

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

In the Matter of )
Radiant Light Broadcasting )
For Licenses to Cover ) Facility ID Nos. 54455 and 54546
Low Power Television Stations ) NAL/Acct. No. MB-. 202241420038
KRLB-LD, Richland, etc., WA ) FRN: 0008397077
KWWO-LD, Walla Walla, WA ) File No. 0003755485

FORFEITURE ORDER

Adopted: November 2, 2022

Released: November 2, 2022

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of three thousand four hundred dollars (\$3,400) to Radiant Light Broadcasting (Licensee), licensee of low power television (LPTV) stations KRLB-LD, Richland, etc., Washington and KWWO-LD, Walla Walla, Washington (collectively, Stations). We find that the Licensee willfully violated section 74.788<sup>1</sup> of the Commission’s rules (Rules) by failing to timely file license to cover applications, 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 Stations after their construction permits had expired.

II. BACKGROUND

2. On October 4, 2022, the Media Bureau (Bureau) issued a Notice of Apparent Liability for Forfeiture (NAL) in the amount of thirteen hundred dollars (\$13,000) to Licensee for these violations.<sup>3</sup> 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.<sup>4</sup>

3. In the NAL, we found that the Licensee had failed to timely file licenses to cover as required by section 74.788 of the Rules,<sup>5</sup> and continued Stations operations with the permitted facilities after the Stations’ construction permits expired and did not seek special temporary authority to operate with those facilities after the expiration of the construction permit. Further, as a result of its late filing, we

<sup>1</sup> See 47 CFR § 74.788.

<sup>2</sup> See 47 U.S.C. § 301.

<sup>3</sup> Radiant Light Broadcasting, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 22-1058 (MB Oct. 4, 2022) (NAL). Broken down, the proposed forfeiture came to six thousand, five hundred dollars (\$6,500) per station

<sup>4</sup> Id. at 5, para. 10.

<sup>5</sup> See 47 CFR § 74.788.

found that Licensee also apparently engaged in unauthorized operation in violation of section 301 of the Act.<sup>6</sup> Accordingly, we issued the *NAL*.

4. On October 26, 2022, the Licensee submitted a written response in which it did not dispute that it had violated the rules but requested that we reduce or cancel the proposed forfeiture based on the Licensee's claimed inability to pay it.<sup>7</sup> The Response included copies of Licensee's federal tax returns for 2019, 2020 and 2021 in support of this request.<sup>8</sup>

### III. DISCUSSION

5. The forfeiture amount proposed in this case was assessed in accordance with section 503(b) of the Act,<sup>9</sup> section 1.80 of the rules,<sup>10</sup> and the Commission's *Forfeiture Policy Statement*.<sup>11</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>12</sup>

6. 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.<sup>13</sup> Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.<sup>14</sup> In general, a licensee's gross revenues are the best indicator of its ability to pay a forfeiture. We recognize that, in some cases, other financial indicators, such as net losses, may also be relevant.<sup>15</sup> If gross revenues are sufficiently great, however, the mere fact that a business is operating at a loss does not by itself mean that it cannot afford to pay.<sup>16</sup>

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<sup>6</sup> See 47 U.S.C. § 301.

<sup>7</sup> Request for Cancellation or Reduction of Forfeiture of Radiant Life Broadcasting (dated Oct. 26, 2022) (on file at LMS File Nos. 0000196526 and 0000196529) (Response).

<sup>8</sup> Licensee requested that, pursuant to section 0.459 of the Rules, the financial information it has submitted be withheld from public discourse. Response at 2. Licensee asserts this information is entitled to protection pursuant to section 0.459(b)(3)-(7) of the Rules, as it relates to the financial performance of its charitable operation and would cause the licensee harm if it were available to competitors. *Id.*

<sup>9</sup> 47 U.S.C. § 503(b).

<sup>10</sup> 47 CFR § 1.80.

<sup>11</sup> See *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).

<sup>12</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>13</sup> See *NAL* at 6, para. 14.

<sup>14</sup> See *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7441 (2004), *modified*, Memorandum Opinion and Forfeiture Order, 24 FCC Rcd 2206 (MB 2009) (reducing forfeiture amount after review of submitted federal tax returns demonstrated a financial hardship).

<sup>15</sup> *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089 (1992).

<sup>16</sup> *Id.*

7. Here, the Licensee has provided us with federal tax return schedules for the years 2019, 2020, and 2021.<sup>17</sup> In considering claims of financial hardship, the range of forfeitures that the Commission has deemed reasonable generally average about five percent of the violator's gross annual income and have not exceeded eight percent thereof,<sup>18</sup> although a forfeiture equal to five percent of gross revenues has been found to be excessive where a licensee operated at a significant loss.<sup>19</sup> While in this case the proposed forfeiture amount in the *NAL* exceeds eight percent of Licensee's gross revenue, as averaged over the last three years, the Licensee has not operated at a significant loss. As such, based on the facts before us, we are unwilling to cancel the forfeiture altogether. Instead, we conclude that based on the financial information provided to the Commission by the Licensee, a reduction in the total forfeiture amount to three thousand four hundred dollars (\$3,400) is appropriate for the violations involved in this case and is reasonable based on the Licensee's finances.<sup>20</sup>

8. We have considered Licensee's Response and the record of this case in light of the above statutory factors, our rules, and the *Forfeiture Policy Statement*. We conclude that Licensee willfully<sup>21</sup> violated section 74.788 of the Commission's rules and willfully and repeatedly<sup>22</sup> violated section 301 of the Communications Act.<sup>23</sup> However, for the reasons set forth above, we find that reducing the forfeiture to \$3,400 is warranted.

#### IV. ORDERING CLAUSES

9. Accordingly, **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 Commission's rules,<sup>24</sup> that Radiant Life Broadcasting **SHALL FORFEIT** to the United States the sum of three thousand four hundred dollars

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<sup>17</sup> The Licensee has also provided us with a "12 month cash flow" statement. However, we consider Licensee's tax returns as the most reliable financial information. See *Coleman Enterprises, Inc.*, Order of Forfeiture, 15 FCC Rcd 24385, 24389 (2000) (considering tax returns to be the most reliable financial information provided by licensee, as compared to unaudited cash flow statements and bank summaries).

<sup>18</sup> *Zuma Beach FM Emergency and Community Broadcasters, Inc.*, Memorandum Opinion and Order, 34 FCC Rcd 5302, 5304 (MB 2019).

<sup>19</sup> See *Valley Air, LLC*, Letter, 24 FCC Rcd 5505 (MB 2009) (*Valley Air*) (cancelling a \$4,000 forfeiture after finding that the amount was reasonable given licensee's gross revenues of \$75,167, \$90,106, and \$69,330, but finding amount would pose a financial hardship where licensee lost \$345,000 during the same period).

<sup>20</sup> See *Hawkins Broadcasting Company*, Forfeiture Order, 25 FCC Rcd 12519, 12521 (MB 2010) (reducing a forfeiture amount from \$7,000 to \$4,000 where the proposed forfeiture amount would have constituted approximately 7 percent of the licensee's average gross revenues and licensee operated with significant loss), citing *CARE Broadcasting, Inc.*, Forfeiture Order, 24 FCC Rcd 1411 (MB 2010) (reducing forfeiture amount from \$14,000 to \$3,400 where the proposed forfeiture amount would have constituted approximately 11 percent of Licensee's average gross revenues).

<sup>21</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. See *Southern California Broadcasting Company*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 (1991) (*Southern California*).

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

<sup>23</sup> 47 CFR § 74.788 and 47 U.S.C. § 301.

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

(\$3,400) for willfully and repeatedly violating section 74.788 of the Commission's rules and section 301 of the Communications Act.<sup>25</sup>

10. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),<sup>26</sup> or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted. Below are instructions that payors should follow based on the form of payment selected:<sup>27</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).<sup>28</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/paymentFrnLogin.do>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL/Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). Finally, choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

11. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Radiant Light Broadcasting, P.O. Box 301, Richland,

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<sup>25</sup> Broken down this comes to one thousand, seven hundred dollars (\$1,700) per station.

<sup>26</sup> Payments made using CORES do not require the submission of an FCC Form 159.

<sup>27</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

<sup>28</sup> Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

Washington as well as e-mailed to [eric@rlb.org](mailto:eric@rlb.org), and to their counsel: Mark Denbo, Esq., Smithwick & Belendiuk, P.C., 5028 Wisconsin Avenue, N.W., Suite 301, Washington, DC 20016.

FEDERAL COMMUNICATIONS COMMISSION

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau