

**Federal Communications Commission**

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

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| In the Matter of                        | ) |                                   |
|   | ) |                                   |
| Ploener Radio Group of Barnesville, LLC | ) | File No.: EB-FIELDSCR-22-00033832 |
| Licensee of Station W285FK              | ) |                                   |
|   | ) |                                   |
| Barnesville, Georgia                    | ) | Facility ID: 138851               |
|   | ) |                                   |
|   | ) | FRN: 0015866353                   |
|   | ) |                                   |
|   | ) |                                   |

**NOTICE OF VIOLATION**

**Released: December 23, 2022**

By the Regional Director, Region Two, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to section 1.89 of the Commission’s rules<sup>1</sup> to Ploener Radio Group of Barnesville, LLC (Ploener), licensee of radio station W285FK in Barnesville, Georgia. Pursuant to section 1.89(a) of the Commission’s 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.<sup>2</sup>

2. On July 26, 2022, agents of the Enforcement Bureau’s Atlanta Office monitored radio station W285FK located on the north side of Water Works Road, approximately 1,100 feet west of Crawford Road, and observed the following violations:

- a. 47 CFR § 74.1263(b): “An FM booster or FM Translator station rebroadcasting the signal of an AM, FM or LPFM primary station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted. Notwithstanding the foregoing, FM translators rebroadcasting Class D AM stations may continue to operate during nighttime hours only if the AM station has operated within the last 24 hours.” Station W285FK is authorized to rebroadcast WBAF-AM. While monitoring during daytime hours, agents observed station W285FK operating while WBAF was not operational, in violation of Section 74.1263(b) of the Rules.
- b. 47 CFR § 73.1800(a): “The licensee of each station must maintain a station log as required by § 73.1820. This log shall be kept by station employees competent to do so, having actual knowledge of the facts required. All entries, whether required or not by the provisions of this part, must accurately reflect the station operation...” On August 3, 2022, an agent requested copies of the logs for WBAF-AM but were advised by a station representative that the location of the logs were unknown. To date, the logs have not been produced.

3. Pursuant to section 308(b) of the Communications Act of 1934, as amended (Act), and section 1.89 of the Commission’s rules, we seek additional information concerning the violations and any

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<sup>1</sup> 47 CFR § 1.89.

<sup>2</sup> 47 CFR § 1.89(a).

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remedial actions taken.<sup>3</sup> Therefore, Ploener 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.<sup>4</sup>

4. In accordance with section 1.16 of the Commission's rules, we direct Ploener to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Ploener with personal knowledge of the representations provided in Ploener's response, verifying the truth and accuracy of the information therein, and confirming that all of the information requested by this Notice which is in the Ploener's possession, custody, control, or knowledge has been produced.<sup>5</sup> 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.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File Number, specified above, and mailed to the following address:

Federal Communications Commission  
Region Two Regional Office  
P.O. Box 1493  
Powder Springs, GA 30127  
504-219-8999  
[FIELD@FCC.GOV](mailto:FIELD@FCC.GOV)

6. This Notice shall be sent to Ploener Radio Group of Barnesville, LLC at its address of record and to Ploener's counsel, John C, Trent, Esq. at Putbren Hunsaker & Trent P.C., 200 South Church Street, Woodstock, VA 22664.

7. The Privacy Act of 1974<sup>7</sup> 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

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<sup>3</sup> 47 U.S.C. § 308(b); 47 CFR § 1.89.

<sup>4</sup> 47 CFR § 1.89(c).

<sup>5</sup> 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)'." 47 CFR § 1.16.

<sup>6</sup> 18 U.S.C. §§ 1001, *et seq.*; *see also* 47 CFR § 1.17.

<sup>7</sup> 5 U.S.C. § 552a(e)(3).

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what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Dedrick Roybiskie  
Regional Director, Region Two  
Enforcement Bureau