



Federal Communications Commission  
Washington, D.C. 20554

June 15, 2011

*In Reply Refer to:*  
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NAL/Acct No.: MB-2007414140217  
FRN: 0001538537

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In re: KYDS(FM), Sacramento, California  
San Juan Unified School District  
Facility ID: 58888  
File No. BRED-20051004ABQ

**Petition for Reconsideration**

Dear Mr. Kelly:

We have before us an April 9, 2010, Petition for Reconsideration ("Petition") filed by San Juan Unified School District ("Licensee"), licensee of Station KYDS(FM), Sacramento, California ("Station"), requesting cancellation or reduction of a *Forfeiture Order* in the amount of one thousand, five hundred dollars (\$1,500) for its violation of Section 73.3539 of the Commission's Rules ("Rules").<sup>1</sup> By this action, we grant the Petition and cancel the *Forfeiture Order*.

*Background.* As noted in the *Forfeiture Order*,<sup>2</sup> Licensee's renewal application for the pertinent license term was due on August 1, 2005, four months prior to the December 1, 2005, license expiration date. Licensee did not file the application until October 4, 2005, and provided no explanation for the untimely filing of the renewal application. On February 14, 2007, the Media Bureau issued an *NAL* in the amount of one thousand, five hundred dollars against Licensee.<sup>3</sup> Licensee filed a response requesting cancellation of the *NAL* on March 19, 2007. On March 11, 2010, the Media Bureau issued the *Forfeiture Order* denying Licensee's request.

*Discussion.* Under Section 503(b)(1)(B) of the Communications Act of 1934, as amended ("Act"), any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.<sup>4</sup> However, Section 503(b)(6)(A) of the Act provides that a forfeiture cannot be imposed on a person holding a broadcast license if the violation charged occurred: (i) more than 1 year prior to the date of issuance of the required notice or notice of apparent

<sup>1</sup> 47 C.F.R. § 73.3539.

<sup>2</sup> *San Juan Unified School District*, Forfeiture Order, 25 FCC Rcd 2348 (MB 2010).

<sup>3</sup> *San Juan Unified School District*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 2918 (MB 2007) ("*NAL*"). The Commission granted the above-referenced license renewal application on January 31, 2007.

<sup>4</sup> 47 U.S.C. § 503(b)(1)(B). *See also* 47 C.F.R. 1.80(a)(1).

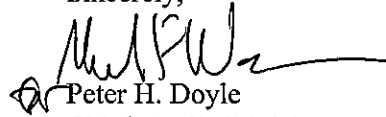
liability; or (ii) prior to the date of commencement of the current term of such license, whichever is earlier.<sup>5</sup>

In this case, the renewal was granted on January 31, 2007, and the *NAL* was issued on February 14, 2007. The renewal grant date is the first day of the current term of license. Hence, the *NAL* was issued during the current license term. Thus, upon grant of the renewal application, the Bureau was only authorized to issue a forfeiture for violations occurring within the year prior to the issuance of the *NAL*.<sup>6</sup> Here, it was barred from issuing a forfeiture to Licensee for violations occurring before January 31, 2006. Licensee's Section 73.3539 violation continued until it filed a license renewal application for the Station on October 4, 2005. Accordingly, Licensee's violation of Section 73.3539 of the Rules is beyond the reach of the statute of limitations. Therefore, we will cancel the *NAL* and instead admonish Licensee for its Section 73.3539 violation.

*Conclusion/Actions.* Accordingly, IT IS ORDERED, that the Petition for Reconsideration filed on April 9, 2010, by San Juan Unified School District IS GRANTED.

IT IS FURTHER ORDERED, pursuant to Section 503(b)(6)(A) of the Communications Act of 1934, as amended, that the *Forfeiture Order* issued to San Juan Unified School District, released March 11, 2010, IS CANCELLED. San Juan Unified School District is instead hereby ADMONISHED for its violation of Section 73.3539 of the Commission's Rules.

Sincerely,

  
Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: San Juan Unified School District

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<sup>5</sup> See 47 U.S.C. 503(b)(6)(A); 47 C.F.R. § 1.80(c)(1). See also *Cumulus Licensing LLC KGEE(FM)*, Letter, 23 FCC Rcd 4471 (MB 2008) (declining, pursuant to Section 503(b)(6)(A) of the Act, to propose a forfeiture for willful and repeated Rule violations).

<sup>6</sup> See *John Crigler, Esq.*, Letter, 26 FCC Rcd 1186 (MB 2011) (cancelling proposed forfeiture where licensee's renewal application was granted after violations occurred but prior to the issuance of an *NAL* and the violations occurred more than one year prior to issuance of the *NAL*).