

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

In the Matter of	)	
	)	Facility ID No. 49954
<b>Oberlin College Student Network, Inc.</b>	)	NAL/Acct. No. MB-200741410100
	)	FRN: 0011194388
Licensee of Station WOBC-FM	)	File No. BRED-20040707ABK
Oberlin, Ohio	)	

**FORFEITURE ORDER**

**Adopted: June 28, 2010**

**Released: June 29, 2010**

By the Chief, Audio Division, Media Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of one thousand two hundred dollars (\$1,200) to Oberlin College Student Network, Inc. (“Licensee”),<sup>1</sup> licensee of Station WOBC-FM, Oberlin, Ohio (“Station”). Licensee willfully violated Section 73.3539 of the Commission’s Rules (“Rules”) by failing to timely file a license renewal application.<sup>2</sup>

**II. BACKGROUND**

2. On February 28, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of one thousand five hundred dollars (\$1,500) to Licensee for this violation.<sup>3</sup> As noted in the NAL, Licensee’s renewal application for the current Station license term should have been filed on June 1, 2004, four months prior to the Station’s October 1, 2004, license expiration date, but was not.<sup>4</sup> On July 7, 2004, Licensee filed the above captioned renewal application. Licensee filed a response to the NAL (“Request”) on March 19, 2007.

3. In its Request, Licensee states reduction of the forfeiture amount is warranted because: (1) its failure to timely file the renewal application was inadvertent; (2) payment of the proposed forfeiture will cause it financial hardship; and (3) it has a history of compliance with the Rules.

<sup>1</sup> Oberlin College Student Network, Inc. assigned the Station to Oberlin College Broadcasting, Inc. in 2008 (*see* File No. BALED-20081117ABL (granted December 5, 2008)). The assignment was consummated on February 9, 2009. Despite this assignment, Oberlin College Student Network, Inc remains liable for forfeiture for those violations occurring when the Station was under its stewardship. *See, e.g., Vista Point Communications, Inc.*, Memorandum Opinion and Order and Forfeiture Order, 14 FCC Rcd 140, 140 n.2 (MMB 1999) (finding licensee liable for forfeiture for violations of the Commission’s rules that took place when station was under its stewardship).

<sup>2</sup> 47 C.F.R. § 73.3539.

<sup>3</sup> *Oberlin College Student Network, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 4017 (MB 2007). The Commission granted the above-referenced license renewal application on February 28, 2007.

<sup>4</sup> *See* 47 C.F.R. §§ 73.1020, 73.3539(a).

### III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (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 determining the appropriate forfeiture amount, 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>

5. Licensee does not dispute that it failed to file a timely renewal application for the Station, but states that this violation was unintentional. However, it gives no reason for this oversight. It merely requests that it not be penalized for what it deems a “minor violation.”<sup>9</sup> As the Commission has held, violations resulting from inadvertent error or failure to become familiar with the FCC’s requirements are willful violations.<sup>10</sup> In the context of a forfeiture action, “willful” does not require a finding that the rule violation was intentional. Rather, the term “willful” means that the violator knew that it was taking (or in this case, not taking) the action in question, irrespective of any intent to violate the Rules.<sup>11</sup>

6. Next, Licensee argues that the forfeiture would cause significant financial hardship to the Station because its yearly operating budget is \$20,000, and it is run by volunteers. Licensee claims that its budget barely covers its operating costs, bills, and equipment maintenance. It further submits that the forfeiture constitutes a disproportionately large amount of its total budget, and is more than it can afford to pay and remain on the air. 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 reflect the licensee’s current financial status.

7. Here, Licensee did not submit federal tax returns, financial statements or any documentation setting forth its finances in support of its Request. Accordingly, in the absence of sufficient information to support a decision to the contrary, we decline to cancel or reduce the proposed

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<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> Request at 1.

<sup>10</sup> *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) (“*Southern California*”) (stating that “inadvertence ... is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”); *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, 358 (1986) (stating that “employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations”). *See also Corning Community College*, Forfeiture Order, 24 FCC Rcd 14285, 14286, (MB 2009) (rejecting argument to reduce forfeiture based on student-run status); *University of Montana-Western*, Forfeiture Order, 24 FCC Rcd 3127,3128-29 (MB 2009) (same).

<sup>11</sup> *See Five Star Parking d/b/a Five Star Taxi Dispatch*, Forfeiture Order, 23 FCC Rcd 2649, 2651 (EB 2008) (declining to reduce or cancel forfeiture for late-filed renewal based on licensee’s administrative error); *Southern California*, 6 FCC Rcd at 4387.

forfeiture on the basis of inability to pay.<sup>12</sup>

8. Finally, Licensee requests that we consider its unblemished record of compliance with the Rules and reduce the forfeiture to an amount that it can afford, suggesting \$250. Commission records show that Licensee obtained authority to operate in 1979 and has had no documented violations. Based on Licensee's record of compliance, we will reduce the forfeiture to \$1,200.

9. We have considered Licensee's response to the NAL in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that Licensee willfully<sup>13</sup> violated Section 73.3539 of the Rules. However, given Licensee's history of compliance with the Rules, we reduce the forfeiture amount to \$1,200.<sup>14</sup>

#### IV. ORDERING CLAUSES

10. 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>15</sup> that Oberlin College Student Network, Inc. SHALL FORFEIT to the United States the sum of one thousand two hundred dollars (\$1,500) for willfully violating Section 73.3539 of the Commission's Rules.

11. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's Rules within 30 days of the release of this Forfeiture 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>16</sup> 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).<sup>17</sup> Licensee will also send electronic notification on the date said payment is made to [Kelly.Donohue@FCC.gov](mailto:Kelly.Donohue@FCC.gov) and [Victoria.McCauley@FCC.gov](mailto:Victoria.McCauley@FCC.gov). Requests for payment of the full amount

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<sup>12</sup>See *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 20 FCC Rcd 756, 759 (2005) (finding that licensee failed to provide sufficient information needed to evaluate an inability to pay claim); *Colby Community College*, Forfeiture Order, 24 FCC Rcd 3568 (MB 2010)(same); *San Jose State University*, Forfeiture Order, 24 FCC Rcd 14331 (MB 2009)(same).

<sup>13</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.

<sup>14</sup> See, e.g., *WLTV, Inc.*, Forfeiture Order, 24 FCC Rcd 7715, 7717 (MB 2009) (reducing forfeiture amount based on licensee's history of compliance); *Wayne State College*, Forfeiture Order, 24 FCC Rcd 2484, 2486 (MB 2009) (same); *Christian Center, Inc.*, Forfeiture Order, 24 FCC Rcd 1128, 1129 (MB 2009) (same); *John Brown University*, Forfeiture Order, 24 FCC Rcd 1536, 1537 (MB 2009) (same). See also 47 C.F.R. § 1.80, Note to Paragraph (b)(4), Downward Adjustment Criteria.

<sup>15</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

<sup>16</sup> 47 U.S.C. § 504(a).

<sup>17</sup> See 47 C.F.R. § 1.1914.

of the forfeiture under an installment plan should be sent to: Associate Managing Director-Financial Operations, Room 1-A625, 445 12th Street, S.W., Washington, D.C. 20554.<sup>18</sup>

12. 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: Oberlin College Student Network, Inc., Wilder Hall, Room 319, 135 W. Lorain Street, Oberlin, Ohio 44074.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>18</sup> *Id.*