

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

In the Matter of) Facility ID No. 54328
) NAL/Acct. No. MB200741410054
R & B Communications, Inc.) FRN: 0009785098
) File No. BR-20050324ABX
Licensee of WWTM(AM))
Decatur, Alabama)

ORDER

Adopted: December 21, 2010

Released: December 22, 2010

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Order, we cancel a proposed forfeiture in the amount of seven thousand dollars (\$7,000) to R & B Communications, Inc. ("Licensee"), licensee of radio station WWTM(AM), Decatur, Alabama ("Station") and admonish Licensee for violating Section 73.3539 of the Commission's Rules ("Rules") and Section 301 of the Communications Act of 1934, as amended ("Act").

II. BACKGROUND

2. On January 31, 2007, the Media Bureau ("Bureau") granted the above-referenced application for license renewal. On April 19, 2007, the Bureau adopted a Notice of Apparent Liability for Forfeiture ("NAL") proposing a forfeiture in the amount of seven thousand dollars (\$7,000) to Licensee¹ for its apparent willful failure to timely file the Station's renewal application, in violation of Section 73.3539 of the Rules,² and for apparently willfully and repeatedly violating Section 301 of the Act by engaging in unauthorized operation of the Station after its authorization had expired.³ On May 23, 2007, Licensee filed a response to the NAL ("Response").

3. In its Response, Licensee states that cancellation of the proposed forfeiture is warranted because: (1) its failure to timely file the renewal application was inadvertent, and (2) it is unable to pay the proposed forfeiture amount.⁴

III. DISCUSSION

4. Under Section 503(b)(1)(B) of the Act, 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

1 R & B Communications, Inc., Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 7503 (MB 2007). The NAL was released April 23, 2007.

2 47 C.F.R. § 73.3539.

3 47 U.S.C. § 301. As noted in the NAL, the renewal application should have been filed by December 1, 2003, four months prior to the Station's April 1, 2004, license expiration date, but was not actually filed until March 24, 2005, after the staff had written to Licensee indicating that the Station's license had expired and that (1) all authority to operate the Station was terminated; and (2) the Station's call letters were deleted from the Commission's database.

4 Response at 2-3.

order issued by the Commission shall be liable to the United States for a forfeiture penalty.⁵ However, Section 503(b)(6)(A) of the Act provides that a forfeiture cannot be imposed on a person holding a broadcast license if the violation charged occurred: (i) more than 1 year prior to the date of issuance of the required notice or notice of apparent liability; or (ii) prior to the date of commencement of the current term of such license, whichever is earlier.⁶ In this case, the failure to file a timely renewal application and unauthorized Station operations occurred between December of 2003, and March of 2005; the Station's current license term commenced on January 31, 2007, with the grant of the referenced license renewal application; and the *NAL* was not adopted until April of 2007. Because the violations occurred more than one year before the issuance of the *NAL*, the *NAL* must be cancelled.

IV. CONCLUSION

5. Accordingly, IT IS ORDERED, pursuant to Section 503(b)(6)(A) of the Act, that the Notice of Apparent Liability to R & B Communications, Inc., adopted April 19, 2007, IS CANCELLED. R & B Communications is instead hereby ADMONISHED for its violations of Section 73.3539 of the Commission's Rules and Section 301 of the Communications Act of 1934, as amended.

6. IT IS FURTHER ORDERED that a copy of this Order shall be sent by First Class Mail and Certified Mail Return Receipt Requested, to R & B Communications, Inc., 1209 Danville Road, Suite #N, Decatur, Alabama 35601, and to its counsel, M. Scott Johnson, Esq., Fletcher, Heald & Hildreth, PLC, 1300 North 17th Street, 11th Floor, Arlington, Virginia 22209.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

⁵ 47 U.S.C. § 503(b)(1)(B). *See also* 47 C.F.R. 1.80(a)(1).

⁶ *See* 47 U.S.C. 503(b)(6)(A). *See also* *Cumulus Licensing LLC*, Letter, 23 FCC Rcd 4471 (MB 2008) (declining, pursuant to Section 503(b)(6)(A) of the Act, to propose a forfeiture for willful and repeated Rule violations).