

Federal Communications Commission

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

In the Matter of)	
)	
Kenai Educational Media, Inc.)	File No.: EB-FIELDWR-13-00009787
Licensee of KIBH-FM)	
)	NOV No.: V201632780001
Seward, Alaska)	Facility ID: 176521

NOTICE OF VIOLATION

Released: April 20, 2016

By the Resident Agent, Anchorage Resident Agent Office, Western 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 Kenai Educational Media, Inc., (KEMI), licensee of non-commercial educational FM broadcast station, KIBH-FM, community of license, Seward, Alaska. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.²

2. On August 12, 2013, a Notice of Violation (August NOV), was issued to KEMI, for violations noted during a June 18, 2013, inspection. The August NOV was sent via United States Postal Service (USPS) certified and first class mailings to KEMI at its address of record at that time. The certified envelope returned to the Anchorage Office unopened/unclaimed, on September 9, 2013. No response was received to the August NOV. On September 12, 2013, a Warning for non-response was sent to the President of KEMI, at that time, advising that a response to the August NOV was required and included a copy of the August NOV. The Warning was also sent via USPS certified and first class mailings. Neither the certified nor first class envelopes were returned to the Anchorage Office, however the signed and dated certified USPS PS 3811 was returned to the Anchorage Office on September 23, 2013. On October 1, 2013, the Commission's, Media Bureau, "accepted for filing," a required renewal application, which clearly showed the same address of record to which Commission documents were sent. On November 7, 2013, an NOV (November NOV), again for non-response, and citing 47 C.F.R. § 73.1015, was sent via USPS first class and certified mailings to the address of record, at that time. On December 2, 2013, the November NOV certified mailing returned to the Anchorage Office unopened/unclaimed. Subsequent to the November NOV being returned, the Enforcement Bureau requested of the Media Bureau to place a "renewal hold" on the KEMI application for renewal of the station license.³ Therefore citing the following violation:

- a. 47 C.F.R. § 73.1015: "The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ See BRED-20130930BXB

Federal Communications Commission

relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission, or, in the case of a proceeding to amend the FM or Television Table of Allotments, require from any person filing an expression of interest, written statements of fact relevant to that allotment proceeding. Any such statements of fact are subject to the provisions of § 1.17 of this chapter.” KEMI failed to respond to the NOVs listed above dated August 12, 2013, and November 7, 2013.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Kenai Educational Media, Inc. (New Board member only) 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, detailed in the August NOV, 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, (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.⁵

4. In accordance with Section 1.16 of the Rules, we direct Kenai Educational Media, Inc., to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Kenai Educational Media, Inc., with personal knowledge of the representations provided in Kenai Educational Media, Inc. response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the permittee’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.⁷

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:

⁴ 47 U.S.C. § 308(b).

⁵ 47 C.F.R. § 1.89(c).

⁶ Section 1.16 of the 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.

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

Federal Communications Commission

Federal Communications Commission
Anchorage Resident Agent Office
PO Box 231949
Anchorage, AK 99523-1949

6. This Notice shall be sent to Kenai Educational Media, Inc., at its address of record.

7. The Privacy Act of 1974⁸ 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 J. Charlton
Resident Agent
Anchorage Resident Agent Office
Western Region
Enforcement Bureau

Attachments (Copies);
Notice of Violation, V201332780025, (August NOV)
Warning, dated September 12, 2013
Notice of Violation, V201432780006 (November NOV)

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).