



**Federal Communications Commission
Washington, D.C. 205543**

August 25, 2010

DA 10-1605

In Reply Refer to:

1800B3-ATS

NAL/Acct No.: MB-200741410393

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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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In re: Community Christian Broadcasting
Former Licensee of FM Translator Station K294AI
Scandia, Kansas
Facility ID: 12842
File No. BRFT-20060718AES

Dear Counsel:

We have before us a letter ("Letter") filed by Herbert J. Hedstrom on behalf of Community Christian Broadcasting ("CCB"), former licensee¹ of FM Translator Station K294AI, Scandia, Kansas ("Station"), requesting cancellation of a Notice of Apparent Liability for Forfeiture ("NAL")² in the amount of five hundred dollars (\$500) for violation of Section 73.3539 of the Commission's Rules ("Rules") and Section 301 of the Communications Act of 1934, as amended ("Act").³ CCB also seeks the refund of its \$500 payment for the NAL. The violations addressed in the NAL involve CCB's failure to file a timely license renewal application for the Station and its unauthorized operation of the Station after its license for the Station had expired. By this action, we deny CCB's request for cancellation of the NAL and deny its request for a refund of the paid forfeiture.

Background. As noted in the NAL, CCB's renewal application for the Station's current license term was due on February 1, 2005, four months prior to the June 1, 2005, license expiration date. According to Commission records, no such application was filed, and the Station's license expired on June 1, 2005. On July 7, 2006, the staff wrote CCB indicating that the Station's license had expired and that (1) all authority to operate the Station was terminated; and (2) the Station's call letters were deleted from the

¹ Community Christian Broadcasting assigned the license for the Station to Great Plains Christian Radio, Inc., in 2007 (see File No. BALFT-20060724AGN (granted October 16, 2007)). The assignment was consummated on December 1, 2007. Despite this assignment, Community Christian Broadcasting 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 rule violations that took place when station was under its stewardship).

² *Community Christian Broadcasting*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 18493 (MB 2007). The Commission granted the above-referenced license renewal application on October 16, 2007.

³ 47 C.F.R. § 73.3539; 47 U.S.C. § 301.

Commission's data base.⁴ On July 18, 2006, CCB tendered a license renewal application for the Station and a request for special temporary authorization ("STA") to continue operation pending consideration of the license renewal application.⁵ In the STA Request, CCB explained that its primary principal, Mr. Hedstrom, was in deteriorating health, had inadvertently failed to file a timely license renewal application for the Station, and because he could no longer fulfill the duties of a broadcast licensee, intended to assign the station to another entity.⁶ The staff granted the STA request on February 8, 2007, and it was to expire on August 8, 2007.⁷ On October 16, 2007, the Bureau issued a *NAL* in the amount of five hundred dollars to CCB.⁸ CCB submitted a payment of \$500 on October 23, 2007, and filed its Letter requesting cancellation of the forfeiture on November 27, 2007.

Discussion. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,⁹ Section 1.80 of the Rules,¹⁰ and the Commission's *Forfeiture Policy Statement*.¹¹ 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.¹²

The Letter explains that Mr. Hedstrom suffered a stroke in 2005 which rendered him unable to file the renewal application.¹³ While we are sympathetic to any health issues Mr. Hedstrom may have been facing at the time of filing, the Commission has held that "an employee's illness does not ... warrant special consideration" that would allow for deviation from the Rules.¹⁴

The Letter also states that the CCB has no budget.¹⁵ We interpret this as a request for reduction based on financial hardship. As noted in the *NAL*,¹⁶ the Commission will not consider reducing or

⁴ *Letter to Community Christian Broadcasting*, Ref. 1800B3-DW (Chief, Audio Division, Media Bureau, Jul 7. 2006).

⁵ See File No. BLSTA-20060718AEP ("STA Request").

⁶ *Id.*

⁷ *Letter to Mr. Herb Hedstrom*, Ref. 1800B3 (Chief, Audio Division, Media Bureau, Feb. 8, 2007). CCB filed a timely request for extension of STA on July 9, 2007. See File No. BELSTA-20070709AGI. The staff dismissed the STA extension request as moot when it granted the Station's license renewal application.

⁸ *Community Christian Broadcasting*, 22 FCC Rcd at 18493.

⁹ 47 U.S.C. § 503(b).

¹⁰ 47 C.F.R. § 1.80.

¹¹ *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).

¹² 47 U.S.C. § 503(b)(2)(E).

¹³ Letter at 2.

¹⁴ *Southern Communications Systems, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 25103, 25107 (2000), *recon. denied*, Second Memorandum Opinion and Order, 16 FCC Rcd 18357 (2001) (upholding denial of request for waiver that was based on claim that applicant was unable to wire transfer an auction installment due to the illness of its financial officer).

¹⁵ Letter at 2.

¹⁶ *Community Christian Broadcasting*, 22 FCC Rcd at 18496

canceling a forfeiture in response to a claim of inability to pay unless the party against which the forfeiture is proposed submits: (1) federal tax returns for the most recent three year period; (2) financial statements prepared according to generally accepted accounting principles; or (3) some other reliable and objective documentation that accurately reflected the party's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.¹⁷ CCB has not provided any such documentation and we therefore will not reduce the forfeiture based on financial hardship.

We have examined CCB's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Policy Statement* as well. As a result of our review, we conclude that CCB willfully violated Section 73.3539 of the Commission's Rules and willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended, and that no mitigating circumstances warrant cancellation or further reduction of the proposed forfeiture amount. CCB's payment of \$500 will therefore not be refunded.

Conclusion. In view of the foregoing, Community Christian Broadcasting's request for a cancellation the Notice of Apparent Liability (NAL/Acct. No. MB200741410393) for violation of Sections 73.3539 of the Rules and 301 of the Act and request for a refund is HEREBY DENIED.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

cc: Great Plains Christian Radio, Inc.

¹⁷ See *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7441 (2004), *modified*, Memorandum Opinion and Forfeiture Order, 24 FCC Rcd 2206 (MB 2009) (reducing forfeiture amount after review of submitted federal tax returns demonstrated a financial hardship).