

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

In the Matter of)	NAL/Acct. No. MB200741410140
)	FRN: 0014007413
Christian Action Team, Inc.)	Facility ID No. 10904
)	File No. BRED-20050913AAH
Former Licensee of Station KJLG(FM))	
Emporia, Kansas)	

FORFEITURE ORDER

Adopted: July 7, 2010

Released: July 8, 2010

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“Order”), we issue a monetary forfeiture in the amount of five thousand, six hundred dollars (\$5,600) to Christian Action Team, Inc. (“CAT”), former licensee¹ of Station KJLG(FM) (formerly KNGM(FM)), Emporia, Kansas (“Station”), for willfully violating Section 73.3539 of the Commission’s Rules (“Rules”) and willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended (“Act”) by failing to timely file its license renewal application and engaging in unauthorized operation of the Station.²

II. BACKGROUND

2. On February 2, 2007, the Bureau issued a *Notice of Apparent Liability for Forfeiture* (“NAL”) to CAT in the amount of seven thousand dollars (\$7,000) for these violations.³ As noted in the NAL, CAT’s renewal application for the current license term should have been filed on February 1, 2005, four months prior to the June 1, 2005, expiration date. The application, as well as a request for special temporary authority (“STA”) to operate, was not filed until September 13, 2005, over three months after the Station’s license had expired. CAT provided no explanation for the untimely filing of the renewal application or its failure to promptly request STA to continue operations after its license expired. In response to the NAL, CAT submitted a letter (“Request”) on February 28, 2007.

3. In its Request, CAT claims that: (1) its failure to file its application before the deadline was inadvertent; (2) it relied on the erroneous advice of Commission staff; and (3) it has a history of compliance with the Commission’s rules. For these reasons, CAT argues that the forfeiture should be cancelled.

¹ CAT assigned Station KJLG(FM) to Great Plains Christian Radio, Inc. in 2007. *See* File No. BALED-20070906ACV (granted October 30, 2007, and consummated December 1, 2007). Despite this assignment, CAT remains liable for forfeiture for those violations occurring when the Station was under its stewardship. *See, e.g., Vista Point Communications, Inc.*, Memorandum Opinion and Order and Forfeiture Order, 14 FCC Rcd 140, n.2 (MMB 1999) (finding licensee liable for forfeiture for violations of the Commission’s rules that took place when station was under its stewardship).

² 47 C.F.R. § 73.3539; 47 U.S.C. § 301.

³ *Christian Action Team, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 2089 (MB 2007). The Commission granted the license renewal application on February 2, 2007.

III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,⁴ Section 1.80 of the Rules,⁵ and the Commission's *Forfeiture Policy Statement*.⁶ In assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we take into account 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.⁷

5. First, CAT requests that the forfeiture be cancelled on the grounds that it believed it had correctly filed the renewal application prior to the February 1, 2005, deadline. It states that it created the application on January 19, 2005, but failed to file because it was not "computer savvy" and did not see "the submittal area of the application."⁸ As the Commission has held, violations resulting from inadvertent error or failure to become familiar with the FCC's requirements are willful violations.⁹ Moreover, the Commission has specifically ruled that confusion or difficulties with the Commission's electronic filing system are not grounds for reduction or cancellation of a forfeiture.¹⁰ Accordingly, we find this argument without merit.

6. Next, CAT argues that the forfeiture should be cancelled because it sought and acted in accordance with the advice of Commission staff. Specifically, CAT explains that it contacted Commission staff in June 2005 because it failed to receive approval of its license renewal prior to the license's June 1, 2005, expiration date. According to CAT, the staff responded that approval of CAT's license renewal "should be on the way" and sometimes takes thirty to ninety days to arrive.¹¹ CAT provides no source or documentation for this clearly erroneous information. Moreover, Commission precedent has established that parties relying on informal discussions with Commission staff do so at their

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. § 1.80.

⁶ *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ Request at 1.

⁹ See *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2088 (1992); *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"); *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, 358 (1986) (stating that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations").

¹⁰ See *San Juan Unified School District*, Forfeiture Order, 25 FCC Rcd 2348, 2348 (MB 2010) (declining to reduce or cancel forfeiture on the basis that licensee found the online renewal process confusing); *Community-First Broadcasters, Inc.*, Forfeiture Order, 23 FCC Rcd 10923, 10923-24 (MB 2008) (declining to reduce or cancel forfeiture for licensee who was "flummoxed" by the Commission's electronic filing procedures); *Alderson-Broadus, Inc.*, Forfeiture Order, 23 FCC Rcd 9385, 9385 (MB 2008) (declining to reduce or cancel forfeiture for late-filed renewal on the basis that licensee's secretary was "not very computer literate" and was confused by the Commission's electronic filing system); *Muskegon Training and Educational Center*, Forfeiture Order, 23 FCC Rcd 11241, 11242-43 (MB 2008) (same).

¹¹ Request at 1. CAT states that it contacted Commission staff again in September 2005, after it still had not received approval of its license renewal. At this time, CAT states, the staff notified CAT of its failure to properly submit its renewal application and advised it to immediately file for STA to continue operating the Station. *Id.*

own risk,¹² and reliance on such advice will not reduce the forfeiture amount.¹³ Furthermore, we note that CAT did not seek advice from Commission staff until after its license had expired. Even if advice from Commission staff had resolved the issue at this time, CAT would still be liable for forfeiture for failing to timely file its license renewal and for unauthorized operation. Accordingly, we decline to reduce the forfeiture amount on this basis.

7. Finally, CAT notes that it has an unblemished record of compliance with the Commission's Rules. Commission records confirm this, and we therefore reduce the forfeiture on this basis from \$7,000 to \$5,600.¹⁴

8. We have considered CAT's Response and the record of this case in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that CAT willfully¹⁵ violated Section 73.3539 of the Rules and willfully and repeatedly¹⁶ violated Section 301 of the Act¹⁷ However, given CAT's history of compliance with the Rules, we reduce the forfeiture amount to \$5,600.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules,¹⁸ that Christian Action Team, Inc. SHALL FORFEIT to the United States the sum of five thousand, six hundred dollars (\$5,600) for willfully violating Section 73.3539 of the Commission's Rules and for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended.

10. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's Rules within 30 days of the release of this Forfeiture Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹⁹ Payment of the 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.

¹² *Applications of Mary Ann Salvatoriello*, Memorandum Opinion and Order, 6 FCC Rcd 4705 (1991), citing *Texas Media*, 5 FCC Rcd 2581, 2852 (1990), *aff'd sub nom. Malkan FM Associates v. FCC*, No. 90-1281, slip op. at 12 (D.C. Cir. Jun. 14, 1991).

¹³ *Kojo Worldwide Corp.*, Memorandum Opinion and Order, 24 FCC Rcd 14890 (2009).

¹⁴ See, e.g., *WLTV, Inc.*, Forfeiture Order, 24 FCC Rcd 7715, 7717 (MB 2009) (reducing forfeiture amount based on licensee's history of compliance); *Wayne State College*, Forfeiture Order, 24 FCC Rcd 2484, 2486 (MB 2009) (same); *Christian Center, Inc.*, Forfeiture Order, 24 FCC Rcd 1128, 1129 (MB 2009) (same); *John Brown University*, Forfeiture Order, 24 FCC Rcd 1536, 1537 (MB 2009) (same). See also Note to 47 C.F.R. § 1.80(b)(4).

¹⁵ 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. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to Sections 312 and 503(b) of the Act, H.R. REP. No. 97-765, 51 (Conf. Rep.), and the Commission has so interpreted the terms in the Section 503(b) context. See *Southern California*, 6 FCC Rcd at 4387-88.

¹⁶ Section 312(f)(2) of the Act defines "repeated" as "the commission or omission of [any] act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2). See also *Southern California*, 6 FCC Rcd at 4388 (applying this definition of repeated to Sections 312 and 503(b) of the Act).

¹⁷ 47 C.F.R. § 73.3539; 47 U.S.C. § 301.

¹⁸ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

¹⁹ 47 U.S.C. § 504(a).

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).²⁰ Licensee will also send electronic notification on the date said payment is made to Amy.VanDeKerckhove@fcc.gov and Keith.Watson@fcc.gov. Requests for payment of the full amount of the forfeiture under an installment plan should be sent to: Associate Managing Director-Financial Operations, Room 1-A625, 445 12th Street, S.W., Washington, D.C. 20554.²¹

11. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by First Class and Certified Mail Return Receipt Requested to Christian Action Team, Inc., P.O. Box 506, Emporia, Kansas 66801.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

²⁰ See 47 C.F.R. § 1.1914.

²¹ *Id.*