

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

In the Matter of )
CASTELLI MEDIA, LLC ) Facility ID No. 182057
Application for License to Cover for Low Power ) NAL/Acct. No. 202341420045
Television Station ) FRN: 0032494429
K35PH-D, College Station, Texas ) LMS File No. 0000232484

FORFEITURE ORDER

Adopted: April 23, 2024

Released: April 23, 2024

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 five hundred dollars (\$3,500) to Castelli Media, LLC (CML or Licensee), licensee of low power television (LPTV) station K35PH-D, College Station, Texas (K35PH-D or Station). We find that CML willfully violated section 73.3598(a)1 of the Commission’s rules (Rules) by failing to timely file a license to cover application, and willfully and repeatedly violated section 73.1745(a) of the Rules2 and section 301 of the Communications Act of 1934 (Act)3 by engaging in unauthorized operation.

II. BACKGROUND

2. On December 21, 2023, the Media Bureau (Bureau) issued a Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL) in the amount of three thousand five hundred dollars (\$3,500) to CML.4 In the NAL, we found that CML failed to file a license to cover by the expiration date of the Station’s original construction permit (CP) and that the CP and the CP was automatically forfeited.5 The CP was later automatically forfeited, the Station’s call sign deleted, and all authority to construct the Station terminated.6 CML subsequently sought reconsideration of the cancellation, reinstatement of the Station’s expired CP, and permission to file an application for license to cover.7 On December 11, 2023, the Media Bureau’s Video Division granted CML’s Petition,8 granted a

1 47 CFR § 73.3598(a).

2 47 CFR § 73.1745(a).

3 See 47 U.S.C. § 301.

4 See Castelli Media, LLC, Memorandum Opinion and Order and Notice of Apparent Liability, DA 23-200 (MB 2023).

5 Id. at 2.

6 See Letter to Castelli Media LLC from Barbara A. Kreisman, Chief, Video Division (Sept. 12, 2023) a copy of which is available at LMS File No. 0000210687.

7 See Castelli Media, LLC Petition for Reconsideration (Oct. 12, 2023) (Petition) a copy of which is available at LMS File No. 0000232484.

8 See E-Mail to Castelli Media, LLC from Shaun Maher, Video Division (Dec. 11, 2023) (Division Email), a copy of which is available at LMS File No. 0000232484.

waiver of the Commission's rules and reinstated the Station's CP,<sup>9</sup> and instructed CML to file an application for license to cover within 10 days. CML promptly submitted an application for license to cover for the Station on December 12, 2023.<sup>10</sup>

3. Based upon these facts, the Bureau, in the *NAL*, found that CML failed to timely submit a license to cover the CP facilities and also engaged in unauthorized operation of the Station in violation of section 301 of the Act and section 73.1745 of the Rules<sup>11</sup> and concluded that CML had apparently violated the Rules and Act and was apparently liable for a forfeiture of three thousand five hundred (\$3,500) dollars.<sup>12</sup> CML was offered an opportunity to either pay the forfeiture or submit a written response seeking reduction or cancellation of the proposed forfeiture.<sup>13</sup> CML did neither.

### III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with section 503(b) of the Act,<sup>14</sup> section 1.80 of the rules,<sup>15</sup> and the Commission's *Forfeiture Policy Statement*.<sup>16</sup> In assessing forfeitures, section 503(b)(2) 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>17</sup>

5. Here, CML failed to either pay the forfeiture or seek a reduction or cancellation. Taking into account the above statutory factors, our rules, and the *Forfeiture Policy Statement*, we therefore find that CML willfully violated section 73.3598(a) of the Rules<sup>18</sup> and willfully and repeatedly violated section 73.1745(a) of the Rules and section 301 of the Act.<sup>19</sup> Accordingly, we conclude that based on the facts and circumstances a forfeiture in the amount of three thousand five hundred dollars (\$3,500), as proposed in the *NAL* is warranted. Furthermore, as stated in the *NAL*, we will grant the Station's pending license

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<sup>9</sup> A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown). Providing relief in instances where a licensee has failed to file an application for license to cover, but clearly completed construction prior to its authorized facility prior to the construction expiration date is consistent with Commission precedent. *See, e.g., Clear Channel Broadcasting Licenses, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 7153, 7157, para. 11 (2011) (upholding as proper the Bureau's practice of processing a late-filed covering license application for facilities fully completed by the construction deadline through the waiver process); *Cranesville Block Company, Inc.*, Letter Order, 27 FCC Rcd 2018, 2019-20 (MB 2012) (dismissing a petition for reconsideration of an expired construction permit as procedurally improper and treating it instead as a request for waiver). The Division found that based on the specific facts and circumstances presented here waiver was warranted. *See Division Email, supra* n. 8.

<sup>10</sup> LMS File No. 0000232484.

<sup>11</sup> *NAL* at 3 *citing* 47 CFR § 73.1745.

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.* at 5.

<sup>14</sup> 47 U.S.C. § 503(b).

<sup>15</sup> 47 CFR § 1.80.

<sup>16</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>17</sup> 47 U.S.C. § 503(b)(2)(E). *See also Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01; 47 CFR § 1.80(b)(11); 47 CFR § 1.80(b), paragraph (b)(11), Table 3.

<sup>18</sup> 47 CFR § 73.3598(a).

<sup>19</sup> 47 CFR § 73.1745; and 47 U.S.C. § 301.

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.<sup>20</sup>

#### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Act,<sup>21</sup> and sections 0.61, 0.204, 0.283, and 1.80 of the Rules,<sup>22</sup> that Castelli Media, LLC **SHALL FORFEIT** to the United States the sum of three thousand five hundred dollars (\$3,500) for willfully violated sections 73.3598(a)<sup>23</sup> of the Rules by failing to timely file a license to cover application, and willfully and repeatedly violated section 73.1745(a) of the Rules<sup>24</sup> and section 301 of the Act,<sup>25</sup> by engaging in unauthorized operation.

7. **Payment of the forfeiture shall be made within thirty (30) calendar days after the release of this Forfeiture Order.**<sup>26</sup> Licensee shall send electronic notification of payment to [VideoNAL@fcc.gov](mailto:VideoNAL@fcc.gov). If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to section 504(a) of the Act.<sup>27</sup>

8. Payments shall be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),<sup>28</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>29</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>30</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

<sup>20</sup> See LMS File No. 0000232484.

<sup>21</sup> 47 U.S.C. § 503(b).

<sup>22</sup> 47 CFR §§ 0.61, 0.204, 0.283, and 1.80.

<sup>23</sup> 47 CFR § 73.3598(a).

<sup>24</sup> 47 CFR § 73.1745(a).

<sup>25</sup> See 47 U.S.C. § 301.

<sup>26</sup> 47 CFR § 1.80(g)(4).

<sup>27</sup> 47 U.S.C. § 504(a). See 47 CFR § 1.80(g)(5).

<sup>28</sup> 47 CFR § 1.80(i). Payments made using CORES do not require the submission of an FCC Form 159.

<sup>29</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>30</sup> Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

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.

9. Requests for full payment of the forfeiture proposed in this *Forfeiture Order* under an installment plan should be sent to: Associate Managing Director-Financial Operations, 45 L Street, NE, Washington, DC 20554.<sup>31</sup> 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](mailto:ARINQUIRIES@fcc.gov).

10. **IT IS FURTHER ORDERED** that copies of this *Forfeiture Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Castelli Media, LLC, 9925 Haynes Bridge Road, Suite 200-155, Alpharetta, GA 30022, as well as e-mailed to: [castellimedialasvegas@gmail.com](mailto:castellimedialasvegas@gmail.com) and a copy mailed to: Dan J. Alpert, Esq, 2120 N. 21st Rd., Arlington, VA 22201 and e-mailed to: [dja@commlaw.tv](mailto:dja@commlaw.tv).

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>31</sup> See 47 CFR § 1.1914.