

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In re Applications of)	
)	
Renda Broadcasting Corp.)	File Nos. BR-910322YP
)	BRH-910322YG
)	
For Renewal of Licenses of)	
Stations WJAS(AM)/WSHH(FM))	
Pittsburgh, Pennsylvania)	

**MEMORANDUM OPINION AND ORDER
 AND FORFEITURE ORDER**

Adopted: May 7, 1997

Released: May 23, 1997

By the Commission:

I. INTRODUCTION

1. The Commission has under consideration its Memorandum Opinion and Order and Notice of Apparent Liability in WHJB Corporation, 11 FCC Rcd 7262 (1996) ("MO&O"), released June 13, 1996, granting the renewal applications of Stations WJAS(AM)/WSHH(FM), Pittsburgh, Pennsylvania, subject to reporting conditions and a Notice of Apparent Liability ("NAL") for forfeiture in the amount of \$16,500; and a request for reconsideration entitled Statement of Facts and Reasons Requesting Rescission or Reduction of Forfeiture ("Statement") timely filed on July 15, 1996, by Renda Broadcasting Corp. ("the licensee"), the former licensee of the stations.¹ For the reasons that follow, we find the arguments in support of the licensee's request to be without merit. Therefore, we deny the licensee's request and impose a forfeiture in the amount of \$16,500.²

¹ On October 15, 1996, the licensee assigned the stations' licenses to Renda Broadcasting Corp. of Nevada (File Nos. BALH-960806GF and BAL-960806GE).

² We note that the licensee did not oppose our imposition of reporting conditions. Accordingly, we do not address this issue.

II. BACKGROUND

2. In the MO&O, the Commission reviewed the equal employment opportunity ("EEO") program of the stations and found no substantial and material questions of fact sufficient to warrant a hearing. In addition, we found no evidence that the licensee had engaged in discrimination. Accordingly, we granted renewal of the stations' licenses. However, we also concluded that the licensee's EEO efforts were inadequate because the licensee failed to recruit for a substantial number of vacancies, to maintain applicant or interviewee records, and, consequently, to conduct meaningful self-assessment of its EEO program as required by our EEO Rule. See 47 C.F.R. § 73.2080. Therefore, although we granted renewal, we imposed EEO reporting conditions and an NAL in the amount of \$16,500.

III. DISCUSSION

3. Once an NAL for forfeiture has been issued, the respondent must show in writing why a forfeiture penalty should not be imposed, why it should be reduced or, in the alternative, pay the forfeiture. Any showing by the respondent must include a detailed factual statement and such documentation and affidavits as may be pertinent. 47 C.F.R. § 1.80(f)(3).

4. Although acknowledging that it did not document all of its recruiting practices, the licensee disputes our characterization of its EEO program as deficient in view of its actual minority hires during the license period. The licensee contends that its minority hires demonstrate that its EEO program was successful and undeserving of sanctions. The licensee claims that during the license term, out of 55 full-time and part-time vacancies, it hired seven (13%) minority employees.

5. In seeking a mitigation of the forfeiture amount in the NAL, the licensee states that its employment profile "is more significant than the number of recruitment sources which [it] can document." In this regard, the licensee argues that because the stations hired more minorities than the licensees in Holiday Broadcasting Company, 10 FCC Rcd 4500 (1995), recon. denied, 11 FCC Rcd 1125 (1996) and Historic Hudson Valley Radio, Inc., 11 FCC Rcd 7391 (1996), it should be fined substantially less than the \$8,000 forfeiture imposed in those cases.

6. The licensee asserts that the Commission did not consider that it "routinely" advertised vacancies in the Pittsburgh Courier, a minority-specific newspaper. The licensee claims that it documented this effort as part of the record by submitting copies of six advertisements and 21 advertising bills listing 19 separate advertisements in the minority newspaper. The licensee also asserts that the Commission disregarded copies of letters it sent to the National Association for the Advancement of Colored People ("NAACP") seeking referrals for seven vacancies. The licensee contends that these submissions demonstrate that the stations

recruited for 21 part-time and full-time vacancies with minority-oriented sources.

7. With respect to the licensee's arguments concerning the number of minorities hired by the stations during the license period and in comparison to other licensees, we note that our primary focus is on a licensee's EEO efforts and not on its employment of a specific number of minority employees. Compliance with our EEO Rule is not based on meeting or exceeding a numerical goal, but on the total efforts to recruit and employ minorities and females and the ongoing assessment of those efforts. See Amendment of Part 73 of the Commission's Rules Concerning Equal Employment Opportunity in the Broadcast Radio and Television Services, 2 FCC Rcd 3967 (1987). See also Implementation of Commission's Equal Employment Opportunity Rules, 9 FCC Rcd 2047 (1994). Furthermore, the licensee's argument regarding the number of minorities employed in part-time positions requires no further consideration. Although our EEO Rule requires broadcasters to provide equal employment opportunity with respect to all positions, our primary focus is on efforts for full-time vacancies when analyzing EEO programs. See WFSQ(FM), 7 FCC Rcd 6045, 6046 (1992), aff'd sub nom. Florida State Conference of Branches of the NAACP v. FCC, 40 F.3d 474 (D.C. Cir. 1994).

8. Of the six advertisements submitted by the licensee as evidence of its minority recruitment efforts, three were for part-time positions only and the other three were for full-time positions previously credited to the licensee in the MO&O.³ Although the licensee claims that its advertising bills show that it placed 19 advertisements in the Pittsburgh Courier, one bill was for the advertisement of a part-time position and the other bills failed to show what position was advertised. Although non-job-specific advertising in minority-specific publications can be a valuable method of alerting potential job applicants of a licensee's desire to recruit minorities, compliance with our EEO Rule requires that a licensee recruit for specific job openings and maintain records showing job-specific recruitment efforts. Finally, of the seven letters sent to the NAACP requesting minority referrals, one was for a full-time position previously credited to the licensee,⁴ two were for part-time positions, and four were for positions created after the inquiry period, February 28, 1988 to March 1, 1991,⁵ and before the end of the license term. Since the licensee did not include any positions created outside of the inquiry period on its list of full-time vacancies, we did not consider any such positions nor the recruitment efforts for said positions. Even if we were to credit the licensee for recruiting for these four positions with only one

³ MO&O at 7270.

⁴ Id.

⁵ By staff letter of September 16, 1993, we asked the licensee to submit, for each position filled from February 28, 1988 to March 1, 1991, the full-time or part-time status of the position; the date the position was filled; the position's title and classification; the referral sources contacted to fill the position; the gender, race and referral source of all applicants and interviewees; and the gender, race and referral source of the successful candidate.

minority source, the record, when taken as a whole, would still show inadequate recruitment efforts and self-assessment, and would not warrant mitigation of the forfeiture. See ¶ 9, *infra*.

9. The record shows that the licensee recruited for only 11 (32.4%) of its 32 full-time vacancies during the inquiry period.⁶ The licensee could not verify the composition of its applicant and interviewee pools for any vacancy. The licensee was able to show that minorities were present in two of the 32 applicant and interviewee pools. However, this information was derived from the stations' hiring of two minorities and not as a result of the maintenance of adequate employment and recruitment records as contemplated by the EEO Rule's self-assessment requirement. See Section 73.2080(c)(5) of the Commission's Rules; 47 C.F.R. § 73.2080(c)(5). Few records were available for meaningful self-assessment, and the evidence does not show that any self-assessment actually occurred. These essential facts are undisputed in the licensee's Statement. Hence, we correctly concluded in the MO&O that the licensee's recruitment and self-assessment were not in accordance with our EEO Rule, which requires recruitment as vacancies occur, as well as continuing review of recruitment and hiring procedures to ensure equal opportunity in employment.

10. Based on the foregoing, we deny the licensee's request for rescission or reduction of forfeiture. In addition, we hereby issue to the licensee a Forfeiture Order in the amount of \$16,500.

IV. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that the request for rescission or reduction of forfeiture filed by the licensee **IS DENIED**.

12. **IT IS FURTHER ORDERED**, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), that the licensee **FORFEIT** to the United States the sum of sixteen thousand five hundred dollars (\$16,500) for violation of the Commission's EEO Rule, 47 C.F.R. § 73.2080. In regard to this forfeiture proceeding, the licensee may take appropriate action as set forth in Section 1.80 of the Commission's Rules, 47 C.F.R. § 1.80, and Section 504(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 504(a), as summarized in the attachment to this Memorandum Opinion and Order and Forfeiture Order.

⁶ We did not count the internal promotion of a Black employee as a new hire.

13. **IT IS FURTHER ORDERED** that one copy of this Memorandum Opinion and Order and Forfeiture Order be sent by Certified Mail -- Return Receipt Requested -- to the licensee.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary