



Federal Communications Commission
Washington, D.C. 20554

June 24, 2011

In Reply Refer to:
1800B3-MIE
NAL/Acct No.: MB200641410022
FRN: 0002591824

James P. Riley
Christine E. Goepf
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209

In re: KFFF(AM), Boone, Iowa
Facility ID: 6416
File No. BR-20041001AHF

KFFF-FM, Boone, Iowa
Facility ID: 6417
File No. BRED-20041001AHK

Forfeiture Order

Petition for Reconsideration

Dear Counsel:

We have before us a January 4, 2010, Petition for Reconsideration ("Petition") filed by Boone Biblical Ministries, Inc. ("Licensee"), licensee of Stations KFFF(AM) and KFFF-FM, Boone, Iowa (collectively, the "Stations"), requesting cancellation or reduction of a *Forfeiture Order*¹ in the amount of twenty thousand dollars (\$20,000) for its violation of Sections 73.3526 and 73.3527 of the Commission's Rules ("Rules")² by failing to properly maintain public inspection files for the Stations. In this Order, we cancel the forfeiture and dismiss the Petition.

Background. Licensee filed the captioned renewal applications ("Applications") on October 1, 2004. In its Applications, it certified that it had failed to place the documentation required by Sections 73.3526 and 73.3527 of the Rules in the public inspection file at the appropriate times. On April 25, 2005, in response to a Letter of Inquiry from Commission staff, Licensee filed an amendment to each Application, stating that, as of April 15, 2005, all information for the past license term had been placed in the Stations' public files.³ On January 31, 2007, the Media Bureau ("Bureau") granted the Applications and on February 12, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture ("NAL") in the amount of twenty thousand dollars (\$20,000) to Licensee for its violation of Sections 73.3526 and 73.3527 by failing to retain all required documentation in the Station's public inspection file.

¹ See *Boone Biblical Ministries, Inc.*, Forfeiture Order, 24 FCC Rcd 14293 (MB 2009) ("*Forfeiture Order*").

² 47 C.F.R. §§ 73.3526, 73.3527.

³ *Boone Biblical Ministries*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 2731 (MB 2007) ("NAL").

Licensee filed a Response requesting the cancellation or reduction of the *NAL* due to “the Commission’s incorrect determination that the public file did not contain ‘any’ of the items required to be retained in the file,” Licensee’s history of compliance, and a “vastly disproportionate” forfeiture amount.⁴ On December 2, 2009, the 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.⁵ 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 liability; or (ii) prior to the date of commencement of the current term of such license, whichever is earlier.⁶

In this case, the staff renewed the Stations’ licenses on January 31, 2007, and issued the *NAL* on February 12, 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*.⁷ Here, it was barred from issuing a forfeiture to Licensee for violations occurring before February 12, 2006. Licensee’s Sections 73.3527 and 73.3527 violations continued until April 15, 2005, the date on which, according to Licensee, all required documentation for the past license term had been placed in the Stations’ public files.⁸ Accordingly, the Bureau may not impose a forfeiture for Licensee’s violation of Sections 73.3526 and 73.3527 of the Rules. Therefore, we will cancel the *NAL* and instead admonish Licensee for its violation of Sections 73.3526 and 73.3527.

Conclusion/Actions. Accordingly, IT IS ORDERED that, pursuant to Section 503(b)(6)(A) of the Communications Act of 1934, as amended, that the *Forfeiture Order* issued to Boone Biblical Ministries, Inc., released December 2, 2009, IS CANCELLED. Boone Biblical Ministries, Inc. is instead hereby ADMONISHED for its violation of Sections 73.3526 and 73.3527 of the Commission’s Rules.

IT IS FURTHER ORDERED, the Petition for Reconsideration filed on January 4, 2010, by Boone Biblical Ministries, Inc. IS DISMISSED.

Sincerely,


for Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Boone Biblical Ministries, Inc.

⁴ See *Forfeiture Order*.

⁵ 47 U.S.C. § 503(b)(1)(B). See also 47 C.F.R. 1.80(a)(1).

⁶ 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).

⁷ 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*).

⁸ See *NAL* at ¶ 3.