

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

In the Matter of)	
)	
Sunshine State Television Network, Inc.)	Facility I.D. No. 10265
Licensee of Station KOHC-CD)	NAL/Acct. 201441420032
Oklahoma City, Oklahoma)	FRN: 0010569705

**NOTICE OF APPARENT
LIABILITY FOR FORFEITURE**

Adopted: September 10, 2014

Released: September 10, 2014

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”)¹ we find that Sunshine State Television Network, Inc. (the “Licensee”), licensee of Class A television station KOHC-CD, Oklahoma City, Oklahoma, (the “Station”), apparently willfully and/or repeatedly violated the Commission’s Rules by: (i) failing to file with the Commission the Station’s Children’s Television Programming Reports, in violation of Section 73.3526(e)(11)(iii)²; (ii) failing to file timely the Station’s license renewal application, in violation of Section 73.3539(a);³ and (iii) failing to report these violations in the renewal application, in violation of Section 73.3514(a).⁴ 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 Twelve Thousand Dollars (\$12,000).

II. BACKGROUND

2. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.⁵ As set forth in subsection 73.3526(e)(11)(iii), each commercial television licensee is required to prepare and place in its public inspection file a Children’s Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it made during that quarter to serve the educational and informational needs of children. That subsection also requires licensees to file the reports with the Commission and to publicize the existence and location of the reports.

3. Section 73.3514(a) of the Rules provides that “[e]ach application shall include all information called for by the particular form on which the application is required to be filed. . . .” Section IV, Question 3 of the Form 303-S license renewal application requires licensees to certify “that the

¹ This NAL is 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”). See 47 U.S.C. § 503(b); 47 C.F.R. § 1.80. The Chief, Video Division, Media Bureau, has delegated authority to issue the NAL under Section 0.283 of the Rules. See 47 C.F.R. § 0.283.

² 47 C.F.R. § 73.3526(e)(11)(iii).

³ 47 C.F.R. § 73.3539(a).

⁴ 47 C.F.R. § 73.3514(a).

⁵ 47 C.F.R. § 73.3526.

documentation, required by 47 C.F.R. Section 73.3526 . . . has been placed in the station's public inspection file at the appropriate times." Section IV, Question 6 of the license renewal application requires licensees to certify that it has filed with the Commission its Children's Television Programming Reports according to the requirements of Section 73.3526 of the Commission's rules and requires the Licensee to submit a statement of explanation as an exhibit if the Licensee has failed to do so.

4. Section 73.3539(a) of the Rules requires a broadcast television license renewal application to 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...."⁶

5. The Licensee's broadcast license was scheduled to expire on June 1, 2014. In accordance with Section 73.3539(a) of the Rules, the Licensee was required to file its Form 303-S to renew the license of KOHC-CD on or before February 1, 2014. Licensee did not file its Form 303-S until May 27, 2014.⁷

6. Although the Licensee did not report the violations in its renewal application, a review of the Licensee's public file showed that the Licensee failed to file timely Children's Television Programming Reports for four quarters.

III. DISCUSSION

7. The Licensee's failure to file with the Commission in a timely manner its Children's Television Programming Reports for four quarters constitutes an apparent willful and/or repeated violation of Section 73.3526(e)(11)(iii). The Licensee's filing of its license renewal application 116 days after the deadline constitutes an apparent willful violation of Section 73.3539(a) of the Rules. The Licensee's failure to report these violations constitutes an apparent willful and/or repeated violation of Section 73.3514(a).⁸

8. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person 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.⁹ 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.¹⁰ 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,¹¹ and the Commission has so interpreted the term in the Section 503(b) context.¹² 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."¹³

9. The Commission's *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of \$3,000 for failure to file a required form and a base forfeiture

⁶ 47 C.F.R. § 73.3539(a).

⁷ See File No. BRDTA-20140527AHF.

⁸ 47 C.F.R. § 73.3514(a).

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

¹⁰ 47 U.S.C. § 312(f)(1).

¹¹ See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

¹² See *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388.

¹³ 47 U.S.C. § 312(f)(2).

amount of \$10,000 for public file violations.¹⁴ 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.”¹⁵

10. In this case, the Licensee failed to file its Children’s Television Programming Reports in a timely manner for four quarters, and we therefore conclude that the Licensee is apparently liable for a \$6,000 forfeiture for this apparent violation. The Licensee also failed to file its renewal application in a timely manner, and we conclude that the Licensee is apparently liable for a \$3,000 forfeiture for this apparent violation. Finally, the Licensee failed to report these violations in its renewal application and we therefore conclude that the Licensee is liable for a \$3,000 forfeiture for this violation. Based on the record before us, we therefore conclude that a total forfeiture in the amount of \$12,000 for the Station is appropriate for the Licensee’s apparent willful and/or repeated violations of Section 73.3526(e)(11)(iii), Section 73.3539(a), and Section 73.3514(a) of the Commission’s Rules.

IV. ORDERING CLAUSES

11. 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 Sunshine State Television Network, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of Twelve Thousand Dollars (\$12,000) for its apparent willful and/or repeated violations of Sections 73.3526, 73.3539, and 73.3514 of the Commission’s Rules.

12. 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*, Sunshine State Television Network, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

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

14. 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. Nos. and FRN Nos. 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 numbers in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Licensee will also send electronic notification on the date said payment is made to Peter.Saharko@fcc.gov.

¹⁴ 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.

¹⁵ 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.

¹⁶ See 47 C.F.R. § 73.6001(d).

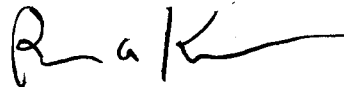
15. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Evan Morris, Attorney Adviser, Video Division, Media Bureau, and MUST INCLUDE the NAL/Acct. Nos. referenced above. If possible, an electronic copy should also be sent via email to evan.morris@fcc.gov.

16. 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.

17. 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. 20554.¹⁷

18. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Sunshine State Television Network, Inc., 999 Brickell Bay Drive, Suite 1908, Miami, Florida, 33131, and to its counsel, Cary S. Tepper, Esq., Tepper Law Firm, LLC, 4900 Auburn Avenue, Suite 100, Bethesda, Maryland, 20814-2632.

FEDERAL COMMUNICATIONS COMMISSION



Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁷ See 47 C.F.R. § 1.1914.