

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

|                                      |   |                              |
|--------------------------------------|---|------------------------------|
| In the Matter of                     | ) |                              |
|                                      | ) | Facility ID No. 2536         |
| <b>Applied Life Ministries, Inc.</b> | ) | NAL/Acct. No. MB200741410299 |
|                                      | ) | FRN: 0006124366              |
| Licensee of KALR(FM)                 | ) | File No. BRED-20040712AAZ    |
| Hot Springs, Arkansas                | ) |                              |

**FORFEITURE ORDER**

**Adopted: February 7, 2011**

**Released: February 8, 2011**

By the Chief, Audio Division, Media Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order we issue a monetary forfeiture in the amount of five thousand, six hundred dollars (\$5,600) to Applied Life Ministries, Inc. ("Applied Life"), former licensee<sup>1</sup> of KALR(FM), Hot Springs, Arkansas ("Station"), for willfully violating Section 73.3539 of the Commission's Rules ("Rules") by failing to timely file a license renewal application, and for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended ("Act") by engaging in unauthorized operation of the Station after its authorization had expired.<sup>2</sup>

**II. BACKGROUND**

2. On April 19, 2007, the Bureau adopted a Notice of Apparent Liability for Forfeiture ("NAL") proposing a forfeiture in the amount of seven thousand dollars (\$7,000) for these violations.<sup>3</sup> As noted in the NAL, Applied Life's renewal application for the Station's license term was due on February 1, 2004, four months prior to the June 1, 2004, expiration date.<sup>4</sup> Applied Life did not file the application until July 12, 2004, more than a month after the Station's license had expired. Applied Life submitted a response ("Response") to the NAL on May 8, 2007.

3. In its Response, Applied Life asserts that the proposed forfeiture should be cancelled because: (1) the late filing was inadvertent, due to management changes and destruction of the studio; and (2) Applied Life has a history of Rule compliance.

<sup>1</sup> The Commission granted Applied Life Ministries, Inc.'s application to transfer its license to Educational Media Foundation on May 29, 2007 (See File No. BALED-20070412AAN; consummated on June 28, 2007). Despite this assignment, Applied Life Ministries, 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; 47 U.S.C. § 301.

<sup>3</sup> *Applied Life Ministries, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 7508 (MB 2007). The Station's license renewal application was granted on April 23, 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 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>

5. Applied Life first claims that the forfeiture should be reduced or cancelled because its violations were unintentional. Specifically, Applied Life claims that a "management change" during the last renewal cycle had caused the late filing.<sup>9</sup> As the Commission has held, however, violations resulting from inadvertent error or failure to become familiar with its requirements are willful violations.<sup>10</sup> We have declined to reduce or cancel forfeitures in similar circumstances.<sup>11</sup> Accordingly, we find this argument without merit.

6. Applied Life next notes that it has had an unblemished record of compliance with the Rules since obtaining authority to operate in 1987. Commission records confirm this, and thus we will reduce the forfeiture on this basis from \$7,000 to \$5,600.

7. We have considered Applied Life's Response and the record of this case in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that Applied Life willfully<sup>12</sup> violated Section 73.3539 of the Rules and willfully and repeatedly<sup>13</sup> violated Section 301 of the

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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> *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> Response at 1. Applied Life states that its management issues were exacerbated by a station fire that destroyed "permanent documents." *Id.* It argues that the "information destroyed" would have "provided a safeguard" against the expiration of the license. *Id.* While we are sympathetic to the hardship Applied Life faced as a result of the station fire, we fail to see how it relates to the Station's late renewal filing and unauthorized operation. To the extent that the fire did contribute to the late filing, Applied Life could have sought a waiver of the filing deadline in its renewal application, but it did not. Thus, we will not consider this issue further.

<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.").

<sup>11</sup> See *Big Sky Owners Association, Inc.*, Forfeiture Order, 24 FCC Rcd 12215, 12216 (MB 2009) (rejecting staff turnover as an acceptable reason for untimely filing a license renewal application). See also *Whidbey Island Center for the Arts*, Forfeiture Order, 25 FCC Rcd 8204 (MB 2010) (rejecting employee illness and staff turnover as an acceptable reason for untimely filing license renewal application).

<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.

<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).

Act. However, given Applied Life's history of compliance with the Rules, we reduce the forfeiture amount to \$5,600.<sup>14</sup>

#### IV. ORDERING CLAUSES

8. 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 Applied Life Ministries, Inc. SHALL FORFEIT to the United States the sum of five thousand, six hundred dollars (\$5,600) for willfully violating Section 73.3539 of the Commission's Rules and for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended.<sup>16</sup>

9. 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>17</sup> Payment of the 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>18</sup> Applied Life Ministries, Inc. will also send electronic notification on the date said payment is made to Kelly Donohue@fcc.gov and Maureen.McCarthy@fcc.gov. Requests for payment of the full amount 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>19</sup>

10. 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 Mr. Gabe Allen, P.O. Box 8500, Hot Springs, Arkansas, 71910-8500.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

<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 C.F.R. § 73.3539; 47 U.S.C. § 301.

<sup>17</sup> 47 U.S.C. § 504(a).

<sup>18</sup> See 47 C.F.R. § 1.1914.

<sup>19</sup> *Id.*