

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

In re Applications of
R&M BROADCASTING COMPANY
Licensee of Station DKJCB(AM)
Lafayette, Louisiana
Application for Renewal of License
Petition for Reconsideration
Informal Objection
Requests for Special Temporary Authorization
and
MIRACLE RADIO, INC.
Licensee of Station WPNN(AM)
Pensacola, Florida
Application for Construction Permit
Petition for Reconsideration
NAL/Acct. No. MB2011941410014
FRN: 0007821846
Facility I.D. No. 54341
File No. BR-20100604ACU
File Nos. BLSTA-20110426AAX;
BSTA-20010616AAQ
Facility I.D. No. 43135
File No. BMP-20100915ABR

MEMORANDUM OPINION AND ORDER
AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 22, 2011

Released: July 22, 2011

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Commission has before it: (1) the captioned application (the "Renewal Application") of R&M Broadcasting Company (the "Licensee" or "R&M") for renewal of the expired and deleted license of Station DKJCB(AM), Lafayette, Louisiana (the "Station"); (2) the Informal Objection (the "Objection")<sup>1</sup> to the Renewal Application filed by Miracle Radio, Inc. ("MRI") on January 31, 2011; (3) the captioned MRI application for a construction permit to change frequency and increase the daytime power of Station WPNN(AM), Pensacola, Florida (the "MRI Application"); and (4) a February 22, 2011,

<sup>1</sup> This pleading is captioned as a "Motion to Dismiss," but we shall consider it an Informal Objection pursuant to Section 73.3587 of the Commission's Rules (the "Rules").

MRI Petition for Reconsideration (the "MRI Petition") of a *Staff Decision*<sup>2</sup> dismissing the MRI Application. The Commission also has before it two separate requests for special temporary authorization ("STA") filed by the Licensee on April 26, 2011 (requesting authority for the station to remain silent)<sup>3</sup> and June 16, 2011 (requesting authority to operate with other than licensed facilities).<sup>4</sup>

2. In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* ("NAL") issued pursuant to Sections 309(k) and 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Rules,<sup>5</sup> by the Chief, Audio Division, Media Bureau (the "Bureau") by authority delegated under Section 0.283 of the Rules,<sup>6</sup> we find that the Licensee apparently willfully violated Section 73.3539 of the Rules<sup>7</sup> by failing to file a timely renewal application for the Station, and willfully and repeatedly violated Section 301 of the Act,<sup>8</sup> by engaging in unauthorized operation of the Station after its authorization had expired. Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of thirteen thousand dollars (\$13,000); reinstate the Station's call sign; grant the Objection to the extent indicated; and deny the MRI Petition. Additionally, we grant the Technical STA Request and dismiss the Silent STA Request. We retain the Renewal Application in pending status until a license application is granted and the Station is operating with permanent facilities.

## II. BACKGROUND

3. Section 73.3539(a) of the Rules requires that applications for renewal of license for broadcast stations must be filed "not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed."<sup>9</sup> An application for renewal of the Station's license should have been filed by February 1, 2004. Licensee filed an application for renewal of license (the "2004 Application") more than two weeks past the deadline, on February 17, 2004.<sup>10</sup> On February 3, 2005, by Public Notice, the staff dismissed the 2004 Application due to a delinquent debt under the Commission's "red light" program.<sup>11</sup> Licensee did not file another renewal application for the Station or

<sup>2</sup> *Letter to Miracle Radio, Inc.*, Ref. 1800B3 (MB rel. Jan. 21, 2011) ("*Staff Decision*").

<sup>3</sup> File No. BLSTA-20110426AAX (the "Silent STA Request").

<sup>4</sup> File No. BSTA-20110616AAQ (the "Technical STA Request").

<sup>5</sup> 47 U.S.C. §§ 309(k), 503(b); 47 C.F.R. § 1.80.

<sup>6</sup> *See* 47 C.F.R. § 0.283.

<sup>7</sup> *See* 47 C.F.R. § 73.3539.

<sup>8</sup> *See* 47 U.S.C. § 301.

<sup>9</sup> 47 C.F.R. § 73.3539(a).

<sup>10</sup> File No. BR-20040217ACP.

<sup>11</sup> *See Broadcast Actions*, Public Notice, Report No. 45917 (rel. Feb. 8, 2005). Under Section 1.1910 of the Rules, "Action will be withheld on applications . . . by any entity found to be delinquent in its debt to the Commission . . .," and the application or request for authorization will be dismissed "if a delinquency has not been paid or the debtor has not made other satisfactory arrangements within 30 days" of notice of such delinquency. *See* 47 C.F.R. § 1.1910(b)(2) and (3).

seek reconsideration of the red light dismissal. On April 29, 2010, the staff wrote the Licensee, 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 Commission's data base. The Licensee was advised that any further operation of the Station was unauthorized and must cease immediately.<sup>12</sup> Upon receipt of the *License Expiration Letter*, the Licensee, on May 12, 2010, timely filed a petition for reconsideration of that letter (the "Petition") and, on June 4, 2010, tendered the Renewal Application. Licensee apparently continued to operate the Station, notwithstanding the expiration of the license, until April 5, 2011. In its Petition, R&M argues that the Station license should be reinstated because of its community activism in a market of "gigantic FM stations;" it also states that it takes full responsibility for its failure to timely pay its regulatory fees.<sup>13</sup>

4. Licensee did not resolve its debt delinquency in a timely manner. Therefore, on March 29, 2011, the staff sent Licensee a certified letter requesting payment of its delinquent debt within 30 days.<sup>14</sup> Upon receipt of the *Delinquency Letter*, R&M satisfied all of its delinquent debts by April 22, 2011. R&M also filed the Silent STA Request asking for Commission authority to remain silent until R&M resolved "microwave failure and path difficulties as well as component failure in the phasor used for directional operation."<sup>15</sup> R&M subsequently filed the Technical STA Request, indicating that the Station had lost the lease for its currently licensed transmitter site and has been locked out of the property except to remove its equipment. R&M states that it has located a suitable site for a long-wire antenna and that it intends to operate from there until such time as a new, permanent site can be located.<sup>16</sup>

5. The MRI Application, filed on September 15, 2010, does not protect the expired Station license.<sup>17</sup> In its Objection, MRI argues that there is no "extant KJCB license" to be considered for renewal because R&M did not seek reconsideration of the dismissal of the 2004 Application.<sup>18</sup> MRI further argues that the *License Expiration Letter* is a "mere ministerial act" issued to reflect deletion of the Station's "long since expired" call sign from the Commission's data base.<sup>19</sup> Finally, MRI argues that even if the *License Expiration Letter* is "something more than a 'ministerial act,'" R&M's Petition was untimely, and the Commission must dismiss the Renewal Application as having been "improperly" accepted for filing.<sup>20</sup>

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<sup>12</sup> *Letter to R&M Broadcasting Company*, Ref. 1800B3 (MB rel. Apr. 29, 2010) ("*License Expiration Letter*"); see also *Broadcast Actions*, Public Notice, Report No. 47228 (rel. May 4, 2010) (public notice of *License Expiration Letter*).

<sup>13</sup> Petition at 1.

<sup>14</sup> *Letter to R&M Broadcasting Company*, Ref. 1800B3 (MB rel. Mar. 29, 2011) ("*Delinquency Letter*").

<sup>15</sup> Silent STA Request, Attachment 1. The Silent STA Request indicates that the Station ceased operations on April 5, 2011.

<sup>16</sup> Technical STA Request, Attachment 16.

<sup>17</sup> See Objection at 1.

<sup>18</sup> *Id.* at 3; see also *Broadcast Actions*, Public Notice, Report No. 45917 (rel. Feb. 8, 2005).

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

<sup>20</sup> *Id.* at 4.

6. The staff dismissed the MRI Application in the *Staff Decision* because MRI's proposed facilities did not protect the Station's formerly licensed facilities.<sup>21</sup> In the MRI Petition, MRI argues that it was error for the Commission to dismiss the MRI Application on the grounds that it did not protect "the non-existent former facilities of KJCB."<sup>22</sup>

### III. DISCUSSION

7. *The Objection.* Pursuant to Section 309(e) of the Act,<sup>23</sup> informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(a).<sup>24</sup> We find, for the reasons set forth below, that MRI has failed to raise a substantial and material question of fact calling for further inquiry regarding the propriety of granting the Renewal Application.

8. Initially, regardless of whether we characterize the *License Expiration Letter* as a "mere ministerial act," the Commission has repeatedly granted late-filed but otherwise grantable renewal applications when a licensee files either a petition for reconsideration, STA request, or a late-filed renewal application itself within 30 days of public notice of a license expiration letter.<sup>25</sup> We also disagree with MRI's allegation that Licensee's Petition was late-filed. The Petition bears an FCC Mail Room date stamp of "May 12, 2010;"<sup>26</sup> thus, it was timely filed within 30 days of public notice of the *License Expiration Letter*.

9. We agree with MRI's claim that the dismissal of the 2004 Application was "final" because R&M did not seek reconsideration of its dismissal. Nonetheless, that action does not bar R&M

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<sup>21</sup> See n.2, *supra*.

<sup>22</sup> MRI Petition at 3-4.

<sup>23</sup> 47 U.S.C. § 309(e).

<sup>24</sup> 47 U.S.C. § 309(a). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested).

<sup>25</sup> See, e.g., *Grinnell College Trustees of Iowa*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture ("MO&O and "NALF"), 22 FCC Rcd 2762 (MB 2007); *Wennes Communication Stations, Inc.*, MO&O and NALF, 22 FCC Rcd 2752, 22 FCC Rcd 2767, 22 FCC Rcd 2772 (MB 2007); *Faith Bible College*, MO&O and NALF, 22 FCC Rcd 5322 (MB 2007) (petitions for reconsideration filed within 30 days of public notice of issuance of license cancellation letter; renewal applications granted); see also *Davis & Elkins College*, MO&O and NALF, 21 FCC Rcd 10654 (MB 2006); *Jack W. Ivy, Sr.*, MO&O and NALF, 22 FCC Rcd 2312 (MB 2007); *Piedmont Radio Co.*, MO&O and NALF, 22 FCC Rcd 3879 (MB 2007); *The University of Georgia*, MO&O and NALF, 22 FCC Rcd 3893 (MB 2007) (renewal application filed within 30 days of public notice of issuance of license cancellation letter; renewal applications granted); and *Katherine Timmerman Hagler and W296AI, Montgomery, Alabama*, MO&O and NALF, 25 FCC Rcd 14524 (MB 2010) (STA requests filed within 30 days of public notice of issuance of license expiration letter; renewal applications granted).

<sup>26</sup> See Petition at 1. We note that the Commission's electronic database system ("CDBS") erroneously indicates that the Petition was filed on June 12, 2010. The controlling date, however, is the May 12, 2010, FCC Mail Room date stamp. The CDBS entry has been corrected to reflect the Petition's actual filing date.

from filing a “successor” application once the “red light” issue has been resolved.<sup>27</sup> The staff dismissed the 2004 Application for “red light” delinquent debt reasons. The staff did not issue the *License Expiration Letter* until April of 2010, whereupon Licensee timely filed the Petition. Because R&M’s “red light” debts have been satisfied, the Petition is timely, and the Renewal Application is grantable, we find that MRI has failed to raise a substantial and material question of fact warranting further inquiry into this matter. As discussed below, however, we will issue an *NAL* to Licensee for its failure to file a timely renewal application and for unauthorized operation of the Station.

10. *Proposed Forfeiture.* In this case, the Licensee has failed to file a timely license renewal application for the Station, as required by Section 73.3539(a) of the Rules. Moreover, it continued Station operation for more than six years after the 2004 Application was dismissed on February 3, 2005, before filing the appropriate renewal application, never seeking STA to so operate, in violation of Section 301 of the Act. Licensees are obligated to comply fully with the Rules, including filing a timely renewal application and maintaining in effect the station's authorization.<sup>28</sup> Here, the Licensee did not do so.

11. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, 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>29</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.<sup>30</sup> The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,<sup>31</sup> and the Commission has so interpreted the term in the Section 503(b) context.<sup>32</sup> Section 312(f)(2) of the Act provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”<sup>33</sup>

12. The Commission's *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of \$3,000 for the failure to file a required form.<sup>34</sup> The guidelines also

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<sup>27</sup> See, e.g., *Minority Voice, Inc.*, MO&O and NALF, 23 FCC Rcd 5607 (MB 2008) (initial license renewal application dismissed for “red light” violation; successor license renewal application filed after finality of original dismissal action; successor license renewal application granted with NAL); *James K. Sharp*, MO&O and NALF, 25 FCC Rcd 2267 (MB 2010) (same).

<sup>28</sup> See, e.g., *Hemmingford Media, Inc.*, Forfeiture Order, 14 FCC Red 2940, 2941-2 (CIB 1999) (responsibility for complying with terms of station license “rests solely and exclusively with the licensee”)(citing *Empire Broadcasting Corp.*, Memorandum Opinion and Order, 25 FCC 2d 68 (1970)).

<sup>29</sup> 47 U.S.C. § 503(b)(1)(B). See also 47 C.F.R. § 1.80(a)(1).

<sup>30</sup> 47 U.S.C. § 312(f)(1).

<sup>31</sup> See H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982).

<sup>32</sup> See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Red 4387, 4388 (1991).

<sup>33</sup> 47 U.S.C. § 312(f)(2).

<sup>34</sup> See *Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture* (continued . . .)

specify a base forfeiture amount of \$10,000 for station construction and/or operation without an instrument of authorization for the service.<sup>35</sup> In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the Act, including "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>36</sup>

13. Typically, we have assessed forfeitures in the amount of \$7,000 against licensees of full-service stations for violations of Section 73.3539 of the Rules and Section 301 of the Act.<sup>37</sup> In this case, however, Licensee's unauthorized operation spanned a period of more than six years after the 2004 Application was dismissed. Moreover, Licensee continued operating the Station even after receiving the *License Expiration Letter* which explicitly stated that all authority to operate the Station had terminated, and it never sought STA to continue Station operations. Taking into consideration these facts and all of the factors required by Section 503(b)(2)(D) of the Act and the *Forfeiture Policy Statement*, we propose a forfeiture for the full \$3,000 amount, for the failure to timely file the Renewal Application for the Station, and for the full \$10,000 amount for the Station's extended period of unauthorized operation. Thus, we propose a forfeiture in the total amount of \$13,000.<sup>38</sup> Accordingly, we will grant MRI's Objection in part and propose a forfeiture in the total amount of \$13,000.

14. *License Renewal Application.* In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Act.<sup>39</sup> That Section provides that if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.<sup>40</sup> If, however, the licensee fails to meet that standard, the Commission may deny the application -- after notice and opportunity for a hearing under Section 309(e) of the Act -- or grant the

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*Guidelines*, Report and Order, 12 FCC Red 17087, 17113-15 (1997) ("*Forfeiture Policy Statement*"), recon. denied, 15 FCC Red 303 (1999); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section I.

<sup>35</sup> A broadcast station requires an authorization from the Commission to operate. See 47 U.S.C. § 301.

<sup>36</sup> 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement*, 12 FCC Red at 17100-01; 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section II.

<sup>37</sup> See, e.g., *Media Associates, Inc.*, Forfeiture Order, 26 FCC Rcd 3703 (MB 2011) (\$7,000 forfeiture issued for unauthorized operation of more than one year after the station's license had expired); *Schweitzer Media, Inc.*, Forfeiture Order, 26 FCC Rcd 3707 (MB 2011) (\$7,000 forfeiture issued for unauthorized operation of more than one year after the station's license had expired).

<sup>38</sup> See *Christian Family Network*, Forfeiture Order, 23 FCC Rcd 10898 (EB 2008) (\$10,000 forfeiture issued for unauthorized operation for more than three years after the station's license had expired).

<sup>39</sup> 47 U.S.C. § 309(k).

<sup>40</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Red 6363 (1996).

application "on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted."<sup>41</sup> We find that the Licensee's apparent violations of Section 73.3539 of the Rules and Section 301 of the Act do not constitute "serious violations" warranting designation for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, evidence a pattern of abuse.<sup>42</sup> Further, we find that the Station served the public interest, convenience, and necessity during its subject license term. We will therefore defer further processing of the Renewal Application until a Station license application is granted and the Station is operating with permanent facilities.<sup>43</sup>

15. *The STA Requests.* The Licensee here never filed a request for STA to continue Station operations during the pendency of the Renewal Application. Accordingly, as it legally had no authority to operate the Station, its Silent STA Request was unnecessary and will be dismissed.

16. Additionally, with respect to the Technical STA Request, under Section 309(f) of the Act,<sup>44</sup> when an appropriate application has been filed, the Commission may grant special temporary authorization if it finds that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of such temporary operations would seriously prejudice the public interest. In this case, we believe that the public interest in continuing the Station's broadcast service to residents of Lafayette, Louisiana, warrants resumed operation of the Station pending consideration and disposition of the (untimely) Renewal Application. Accordingly, we will process and grant the Technical STA Request on the terms and conditions discussed below.

17. STA requests which involve a change in transmitter site must include four critical elements: (1) Loss of the licensed site must be beyond the licensee's control; (2) STA facilities must continue to provide service<sup>45</sup> to the licensed community; (3) STA facilities must maintain, as closely as practicable, the licensed service area<sup>46</sup> without extending it; and (4) STA facilities cannot involve the construction of towers intended for permanent use by the station requesting the STA. Our review indicates that the proposed STA operation complies with these criteria.

18. *The MRI Petition.* The Commission will consider a petition for reconsideration only

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<sup>41</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

<sup>42</sup> For example, we do not find here that the Licensee's operation of the Station "was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies." See *Heart of the Black Hills Stations*, Decision, 32 FCC 2d 196, 198 (1971). Nor do we find on the record here that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission's Rules." *Heart of the Black Hills Stations*, 32 FCC 2d at 200. See also *Center for Study and Application of Black Economic Development*, Hearing Designation Order, 6 FCC Red 4622 (1991), *Calvary Educational Broadcasting Network, Inc.*, Hearing Designation Order, 7 FCC Red 4037 (1992).

<sup>43</sup> It is Bureau policy generally not to grant a license renewal application for a station that is off the air.

<sup>44</sup> 47 U.S.C. § 309(f).

<sup>45</sup> For AM - 5 mV/m; for commercial FM - 3.16 mV/m; for noncommercial educational FM - 1.0 mV/m.

<sup>46</sup> For AM - 0.5 mV/m contour; for FM - 1.0 mV/m contour.

when petitioner shows either a material error in the Commission's original order or raises changed circumstances or unknown additional facts not known or existing at the time of petitioner's last opportunity to present such matters.<sup>47</sup> MRI has failed to meet this burden. For the reasons set forth above, we find that Licensee's Petition is timely and its Renewal Application grantable and that the *Staff Decision* dismissing the MRI Application is, therefore, correct. Accordingly, the arguments in the MRI Petition are meritless, and we deny it.

#### IV. ORDERING CLAUSES

19. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules, that R&M Broadcasting Company is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of thirteen thousand dollars (\$13,000) for the apparent willful violation of Section 73.3539 of the Commission's Rules and willful and repeated violation of Section 301 of the Communications Act of 1934, as amended.

20. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that, within thirty (30) days of the release date of this *NAL*, R&M Broadcasting Company SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

21. 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>48</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).

22. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington D.C. 20554, ATTN: Peter H. Doyle, Chief, Audio Division, Media Bureau, and MUST INCLUDE the *NAL*/Acct. No. referenced above.

23. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent 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 reflects the

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<sup>47</sup> See 47 C.F.R. § 1.106(c); *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966); *National Association of Broadcasters*, Memorandum Opinion and Order, 18 FCC Rcd 24414, 24415 (2003).

<sup>48</sup> 47 U.S.C. § 504(a).



respondent'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.

24. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director-Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, DC 20554.<sup>49</sup>

25. IT IS FURTHER ORDERED that the May 12, 2010, Petition for Reconsideration filed by R&M Broadcasting Company, IS GRANTED.

26. IT IS FURTHER ORDERED that the January 31, 2011, Informal Objection filed by Miracle Radio, Inc., IS GRANTED to the extent indicated and IS DENIED in all other respects.

27. IT IS FURTHER ORDERED that the call sign KJCB(AM) IS REINSTATED.

28. IT IS FURTHER ORDERED that the February 22, 2011, Petition for Reconsideration filed by Miracle Radio, Inc., IS DENIED.

29. IT IS FURTHER ORDERED that the June 16, 2011, request for special temporary authorization IS HEREBY GRANTED. Station KJCB may resume operation with the following facilities:

Geographic coordinates	30° 16' 07" N, 91° 55' 52" W (NAD 1927)
Frequency	770 KHz
Hours of operation	Unlimited
Operating power nighttime	Not to exceed 1 kW daytime, 0.125 kW
Antenna type	Long wire
Antenna efficiency	240 mV/m/km/kW <sup>50</sup>
Overall height	6.1 meters (20 feet)

It will be necessary to further reduce power or cease operation if complaints of interference are received. R&M must notify the Commission when licensed operation is restored.<sup>51</sup> R&M must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines.<sup>52</sup> This authorization will expire 180 days from the date of this *Order*.

<sup>49</sup> See 47 C.F.R. § 1.1914.

<sup>50</sup> Estimated by the staff. The STA request specified an efficiency of 300 mV/m/km/kW; however, experience indicates that the efficiency of a long wire antenna is substantially less.

<sup>51</sup> See 47 CFR §§ 73.45(c), 73.51, 73.61(b).

<sup>52</sup> See 47 CFR § 1.1310. Special Temporary Authorizations by nature are to be temporary and are not intended for extended use. Licensees of stations operating under special temporary authorizations are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorizations carries an increased burden with each subsequent request. Therefore, requests for extension of the STA granted here will be approved only if the Licensee demonstrates that one or more of the following criteria have been met:

(continued . . .)

30. IT IS FURTHER ORDERED, that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to R&M Broadcasting Company, 604 St. John Street, Lafayette, Louisiana 70501, and to Miracle Radio, Inc., 3801 North Pace Blvd., Pensacola, Florida 32505, and to its counsel, David Tillotson, Esq., 4606 Charleston Terrace, Washington, DC 20007.

## FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.