

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

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

FORFEITURE ORDER

Adopted: September 26, 2013

Released: September 27, 2013

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order*, issued pursuant to Sections 0.61(f)(1) and 1.80(a)(1) and (2) of the Commission's rules,¹ we find that Abundant Life Broadcasting, Inc., willfully and/or repeatedly violated (i) Section 73.3526 of the Commission's 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 to respond to written Commission letters of inquiry. Based on our review of the facts and circumstances, we find the Licensee liable for a forfeiture of Fourteen Thousand Four Hundred Dollars (\$14,400.00).

II. BACKGROUND

2. The Video Division issued a Memorandum Opinion and Order and Notice of Apparent Liability ("NAL") for Forfeiture on August 7, 2013.² The NAL notified the Licensee that its failure to place required documentation in the Station's public inspection file in a timely manner constituted an apparent willful and/or repeated violations of Section 73.3526(b)(2) of the Commission's rules³ and its failure to respond—repeatedly—to written Commission letters of inquiry constituted apparent willful and/or repeated violations of Section 73.1015 of the Rules. The Division concluded that the Licensee was apparently liable for a forfeiture of \$16,000. The Licensee filed a timely Response to the Notice of Apparent Liability for Forfeiture on August 28, 2013.⁴

III. DISCUSSION

3. The Commission is authorized to license radio and television broadcast stations and is responsible for enforcing the Commission's rules and applicable statutory provisions concerning the operation of those stations. Under section 503(b)(1) of the Act, any person who is

¹ 47 C.F.R. §§ 0.61(f)(1), 1.80(a)(1) & (2).

² *Abundant Life Broadcasting, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, DA 13-1550 (Jul. 11, 2013). The notice was sent to the Licensee's address on record by certified mail, return receipt requested, and was signed for by a representative of the licensee on July 26, 2013.

³ 47 C.F.R. § 73.3526(b)(2).

⁴ Licensee Response to Notice of Apparent Liability for Forfeiture (Aug. 28, 2013) ("Licensee Response").

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 In order to impose a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such penalty should be imposed.⁶ The Commission will then issue a forfeiture order if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.⁷ As we set forth in greater detail below, we conclude that the Licensee is liable for a forfeiture for repeated violations of Sections 73.3526(b) and Section 73.1015 of the Commission's rules. We ultimately conclude that the forfeiture amount should be reduced from \$16,000 to \$14,400.

4. Section 73.1015 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. . . ."⁸ Section 73.3526(b)(2)⁹ 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 license¹⁰ and (ii) documentation sufficient to demonstrate that it is continuing to meet its Class A eligibility requirements, including the programming requirements.¹¹ Class A television stations are also required to upload to the Commission's website the address of the station's main studio.¹²

5. The Licensee acknowledges that "not all required documents were uploaded to the FCC's website in a timely manner. . . ."¹³ Moreover, the Licensee does not dispute that the letters of inquiry dated March 12, 2013 and April 24, 2013-- to which the Licensee indisputably failed to respond-- were mailed to the Licensee's address on record in the Commission's Consolidated Database System.¹⁴ Nor does the Licensee dispute that the second letter was also mailed to the

⁵ 47 U.S.C. § 503(b)(1) (A) & (B); 47 C.F.R. § 1.80(a)(1) & (2). The Commission may assess a forfeiture order for violations that are merely repeated, and not willful. *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, (2001) (issuing a Notice of Apparent Liability for a cable television operator's repeated violations of the Commission's signal leakage rules). "Repeated" means that the act was committed or omitted more than once. *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

⁶ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

⁷ *See, e.g., SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002).

⁸ 47 C.F.R. § 73.1015.

⁹ 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.).

¹⁰ 47 C.F.R. § 73.3526(e)(11)(i).

¹¹ 47 C.F.R. § 73.3526(e)(17).

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

¹³ Licensee Response at 2.

¹⁴ *Abundant Life Broadcasting, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA-13711 at 1-2.

address listed on the Licensee's most recent application to the Commission.¹⁵ Nonetheless, the Licensee asserts several arguments as to why it believes the proposed forfeiture is both excessive and unwarranted.¹⁶

6. First, the Licensee argues that assessing a forfeiture based on the station's failure to upload the documents to its online public inspection file in a timely manner "elevat[es] form over substance" because any local listener would have access to the documents at the station's main studio.¹⁷ As the Report and Order announcing the online public file requirement stated, "one of a broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license, and . . . the issues/programs list . . . is a significant source of information for any initial investigation by the public or the Commission when renewal of the station's license is at issue."¹⁸ Because the online public file is a crucial source of information for the public, we conclude that the failure to upload the documentation to the online public file is a serious and substantive violation of our rules.

7. Second, the Licensee argues that the failure to respond to the Commission's letters of inquiry was unintentional and issuing a forfeiture for not responding to correspondence the Licensee did not receive is "almost unconscionable, if not contrary to law."¹⁹ Licensees have an obligation to provide the Commission with accurate contact information.²⁰ The Licensee's failure to do so in no way excuses its failure to respond to the Commission's letters of inquiry. As the Commission has held, violations resulting from inadvertent error or failure to become familiar with the Commission's rules are willful violations.²¹ Providing accurate contact information is particularly important given that "[p]rompt and full responses to . . . inquiry letters are essential to the Commission's enforcement function."²²

8. Third, the Licensee claims that the forfeiture would place a financial hardship on the Licensee and the station.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 respondent's current financial status. Any claim of

¹⁵ Licensee Response at 2.

¹⁶ *Id.* at 1.

¹⁷ *Id.* at 2.

¹⁸ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535, 4568-69 (2012).

¹⁹ Licensee Response at 2.

²⁰ 47 C.F.R. § 1.5(a).

²¹ *Communication Systems, Inc.*, Forfeiture Order, 25 FCC Rcd 12516, 12517 (MB 2010). *See also 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").

²² *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7603 (EB 2008); *Carrera Commc'ns, LP*, Notice of Apparent Liability for Forfeiture and Order, 20 FCC Rcd 13307, 13316 (2005); *LDC Telecomm, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 300, 301 (EB 2012).

²³ *Id.* at 3.

inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.²⁴ The Licensee declined the opportunity to provide supporting financial documentation to demonstrate an inability to pay.²⁵

9. Fourth, and finally, the Licensee argues that its history of compliance with Commission rules favors a reduction in the forfeiture amount.²⁶ Given the Licensee's history of compliance, we reduce the forfeiture amount to \$14,400.²⁷

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED THAT, pursuant to section 503(b) of the Communications Act of 1934, as amended, and Sections 0.61(f)(1) and 1.80(a)(1)&(2) of the Commission's rules,²⁸ Abundant Life Broadcasting, Inc. SHALL FORFEIT to the United States the sum of fourteen thousand four hundred dollars (\$14,400) for repeatedly violating 47 C.F.R. § 73.3526(b)(2) and 47 C.F.R. § 73.1015.

11. 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.²⁹ Should the Licensee elect to revert the station to low power status, the Licensee would no longer be apparently liable for the forfeiture amount described herein.

12. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 (h) of the Commission's rules within thirty (30) calendar days after the release date of this Forfeiture Order. If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Communications Act of 1934, as amended. The Licensee shall send electronic notification of the payment to Peter Saharko at peter.saharko@fcc.gov on the date payment is made.

13. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the "FORF" in block number 24A (payment type code). Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

²⁴ *Abundant Life Broadcasting, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, at ¶ 19.

²⁵ *Id.* at 3.

²⁶ Licensee Response at 3.

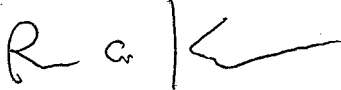
²⁷ We disagree with the Licensee's assertion that three of the four downward adjustment criteria outlined in the Commission's Forfeiture Guidelines, 12 FCC Rcd 17087, are applicable here. We conclude that the violations described herein are significant and substantive and that the Licensee has failed to provide the required documentation to support its assertion of an inability to pay the forfeiture amount.

²⁸ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.61(f)(1) & 1.80(a)(1)&(2).

²⁹ See 47 C.F.R. § 73.6001(d).

14. IT IS FURTHER ORDERED THAT a copy of this FORFEITURE ORDER shall be sent by 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.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read 'R a | K' with a long horizontal stroke extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau