

Federal Communications Commission

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

In the Matter of)	
)	
Fellowshipworld, Inc.)	File No. EB-FIELDNER-12-00004958
Licensee of Station WFWO)	
Facility ID # 172262)	
Medina, New York)	NOV No. V201332400014
)	

NOTICE OF VIOLATION

Released: January 3, 2013

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Fellowshipworld, Inc. (Fellowshipworld), licensee of FM Station WFWO in Medina, New York. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On October 18, 2012 and November 15, 2012, an agent of the Enforcement Bureau's Philadelphia Office monitored and inspected FM Station WFWO located at 1420 Main Street, Buffalo, New York and observed the following violations:

- a. 47 C.F.R. § 73.1350(a): "Each licensee is responsible for maintaining and operating its broadcast station in a manner ... in accordance with the terms of the station authorization." At the time of the inspections, Fellowshipworld was operating Station WFWO at 1420 Main Street, Buffalo, New York at the coordinates 42° 54' 44.6" North Latitude 078° 51' 56.3" West Longitude. The license BLED-20120724AAB authorizes a transmitter location at the coordinates 43° 14' 33" North Latitude 078° 18' 27" West Longitude. Station WFWO was operating at a location 36.2 miles (58.3 km) from the location authorized in its license.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

Federal Communications Commission

- b. 47 C.F.R. 73.1125(a): "...each AM, FM, TV broadcast station shall maintain a main studio at one of the following location: (1) within the station's community of license; (2) At any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (3) Within twenty-five miles from the reference coordinates of the center of its community of license as described in § 73.208(a)(1.)" The Commission has interpreted this rule to require a station to "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."³ Specifically, the Commission has found that a main studio "must, at a minimum, maintain full-time managerial and full-time staff personnel."⁴ At the time of the inspections, the WFWO main studio at 1420 Main Street, Buffalo, New York did not meet any of the three requirements specified in Sections 73.1125(a)(1), 73.1125(a)(2), or 73.1125(a)(3). Furthermore, at the time of the inspections, Fellowshipworld did not maintain a full time staff presence at the WFWO main studio.
- c. 47 C.F.R. § 73.3526(e)(5): "The material to be retained in the public inspection file is as follows...A copy of the most recent, complete ownership report filed with the FCC for the station, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file..." At the time of inspection on November 15, 2012, there was no ownership report in the public inspection file.⁵
- d. 47 C.F.R. § 73.3526(e)(12): "The material to be retained in the public inspection file is as follows...For commercial AM and FM radio broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g. January 10 for the quarter October-December, April 10 for the quarter January-March, etc.).

³ *Amendment of Sections 73.1125 and 73.1130 of the Commission's Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5026 (1988) (*Main Studio and Program Origination Rules*), *erratum issued*, 3 FCC Rcd 5717 (1988) (correcting language in n.29).

⁴ *See Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 & n.2 (1991) (noting that, "This is not to say that the same staff person and manager must be assigned full-time to the main studio. Rather, there must be management and staff presence on a full-time basis during normal business hours to be considered 'meaningful.'"), *clarified*, 7 FCC Rcd 6800 (1992) (*Jones Eastern II*). *See also Birach Broadcasting Corporation*, Notice of Apparent Liability, 25 FCC Rcd 2635 (Enf. Bur. 2010).

⁵ Fellowshipworld filed an ownership report with the Commission on or about February 7, 2011. See File No. BOS-20110207ADG.

Federal Communications Commission

The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application." At the time of inspection on November 15, 2012, the public inspection file was missing one Issues-programs listing for the third quarter of 2012.⁶

- e. 47 C.F.R. § 73.1870(b)(3): "The designation of the chief operator must be in writing with a copy of the designation posted with the station license. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files." At the time of the inspection on November 15, 2012, the chief operator's designation was not in writing.
- f. 47 C.F.R. § 73.1590(d): "Equipment Performance Measurements. The data required by paragraphs (b) and (c) of this section, together with a description of the equipment and procedure used in making the measurements, signed and dated by the qualified person(s) making the measurements, must be kept on file at the transmitter or remote control point for a period of 2 years, and on request must be made available during that time to duly authorized representatives of the FCC." At the time of the inspection on November 15, 2012, Fellowshipworld was unable to provide the agent any records of the equipment performance measurements that were allegedly made when the station commenced operations in July 2012.
- g. 47 C.F.R. § 11.35(a): "EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, Attention Signal generating and receiving equipment, and Intermediate Devices used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in § 11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§ 73.1820 and 73.1840 of this chapter for all broadcast streams...." At the time of the inspection on November 15, 2012, Fellowshipworld did not have any EAS equipment installed for Station WFWO.

⁶ At the time of the inspection, Fellowshipworld was only required to maintain the Issues/Programs list for the 3rd Quarter of 2012 in the WFWO public inspection file because it commenced operation of the station on or about July 24, 2012.

Federal Communications Commission

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 308(b) of the Communications Act of 1934, as amended,⁷ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Fellowshipworld 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.⁸

4. In accordance with Section 1.16 of the Rules, we direct Fellowshipworld to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Fellowshipworld with personal knowledge of the representations provided in Fellowshipworld's response, verifying the truth and accuracy of the information therein,⁹ 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.¹⁰

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
Philadelphia Office
One Oxford Valley Building, Suite 404
2300 East Lincoln Highway
Langhorne, Pennsylvania 19047

6. This Notice shall be sent to Fellowshipworld, Inc. at its address of record.

⁷ 47 U.S.C. § 308(b).

⁸ 47 C.F.R. § 1.89(c).

⁹ Section 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)'.⁹ 47 C.F.R. § 1.16.

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

Federal Communications Commission

7. The Privacy Act of 1974¹¹ 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

David C. Dombrowski
District Director
Philadelphia District Office
Northeast Region
Enforcement Bureau

¹¹ P.L. 93-579, 5 U.S.C. § 552a(e)(3).