

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

In the Matter of
Buchanan Broadcasting Company, Inc.
Pearl, Mississippi
File No. EB-98-OR-320
NAL/Acct. No. 815OR0001

MEMORANDUM OPINION AND ORDER

Adopted: November 29, 2000

Released: December 1, 2000

By the Commission:

1. In this Memorandum Opinion and Order ("Order"), we deny the application for review filed on March 27, 2000, by Buchanan Broadcasting Company, Inc. ("Buchanan"), licensee of Station WJNT(AM), Jackson, Mississippi. Buchanan seeks review of the Enforcement Bureau's ("Bureau") Memorandum Opinion and Order ("MO&O") released February 25, 2000.

BACKGROUND

2. While investigating a complaint about Station WJNT's operations, on March 17 and 18, 1998, an agent from the Commission's New Orleans, Louisiana, Field Office ("New Orleans Office") monitored the station's signal to determine its relative output power. The agent's field strength measurements on those dates showed that, contrary to the terms of WJNT's license, there was no substantial change in WJNT's output power or directional mode of operations from the middle of the afternoon through the evening.

3. Based on the foregoing investigation, the New Orleans Office issued a Notice of Apparent Liability ("NAL") to Buchanan on July 28, 1998, in the amount of \$18,000, for willful and repeated violations of Sections 73.49 (inadequate fencing), 73.1560(a)(1) (failure to reduce nighttime power) and 73.1745(a) (failure to change directional mode of operations at night) of the Rules. In its August 26, 1998, response to the NAL, Buchanan requested reduction of the forfeiture amount. In its March 22, 1999, Forfeiture Order,

1 15 FCC Rcd. 4360 (Enf. Bur. 2000).

2 47 C.F.R. §§ 73.1560(a)(1), 73.1745(a), and 73.49.

3 14 FCC Rcd 5171 (Compl. & Inf. Bur. 1999).

Compliance and Information Bureau (“CIB”) reduced the forfeiture amount to \$10,000 on the basis of Buchanan’s inability to pay a larger amount. In a petition for reconsideration (“petition”), Buchanan sought rescission or reduction of the portion of the forfeiture imposed for violation of Section 73.49 of the Rules (inadequate fencing). On February 25, 2000, the Bureau released its MO&O granting Buchanan’s petition only to the extent of reducing the overall forfeiture to \$9,000 and denying it in all other respects.

#### DISCUSSION

4. Buchanan seeks rescission of the forfeiture, but focuses only on the portion of the forfeiture imposed for violation of Section 73.49 of the Rules (inadequate tower fencing). On review, Buchanan argues once again that WJNT’s antenna tower was inaccessible because of flooding and, thus, it could not have repaired the fence around the tower. However, Buchanan presents no evidence that it made any effort to make the repairs. Moreover, we note that the Bureau took the limited accessibility of WJNT’s antenna tower into account when it reduced Buchanan’s forfeiture to \$9,000. As a result of two earlier reductions, Buchanan’s forfeiture is half of the amount originally proposed. Under all the circumstances of this case, we find that no further reduction is warranted.

5. Upon careful review of the application for review and the entire record in this case, we conclude that the Bureau properly decided the matters raised below, and we uphold its decision for the reasons indicated above as well as the reasons set forth in the Bureau’s February 25, 2000, MO&O.

#### IV. ORDERING CLAUSES

6. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 1.115(g) of the Rules,<sup>4</sup> Buchanan Broadcasting Company, Inc.’s application for review of the MO&O released February 25, 2000, **IS DENIED**.

7. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Act<sup>5</sup> and Section 1.80(f) of the Rules,<sup>6</sup> Buchanan Broadcasting Company, Inc., shall, within 30 days of the release of this Order, pay the amount of \$9,000 for willful and repeated violations of Sections 73.49, 73.1560(a)(1), and 73.1745(a) of the Rules and the terms of the WJNT station authorization. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>7</sup> Payment may be made by mailing a check or similar instrument, payable to the order of the “Federal Communications Commission,” to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 815OR0001, referenced above. Requests for full payment under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

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<sup>4</sup> 47 C.F.R. § 1.115(g).

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. § 1.80(f).

<sup>7</sup> 47 U.S.C. § 504(a).

<sup>8</sup> See 47 C.F.R. § 1.1914.

8. **IT IS FURTHER ORDERED** that, a copy of this Order shall be sent certified mail, return receipt requested, to Buchanan 's counsel, Peter Gutman, Esq., Pepper & Corrazini, 1776 K Street, N.W., Suite 200, Washington, D.C. 20006.

**FEDERAL COMMUNICATIONS COMMISSION**

Magalie Roman Salas  
Secretary