

Federal Communications Commission

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

In the Matter of)	
)	
Premier Radio Stations, LLC)	
c/o LPC Investments, LLC)	File Nos. EB-10-SD-0185
Licensee of Radio Station KFNX(AM))	
Facility ID # 9421)	NOV No. V201132940001
Cave Creek, AZ)	

NOTICE OF VIOLATION

Released: October 7, 2010

By the District Director, San Diego Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,¹ to Premier Radio Stations, LLC, c/o LPC Investments, LLC ("Premier Radio") licensee of AM Broadcast radio station KFNX(AM) in Cave Creek, Arizona.. This Notice may be combined with a further action, if further action is warranted.²

2. On July 21, 2010, an agent of the Enforcement Bureau's San Diego Office inspected KFNX located at 2001 N. 3rd Street, Suite 102, Phoenix, California and observed the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants must determine the cause of any failure to receive the required tests or activations specified in Sections 11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received or sent must be made in the broadcast station log as specified in Sections 73.1820 and 73.1840 of this chapter for all broadcast streams" At the time of the inspection, the agent found that there were no entries in the station log indicating why tests had not been periodically received or sent during various weeks during three months prior to the inspection.

- b. 47 C.F.R. § 11.61(a): "EAS Participants shall conduct tests at regular intervals, as specified in paragraphs (a)(1) and (a)(2) of this section. Additional tests may be performed anytime. EAS activations and special tests may be performed in lieu of required tests as specified in paragraph (a)(4) of this section. All tests will conform with the procedures in the EAS Operating Handbook." At the time of the inspection, the licensee failed to ensure that, over the three months prior to the inspection, multiple tests of the EAS system were conducted

¹ 47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

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- c. 47 C.F.R. § 73.3526(e)(7): “Equal Employment Opportunity (EEO) file. Such information as is required by § 73.2080 is to be kept in the public inspection file.” At the time of the inspection, the required EEO information was not in KFNX’s public inspection file.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission’s Rules, we seek additional information concerning the violations and any remedial actions the station may have taken. Therefore, Premier Radio, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission’s Rules, we direct Premier Radio, to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Premier Radio, with personal knowledge of the representations provided in Premier Radio’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. 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
San Diego District Office
4542 Ruffner Street, Suite 370
San Diego, CA 92111

³47 U.S.C. § 403.

⁴47 C.F.R. § 1.89(c).

⁵Section 1.16 of the Commission’s Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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6. This Notice shall be sent to Premier Radio Stations, LLC, c/o LPC Investments, LLC, at its address of record.

7. 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.

FEDERAL COMMUNICATIONS COMMISSION

William R. Zears Jr.
District Director
San Diego District Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).