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

In the Matter of	)	
	)	
Ramar Communications, Inc.	)	Facility I.D. No. 55056
Licensee of Station KTEL-LP	)	NAL/Acct. No.: 201541420003
Albuquerque, New Mexico	)	FRN: 0015217847

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: April 1, 2015 **Released: April 1, 2015**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION.

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL") 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"),[1] we find that Ramar Communications, Inc. (the "Licensee"), licensee of Station KTEL-LP, Albuquerque, NM ("KTEL-LP"), willfully and/or repeatedly violated Section 73.3526(e)(11)(iii) of the Rules[2] by failing to file with the Commission in a timely manner Children's Television Programming Reports (FCC Form 398) for five quarters and Section 73.3514(a) of the Rules[3] by failing to report those late filings in its renewal application.

2. 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 Six Thousand Dollars ($6,000).

II. BACKGROUND.

3. 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. 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 for each calendar quarter reflecting, *inter alia*, the efforts that it made during that quarter to serve the educational and informational needs of children. Those reports must be prepared and placed in the public file by 10 days after the close of the reporting quarter. That subsection also requires licensees to file the reports with the Commission and to publicize the existence and location of the reports.[4] A staff review of the Station's electronic public file has revealed that the station failed to file five Children's Television Programming Reports in a timely

[1] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

[2] 47 C.F.R. § 73.3526(e)(11)(iii).

[3] 47 C.F.R. § 73.3514(a).

[4] 47 C.F.R. § 73.3526(e)(11)(iii).

manner.[5]

4. 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 ...."[6] Section IV, Question 3 of the Form 303-S license renewal application requires licensees to certify "that the documentation, required by 47 C.F.R. Section 73.3526 ... has been placed in the station's public inspection file at the appropriate times." In its renewal application, the Licensee failed to disclose that it filed these Children's Television Programming Reports late.

III. DISCUSSION

5. The Licensee willfully and/or repeatedly violated Section 73.3526(e)(11)(iii) of the Rules by failing to file in a timely manner five Children's Television Programming Reports and Section73.3514(a) of the Rules[7] by failing to report those late filings in its renewal application. 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."[8] 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.[9] Furthermore, the Commission has held that any inadvertent errors, oversights or failures to become familiar with Commission requirements are willful violations.[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 also 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]

6. The Commission's *Forfeiture Policy Statement* and Section 1.80(b) of the Rules establish

[5] Licensee filed its Children's Television Programming Reports late for the second, third, and fourth quarters of 2012 and for the first and second quarters of 2013.

[6] 47 C.F.R. § 73.3514(a).

[7] 47 C.F.R. § 73.3514(a).

[8] 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a)(1).

[9] 47 U.S.C. § 312(f)(1); *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), recons. denied, 7 FCC Rcd 3454 (1992) ("*Southern California*") (stating that "Commission interpretations of "willful" do not require licensee intent to engage in a violation").

[10] *See PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order 7 FCC Rcd 2088 (1992) (asserting that "[t]he fact that a licensee's violation occurred through inadvertence does not prevent it from being willful. It is not necessary that the violation be intentional"); *see also Southern California*, 6 FCC Rcd at 4387 (finding that "inadvertence ... is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance"); *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358 (1986) (stating that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations").

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

[12] *See Southern California,* 6 FCC Rcd at 4388.

[13] 47 U.S.C. § 312(f)(2); *see also Callais Cablevision, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 1359, 1362 (2001).

a base forfeiture amount of $3,000 for failure to file a required form or information.[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)(E) 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] In this case we propose a total forfeiture in the amount of $6,000—$3,000 for the Licensee's failure to file five Children's Television Programming Reports in a timely manner, in apparent willful and/or repeated violation of Section 73.3526(e)(11)(iii) of the Rules, and $3,000 for the Licensee's failure to report those late filings in its renewal application, in apparent willful and/or repeated violation of Section 73.3514(a) of the Rules.

IV. ORDERING CLAUSES

7. 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 Ramar Communications, Inc. is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of Six Thousand Dollars ($6,000) for its apparent willful and/or repeated violation of Sections 73.3526(e)(11)(iii) and 73.3514(a) of the Rules.

8. **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,* Ramar Communications, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. In the event that Ramar Communications, Inc. wishes to revert KTEL-LP 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 Ramar Communications, Inc. elect to revert KTEL-LP to low power status, it would no longer be apparently liable for the forfeiture amount described herein.

10. 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).

11. 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: Alison L. Nemeth, Attorney-Advisor, Video Division, Media Bureau, and **MUST INCLUDE** the NAL/Acct. No. referenced above.

12. 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 principles ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the

---

[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), note to paragraph (b)(8), Section I.

[15] 47 U.S.C. § 503(b)(2)(E); *see also Forfeiture Policy Statement,* 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(8) and note to paragraph (b)(8), Section II.

[16] *See* 47 C.F.R. § 73.6001(d).

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]

13. 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.[18]

14. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Ramar Communications, Inc., P.O. Box 3757, Lubbock, Texas 79452, and to its counsel, Dennis P. Corbett, Esq., Lerman Senter PLLC, 2000 K Street, NW, Suite 600, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[17] *See San Jose State Univ.*, 26 F.C.C. Rcd. 5908 (2011) (noting that "[t]ypically, the Commission uses gross revenue as the primary measuring stick by which it evaluates a licensee's ability to pay. Other financial indicators may be considered....").

[18] *See* 47 C.F.R. § 1.1914.