

Federal Communications Commission

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

In the Matter of)
)
N Content Marketing, LLC)
)
Licensee of Station WQAN) File No. EB-FIELDNER-19-00029265
Facility ID: 14646)
)
Beulah, Michigan)

NOTICE OF VIOLATION

Released: July 25, 2019

By the Regional Director, Region One, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to section 1.89 of the Commission’s rules (Rules),¹ to N Content Marketing, LLC, licensee of station WQAN in Beulah, Michigan. 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(s) noted herein.²

2. On June 18, 2019, an Agent of the Enforcement Bureau’s Chicago Office investigated and found 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 which complies with the technical rules set forth elsewhere in this part and in accordance with the terms of the station authorization.” According to the WQAN license (File No. BLH-20110224AAJ), the authorized location for the station transmitter is 44° 36’ 38” north latitude, 86° 09’ 38” west longitude. The Chicago Agent’s inspection revealed that the coordinates of the current location³ of WQAN’s transmitter are 44° 46’ 13” north latitude and 85° 41’ 43” west longitude, which is 25 miles from the station’s authorized location. According to

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

³ Station WQAN was utilizing the Antenna Structure No 1004108 which is owned by Blarney Stone Broadcasting, Inc. in Traverse City, Michigan.

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WQAN's license, the authorized transmitter power output (TPO) is 11,500 watts with Effective Radiated Power (ERP) of 50,000 watts using a non-directional antenna. The Chicago Agent's inspection found that the transmitter had a maximum output power of 600 watts and was operating with an output power of 419 watts, which is 11,081 watts less than the authorized TPO. The Agent calculated that the 419 watts TPO combined with the antenna gain and feed line loss would result in an ERP of 1450 watts, which is 48,550 watts less than the authorized ERP. WQAN's license authorizes the use of a non-directional antenna; however, the Agent observed that a directional antenna was being used. A review of Commission records reveals that N Content Marketing, LLC's most recent STA for WQAN expired on February 6, 2019.⁴ According to Commission records, there is no pending STA request for WQAN, and no pending modification application.

3. Pursuant to section 308(b) of the Communications Act of 1934, as amended,⁵ and section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, N Content Marketing, LLC 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 timeline 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.⁶

4. In accordance with section 1.16 of the Rules, we direct N Content Marketing, LLC to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of N Content Marketing, LLC with personal knowledge of the representations provided in N Content Marketing, LLC's response, verifying the truth and accuracy of the information therein,⁷ and confirming that all of the information requested by this Notice which is in the

⁴ On August 10, 2018, the Commission granted a Special Temporary Authority (File No. BSTA-20180801ABH) authorizing operation of Station WQAN at its licensed transmitter site at reduced power due to transmitter issues.

⁵ 47 U.S.C. § 308(b).

⁶ 47 CFR § 1.89(c).

⁷ 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 CFR § 1.16.

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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.⁸

5. All replies and documentation sent in response to this Notice should be marked with the File No. specified above, and mailed and emailed to the following address:

Federal Communications Commission
Enforcement Bureau
Columbia Regional Office
9050 Junction Drive
Annapolis, Maryland 20701

6. This Notice shall be sent to N Content Marketing, LLC, 13999 S. West Bayshore Drive, Traverse City, Michigan 49685 and its counsel, John Trent, Esq., 200 South Church Street, Woodstock, Virginia 22664.

7. The Privacy Act of 1974⁹ 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
Regional Director
Region One
Enforcement Bureau
Federal Communications Commission

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

⁹ 5 U.S.C. § 552a(e)(3).