

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Accepted / Filed

MAY 29 2015

Federal Communications Commission
Office of the Secretary

In the Matter of:)
)
Son Broadcasting, Inc.) Facility I.D. No. 60793
Licensee of Station KCHF) NAL/Acct. No.: 201541420005
Santa Fe, New Mexico) FRN: 0005765680

To: Office of the Secretary
ATTN: Allison L. Nemeth, Video Division, Media Bureau

REQUEST FOR REDUCTION OF PROPOSED FORFEITURE

Son Broadcasting, Inc. (“Son Broadcasting”), licensee of Station KCHF, submits this *Request for Reduction of Proposed Forfeiture* pursuant to Commission Rules 1.80 and 17 CFR §1.80. Son Broadcasting seeks relief from a proposed monetary forfeiture of \$3,000 assessed for its failure to timely file Children’s Television Programming Reports and \$3,000 for failure to report that violation in its renewal application. *See Notice of Apparent Liability For Forfeiture*, DA 15-524 (May 4, 2015).

Son Broadcasting does not dispute the facts stated in the Notice of Apparent Liability for Forfeiture with respect to its failure to file the programming reports, nor does it dispute the fact that the late filing of the reports was not noted in the renewal application when originally filed on June 2, 2014. As the Commission noted, however, Son Broadcasting did file an amendment to its renewal application on December 15, 2014 once it became aware of its error in failing to report its late filings. The renewal application was not granted until May 22, 2015.

Under Section 503(b)(2)(D) of the Act and under the *Forfeiture Policy Statement*, the Commission has discretion to adjust the forfeiture amount by considering “the nature,

circumstances, extent and gravity of the situation and with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.” *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 (1997) (“Forfeiture Policy Statement”), recon. Denied. 15 FCC Rcd 303 (1999).

Son Broadcasting seeks the Commission’s review of the \$3,000 forfeiture assessed for failure to disclose the late filing of the Children’s Television Programming Reports in its renewal application on the following bases: (1) Son Broadcasting should receive a reduction in forfeiture based on its amendment to the renewal application and (2) Son Broadcasting has a history of compliance.

I. The Forfeiture Is Excessive in Light of Son Broadcasting’s Amendment to the Renewal Application.

Stations are regularly assessed a \$3,000 forfeiture for failure to disclose late filings on their renewal applications. However, in many recent cases where a \$3,000 forfeiture was assessed for this violation, there is no evidence that the station attempted to amend its renewal application to disclose late filings. See, *In the Matter of Ketchikan TV, LLC*, DA 15-596 (May 20, 2015); *In the Matter of Ramar Communications, Inc.*, DA 15-403 (Apr. 1, 2015); *In the Matter of Ellis Communications KDOC Licensee, LLC*, 2015 FCC LEXIS 813 (Mar. 19, 2015); *In the Matter of Entravision Holdings, LLC*, 2015 FCC LEXIS 811 (Mar. 19, 2015); *In the Matter of NPG of Idaho, Inc.*, 30 FCC Rcd 1178 (Feb. 12, 2015); *In the Matter of Prime Time Christian Broadcasting, Inc.*, 29 FCC Rcd 14338 (Nov. 24, 2014). The stations, unlike Son Broadcasting, at no point ever made the proper disclosures in their renewal application and were assessed forfeitures for violating the Commission’s Rules. *Id.*

In this case, Son Broadcasting amended its renewal application on December 15, 2014 to remedy its deficiency in failing to report late filed Children's Television Programming Reports. Son Broadcasting filed its amendment after realizing its error and well before the Commission took any action on the pending renewal application. Son Broadcasting made its best efforts to mitigate its error. The Commission ignored these good faith efforts by assessing the exact same forfeiture as if Son Broadcasting had never filed the amendment.

To support its position, the Commission notes that the deadline for which the public had the opportunity to file a petition to deny had expired by the time Son Broadcasting submitted its amended renewal. *See Notice of Apparent Liability For Forfeiture*, DA 15-524 (May 4, 2015) at 2. However, the Commission did not act on the Son Broadcasting renewal application until May 22, 2015 – or 158 days after the amendment to the renewal application was filed. The public had the opportunity to file an informal objection at any point prior to the Commission approving the renewal.

The policy implications for the Commission's indifference to Son Broadcasting's efforts are broad. The goal of assessing a forfeiture should be to deter stations from violating Commission Rules. If a station recognizes its error and corrects it, the station should not be treated in the same manner as one that failed to comply entirely. The Forfeiture Policy Statement acknowledges the Commission's discretion to make adjustments based on "degree of culpability" and "as justice may require." This discretion exists for situations such as this and should be exercised by granting a downward adjustment to acknowledge Son Broadcasting's good faith amendment and to encourage disclosure, even if late.

II. Son Broadcasting Has a History of Compliance with the Commission, Which Should Result in a Reduction in the Amount of Forfeiture.

Son Broadcasting has operated Station KCHF in Santa Fe, New Mexico since 1984 and has a history of complying with Commission Rules, a recognized basis for reduction in forfeiture, *see Forfeiture Policy Statement*, 12 FCC Rcd at 17116. Given that Son Broadcasting has never been assessed a forfeiture in the past, it respectfully requests a downward adjustment of any forfeiture that may be assessed in this matter.

III. Conclusion

For the reasons stated herein, Son Broadcasting respectfully requests a reduction in the forfeiture assessed in this matter.

Respectfully submitted,

SON BROADCASTING, INC.

By: A. Wray Fitch III / NJB
A. Wray Fitch, III
Ashley L. Tuite
Its Counsel

Gammon & Grange, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102-3807
(703) 761-5000

May 29, 2015