

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

In the Matter of:	)	
	)	
Abundant Life Broadcasting, Inc.	)	Facility ID No. 334
Reclassification of License of	)	NAL/Acct. No.: 201341420038
Class A Television Station K20JX-D	)	FRN: 0004273132
Sacramento, California	)	

MEMORANDUM OPINION AND ORDER AND NOTICE OF APPARENT LIABILITY

Adopted: August 6, 2013

Released: August 7, 2013

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Video Division ("Bureau") has before it the Order to Show Cause issued to Licensee Abundant Life Broadcasting, Inc. ("Licensee") regarding the proposed modification of Station K20JX-D to a low power television station.¹ In this Memorandum Opinion and Order and Notice of Apparent Liability, issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the "Act") and Section 1.80 of the Commission's Rules (the "Rules"), we find that the Licensee apparently willfully and repeatedly violated (i) Section 73.3526 of the Rules by failing to place all required documentation in the Station's public inspection file in a timely manner and (ii) Section 73.1015 by failing respond to written Commission letters of inquiry. Based upon our review of the record before us, we conclude that Licensee is apparently liable for a monetary forfeiture in the amount of sixteen thousand dollars (\$16,000). We conclude, however, that the violations at issue are adequately addressed in the Notice of Apparent Liability for Forfeiture and that modification of station K20JX-D's license pursuant to Section 316(a) of the Act would not be in the public interest.

II. BACKGROUND

2. The Licensee was granted Class A status for K20JX-D in 2001,² and Commission records showed that the Licensee wholly failed to comply with the online public file requirements for Class A television stations. By letter dated March 12, 2013 ("First Letter"), the Video Division of the Media Bureau requested information from the Licensee regarding its apparent failure to comply with those requirements. Accordingly, the Video Division required that the Licensee: (i) upload the Station's main studio address to its online public file; (ii) upload all missing issues/programs lists to its online public file and/or identify those quarters for which an issues/programs list was not prepared and provide an explanation for why those lists were not prepared; and (iii) provide and upload information demonstrating the station's compliance with the Class A requirements. The Licensee did not respond to or take any action regarding its online public file in response to the First Letter, which was mailed to the Licensee's address on record in the Commission's Consolidated Database System ("CDBS").

3. The Video Division sent a second letter to the Licensee on April 24, 2013 ("Second Letter") reiterating the requirements and providing the Licensee with 30 days from the date of the letter to

¹ *Abundant Life Broadcasting, Inc.*, Order to Show Cause, DA 13-1354 (Jun. 12, 2013).

² File No. BLTTA-20010111AAJ.

achieve full compliance. The Second Letter was mailed to the address on record for the Station in CDBS, as well as the address listed in the Licensee's most recent application to the Commission. The Licensee did not respond to or take any action regarding its online public file in response to the Second Letter.

4. On June 12, 2013, the Video Division issued an Order to Show Cause instructing the Licensee to show cause why its authorization for Class A television station should not be modified to specify the station as a low power television station.³

5. On July 12, 2013, the Licensee filed a Response to the Order to Show Cause.⁴ In its response, the Licensee admitted that the required documentation—the issues/programs lists, certifications of continuing Class A eligibility, and the station's main studio address—was not uploaded to the Station's online public file in a timely manner.⁵ The Licensee stated that the station operated in substantial compliance with the requirements for Class A status and had prepared the appropriate issues/programs lists and certifications of Class A eligibility but failed to upload them through "mere oversight."⁶ The Licensee further stated that it did not receive the Commission's letters because they were sent to the home address of the station's former treasurer. Following the issuance of the Order to Show Cause, the Licensee also uploaded the required documentation and updated its record in CDBS and the online public file to provide a current address.

III. DISCUSSION

6. Section 73.015 of the Commission's rules states that the "Commission may, in writing, require from any . . . licensee written statements of fact relevant to a determination . . . [of] any matter within the jurisdiction of the Commission. . . ."⁷

7. Section 73.3526(b)(2)⁸ of the Commission's rules requires each Class A licensee to prepare and place in its online public inspection file certain documentation, including but not limited to (i) the station's issues/programs lists demonstrating that the station aired programming that meets the needs and interests of its community of license⁹ and (ii) documentation sufficient to demonstrate that it is continuing to meet its Class A eligibility requirements, including the programming requirements.¹⁰ Class A television stations are also required to upload to the Commission's website the address of the station's main studio.¹¹

8. The Commission's letters of inquiry to the Licensee were mailed to the most recent addresses that the Licensee provided to the Commission. The first letter was sent to the address on record

³ *Abundant Life Broadcasting, Inc.*, Order to Show Cause, DA 13-1354 (Jun. 12, 2013).

⁴ Licensee Response to Order to Show Cause ("Licensee Response") (Jul. 12, 2013).

⁵ *Id.* at 2.

⁶ *Id.* at 3.

⁷ 47 C.F.R. § 73.1015.

⁸ 47 C.F.R. § 73.3526(b)(2); *see also In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, 27 FCC Rcd 4535, 4536, n.2 (2012) (The Commission adopts the proposal to replace the requirement that commercial and noncommercial television stations, including Class A TV stations, maintain a public file at their main studios with a requirement to post most of the documents in that file to an online public file to be hosted by the Commission.).

⁹ 47 C.F.R. § 73.3526(e)(11)(i).

¹⁰ 47 C.F.R. § 73.3526(e)(17).

¹¹ 47 C.F.R. § 73.3526(b)(2); *see also* 27 FCC Rcd at 4568-69;

in CDBS and the second letter was mailed to that address and to the address listed on the Licensee's most recent application to the Commission. The Licensee is responsible for ensuring that Commission documents or correspondence delivered to the address on record will promptly reach the Licensee.¹² Thus, the Licensee's apparent failure to receive the letters of inquiry was the result of the Licensee's failure to meet that responsibility.

9. The Licensee's failure to respond to the Commission's letters of inquiry constitutes an apparent violation of Section 73.015 of the Commission's rules. Moreover, the Licensee's failure to upload the required documentation represents an apparent violation of Section 73.3526(b)(2) of the Commission's rules.

10. 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 and/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.¹³ 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.¹⁴ 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,¹⁵ and the Commission has so interpreted the term in the Section 503(b) context.¹⁶ 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."¹⁷

11. The Commission's *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of \$10,000 for public file violations and \$4,000 for failure to respond to Commission communications.¹⁸ 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."¹⁹ In this case, the Licensee failed to upload any of the required documentation to the online public file prior to the issuance of the Order to Show Cause, and we conclude the Licensee is liable for a \$10,000 forfeiture for this violation. We further conclude that the Licensee is liable for a \$6,000 forfeiture for its failure to respond to the letters of inquiry because the misconduct was egregious and

¹² 47 C.F.R. § 1.5 (a) ("Each licensee shall furnish the Commission with an address to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for this purpose."); *see also* 47 C.F.R. 1.5 (b) ("The licensee is responsible for making any arrangements which may be necessary in his particular circumstances to assure that Commission documents or correspondence delivered to this address will promptly reach him or some person authorized by him to act in his behalf.").

¹³ 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a)(1).

¹⁴ 47 U.S.C. § 312(f)(1).

¹⁵ *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

¹⁶ *See Southern California Broadcasting Co.*, 6 FCC Rcd at 4388.

¹⁷ 47 U.S.C. § 312(f)(2).

¹⁸ *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) ("*Forfeiture Policy Statement*"), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section I.

¹⁹ 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(4) and note to paragraph (b)(4), Section II.

repeated. We therefore conclude that the Licensee is liable for a total \$16,000 forfeiture for these apparent violations.

12. We conclude, however, that this Notice of Apparent Liability for Forfeiture adequately addresses the violations outlined in the *Order to Show Cause*. We therefore conclude that modification of the Station's status to low power television status would not be in the public interest. As a result, we terminate the *Order to Show Cause* proceeding.

IV. ORDERING CLAUSES

13. 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 Abundant Life Broadcasting, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of sixteen thousand dollars (\$16,000) for its apparent willful and repeated violation of Sections 73.015 and 73.3526 of the Commission's Rules.

14. 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, that Abundant Life Broadcasting, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

15. IT IS FURTHER ORDERED that the Order to Show Cause proceeding is TERMINATED.

16. In the event that the Licensee wishes to revert K20JX-D to low power television status, the Licensee need only notify us of this election and request a change in status for the station.²⁰ Should the Licensee elect to revert to low power status, the Licensee would no longer be apparently liable for the forfeiture amount described herein.

17. 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).

18. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau, and MUST INCLUDE the NAL/Acct. No. referenced above.

19. 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 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.

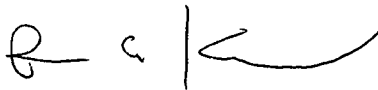
²⁰ See 47 C.F.R. § 73.6001(d).

20. 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, D.C. 20554.²¹

21. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Abundant Life Broadcasting, Inc., 1203 W. Sunset Boulevard, Rocklin, California, 95765, and to its counsel, David M. Silverman, Davis Wright Tremaine LLP, 1919 Pennsylvania Avenue NW, Suite 800, Washington, D.C. 20006-3401.

22. For further information concerning this proceeding, contact Peter D. Saharko, Video Division, Media Bureau, at Peter.Saharko@fcc.gov or (202) 418-1856.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in dark ink, appearing to read 'B. A. Kreisman', with a stylized flourish at the end.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

²¹ See 47 C.F.R. § 1.1914.