

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

In re Application of)	
)	
Gerard Media LLC)	Facility ID No. 202526
)	NAL/Acct. No. MB-202141410004
For Renewal of License for)	FRN: 00016129173
FM Translator Station W294CY)	File No. 0000118344
Valparaiso, Indiana)	

ORDER

Adopted: July 9, 2021

Released: July 12, 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 Gerard Media LLC (Licensee), licensee of FM translator station W294CY, Valparaiso, Indiana (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 April 1, 2020, the first business day of the fourth full calendar month prior to the Station’s August 1, 2020 license expiration date.³ The application was not filed until July 23, 2020. The Licensee provided no explanation for its untimely filing of the application.

3. Accordingly, on February 9, 2021, we released the *NAL*, which proposed a forfeiture of three thousand 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.⁴

4. On March 10, 2021, the Licensee submitted a written response in which it explains that its inability to timely file was due to a technical issue with the Commission’s filing database, LMS.⁵ Licensee explains that when the Station was initially licensed on October 28, 2019, LMS listed an expiration date of July 9, 2021 instead of April 1, 2020, and the Licensee’s engineer, Larry Langford, reached out to the Bureau staff in February of 2020 to correct the date, noting that LMS would not accept

¹ *Gerard Media, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-133 (MB Feb. 9, 2021).

² 47 CFR § 73.3539(a).

³ See 47 CFR §§ 73.1020, 73.3539(a).

⁴ *NAL* at 3, para. 10.

⁵ Response to Notice of Apparent Liability for Forfeiture of Gerard Media LLC (received Mar. 10, 2021) (Response).

a license renewal application for the Station.⁶ Although the staff informed Langford that the error was corrected, it was in fact not, and on July 22, Langford again contacted the Bureau staff regarding the issue, which was finally resolved on July 23, and the Application was filed that same day.⁷

III. DISCUSSION

5. The Bureau staff has reviewed Licensee's account in LMS and determined that Licensee did not attempt to file the Application until July 2020, well after the April 1 filing deadline. Moreover, the Response does not indicate that Licensee attempted to file the Application between February 2020—when it first alerted the Bureau staff of the LMS error—and the April 1 filing deadline. After alerting the staff to the LMS issue in February 2020, Licensee took no steps until July of 2020 to address the continuing technical issues it was facing with LMS. Therefore, the failure to timely file the renewal application was due to Licensee's own lack of diligence.⁸ However, given that the Bureau staff did not in fact correct the LMS issue in February 2020, we will, on our motion, cancel the *NAL* and instead 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(g)(4) of the Commission's rules,¹⁰ the Notice of Apparent Liability for a Forfeiture (*NAL*/Acct. No. MB-202141410004) issued to Gerard Media LLC **IS CANCELLED** and that Gerard Media LLC 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 Gerard Media LLC for FM Translator Station W294CY, Valparaiso, Indiana (File No. 0000118344) **IS GRANTED**.

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 Gerard Media LLC, c/o Ric Federighi, 685 East 1675 North, Michigan City, IN 46360, and to its counsel, Dan J. Alpert, Esq., The Law Office of Dan J. Alpert, 2120 N. 21st Rd, Arlington, VA 22201.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁶ *Id.* at 1-2 and Attach. A.

⁷ *Id.* at 2 and Attach. A.

⁸ *Compare Roamer One, Inc.*, Order, 17 FCC Rcd 3287, 3291, para. 11 (2002) (granting waiver of filing deadline after applicant encountered technical issues with Commission database but “acted with reasonable diligence by keeping in constant contact with the Commission's staff in an attempt to resolve the on-going problems with the electronic filing system”).

⁹ 47 U.S.C. § 504(b).

¹⁰ 47 CFR §§ 0.61, 0.283, 1.80(g)(4).