

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Rocking M Media, LLC
Licensee of Stations
KXXX(AM), Colby, KS
Facility ID Number: 37125;
KRDQ(FM), Colby, KS
Facility ID Number: 37124;
KGNO(AM), Dodge City, KS
Facility ID Number: 37130;
KZRD(FM), Dodge City, KS
Facility ID Number: 13010;
KAHE(FM), Dodge City, KS
Facility ID Number: 37131; and
KERP(FM), Ingalls, KS
Facility ID Number: 82681.
Melia Communications, Inc.
Licensee of Stations
KWGB(FM), Colby KS
Facility ID Number 81915;
KKCI(FM), Goodland, KS
Facility ID Number 18076;
KLOE(AM), Goodland KS; and
Facility ID Number 18077.

File No.: EB-IHD-21-00033064
NAL Acct. No.: 202432080001
FRN: 0024062317

File No. EB-IHD-21-00033065

FORFEITURE ORDER

Adopted: February 23, 2024

Released: February 23, 2024

By the Chief, Enforcement Bureau:

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of \$25,000 to Rocking M Media, LLC (Rocking M) and Melia Communications, Inc. (Melia) (collectively, the Licensees) for failure to comply with sections 73.2080(c)(1), 73.2080(c)(1)(i), 73.2080(c)(3), 73.2080(c)(5), 73.2080(c)(6), and 73.3526(e)(7) of the Federal Communication Commission’s (FCC or Commission) equal employment opportunity (EEO) rules. Rocking M is the licensee of KXXX(AM), Colby, Kansas; KRDQ(FM), Colby, Kansas; KGNO(AM), Dodge City, Kansas; KZRD(FM), Dodge City, Kansas; KAHE(FM), Dodge City, Kansas; KERP (FM), Ingalls, Kansas; and Melia is the licensee of KWGB(FM), Colby, Kansas; KKCI(FM), Goodland, Kansas; and KLOE(AM), Goodland, Kansas (collectively, the Stations).¹

¹ See 47 CFR §§ 73.2080(c)(1), 73.2080(c)(1)(i), 73.2080(c)(3), 73.2080(c)(5), 73.2080(c)(6), 73.3526(e)(7).

2. On October 16, 2023, the Enforcement Bureau (Bureau) issued a Notice of Apparent Liability for Forfeiture (*NAL*), proposing a \$25,000 forfeiture against the Licensees for their apparent, willful, and repeated failure to comply with the Commission's EEO rules.² Specifically, the Licensees apparently violated such rules by failing to: (i) upload their annual EEO Public File Reports in the Stations' online public inspection files; (ii) upload their EEO Public File Reports to the Stations' websites; (iii) broadly recruit for certain vacancies; (iv) analyze their EEO program; and (v) maintain their recruitment records.³

3. The response to the *NAL* was due on November 15, 2023,⁴ and the Licensees failed to file a timely response on that day. Instead, on November 16, 2023, the Licensees submitted a "Request of Rocking M Media, LLC and Melia Communications, Inc. for Release of EEO Holds on Pending License Renewal Applications; and for Grant thereof" (Request).⁵ The Request does not directly challenge the proposed findings in the *NAL*.⁶ Instead, it argues that because the Licensees, who had previously filed petitions for bankruptcy under Chapter 11 of the U.S. Bankruptcy Code,⁷ received approval from the Bankruptcy Court to begin the process of selling their assets, including the Stations, it would be "unnecessary" for them "to attempt to adjudicate the matters alleged in the *NAL*" and "the matter is at this point largely moot."⁸ Although the Request nevertheless maintains that the Licensees do not admit to any of the violations set forth in the *NAL* and questions the Bureau's authority to seek a forfeiture, the Request offers no legal support for its argument and acknowledges that the Bankruptcy Court had entered an order that "clearly preserves the Commission's entitlement to issue fines and forfeitures in the normal course."⁹ Further, the Request provides no explanation for its contention that "most of the allegations concerning the EEO recruitment performance of the Licensees" are factually incorrect and does not dispute that the relevant 2020 and 2021 annual EEO Public File Reports were filed late.¹⁰ Because the

² See *Rocking M Media, LLC and Melia Communications, Inc.*, Notice of Apparent Liability for Forfeiture, DA 23-954, 2023 WL 8539613, at *1 (EB Oct. 16, 2023) (*NAL*).

³ *Id.*

⁴ See 47 CFR § 1.80(g)(3) (providing 30 days for a response to be filed after issuance of the notice of apparent liability).

⁵ *Rocking M Media, LLC and Melia Communications, Inc.*, Request of Rocking M Media and Melia Communications, Inc. for Release of EEO Holds on Pending License Renewal Applications; and Grant Thereof (Nov. 16, 2023) (on file in EB-IHD-21-00033064) (Request).

⁶ The Request principally argued that the Bureau should release the holds placed on the Stations' renewal applications to permit the sale of the Licensees' assets so they could pay their creditors. *Id.* at 1-2.

⁷ On March 26, 2022, the Licensees filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the District of Kansas. *Id.* at 4, para. 4.

⁸ *Id.* at 5-6, paras. 5, 7 (citing Order, *In Re Rocking M Media, LLC, et al.*, No. 22-20242 (D. Kan. Nov. 15, 2023)).

⁹ Request at 6, para. 7. In previous cases, the Commission has affirmed its ability to issue forfeiture orders even where a party has filed for bankruptcy. See, e.g., *STI Telecom, Inc.*, Forfeiture Order, 30 FCC Rcd 11742, 11758, para. 35 (2015) ("the mere fact of a bankruptcy is not dispositive as to whether a party is able to pay a forfeiture."); *N. Am. Telecomms. Corp.*, Forfeiture Order, 18 FCC Rcd 1868, 1869, para. 5 (2003) ("filing for bankruptcy does not preclude the Commission from issuing an order imposing a forfeiture . . ."); *William Flippo*, Forfeiture Order, 15 FCC Rcd 23340, 23340, para. 3 (2000) ("we are not inclined to adjust the forfeiture amount even where the recipient has filed for bankruptcy protection"); *Coleman Enters., Inc.*, Order of Reconsideration, 16 FCC Rcd 10016, 10027-28, para. 11 (2001) ("purported cooperation with the Commission after its violations, whether standing alone or coupled with its Chapter 11 bankruptcy filing, is not an adequate basis for reducing the forfeiture in this case."). We note that Licensees here have not requested that the forfeiture amount be reduced or rescinded and have not submitted the necessary financial documentation to support such request as required by the *NAL*. See *NAL*, *supra* note 2, at *9, para. 29.

¹⁰ Request at 5, para. 5. Further, although the Request contends that the *NAL* failed to address the "disclosures clearly and candidly made by Licensees in the responses to the two LOIs provided to the Bureau," *id.*, it is unclear to

(continued...)

Licensees have failed to rebut the proposed findings in the *NAL* adequately, we affirm the proposed forfeiture.¹¹

4. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, Rocking M Media, LLC and Melia Communications Inc., **ARE LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for willfully and repeatedly violating sections 73.2080(c)(1), 73.2080(c)(1)(i), 73.2080(c)(3), 73.2080(c)(5), 73.2080(c)(6), and 73.3526(e)(7) of the Commission's rules, 47 CFR §§ 73.2080(c)(1), 73.2080(c)(1)(i), 73.2080(c)(3), 73.2080(c)(5), 73.2080(c)(6), 73.3526(e)(7).

5. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission's rules within thirty (30) calendar days after the release of this Forfeiture Order. 47 CFR § 1.80. The Licensees shall send electronic notification of payment to Patrick McGrath at Patrick.McGrath@fcc.gov, Elizabeth Goldin at Elizabeth.Goldin@fcc.gov, and Jin Lee at Jin.Lee@fcc.gov on the date said payment is made. For collection, the Commission will comply with 11 U.S.C. § 101 et seq. as and to the extent necessary.¹²

6. In order for the Licensees to pay the proposed forfeiture, the Licensees shall notify Patrick McGrath at Patrick.McGrath@fcc.gov, Elizabeth Goldin at Elizabeth.Goldin@fcc.gov, and Jin Lee at Jin.Lee@fcc.gov of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. Payment of the forfeiture must be made by credit card using CORES at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:¹³

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159¹⁴ or printed CORES form¹⁵ 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 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block

which specific disclosures the Request is referring, and the *NAL* fully considered the Licensees' arguments in those responses that sought to mitigate the violations. *See, e.g., NAL, supra* note 2, at *4, paras. 11-12 (explaining that neither the omissions by station employees nor subsequent remedial measures excuse or nullify a rule violation by a licensee).

¹¹ *See* 47 CFR § 1.80(g)(4) ("If the proposed forfeiture penalty is not paid in full in response to the notice of apparent liability, the Commission, upon considering all relevant information available to it, will issue an order canceling or reducing the proposed forfeiture or *requiring that it be paid in full and stating the date by which the forfeiture must be paid.*") (emphasis added). Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

¹² The Commission has filed, and subsequently amended, proofs of claim against Rocking M and Melia for the full amount of the proposed penalty in the bankruptcy proceeding.

¹³ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

¹⁴ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

¹⁵ Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹⁶ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensingdatabases/fees/wire-transfer>.

- Payment by credit card must be made by using 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. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). 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 CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, 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” 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. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). 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.

7. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554. Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

¹⁶ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

8. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Christopher D. Imlay, Esq., Booth, Freret & Imlay, LLC, 14356 Cape May Road, Silver Spring, MD 20904-6011; Rocking M Media, LLC, c/o Monte M. Miller, 131 North Santa Fe Avenue, Suite 3, Salina, KS 67401; Melia Communications, Inc., c/o Monte M. Miller, 131 North Santa Fe Avenue, Suite 3, Salina, KS 67401, and by e-mail to chris.imlay@imlaylaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau