

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

In the Matter of)	
)	
Radio 810 Nashville, Incorporated)	File Number EB-02-AT-100
Licensee of Radio Station WMGC, Murfreesboro,)	NAL/Acct. No. 200232480004
Tennessee)	FRN 0006-3776-00
Evansville, IN 47714)	
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 18, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Radio 810 Nashville, Incorporated ("Radio 810"), licensee of radio station WMGC, Murfreesboro, Tennessee, willfully violated Sections 73.1215(a), 73.1350(d)(2), and 73.1745(a) of the Commission's Rules ("Rules").¹ Specifically, Radio 810 failed to maintain properly calibrated indicating instruments, failed to terminate broadcast operation as required when the station operated in non-compliance with the technical rules, and exceeded the authorized transmitter power by failing to reduce power at sunset. The violations of Sections 73.1350(d)(2) and 73.1745(a) also are repeated violations. We conclude that Radio 810 Nashville, Incorporated is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On March 26, 2002, the Federal Communications Commission ("FCC") Enforcement Bureau's Atlanta Field Office ("Field Office") received information that radio station WMGC in Murfreesboro, Tennessee, failed to reduce transmitter power after sunset as required by the station authorization.

3. On April 16, 2002 an agent of the Field Office monitored WMGC's signal. Field strength measurements revealed that WMGC did not reduce transmitter power at sunset as required by the station authorization, but remained at daytime power in excess of the authorized nighttime power of 6 watts until 8:10 pm CDT. Local sunset was 7:15 pm CDT in April.

4. On April 17, 2002, an agent of the Field Office again monitored WMGC's signal. Field strength measurements revealed that WMGC did not reduce transmitter power at sunset as required by the station authorization, but remained at daytime power in excess of the authorized nighttime power of 6

¹ 47 C.F.R. §§ 73.1215(a), 73.1350(d)(2), and 73.1745(a)

watts until 8:10 pm CDT.

5. On April 18, 2002, an agent of the Field Office inspected station WMGC. The agent found the station's antenna base current meter at the authorized daytime power level of 5000 watts read 9.2 amperes when it should have read 13.8 amperes, an error of 4.6 amperes. In addition, the base current meter, when used to measure nighttime power levels of 6 watts, had a minimum normal indication of approximately 0.47 amperes, but the meter had a full-scale reading of more than 42 times that indication.

III. DISCUSSION

6. Section 73.1745(a) of the Rules states that no broadcast station shall operate at times, or with modes or power, other than those specified and made part of the license. WMGC operated with daytime power on April 16 and April 17, 2002, after local sunset until 8:10 p.m. local time. Also, field strength measurements of WMGC's nighttime power indicated a power level in excess of the 6 watts authorized. Section 73.1350(d)(2) of the Rules requires AM stations to terminate operation within three minutes in the event the station operates in a mode not specified by the station license for the pertinent time of day or hours of operation. On April 16 and 17, 2002, WMGC operated with daytime transmitter power during nighttime hours from local sunset at 7:15 p.m. until 8:10 p.m. local time. Section 73.1215(a) of the Rules provides specifications for linear scale indicating instruments. Specifically, Section 73.1215(a)(2) of the Rules requires that linear scale instruments be accurate to at least 2% of the full-scale reading. The base current meter was a linear scale meter with a full scale of 20 amperes, thus requiring an accuracy of at least 0.4 amperes. On April 18, 2002, WMGC's antenna base current meter reading for daytime power read 9.2 amperes when it should have read 13.8 amperes, a difference of 4.6 amperes. Also, Section 73.1215(a)(5) of the Rules requires linear scale instruments to have a full-scale reading not greater than five times the minimum normal indication. For authorized nighttime power of 6 watts, the normal current reading would be approximately 0.47 amperes. The full-scale reading of the base current meter was 20 amperes, or more than forty-two times the minimum normal indication.

7. Based on the evidence before us, we find that on April 16 and 17, 2002, Radio 810 Nashville, Incorporated repeatedly² and willfully³ violated Sections 73.1350(d)(2) and 73.1745(a) of the Rules, and on April 18, 2002, willfully violated Section 73.1215(a) of the Rules.

8. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amounts for the violations cited in this notice are: \$4,000 for operating with excessive power at night (exceeding power limits), \$3,000 for failure to terminate broadcast operation when required (violation of transmitter control

² Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies equally to Section 503(b) 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."

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

and metering requirements), and \$3,000 for failure to maintain properly calibrated monitoring equipment (violation of transmitter control and metering requirements).⁴ Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), requires us to 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 other such matters as justice may require.”⁵ The Field Office received complaints concerning WMGC’s overpower operation at night. Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁷ Radio 810 Nashville, Incorporated is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for repeated and willful violation of Sections 73.1350(d)(2), and 73.1745(a), and willful violation of Section 73.1215(a) of the Rules.

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Radio 810 Nashville, Incorporated SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment MUST INCLUDE the NAL/Acct. No. and FRN referenced in the letterhead above.

12. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and

⁴ 47 C.F.R. § 1.80(b)(4)

⁵ 47 U.S.C. § 503 (b)(2)(D)

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

15. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Radio 810 Nashville, Incorporated at Radio Station WMGC, 4314 Cherry Court, Evansville, IN 47714.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.