Rules, and willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended.

8. 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 letters "FORF" in block number 24A (payment type code). Rufus will also send electronic notification on the date said payment is made to Michael Wagner at Michael.Wagner@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

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*compare Southeast Texas Telecom*, Forfeiture Order, DA 18-609 (MB June 12, 2018) (affirming \$1,500 notice of apparent liability where license was renewed for a two-year period and licensee failed to file a timely license renewal application, but filed application prior to license expiration).

<sup>19</sup> See, e.g., *WLTV, Inc.*, Forfeiture Order, 24 FCC Rcd 7715, 7717 (MB 2009) (20 percent forfeiture reduction accorded for "history of compliance"), citing *Wayne State College*, Forfeiture Order, 24 FCC Rcd 2484 (MB 2009) (issuing forfeiture for licensee's public file violations, but reducing forfeiture amount by 20 percent based on licensee's history of compliance); *Christian Center, Inc.*, Forfeiture Order, 24 FCC Rcd 1128 (MB 2009) (same); *John Brown Univ.*, Forfeiture Order, 24 FCC Rcd 1536 (MB 2009) (same).

<sup>20</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. 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 Cal.*, 6 FCC Rcd at 4387-88.

<sup>21</sup> 47 CFR § 73.3539

<sup>22</sup> 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 Cal.*, 6 FCC Rcd at 4388 (applying this definition of repeated to Sections 312 and 503(b) of the Act).

<sup>23</sup> 47 U.S.C. § 301.

<sup>24</sup> 47 U.S.C. § 503(b); 47 CFR §§ 0.283, 1.80.

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. IT IS FURTHER ORDERED that a copy of this *NAL* shall be sent, by First Class and Certified Mail-Return Receipt Requested, to Rufus Resources, LLC, c/o David Martin Phillip, 201 North Pana Maria Avenue, Karnes City, TX 78118, and to its counsel, Anne Goodwin Crump, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 N. 17<sup>th</sup> Street, Eleventh Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner  
Chief, Audio Division  
Media Bureau