
Federal Communications Commission
Washington, D.C. 20554

LETTER
September 4, 1997

In reply refer to:
1800C1-SG
9108918

Released: September 4, 1997

Mississippi Valley Broadcasting, Inc.
Radio Station WLLR-FM
Corporate East,
3535 East Kimberly Road
Davenport, IA 52807

In re: WLLR-FM, East Moline
Illinois, Notice of Apparent
Liability and Monetary
Forfeiture

Dear Licensee:

This responds to your request for reduction or rescission of the forfeiture assessed in a *Memorandum Opinion and Order*, 9 FCC Rcd 700 (MMB 1994) ("MO&O") to Mississippi Valley Broadcasting, Inc. ("MVB"), licensee of Radio Station WLLR-FM, East Moline, Illinois. The MO&O affirmed a *Notice of Apparent Liability*, 7 FCC Rcd 4474 (MMB 1992) ("NAL"), issued for violation of Section 73.1216 of the Commission's Rules governing licensee-conducted contests.¹ Taking into account MVB's prior good conduct as a Commission licensee, the MO&O reduced the forfeiture from \$12,500 to \$8,750.

The Bureau issued the NAL to MVB for nonpayment of the balance of a \$200,000 prize in what the Bureau determined to be a licensee-conducted contest. Payments, scheduled to be made over a 20-year period, ceased after two years, when the contest's co-sponsor, Unidyne, became insolvent. In response to the NAL, MVB claimed that Unidyne was solely responsible for these payments and that it was unreasonable to hold MVB as a guarantor for payment of the prize. MVB also argued that the NAL was barred by the statute of limitations and that the forfeiture amount assessed was excessive and should be reduced, because of its view that contest violations are among the "less serious" offenses cited by the Commission.

In the MO&O, the Bureau rejected MVB's assertion that Unidyne exclusively sponsored and conducted the contest, while WLLR-FM was merely a "passive vessel broadcasting another entity's contest." Because MVB created a clear impression that it was the sponsor of the contest, in both promotional materials and written contest rules, the Bureau found that MVB could not evade liability by shifting the responsibility solely to Unidyne. The Bureau, therefore, reaffirmed its NAL finding that MVB was a co-sponsor of the contest. The Bureau also concluded that the forfeiture penalty, which MVB asserted was barred by the statute of limitations, was imposed well within the period of time dictated by Section 503(b)(6) of the Communications Act of 1934, as amended. Finally, upon viewing MVB's violation in the overall context of its prior good conduct, the Bureau determined that MVB's previous good conduct was a mitigating factor which warranted a reduction in the amount of the forfeiture.

47 C.F.R. § 73.1216.

In this request for reduction or rescission of the forfeiture, you argue that no forfeiture should be imposed. Foremost among your contentions, is the argument that the Commission has never before held that a licensee is an absolute "guarantor" of contest prizes being awarded, particularly where the prize has a 20-year payout. You assert that it would be "draconian" to apply a standard of absolute responsibility to MVB retroactively where it relied reasonably and in good faith upon Unidyne's ability to award the prize.

Under the facts of this case, you were a co-sponsor of the contest at issue. The same principles that apply to any licensee-sponsored contest apply in cases where there is co-sponsorship of a broadcast contest. Licensees are responsible for ensuring that contests they sponsor, in whole or in part, comply with the Commission's Rules, including award of the prize as announced. See Amendment of Part 73 of the Commission's Rules Relating to Licensee-Conducted Contests, Docket No. 20500, *Report and Order*, 60 FCC 2d 1072 (1976); see also, *Jacor Broadcasting, Inc.*, 8 FCC Rcd 4352 (MMB 1993), *affirmed, forfeiture reduced*, 9 FCC Rcd 3301, *set aside on other grounds*, 9 FCC Rcd 4472 (MMB 1994), *reaffirmed*, 10 FCC Rcd 11069 (1995); *George McKay, III*, 6 FCC Rcd 7385 (MMB 1991). Thus, whenever conducting a contest involving a co-sponsor, licensees are responsible for awarding the announced contest prize when a co-sponsor fails to do so.

Nonetheless, we find that a rescission of the forfeiture is warranted because this appears to be a case of first impression with regard to the scope of a licensee's responsibilities as a co-sponsor of a contest involving a multi-year payout. Accordingly, this letter serves as a forfeiture rescission and as an admonition designed to provide notice and guidance to you and other broadcasters of their responsibilities when conducting co-sponsorship contests.

In view of the foregoing, the monetary forfeiture is hereby rescinded. You are instead hereby admonished for violation of Section 73.1216 of the Commission's Rules.

Sincerely,


Roy J. Stewart
Chief, Mass Media Bureau