

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

In re Application of)	
)	
John Burdette)	Facility ID No. 150814
)	NAL/Acct. No. MB-202141410014
For Renewal of License for)	FRN: 0028917623
FM Translator Station W268BM)	File No. 0000110338
Jasper, Alabama)	

ORDER

Adopted: March 17, 2021

Released: March 17, 2021

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it a request to cancel a Notice of Apparent Liability (*NAL*)¹ issued to John Burdette (Licensee), former licensee² of FM Translator Station W268BM, Jasper, Alabama (Station), for apparently willfully violating section 73.3539 of the Commission’s rules (Rules) by failing to timely file a license renewal application for the Station. As discussed below, we cancel the forfeiture and instead admonish Licensee for the violation.

II. BACKGROUND

2. Section 73.3539(a) of the Rules requires that applications for renewal of license for broadcast stations must be filed “not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed.”³ An application for renewal of the Station’s license should have been filed by December 2, 2019, the first business day of the fourth full calendar month prior to the Station’s April 1, 2020 license expiration date.⁴ The application was not filed until March 30, 2020. The Licensee provided no explanation for his untimely filing of the application.

3. Accordingly, on February 25, 2021, we released the *NAL*, which proposed a forfeiture of one thousand five hundred dollars (\$1,500). The *NAL* gave the Licensee thirty days to pay the full amount of the proposed forfeiture or file a written statement seeking reduction or cancellation of the proposed forfeiture.⁵

4. On March 11, 2021, the Licensee submitted a written response in which it did not dispute that it had violated section 73.3539 of the Rules but requested that we cancel the proposed forfeiture

¹ *John Burdette*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-225 (MB Feb. 25, 2021).

² As noted in the *NAL*, on April 3, 2020, the Bureau granted the application for consent to assign the Station’s license from John Burdette to James D. Earley. See File No. BALFT-20191021AAK.

³ 47 CFR § 73.3539(a).

⁴ 47 CFR §§ 73.1020, 73.3539(a).

⁵ *NAL* at 3, para. 10.

based on the Licensee's inability to pay it, noting that the Station has consistently operated at a loss.⁶ The Response included copies of the Station's financial records in support of this request.

III. DISCUSSION

5. As noted in the *NAL*, the Commission will not consider reducing or canceling a forfeiture in response to claimed 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; or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status.⁷ We accept Licensee's showing—based on the Station's financial records—that payment of the proposed forfeiture would create a financial hardship. Accordingly, we will cancel the proposed forfeiture. However, we admonish Licensee for his willful violation of section 73.3539 of the Rules.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to section 504(b) of the Communications Act of 1934, as amended,⁸ and sections 0.61, 0.283, and 1.80(f)(4) of the Commission's rules,⁹ the Notice of Apparent Liability for a Forfeiture (NAL/Acct. No. MB-202141410004) issued to John Burdette **IS CANCELLED** and that John Burdette is instead **HEREBY ADMONISHED** for his violation of section 73.3539 of the Commission's rules.

7. **IT IS FURTHER ORDERED** that the application for renewal of license filed by John Burdette for FM Translator Station W268BM, Jasper, Alabama (File No. 0000110338) **IS GRANTED**.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to John Burdette, Box 1033, Jasper, KY 35502, to his counsel, Larry Perry, Esq., Larry Perry & Associates, 11464 Saga Lane Suite 400, Knoxville, TN 3931, and to James D. Early, PO Box 1035, Jasper, AL 35502.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁶ Response to Notice of Apparent Liability for Forfeiture of John Burdette and James D. Earley (received Mar. 11, 2021) (Response).

⁷ See *NAL* at 4, para. 14.

⁸ 47 U.S.C. § 504(b).

⁹ 47 CFR §§ 0.61, 0.283, 1.80(f)(4).