

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

In the Matter of)

Minority Television Project, Inc.)
Licensee of Station KMTP-TV)
San Francisco, CA)

) File No. BREDT-20140731AAG
) NAL Acct. No.: 2017414200004
) Facility ID No. 43095
) FRN: 0008886293

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MAY 11 2017

To: Chief, Video Division, Media Bureau

Federal Communications Commission
Bureau / Office

RESPONSE TO NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Minority Television Project, Inc., licensee of noncommercial television station KMTP-TV, San Francisco, California ("MTP"), by its counsel, responds to the Notice of Apparent Liability for Forfeiture issued by the Chief, Video Division, Media Bureau, on April 11, 2017 (the "NAL").¹ In the *NAL*, the Bureau found that MTP had:

apparently willfully and/or repeatedly violated: (1) Section 73.3527 of the Rules by failing to place in the Station's electronic public file (e-pif) in a timely manner required public file documents; (2) Section 73.3514(a) of the Rules for failing to disclose its failure in its license renewal application; and (3) Section 1.65 of the Rules, which requires an applicant to maintain the accuracy of a pending application. 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 Twenty Thousand Dollars (\$20,000).²

As set forth below, MTP requests application of the red-light waiver rule to defer any action to collect the proposed forfeiture until MTP receives the proceeds of its winning bid in the Incentive Spectrum Auction.

¹ *Notice of Apparent Liability for Forfeiture*, released April 11, 2017, DA 17-345.

² *Id.* at ¶ 1.

MTP does not propose to contest the NAL. Rather, MTP requests the benefit of the red-light waiver announced by the Commission. In the Commission's Public Notice *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016*,³ the Commission stated:

Robust broadcaster participation is critical to the success of the incentive auction. Recognizing that, the Commission expressly committed to removing barriers to encourage broadcasters to participate in the reverse auction. Consistent with that commitment, in order to encourage broadcaster participation in the reverse auction, we waive the red-light rule for the limited purpose of permitting any eligible broadcast licensee that is red lighted for debt owed to the Commission at the time it submits a reverse auction application to participate in the reverse auction, subject to the conditions set forth below.⁴

The Commission then added:

Additionally, we recognize that a reverse auction applicant may incur debt to the Commission after submission of its application, and may fail to pay the debt when due. Accordingly, in order to participate in the auction, each reverse auction applicant will be required to certify in its application that it (1) acknowledges its liability to the Commission for any debt owed to the Commission that the applicant incurred before, or that it may incur after, the reverse auction application deadline, including all accrued interest, penalties and costs, and that the debt will continue to accrue interest, penalties and costs until paid; and (2) agrees that the Commission may pay all debt owed by the applicant to the Commission from the applicant's share of auction proceeds.⁵

In the *Auction Procedures Public Notice*, the Commission recognized that there may be licensees that would like to participate in the Incentive Auction that owe money to the Commission. The Commission recognized that it is in the public interest to obtain the greatest participation possible in the Incentive Auction, and that the public interest is best served by allowing licensees that owe money to the Commission to participate in the auction. And, the

³ *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016*, DA 15-1183, AU Docket No. 14- 252, GN Docket No. 12-268, WT Docket No. 12-269, released October 15, 2015 (" *Auction Procedures Public Notice*").

⁴ *Id.* at ¶ 12.

⁵ *Id.*

Commission recognized that licenses that did not owe payments to the Commission might incur such payments after filing their applications to participate in the Incentive Auction. The Commission decided to waive the red-light rule and allow both groups of licensees to have such liabilities paid from potential auction proceeds.

MTP now finds itself in the position contemplated by the Commission in the *Auction Procedures Public Notice*. MTP filed an application to participate in the Incentive Auction and provided the certifications required in that application. MTP did not owe the Commission any payments at the time it filed to participate in the Incentive Auction, and, therefore, was not subject to the red-light rule at that time. But, pursuant to the *NAL*, MTP now owes the Commission for the assessed forfeiture. MTP is unable to pay the forfeiture at this time, and, therefore, could become subject to the red-light rule in the near future.

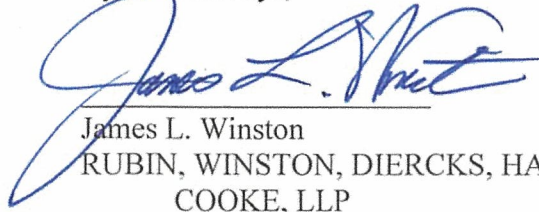
MTP was a successful bidder in the Incentive Spectrum Auction and is scheduled to receive an auction payment well in excess of the amount assessed in the *NAL*.⁶ MTP therefore requests that the Commission apply the red-light rule waiver adopted by the Commission in the *Application Procedures Public Notice*, and defer any effort to collect the assessed forfeiture. Under that procedure, the Commission stated that it would collect the full amount of any payment due from the proceeds received by a successful bidder in the Incentive Auction. As MTP is unable to pay the forfeiture at this time, MTP requests such treatment, which would allow payment of the assessed forfeiture from the proceeds of the Incentive Auction.

⁶ *Incentive Auction Closing and Channel Reassignment Public Notice*, DA 17-314, AU Docket No. 14-252, GN Docket No. 12-268, WT Docket No. 12-269, and MB Docket No. 16-306, released April 13, 2017, Appendix A.

Respectfully submitted,

MINORITY TELEVISION PROJECT, INC.

By its Attorneys,

A handwritten signature in blue ink, appearing to read "James L. Winston", is written over a horizontal line.

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