

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

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| In re Application of |) | |
| |) | |
| School District, Bay City |) | Facility ID No. 59351 |
| |) | NAL/Acct. No. MB-202141410019 |
| For Renewal of License for |) | FRN: 0010754273 |
| Station WCHW-FM |) | File No. 0000122730 |
| Bay City, Michigan |) | |

ORDER

Adopted: April 19, 2021

Released: April 19, 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 School District, Bay City (Licensee), licensee of Station WCHW-FM, Bay City, Michigan (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."² An application for renewal of the Station's license should have been filed by June 1, 2020, the first business day of the fourth full calendar month prior to the Station's October 1, 2020 license expiration date.³ The application was not filed until September 29, 2020. The Licensee provided no explanation for its untimely filing of the application.

3. Accordingly, on March 4, 2021, we released the *NAL*, which proposed a forfeiture of three thousand dollars (\$3,000). 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.⁴

4. On March 30, 2021, the Licensee submitted a written response in which it explains that, due to restrictions associated with the COVID-19 pandemic, its employees did not have access to the Station—located inside a school—from March 12, 2020, until June 24, 2020.⁵ Licensee further states that it was under the impression that the filing deadline for the renewal application was July 1, 2020, and believed that it had filed its renewal application on June 29, 2020, but then received an email on

¹ *School District, Bay City*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-259 (MB Mar. 4, 2021).

² 47 CFR § 73.3539(a).

³ See 47 CFR §§ 73.1020, 73.3539(a).

⁴ *NAL* at 3, para. 9.

⁵ Response to Notice of Apparent Liability for Forfeiture of Blount County Broadcasting Corp. (received Mar. 30 2021) (Response).

September 3, 2020, from the Bureau staff informing Licensee that the Commission had not received an application.⁶

III. DISCUSSION

5. Although Licensee was incorrect in its belief that the filing deadline was July 1, 2020, Licensee was nonetheless unable to file before the June 1, 2020, filing deadline because of its inability to access the Station during the COVID-19 school closure. However, the staff has reviewed the Licensee's account in the Commission's database, LMS, and determined that several renewal applications were begun on June 29, 2020, but none was filed—all remain in "saved" status. Licensee misunderstood our electronic filing procedures and erroneously assumed that it submitted a timely filed renewal application. Therefore, the failure to promptly and correctly file the renewal application following the reopening of the Station was due to Licensee's own error. As the Commission has held, violations resulting from inadvertent error or failure to become familiar with the FCC's requirements are willful violations.⁷ Moreover, the Commission has specifically ruled that confusion or difficulties with the Commission's electronic filing system are not grounds for reduction or cancellation of a forfeiture.⁸ Accordingly, we admonish Licensee for its 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,⁹ and sections 0.61, 0.283, and 1.80(f)(4) of the Commission's rules,¹⁰ the Notice of Apparent Liability for a Forfeiture (NAL/Acct. No. MB-202141410019) issued to School District, Bay City **IS CANCELLED** and that School District, Bay City is instead **HEREBY ADMONISHED** for its violation of section 73.3539 of the Commission's rules.

7. **IT IS FURTHER ORDERED** that the application for renewal of license filed by School District, Bay City for Station WCHW-FM, Bay City, Michigan (File No. 0000122730) **IS GRANTED**.

⁶ *Id.*

⁷ See *S. California Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387, para. 3 (1991), *recon. denied*, Memorandum Opinion and Order, 7 FCC Rcd 3454 (1992) (stating that "inadvertence ... is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance"); *Standard Comm'cns Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, 358 (1986) (stating that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations").

⁸ See *Ritenour Consol. School Dist.*, Forfeiture Order, 25 FCC Rcd 3266, 3267, para. 5 (MB 2010) (*Ritenour*) (rejecting licensee's argument that it thought renewal application was timely filed because it was in "pending" status); *Muskegon Training and Educ. Center*, Forfeiture Order, 23 FCC Rcd 11241, 11242-43, para. 6 (MB 2008) (same).

⁹ 47 U.S.C. § 504(b).

¹⁰ 47 CFR §§ 0.61, 0.283, 1.80(f)(4).

8. **IT IS FURTHER ORDERED** that copies of this Notice of Apparent Liability for Forfeiture shall be sent by First Class and Certified Mail, Return Receipt Requested, to Bryan Bishop, Bay City Public Schools, PO Box 48708, Bay City, MI 48708.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau