

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

In the Matter of	)	
	)	Facility ID No. 81739
<b>Imani Communications Corporation, Inc.</b>	)	NAL/Acct. No. MB-2006414140101
	)	FRN: 0007716624
Licensee of Station WBFX(FM)	)	File No. BRH-20040303ABB
Selma, Alabama	)	

**FORFEITURE ORDER**

**Adopted: July 31, 2009**

**Released: August 3, 2009**

By the Chief, Audio Division, Media Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order we issue a monetary forfeiture in the amount of one thousand five hundred dollars (\$1,500), to Imani Communications Corporation, Inc. (“Imani”), licensee of Station WBFX(FM), Selma, Alabama (“Station”), for its willful and repeated violation of Section 73.3539 of the Commission’s Rules (“Rules”)<sup>1</sup> by failing to timely file a license renewal application for the Station.

**II. BACKGROUND**

2. On January 29, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of one thousand five hundred dollars (\$1,500) to Imani for this violation.<sup>2</sup> In response to the NAL, Imani submitted a letter (“Letter”) on February 27, 2007.

3. As noted in the NAL, Imani’s renewal application for the Station’s current license term was due on December 1, 2003, four months prior to the April 1, 2004, expiration date.<sup>3</sup> Imani did not file the application until March 3, 2004, and provided no explanation for the untimely filing of the renewal application. On January 29, 2007, the staff advised Imani of its apparent liability for a forfeiture of \$1,500 for willfully violating Section 73.3539 of the Rules, based on the fact that it failed to timely file a renewal application for the Station.

4. In its Letter, Imani suggests that its violation is excused by the extraordinary circumstances in which it found itself in August 2002 and that it is unable to pay the forfeiture. Specifically, Imani states:

“[the] transmitter site burned down in August of 2002. The station was out of business for several months. Needless to say, the station was unable to produce any income and there was some confusion during that time as to whether the station would ever be

<sup>1</sup> 47 C.F.R. § 73.3539.

<sup>2</sup> *Imani Communications Corporation, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 1131 (MB 2007).

<sup>3</sup> See 47 C.F.R. §§ 73.1020, 73.3539(a).

reestablished.”<sup>4</sup>

### III. DISCUSSION

5. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,<sup>5</sup> Section 1.80 of the Rules,<sup>6</sup> and the Commission’s *Forfeiture Policy Statement*.<sup>7</sup> In assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.<sup>8</sup>

6. Imani does not dispute that it failed to file a timely renewal application for the Station, but suggests that this violation was caused by the extraordinary circumstances arising from the destruction of its facility. Specifically, Imani explains that its application was filed late because a fire burned down the Station’s transmitter site in August 2002 and, as a result, Imani was uncertain whether it would renew the station’s license.<sup>9</sup> However, we note that while the fire occurred in August 2002, causing the station to remain off the air for several months, the renewal was not due until December 2003. This should have provided ample time for Imani to determine whether it was going to resume operations.

7. Imani also states that the station was unable to produce any income for several months as a result of the fire.<sup>10</sup> We interpret Imani’s statement to mean that the forfeiture order would be a financial hardship on the Station. The Commission will not consider reducing or canceling a forfeiture in response to inability to pay unless the licensee submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the licensee’s current financial status.<sup>11</sup> Imani has not provided any such documentation and we therefore will not reduce the forfeiture based on financial hardship.

8. We have considered Imani’s Letter and the record of this case in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that Imani willfully<sup>12</sup> and repeatedly<sup>13</sup> violated Section 73.3539 of the Rules.

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<sup>4</sup> Letter at 1.

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. § 1.80.

<sup>7</sup> *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

<sup>8</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>9</sup> Letter at 1.

<sup>10</sup> Letter at 1.

<sup>11</sup> *Radio Free Georgia Broadcasting Foundation*, Forfeiture Order, 24 FCC Rcd 3336 (MB 2009).

<sup>12</sup> Section 312(f)(1) of the Act defines “willful” as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to Sections 312 and 503(b) of the Act, H.R. REP. NO. 97-765, 51 (Conf. Rep.), and the Commission has so interpreted the terms in the Section 503(b) context. *See Southern California*, 6 FCC Rcd at 4387-88 (1991).

<sup>13</sup> Section 312(f)(1) of the Act defines “repeated” as “the commission or omission of [any] act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(1). *See also Southern California*, 6 FCC Rcd at 4388 (applying this definition of repeated to Sections 312 and 503(b) of the Act).

**IV. ORDERING CLAUSES**

9. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules,<sup>14</sup> that Imani Communications Corporation, Inc. SHALL FORFEIT to the United States the sum of one thousand five hundred dollars (\$1,500) for willfully and repeatedly violating Section 73.3539 of the Commission's Rules.

10. Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank-Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).

11. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested and by First Class Mail to Imani Communications Corporation, Inc., 1501 Jeff Davis Avenue, Selma, Alabama 36701, and its counsel, Kindaka Sanders, Chestnut, Sanders, Sanders, Pettaway, & Campbell, L.L.C., P.O. Box 1290, Selma, Alabama 36702-1290.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>14</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.