

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

In the Matter of)	
)	Facility ID No. 140763
Windy City Broadcasting, LLC)	NAL/Acct. No. MB-202241410008
)	FRN: 0023928856
To Renew Station W280EM, Chicago, Illinois)	File No. 0000119009
)	

**MEMORANDUM OPINION AND ORDER
AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Adopted: March 15, 2022

Released: March 15, 2022

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. We have before us the amended application (Application)¹ of Windy City Broadcasting, LLC, (Licensee) to renew the license for translator station W280EM, Chicago, Illinois (Station). We also have before us an informal objection (Objection) filed by Albert Adam David (David), and related pleadings.² In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL)*,³ we find that Licensee apparently willfully and repeatedly violated sections 74.1263(c) and (e) of the Commission's rules by discontinuing operation of the Station without timely requesting special temporary authority (STA),⁴ apparently willfully and repeatedly violated section 74.1251(c) of the Commission's rules by failing to notify the Commission of the Station's change,⁵ and apparently willfully and repeatedly violated section 1.65 of the Commission's rules by failing to maintain completeness and accuracy of the pending Application.⁶ Based upon our review of the record before us, we find Licensee apparently liable for a monetary forfeiture in the amount of eight thousand dollars (\$8,000). Finally, we deny the Objection and we conclude that we will grant the Application by separate action upon the conclusion of this forfeiture proceeding if there are no issues other than the apparent violations that would preclude grant of the Application.

II. BACKGROUND

2. Licensee filed the Application on July 29, 2020. David filed the Objection on October 5,

¹ Amended Application of Windy City Broadcasting, LLC, Application File No. 0000119009 (filed Dec. 29, 2020) (Application). The original application was filed on July 29, 2020.

² Informal Objection of David, Pleading File No. 0000124015 (filed Oct. 5, 2020) (Objection); Opposition of Licensee, Pleading File No. 0000130202 (filed Dec. 29, 2020) (Opposition); Reply of David, Pleading File No. 0000130213 (filed Dec. 30, 2020) (Reply).

³ This *NAL* is issued pursuant to sections 309(k) and 503(b) of the Communications Act of 1934, as amended (Act), and section 1.80 of the Commission's rules. *See* 47 U.S.C. §§ 309(k), 503(b); 47 CFR § 1.80. The Bureau has delegated authority to issue the *NAL* under section 0.283 of the Rules. *See* 47 CFR § 0.283.

⁴ *See* 47 CFR §§ 74.1263(c), 74.1263(e).

⁵ *See* 47 CFR § 74.1251(c).

⁶ *See* 47 CFR § 1.65.

2020, and then Licensee amended the Application on December 29, 2020.⁷

3. In the Objection, David states that Licensee's certification on the renewal Application that Station is on the air is false because the Station has been silent since at least May 2020, without an STA to remain silent.⁸ David also claims that Licensee falsely stated that the Station rebroadcasts WTMX and that several years before going silent in May 2020, the Station rebroadcast WLEY-FM-HD2.⁹ For those reasons, David requests that we deny the Application.

4. Licensee filed the Opposition on December 29, 2020. Licensee claims that the Objection is procedurally defective and violates sections 1.47 and 1.52 of the rules¹⁰ because David did not properly serve the Objection on the Licensee and failed to verify the submission.¹¹ Licensee argues that the Objection should therefore be dismissed on procedural grounds.¹² Regarding the substantive issues raised, Licensee states that the Station went silent on August 17, 2020,¹³ and that it amended the Application to reflect that the Station was silent.¹⁴ Additionally, Licensee states that prior to going off the air, the Station was rebroadcasting the signal of WLEY, not WTMX.¹⁵ Licensee claims that the failure to timely submit a request for special temporary authority to remain silent (Silent STA) and the errors identified on the Application were inadvertent and have been addressed.¹⁶ Licensee requests that we deny the Objection and grant the renewal.

5. David filed the Reply on December 30, 2020. Regarding the procedural issues, David argues that section 1.47¹⁷ does not apply to informal objections and that there is no requirement for informal objections to be served upon the licensee or its counsel.¹⁸ Furthermore, David states that the Objection was submitted through the Commission's Licensing and Management System, and the certification required to submit a pleading through this system constitutes a legal verification.¹⁹ In

⁷ Licensee amended the Application to reflect that the Station was then off the air. *See* Application; Opposition at 2. The Station subsequently resumed operations on August 3, 2021. Resumption of Operations Notice of Licensee (filed Aug. 4, 2021), https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/forms/prod/cdbsmenu.hts?context=25&appn=101827007&formid=910&fac_num=140763.

⁸ Objection at 1.

⁹ *Id.* David states that Station did at one time rebroadcast WTMX, but not for several years before going off the air. *Id.*

¹⁰ *See* 47 CFR §§ 1.47, 1.52.

¹¹ Opposition at 1-2.

¹² *Id.* at 2.

¹³ *Id.* Licensee does not state why the Station went off the air.

¹⁴ *Id.* Attach. C, Amended Application at 10-11. The Station subsequently resumed operations on August 3, 2021. *See supra* note 7.

¹⁵ *Id.* at 1-2. Licensee does not state for how long Station was rebroadcasting WLEY instead of WTMX.

¹⁶ *Id.* According to Licensee, the errors were addressed by filing a request for STA on December 28, 2020, and amending the Application on December 29, 2020. *See Id.* Attach. B, W280EM Notification of Suspension & Request for STA at 1-3 (STA Request).

¹⁷ 47 CFR § 1.47.

¹⁸ Reply at 1; 47 CFR § 73.3587. David also cites to the Commission's website. FCC, *License Renewal Applications for Radio Broadcast Stations*, <https://www.fcc.gov/media/radio/broadcast-radio-license-renewal#P2D> (last visited Mar. 8, 2022).

¹⁹ *Id.* at 2. David again also cites to the Commission's website where we state "[a]n informal objection need not contain the affidavit required for a Petition to Deny." FCC, *License Renewal Applications for Radio Broadcast Stations*, <https://www.fcc.gov/media/radio/broadcast-radio-license-renewal#P2D> (last visited Mar. 8, 2022).

response to the substantive issues, David states that Licensee conceded that it made false certifications on the Application and that the Station was silent for an extended period without authorization.²⁰ Therefore, David requests that we dismiss the Application.

6. On August 4, 2021, Licensee notified us that the Station resumed operations the previous day²¹ and changed the primary station to WOJO-HD2.²²

III. DISCUSSION

7. Under section 309(d) of the Act,²³ informal objections, like petitions to deny, must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity.²⁴ For the reasons explained below, we find that although Licensee did commit apparent violations of the Act and the rules, for which we propose a forfeiture, there is no substantial and material question of fact here that would preclude grant of the Application.

8. *Procedural Issues.* We find that the Objection meets the procedural requirements for an informal objection under sections 73.3587 and 1.52 of the rules.²⁵ Contrary to Licensee's position, informal objections need not be served on the licensee or the licensee's counsel.²⁶ David filed the Objection using the Commission's Licensing and Management System, which includes the required certifications.²⁷ Therefore, we reject Licensee's contention that the Objection is procedurally defective²⁸ and review it on the merits.

9. *Off the Air Without Notice.* We agree with David that the Station was improperly silent without notice to the Commission. Section 74.1263(c) of the rules requires an FM translator licensee to notify the Commission of its intent to discontinue operations for 10 or more consecutive days, and Commission approval is required for such discontinued operation to continue beyond 30 days.²⁹

10. Here, the record evidence indicates that the Station was silent for over 11 months, from

²⁰ *Id.*

²¹ See Resumption of Operations, filed Aug. 4, 2021.

²² E-mail from Dr. Gene Wisniewski, World Radio Link, Inc., to Robert Gates, Electronic Engineer, Audio Division, FCC Media Bureau (Aug. 4, 2021, 1:02 AM EDT) (August 4 E-mail).

²³ 47 U.S.C. § 309(d).

²⁴ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broad. L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *reh'g denied* (Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

²⁵ 47 CFR §§ 1.52, 73.3587.

²⁶ See, e.g., *Geraldine R. Miller*, 24 FCC Rcd 11814, 11815 (MB 2009) (treating a petition to deny as an informal objection because the objector failed to properly serve the pleading on either the licensee or its counsel and because the objector did not provide an affidavit to support the allegations).

²⁷ Objection at 1.

²⁸ 47 CFR § 73.3587; see, e.g., *Channel 61 Associates, LLC*, 31 FCC Rcd 1340, 1342-43 (MB 2016) (treating a petition to deny from a party not represented by an attorney as an informal objection under section 73.3587 of the rules, because it lacked verification under penalty of perjury and did not state the party's address).

²⁹ 47 CFR § 74.1263(c); see also *Alabama Media, LLC*, 34 FCC Rcd 1913, 1918 (MB 2019). Notification must be made within 10 days of the date on which the station first discontinues operation, and Commission approval is required for such discontinued operation to continue beyond 30 days.

August 17, 2020,³⁰ until August 4, 2021.³¹ Licensee failed to notify the FCC of the Station's discontinued operation by the August 27, 2020, deadline. Additionally, Licensee failed to request an STA for the Station to remain silent within 30 days. In fact, Licensee did not request an STA until December 28, 2020,³² over 3 months late. We therefore find that Licensee apparently willfully and repeatedly violated section 74.1263(e) of the rules by remaining silent for months without authority. We will issue a forfeiture to Licensee for its apparent violation of sections 74.1263(c) and (e).

11. *Failure to Maintain Completeness and Accuracy of Pending Application.* We find that the Licensee failed to update the Application to reflect the Station's silence. Under section 1.65 of the rules, an applicant is responsible for the continuing accuracy and completeness of the information furnished in a pending application or in Commission proceedings involving a pending application.³³ Whenever the information furnished in a pending application is no longer substantially accurate and complete in all significant respects, the applicant must, as promptly as possible and in any event within 30 days, amend the application so as to furnish the additional or correct information.³⁴ Licensee did not amend the Application until December 29, 2020, more than 3 months after the information furnished on the Application was no longer substantially accurate. Additionally, Licensee also failed to amend the Application within 30 days after it resumed operations on August 4, 2021, to reflect that it is back on the air and rebroadcasting WOJO-HD2.³⁵ Accordingly, we propose a forfeiture in relation to Licensee's apparent willful and repeated violations of section 1.65 of the rules.

12. *Failure to Notify Commission of Change of Primary Station.* Finally, we find that the Station did not rebroadcast its authorized primary station for some period of time and, as a result, violated section 74.1251(c) of the rules.³⁶ Licensee admits that it was broadcasting WLEY for some period of time prior to going silent on August 17, 2020.³⁷ However, our records indicate that Station was authorized to rebroadcast the signal of WTMX-HD2 at that time.³⁸ Licensee did not notify the Commission of this change in the Station's primary station. Accordingly, we find that Licensee apparently violated section 74.1251(c).³⁹ Below, we propose a forfeiture for this violation.

13. *Proposed Forfeiture.* Under section 503(b)(1)(B) of the Act, a person who is found to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.⁴⁰ 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.⁴¹ The legislative history to section 312(f)(1) of the Act

³⁰ Opposition at 2.

³¹ See Resumption of Operations, filed Aug. 4, 2021.

³² See STA Request.

³³ 47 CFR § 1.65.

³⁴ *Id.*

³⁵ See *supra* notes 21-22.

³⁶ 47 CFR § 74.1251(c) ("Changes in the primary FM station being retransmitted must be submitted to the FCC in writing.").

³⁷ Opposition at 2-3. David states that Station was rebroadcasting WLEY-FM-HD2. Objection at 1.

³⁸ See BPFT-20141218AEA. Licensee states that "at one time, the [S]tation was rebroadcasting WTMX" but Licensee does not indicate when or why the Station ceased to rebroadcast that station and instead began rebroadcasting WLEY. Opposition at 3. Once the Station resumed operations, Licensee changed the primary station to WOJO-HD2 and brought the Station back into compliance. See August 4 E-mail.

³⁹ See *Carolina Radio Group, Inc.*, 34 FCC Rcd 11181, 11183 (MB 2019).

⁴⁰ 47 U.S.C. § 503(b)(1)(B). See also 47 CFR § 1.80(a)(1).

clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act,⁴² and the Commission has so interpreted the term in the section 503(b) context.⁴³ Section 312(f)(2) of the Act provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”⁴⁴ The Commission’s *Forfeiture Policy Statement*, section 1.80 of the rules, and section 503(b)(2)(A) of the Act establish Commission guidelines for assessing forfeitures.⁴⁵ In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in section 503(b)(2)(D) of the Act, including “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.”⁴⁶

14. The Commission’s *Forfeiture Policy Statement* and section 1.80(b)(10) of the rules establish a base forfeiture amount of \$5,000 for the unauthorized discontinuance of service, and a base forfeiture amount of \$3,000 for failure to file required forms or information.⁴⁷ Here, the Station was silent for over four months without the required STA, and over eleven months total. Moreover, Licensee has not provided an explanation for its failure to timely request STA, other than to say that it was an “inadvertent” error.⁴⁸ It is also uncontested that the Station’s discontinued operations caused certifications made in the Application to be inaccurate, and that Licensee failed to timely update the certifications or otherwise timely notify the Commission that the certifications were no longer accurate. Furthermore, it is uncontested that Licensee failed to notify the Commission of the Station’s change in primary station. Accordingly, we propose a \$8,000 forfeiture for Licensee’s apparent violations of sections 74.1263(c) and (e), 1.65, and 74.1251(c) of the Commission’s rules.

15. *Renewal Application.* In evaluating an application for license renewal, the Commission’s decision is governed by section 309(k) of the Act.⁴⁹ That section provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Commission’s rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.⁵⁰ If, however, the licensee fails to meet that standard, the Commission may deny the

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⁴¹ 47 U.S.C. § 312(f)(1).

⁴² See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

⁴³ See *Southern California Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991) *recon denied*, 7 FCC Rcd 3454 (1992).

⁴⁴ 47 U.S.C. § 312(f)(2).

⁴⁵ See *Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) (*Forfeiture Policy Statement*), *recon denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999); 47 CFR § 1.80.

⁴⁶ 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100, para. 27; 47 CFR § 1.80(b)(10).

⁴⁷ 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); 47 CFR § 1.80(b)(10), note to paragraph (b)(10), Section I.

⁴⁸ Opposition at 2.

⁴⁹ 47 U.S.C. § 309(k).

⁵⁰ *Id.* § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a)* (continued....)

application—after notice and opportunity for a hearing under section 309(e) of the Act—or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”⁵¹

16. We find that Licensee’s apparent violations of sections 74.1263(c) and (e), section 1.65, and section 74.1251(c) of the rules do not constitute “serious violations” warranting designation of the Application for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, constitute a pattern of abuse.⁵² Further, we find that the Station served the public interest, convenience, and necessity during the subject license term. We will therefore grant the Application by separate action upon the conclusion of this forfeiture proceeding if there are no issues other than the apparent violations that would preclude grant of the Application.

IV. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the FCC’s rules, that Windy City Broadcasting, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of eight thousand dollars (\$8,000) for its apparent willful violation of sections 74.1263(c) and (e), section 74.1251(c), and section 1.65 of the Commission’s rules.

18. **IT IS FURTHER ORDERED**, pursuant to section 1.80 of the rules, that, within thirty (30) days of the release date of this *NAL*, Windy City Broadcasting, LLC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

19. 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),⁵³ 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:⁵⁴

- 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 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

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and 204(c) of the *Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

⁵¹ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

⁵² For example, we do not find here that Licensee’s operation of the Station “was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies.” See *Heart of the Black Hills Stations*, Decision, 32 FCC 2d 196, 198 (1971). Nor do we find on the record here that “the number, nature and extent” of the violations indicate that “the licensee cannot be relied upon to operate [the Station] in the future in accordance with the requirements of its licenses and the Commission’s Rules.” *Id.* at 200. Compare with *Center for Study and Application of Black Economic Development*, Hearing Designation Order, 6 FCC Rcd 4622 (1991), *Calvary Educational Broad. Network, Inc.*, Hearing Designation Order, 7 FCC Rcd 4037 (1992).

⁵³ Payments made using CORES do not require the submission of an FCC Form 159.

⁵⁴ 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.

type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁵⁵ 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.

20. Any request for making full payment over time under an installment plan should be sent to: Associate Managing Director—Financial Operations, Federal Communications Commission, 45 L Street, N.E., Washington, DC 20554.⁵⁶ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

21. Any written response seeking reduction or cancellation of the proposed forfeiture must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(g)(3) of the Commission’s rules.⁵⁷ The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington DC 20554, ATTN: Albert Shuldiner, Chief, Audio Division, Media Bureau, and **MUST INCLUDE** the NAL/Acct. No. referenced above. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.⁵⁸ A courtesy copy emailed to Kimia.Nikseresht@fcc.gov will assist in processing the response.

⁵⁵ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

⁵⁶ See 47 CFR § 1.1914.

⁵⁷ 47 CFR §§ 1.16 and 1.80(f)(3).

⁵⁸ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Red 2788 (2020).

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- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

22. The Commission will not consider reducing or canceling a forfeiture in response to a claim of 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 (GAAP); or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we have discretion to not reduce or cancel the forfeiture if other prongs of section 503(b)(2)(E) of the Communications Act of 1934, as amended, support that result.⁵⁹

23. **IT IS FURTHER ORDERED** that the informal objection filed by Albert Adam David (Pleading File No. 0000124015) **IS DENIED**.

24. **IT IS FURTHER ORDERED** that a copy of this *NAL* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Windy City Broadcasting, LLC, and its counsel, Shainis & Peltzman, Chartered, c/o Aaron P. Shainis, 1850 M Street, Suite 240, Washington, DC 20036, as well as emailed to aaron@s-plaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁵⁹ 47 U.S.C. § 503(b)(2)(E). *See, e.g., Adrian Abramovich*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018).