

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

In re Application of
B&C Communications, LLC
For Renewal of License for
Station WPAN
Fort Walton Beach, Florida
Facility ID No. 31570
NAL/Acct. No. 202341420033
FRN: 0019006501
File No. 0000122920

FORFEITURE ORDER

Adopted: November 9, 2023

Released: November 9, 2023

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of nine thousand dollars (\$9,000) to B&C Communications, LLC (Licensee), licensee of TV translator station WPAN, Fort Walton Beach, Florida (Station). We find that the Licensee willfully violated the Commission's rules (Rules) by failing to timely file the Station's quarterly issues/programs lists in violation of section 73.3526(e)(11)(i).1

II. BACKGROUND

2. Section 73.3526(e)(11)(i) of the Rules requires every commercial television licensee to place in its Online Public Inspection File (OPIF), on a quarterly basis, an issues/programs list that details programs that have provided the station's most significant treatment of community issues during the preceding three month period and must include a brief narrative of the issues addressed, as well as the time, date, duration, and title of each program in which the issues were treated.2 Issues/programs lists must be placed in the station's OPIF by the tenth day of the succeeding calendar quarter and copies must be retained until final action on the station's next license renewal application.3 On September 29, 2020, the Licensee filed its Application. A staff inspection of the Station's OPIF revealed that the Licensee failed to upload some copies of its issues/programs lists by the deadline established in section 73.3526(e)(11)(i) of the Rules.4 The Licensee did not file 10 quarterly lists and provided no explanation

1 47 C.F.R. § 73.3526(e)(11)(i).

2 Id. Full power (commercial and noncommercial) and Class A television broadcasters have been required to upload various public file documents to their OPIF, including issues/programs lists, since 2012 and have been required to utilize the OPIF for the entirety of the current license term. See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Extension of the Filing Requirement for Children's Television Programming Report, Second Report and Order, 27 FCC Rcd 4535 (2012); Effective Date Announced for Online Publication of Broadcast Television Public Inspection Files, Public Notice, 27 FCC Rcd 7478 (2012) (announcing an effective date of August 2, 2012, for, inter alia, the requirement that television stations begin to post new issues/programs lists to their OPIF).

3 Id.

4 Id. The staff inspection was not consistent with the Licensee's disclosures in its Application. Licensee disclosed missing issues/programs lists prior to its return to the air in 2016, but states the issues/programs lists had been published on line since that date. B&C Communication's Application, Attach., Online Public File Exhibit.

(continued...)

for its failure to upload these issues/programs lists, but rather stated that it had timely filed the lists after it returned the Station to the air in May 2016. Licensee uploaded missing files only after Commission staff alerted it to the deficiency.

3. Accordingly, on August 16, 2023, we released a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL)* proposing a forfeiture of nine thousand dollars (\$9,000).⁵ 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.⁶ To date, the Licensee has neither paid the proposed forfeiture nor filed a written statement in response to the NAL.⁷

III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with section 503(b)(1)(B) of the Communications Act of 1934, as amended (the Act), which states that a person who is found to have willfully and 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.⁸ 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.⁹ The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act,¹⁰ and the Commission has so interpreted the term in the section 503(b) context.¹¹ 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.”¹²

5. The Licensee failed to upload to its OPIF issue/programs lists for 10 quarters, in violation of section 73.3526(e)(11)(i) of the Rules.¹³ The Licensee was afforded an opportunity to either pay or respond to the NAL pursuant to section 1.80 of the Rules,¹⁴ but has failed to either pay the proposed forfeiture or seek reduction or cancellation of it within the time period set forth in the NAL. Accordingly, we conclude that the Licensee willfully violated section 73.3539 of the Rules and we issue a forfeiture in

However, a staff review shows Licensee’s OPIF was missing issues/program lists for last three quarters of 2016, all four quarters of 2017, and the first three quarters of 2018. See generally, FCC’s Licensing and Databases, Public Inspection File, Issues and Programs Lists, <https://publicfiles.fcc.gov/tvprofile/WPAN/Issues%20and%20Programs%20Lists/433c41b7-7d7c-1432-3392-0f083116fba7>.

⁵ *B&C Communications, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 23-709 (MB August 16, 2023).

⁶ *Id.* at para. 9.

⁷ A copy of the signed delivery receipt can be found under LMS File No. 0000122920.

⁸ See 47 U.S.C. § 503(b)(1)(B); see also 47 CFR § 1.80(a)(2).

⁹ 47 U.S.C. § 312(f)(1).

¹⁰ See H.R. Rep. No. 97-765, at 51 (1982) (Conf. Rep.).

¹¹ See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991) (Southern California), recon. denied, 7 FCC Rcd 3454 (1992).

¹² 47 U.S.C. § 312(f)(2).

¹³ See 47 CFR § 73.3526(e)(11)(i).

¹⁴ 47 CFR § 1.80(g)(3).

the amount of \$9,000 as proposed in the NAL.¹⁵

IV. ORDERING CLAUSES

6. **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, 47 U.S.C. § 503(b), as amended, and sections 0.283 and 1.80 of the Commission's rules, 47 CFR §§ 0.283 and 1.80, that B&C Communications, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of nine thousand dollars (\$9,000) for its apparent willful violation of section 73.3539(a) of the Commission's rules, 47 CFR § 73.3539(a).

7. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's CORES (the Commission's online payment system),¹⁶ or by wire transfer. The Commission no longer accepts forfeiture payments by check or money order. Upon payment, Licensee must send notice that payment has been made to VideoNAL@fcc.gov. Below are instructions that payors should follow based on the form of payment selected:¹⁷

- 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 type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹⁸ 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

¹⁵ See e.g., *Tutt Media Group, Inc.*, Notice of Apparent Liability for Forfeiture, DA 21-617 (Vid Div. May 27, 2021) (Assessing a forfeiture of \$4,500 for a late filed renewal application that covered three stations, paid Jun. 4, 2021) *Full Gospel Outreach, Inc.*, Notice of Apparent Liability for Forfeiture, DA 22-559 (Vid. Div. May 20, 2022) (Assessing a forfeiture of \$6,000 for a late filed renewal application that covered four stations, paid Jun. 10, 2022). We reaffirm our prior statements in the NAL relating to the Stations' Application, NAL at para. 8, and will proceed with grant by separate action upon the conclusion of this forfeiture proceeding if there are no issues other than those set forth in this Forfeiture Order that would preclude grant of the Application.

¹⁶ Payments made using the Commission's CORES system do not require the submission of an FCC Form 159.

¹⁷ 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.

¹⁸ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

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.

8. Requests for full payment of the forfeiture proposed in this *Order* under an installment plan should be sent to: Associate Managing Director-Financial Operations, 45 L Street, NE, Washington, DC 20554.¹⁹ 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.

9. **IT IS FURTHER ORDERED** that a copy of this *Forfeiture Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to B&C Communications, LLC, P.O. 155 Middle Plantation Lane Gulf Breeze, Florida 32561. A copy shall also be sent to Station’s counsel, Jeffrey L. Timmons, Esq., by e-mail to jeff@timmonspc.com.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁹ See 47 CFR § 1.1914.