

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

In the Matter of)	File No.: EB-IHD-21-00032418
)	NAL/Acct. No.: 202432080011
KXOL Licensing, Inc.)	FRN: 0009781352
)	
Licensee of Station KXOL-FM, Los Angeles, CA)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: April 12, 2024

Released: April 12, 2024

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of \$8,000 against KXOL Licensing, Inc. (KXOL or Licensee), licensee of Station KXOL-FM (Station), Los Angeles, California, for failing to conduct a contest in accordance with its announced terms and thus apparently violating the Federal Communications Commission’s (FCC or Commission) contest regulations (Contest Rule). The Commission’s Contest Rule requires that licensees fully and accurately disclose material contest terms and conduct contests substantially as announced and advertised. Here, KXOL’s announced contest terms (Contest Terms) specified when and how winners would receive their prizes. Despite being required to deliver prizes to contest winners within thirty business days, KXOL failed to meet its own deadline. In proposing this penalty, we reiterate the Commission’s longstanding commitment to protecting the public from deceptive broadcast contests.

II. BACKGROUND

2. *Legal Background.* Under section 73.1216 of the Commission’s rules, broadcast licensees must “fully and accurately disclose the material terms” of a licensee-conducted contest and conduct it “substantially as announced and advertised.”¹ Material terms “include any eligibility restrictions, means of selection of winners, and the extent, nature and value of prizes.”² Prizes “must be awarded promptly,”³ and the Commission or Enforcement Bureau (EB or Bureau) has previously found a Contest Rule violation where a broadcast station failed to provide prizes consistent with the station’s announced rules.⁴

3. *Factual Background.* The Commission received a complaint alleging that the Licensee did not conduct a contest in a manner substantially as announced by failing to award a promised cash prize of \$396 to the winner of a contest (Complainant) conducted on air on October 24, 2019.⁵ EB issued a Letter of

¹ 47 CFR § 73.1216.

² *Clear Channel Communications, Inc., et al.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 343, 345, para. 5 (EB 2012) (forfeiture paid) (citing 47 CFR § 73.1216, Note 1(b)).

³ *Gow Media, LLC Licensee of Station KFNC(FM), Mont Belvieu, TX*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6272, 6272-73, para. 2 (EB 2020) (forfeiture paid).

⁴ *See, e.g., Multicultural Radio Broadcasting Licensee, LLC*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 21555, 21560, para. 8 (EB 2007) (*Multicultural Radio*) (licensee violated section 73.1216 in part by awarding prizes to ineligible parties) (forfeiture paid); *see also Gow Media*, 35 FCC Rcd at 6274 (finding that licensee’s failure to award the contest prize “in a timely manner constitutes a failure to conduct the Contest substantially as announced, in apparent violation of section 73.1216).

⁵ Complaint No. 4431571-1 (Dec. 11, 2020) (on file in EB-IHD-21-00032418) (Complaint).

Inquiry (LOI) investigating the Complaint on June 16, 2021.⁶ The Licensee submitted its timely response on July 16, 2021.⁷

4. In its LOI Response, the Licensee admitted that there was an “undue delay” in issuing the contest prize and that it failed to issue the award within the applicable timeframe.⁸ The contest at issue, “Mega Bomba,” aired from July 18, 2019 to October 25, 2019, with 459 winners (Contest). The Contest Terms provide, in two separate provisions, that each winner will be awarded their prize “within thirty (30) business days of the date the winner completes all required Station documents.”⁹ The Licensee acknowledged that the Complainant had completed required documents on January 16, 2020,¹⁰ and thus the Contest Terms required issuance of the prize on or before March 2, 2020.¹¹ Despite this, the Licensee issued the Complainant’s award in May 2021.¹²

5. The Licensee attributed its “undue delay”¹³ to three different events:

- First, the Licensee was still processing payments at the onset of the COVID-19 pandemic and unable to access necessary files after the transition to work-from-home in mid-March, 2020;
- Second, the Licensee was further delayed by a ransomware attack that disabled corporate IT systems between October 2020 and March 2021; and,
- Third, after recovering from the ransomware attack, the Licensee lacked the staff needed to complete the remaining work quickly.¹⁴

III. DISCUSSION

A. Licensee Apparently Violated the Commission’s Licensee-Conducted Contest Rule

6. We find that KXOL apparently willfully violated section 73.1216 of the Commission’s rules by failing to issue the Complainant’s prize pursuant to KXOL’s announced Contest Terms, thus

⁶ Letter of Inquiry from Christopher J. Sova, Deputy Chief, Investigations and Hearings Division, FCC, Enforcement Bureau, to KXOL Licensing, Inc. (June 16, 2021) (on file in EB-IHD-21-00032418).

⁷ See Response to Letter of Inquiry from Nancy A. Ory, Lerman Senter, Counsel to KXOL Licensing, Inc., to Marlene H. Dortch, Secretary, FCC, at 16 (July 16, 2021) (on file in EB-IHD-21-00032418) (LOI Response).

⁸ *Id.* at 4, 8.

⁹ *Id.* at 41, Exh. D, para. 5. (prize to be issued “within thirty (30) business days of the date the winner completes all required Station documents”); *id.*, Exh. D, para. 9 (again providing that prizes “will be available within thirty (30) business days” of completion of required documentation).

¹⁰ *Id.* at 7.

¹¹ Excluding weekends and federal holidays, 30 business days from January 16, 2020, is March 2, 2020.

¹² LOI Response, *supra* note 7, at 7-8. The Licensee further disclosed that a total of 98 prizes, including the Complainant’s prize, had been delayed beyond the timeframe required by the Contest Terms, but that all prizes were ultimately issued by May 2021. See *id.* at 4, Response to Inquiry 3(f) (disclosing 98 total delayed prizes out of 459 total winners); see also *id.* at 37-38 (table identifying late prize recipients, including date issued). Licensee also disclosed that it had extended the Contest beyond its announced end date without updating the Contest Terms. The Contest Terms provided for the Contest to conclude on September 20, 2019, but it was “extended past the original end date because funds remained in the Contest budget” for additional awards. The LOI Response does not clarify whether the extension was announced, although the Contest Terms included in the LOI Response provide for the original September end date. See *id.* at 40, Exh. D, para. 1 (identifying contest period of July 18, 2019, to September 20, 2019); *id.* at 5-6 (response to Inquiry 6(d)) (“The contest rules and/or material terms were not changed; however, the Contest Period was extended . . . because funds remained”); see also *infra* note 31.

¹³ LOI Response, *supra* note 7, at 11.

¹⁴ *Id.* at 10. While the LOI Response does not identify the specific timing of the staff shortage, Licensee suggests that it began after recovery from the ransomware attack, sometime after March 2021. See *id.* (“The Cyber Attack incident resulted in substantial delay in processing the final four batches of Contest winner checks . . . In addition, two of the administrative employees who were handling payments were out on sick leave. Two temporary employees [had] difficulties completing the daily work.”)

failing to conduct its contest “fairly and substantially as represented to the public.”¹⁵ Here, as our precedents hold, “timely fulfillment of the prize” was a “material term of the Licensee’s own contest rules,”¹⁶ as demonstrated by the fact that the Contest Terms set forth a specific deadline for the Licensee to issue the prize to a given winner.¹⁷ KXOL admits that it failed to issue the Complainant’s cash prize in accordance with the Contest Terms, delaying issuance beyond thirty business days to over a year.¹⁸

7. We also find that the Licensee’s justifications for this delay do not excuse its liability for failure to issue the prize in accordance with its announced Contest Terms. As discussed above, the Complainant completed all necessary paperwork on January 16, 2020, and thus the Licensee’s announced Contest Terms required it to issue Complainant’s award on or before March 2, 2020.¹⁹ Each event the Licensee identifies as causing its delay began after March 2, 2020, and thus after the prize was already overdue—including the Licensee’s transition to work-from-home in “Mid-March 2020” caused by the COVID-19 Pandemic.²⁰ Likewise, the ransomware attack and subsequent staff shortage began after delivery of the prize was already overdue.²¹

8. Even assuming the COVID-19 Pandemic compounded the Licensee’s delay, as the Licensee seems to contend, our finding of liability stems from the Licensee’s failure to issue the Complainant’s prize within the timeframe required under Licensee’s own announced Contest Terms. Because the Licensee apparently failed to meet the deadline specified in the Contest Terms, even assuming, *arguendo*, that factors outside the Licensee’s control—the Pandemic and other events—caused additional substantial delay in prize award completion, these subsequent events did not cause the underlying failure to issue Complainant’s award within the thirty business day window required under the Contest Terms.²² For these reasons, we find that KXOL’s failure to issue the Complainant’s prize within the time period required by its announced Contest Terms is an apparent willful violation of section 73.1216.

B. Proposed Forfeiture

9. Section 503(b) of the Communications Act of 1934, as amended, (Act) authorizes the Commission to impose a forfeiture against any entity that “willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission[.]”²³ Here, section 503(b)(2) of the Act authorizes us to assess a forfeiture against KXOL of up to \$61,238 for each day of a continuing violation, up to a statutory maximum of \$612,395 for a single act or failure to act.²⁴ In exercising our forfeiture authority, we must consider the “nature, circumstances, extent, and

¹⁵ *Public Notice Concerning Failure of Broadcast Licensees to Conduct Contests Fairly*, Public Notice, 45 FCC 2d 1056, 1056 (1974) (*Contest Public Notice*).

¹⁶ *Gow Media, LLC Licensee of Station KFNC(FM), Mont Belvieu, TX*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6272, 6272-73, para. 2 (EB 2020) (forfeiture paid).

¹⁷ See LOI Response, *supra* note 7, at 41, Exh. D, para. 5 (providing that awards will be issued “within thirty (30) business days of the date the winner completes all required Station documents”); *id.* at 41, Exh. D, para. 9 (requiring same).

¹⁸ *Id.* at 10 (prize issued May 2021).

¹⁹ See *id.* at 12-13.

²⁰ See *id.* at 10-11.

²¹ See *id.*

²² The Licensee asserted that the awards were delayed due to its inability to access certain files after the switch to work-from-home in mid-March 2020, a further disabling October 2020 cyberattack, and a staff shortage. See *supra* para. 5. Each of these events began after the award was overdue and thus even assuming they compounded the delay, they do not appear related to the Licensee’s failure to issue the award when first due under the Contest Terms. See *supra* para. 7 (finding that Licensee’s justifications for delay do not excuse liability).

²³ 47 U.S.C. § 503(b).

²⁴ See 47 U.S.C. § 503(b)(2)(A); 47 CFR § 1.80(b)(1). See *Amendment of Section 1.80(b) of the Commission’s rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA-22-1356, 2022 WL 18023008 (EB Dec. 23, 2023); see also *Annual*

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.”²⁵ In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.²⁶ Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.²⁷ We may adjust a forfeiture downward for minor violations, good faith or voluntary disclosure, a history of overall compliance, or an inability to pay.²⁸

10. Section 1.80(b) of the Commission’s rules sets a base forfeiture of \$4,000 for violations pertaining to licensee-conducted contests for each violation or each day of a continuing violation.²⁹ We have discretion, however, to depart from these guidelines, taking into account the particular facts of each individual case.³⁰

11. In this matter, we assess a single violation related to KXOL’s apparent violation of section 73.1216 of the Commission’s rules based on its failure to conduct the Contest substantially as announced because it did not issue the Complainant’s prize within the timeframe set forth in KXOL’s announced Contest Terms.³¹ Accordingly, we propose a total base forfeiture of \$4,000.

12. In addition, given the totality of the circumstances, and consistent with the *Forfeiture Policy Statement*, we conclude that an upward adjustment is warranted. This adjustment is based upon the statutory factors, including the nature and circumstances of the violation. Here, the Commission has determined that large or highly profitable companies³² should expect to pay higher forfeitures for violations of the Act and the Commission’s rules.³³ Thus, to ensure that the forfeiture is an effective deterrent and not simply a cost of doing business for KXOL, an upward adjustment of the base forfeiture

Adjustment of Civil Monetary Penalties to Reflect Inflation, 88 Fed. Reg. 783 (Jan. 5, 2023) (setting January 15, 2023 as the effective date for the increases).

²⁵ 47 U.S.C. § 503(b)(2)(E).

²⁶ 47 CFR § 1.80(b)(11), Note 2 to paragraph (b)(11).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* § 1.80(b).

³⁰ *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17098–99, para. 22 (1997) (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

³¹ We acknowledge that KXOL disclosed a failure to issue promptly a total of 98 prizes. *See supra* note 12. The record is unclear whether each of the delayed prizes were overdue before the onset of the pandemic. In this matter, based on the totality of the circumstances and on the adjustments described *infra*, we forbear from assessing additional base forfeitures or otherwise adjusting the proposed forfeiture based on these additionally delayed prizes.

³² Spanish Broadcasting System, Inc., Annual Report at Part II, 49 (Form 10-K) (Mar. 30, 2020) (most recently available 10-K reporting annual revenue of \$156 million); Spanish Broadcasting System, Inc., *Spanish Broadcasting System, Inc. Reports Results for the Third Quarter 2023*, at 1 (Nov. 29, 2023), <https://www.spanishbroadcasting.com/wp-content/uploads/sites/5/2023/11/Earnings-Release-09302023.pdf> (reporting nine month net revenue of \$105 million).

³³ *See Forfeiture Policy Statement*, 12 FCC Rcd at 17099–17100, paras. 23–24 (cautioning all entities and individuals that the Commission will take into account the violator’s ability to pay in determining a forfeiture to guarantee that large or highly profitable entities do not consider forfeitures merely an affordable cost of doing business, and noting that such entities should expect proposed forfeitures against them to be well above the applicable base amount); *see also SM Radio, Inc.*, Order on Review, 23 FCC Rcd 2429, 2433, para. 12 (2008) (citations omitted); *Tesla Exploration, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 9808, 9811, para. 10 & n.20 (2012); *Union Oil*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 13806, 13810, para. 10 (2012) (forfeiture paid); *GCI Commc’ns Corp.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 12991 (EB 2013) (doubling base forfeiture based on company’s ability to pay); *Am. Movil, S.A.B. de C.V., Parent of Puerto Rico Tel. Co., Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8672, 8676, para. 10 (EB 2011) (same).

amount is further justified. In the present case, a larger forfeiture will protect the interests of consumers and deter entities from violating the Commission's rules.³⁴

13. In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture. Here, we find none. The Licensee failed to provide any explanation for why the prize could not be awarded to the winner sometime during the period of January 16, 2020, when the winner completed the requisite paperwork, and March 2, 2020, when the prize was due under the Contest Terms. All the Licensee's asserted excuses occurred after the prize was overdue. Moreover, even assuming, *arguendo*, that the Licensee's actions were inadvertent, negligent, or the result of human error, under pertinent Commission precedent, such factors are neither exculpatory nor mitigating, and do not support any downward adjustment.³⁵ Similarly, KXOL's eventual corrective measures do not justify a forfeiture reduction.³⁶

14. Therefore, after applying the *Forfeiture Policy Statement*, section 1.80 of the Commission's rules, and the statutory factors, we propose a total forfeiture of \$8,000, for which KXOL is apparently liable.

IV. CONCLUSION

15. We have determined that KXOL apparently willfully violated section 73.1216 of the Commission's rules. As such, KXOL is apparently liable for a forfeiture of \$8,000.

V. ORDERING CLAUSES

16. 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, KXOL Licensing, Inc., is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willful and repeated violations of section 73.1216 of the Commission's rules, 47 CFR § 73.1216.

17. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, KXOL Licensing, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 20 below.

18. In order for KXOL Licensing, Inc., to pay the proposed forfeiture, KXOL Licensing, Inc., shall notify Drew Tobias at Drew.Tobias@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>. Upon payment, KXOL Licensing, Inc., shall send electronic notification of payment to Drew Tobias,

³⁴ See, e.g., *Forfeiture Policy Statement*, 12 FCC Rcd at 17098, para. 20 (1997) (recognizing the relevance of creating the appropriate deterrent effect in choosing a forfeiture); see also 47 CFR § 1.80(b)(11), Note to paragraph (b)(11) (identifying upward adjustment criteria for section 503 forfeitures).

³⁵ See *Unipoint Technologies, Inc. d/b/a Comfi.com d/b/a Masterbell.com d/b/a Pushline.com a/k/a Communications Fidelity*, Forfeiture Order, 29 FCC Rcd 1633, 1640, para. 21 (2014) ("It is immaterial whether [the licensee's] violations were inadvertent, the result of ignorance of the law, or the product of administrative oversight."), *default judgment entered, United States v. Unipoint Technologies, Inc.*, No. 14-12020-LTS, 2016 WL 8902575, at *1-2 (D. Mass. Apr. 27, 2016); *Texas Soaring Association, Inc. Midlothian, Texas*, Forfeiture Order, 28 FCC Rcd 10740, 10743-44, para. 7 (EB 2013) ("Even if administrative oversight, inadvertence, or a lack of familiarity with the [Commission's] Rules may have contributed to the violation, they do not ... mitigate liability arising therefrom") (footnotes omitted) (forfeiture paid); *Cascade Access, L.L.C.*, Forfeiture Order, 28 FCC Rcd 141, 145, para. 9 (EB 2013) (rejecting argument that the unintentional nature of the violation justifies mitigation of the forfeiture amount), *recons. denied*, Memorandum Opinion and Order, 30 FCC Rcd 14018 (EB 2015) (forfeiture paid); *América Móvil, S.A.B. de C.V. Parent of Puerto Rico Telephone Company, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8672, 8676, para. 11 (EB 2011) ("While América Móvil claimed that the violation was a result of an inadvertent oversight, it is well established that administrative oversight or inadvertence is not a mitigating factor warranting a downward adjustment of a forfeiture.") (forfeiture paid).

³⁶ See *Saga Communications of New England, L.L.C.*, Forfeiture Order, 24 FCC Rcd 11934, 11937, para. 8 (EB 2009) (subsequent remedial steps to avoid recurrence and enhancement of awarded prizes "neither exculpatory nor mitigating").

Enforcement Bureau, Federal Communications Commission, at Drew.Tobias@fcc.gov on the date said payment is made. 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:³⁷

- 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 159³⁸ or printed CORES form³⁹ 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 number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁴⁰ 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 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.

19. 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. 20554.⁴¹ Questions regarding payment procedures should be directed to the

³⁷ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

³⁸ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

³⁹ 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>.

⁴⁰ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁴¹ See 47 CFR § 1.1914.

Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

20. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, 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.⁴² The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, ATTN: Enforcement Bureau – Investigations and Hearings Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Drew Tobias at Drew.Tobias@fcc.gov; Kenneth M. Scheibel, Jr., at Kenneth.Scheibel@fcc.gov; and Patrick M. McGrath at Patrick.McGrath@fcc.gov.

21. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.⁴³ Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.⁴⁴

22. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Richard D. Lara, Esq., Executive Vice President and General Counsel, KXOL Licensing, Inc., 7007 NW 77th Avenue, Miami, Florida 33166; and to Nancy A. Ory, Esq., Lerman Senter PLLC, 2001 L Street NW, Suite 400, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

⁴² *Id.* §§ 1.16, 1.80(g)(3).

⁴³ 47 U.S.C. § 503(b)(2)(E).

⁴⁴ *See, e.g., Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18–21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860–62, paras. 21–25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678–79, paras. 44–45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903–904, paras. 32–33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).