

Federal Communications Commission

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

CORRECTED COPY

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| In the Matter of |) | |
| |) | |
| Red Zebra Broadcasting Licensee, LLC |) | File No. EB-07-CF-302 |
| |) | |
| Licensee of Radio Station WWXX |) | |
| Facility ID # 16819 |) | NOV No. V200932340001 |
| Warrenton, Virginia |) | |
| |) | |
| Licensee of Radio Station WWXT |) | |
| Facility ID # 43277 |) | |
| Prince Frederick, Maryland |) | |
| |) | |

NOTICE OF VIOLATION

Released: October 24, 2008

By the District Director, Columbia Field Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (“Notice”) issued pursuant to Section 1.89 of the Commission’s Rules¹ to Red Zebra Broadcasting Licensee, LLC (“Red Zebra”), licensee of radio station WWXX in Warrenton, Virginia and radio station WWXT in Prince Frederick, Maryland.
2. On November 27, 2007, agents of the Commission’s Columbia Field Office inspected radio station WWXX located at 7308 Cedar Run Drive, Warrenton, Virginia and observed the following violation:

47 C.F.R. § 73.1125(a): “FM. . .broadcast station[s] shall maintain a main studio. . .” “A station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence.”² The Commission has defined a minimally acceptable “meaningful presence” as full-time managerial and full-time staff personnel.³ Based on the inspection and Red Zebra’s subsequent response to a Letter of Inquiry dated February 25, 2008, agents determined that Red Zebra failed to maintain a full-time managerial presence.
3. On December 12, 2007, agents of the Commission’s Columbia Field Office inspected radio station WWXX located at 8121 Georgia Avenue, Suite 1050, Silver Spring, Maryland, and observed the following violations:

¹47 C.F.R. § 1.89.
² *Main Studio and Program Origination Rules*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5026 (1988).
³ *Jones Eastern of the Outer Banks, Inc.*, 7 FCC Rcd 6800, 6802 (1992).

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- a. 47 C.F.R. § 11.61(b): “Entries shall be made in EAS Participant records, as specified in §§11.35(a) and 11.54(b)(13).” A review of the station’s records revealed that, as of December 2006, the records contained no entries specifically documenting the receipt or activation of EAS tests or the reasons why the tests had not been transmitted or received by WWXX. Although the station had piles of EAS printer tapes, it was impossible to determine whether the tapes belonged to station WWXX and, even assuming all of the tapes belonged to station WWXX, there were no EAS logs before October 2007.
 - b. 47 C.F.R. § 73.1870(c)(3): The chief operator is responsible for “[r]eview of the station records [including EAS] at least once a week to determine if required entries are being made correctly. Additionally, verification must be made that the station has been operated as required by the rules or the station authorization. Upon completion of the review, the chief operator or his designee must date and sign the log, initiate any corrective action which may be necessary, and advise the station licensee of any condition which is repetitive.” At the time of the inspection, there was no evidence that the chief operator was reviewing the EAS logs, which as noted above consisted of piles of EAS printer tapes.
4. On December 12, 2007, agents of the Commission’s Columbia Field Office inspected radio station WWXT located at 8121 Georgia Avenue, Suite 1050, Silver Spring, Maryland, and observed the following violations:
 - a. 47 C.F.R. § 11.61(b): “Entries shall be made in EAS Participant records, as specified in §§11.35(a) and 11.54(b)(13).” At the time of inspection, the broadcast station records contained no entries documenting the transmission of required weekly and monthly tests since December 2006. No entries were found indicating the reasons why the tests had not been transmitted or received.
 - b. 47 C.F.R. § 73.1870(c)(3): The chief operator is responsible for “[r]eview of the station records [including EAS] at least once a week to determine if required entries are being made correctly. Additionally, verification must be made that the station has been operated as required by the rules or the station authorization. Upon completion of the review, the chief operator or his designee must date and sign the log, initiate any corrective action which may be necessary, and advise the station licensee of any condition which is repetitive.” At the time of the inspection, there was no evidence that the chief operator was reviewing the EAS logs, which as noted above consisted of piles of EAS printer tapes.
5. Based on an inspection attempted on December 12, 2007, at 9672 Marlboro Pike, Suite H, Upper Marlboro, MD, and Red Zebra’s subsequent response to a Letter of Inquiry dated February 25, 2008, we note the following violation:

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47 C.F.R. § 73.1125(a): “FM. . . broadcast station[s] shall maintain a main studio. . . .” “A station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence.”⁴ The Commission has defined a minimally acceptable “meaningful presence” as full-time managerial and full-time staff personnel.⁵ By its own admission, Red Zebra failed to maintain a full-time managerial presence.

6. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁶ and Section 1.89 of the Commission's Rules, Red Zebra, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response must fully explain each violation, must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and should include a time line for completion of pending corrective action(s). The response must be complete in itself and signed by a principal or officer of Red Zebra. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Columbia Field Office
9200 Farm House Lane
Columbia, MD 21046

7. This Notice shall be sent to Red Zebra at its address of record.
8. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁸

FEDERAL COMMUNICATIONS COMMISSION

James T. Higgins
District Director
Columbia Field Office
Northeast Region
Enforcement Bureau

⁴ See *supra* n.2.

⁵ See *supra* n.3.

⁶47 U.S.C. § 308(b).

⁷P.L. 93-579, 5 U.S.C. § 552a (e) (3).

⁸18 U.S.C. § 1001 *et seq.*