

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

In the Matter of)
The L.R. Radio Group, Inc.) File No.: EB-11-DL-0014
Licensee of Station KPIR) NAL/Acct. No.: 201232500004
Granbury, Texas) FRN: 0018390310
) Facility ID No.: 30195

FORFEITURE ORDER

Adopted: September 26, 2012

Released: September 26, 2012

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of eight thousand dollars (\$8,000) to The L.R. Radio Group, Inc. (L&R), licensee of Station KPIR, in Granbury, Texas, for willful violation of Section 73.3526 of the Commission's rules (Rules).¹ The noted violation involved L&R's failure to make available a complete public inspection file.

II. BACKGROUND

2. On February 7, 2012, the Enforcement Bureau's Dallas Office (Dallas Office) issued a Notice of Apparent Liability for Forfeiture and Order (*NAL*)² to L&R for its failure to maintain and make available a complete public inspection file. L&R submitted a response to the *NAL* requesting cancellation or reduction of the proposed \$10,000 forfeiture, because the "public file was, in fact present at the KPIR main studio throughout the brief inspection, and the assertion that it was not was based upon misunderstanding and lack of communication."³ L&R also requests reduction of the forfeiture because Station KPIR allegedly has a history of compliance with the rules.⁴

III. DISCUSSION

³. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),⁵ Section 1.80 of the Rules,⁶ and the

¹ 47 C.F.R. § 73.3526.

² The L.R. Radio Group, Inc., Notice of Apparent Liability for Forfeiture and Order, 2X FCC Rcd XX (Enf. Bur. 2012) (*NAL*). A comprehensive recitation of the facts and history of this case can be found in the *NAL* and is incorporated herein by reference.

³ Letter from Anne Goodwin Crump, Counsel for The L.R. Radio Group, Inc., to the Dallas Office at 1 (Mar. 7, 2012) (on file in EB-11-DL-0014) (*NAL Response*).

⁴ *Id.* at 3.

⁵ 47 U.S.C. § 503(b).

6 47 C.F.R. § 1.80.

*Forfeiture Policy Statement.*⁷ In examining L&R’s response, Section 503(b)(2)(E) of the Act requires that the Commission 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 other such matters as justice may require.⁸ As discussed below, we have considered L&R’s response in light of these statutory factors, and find that a reduction of the forfeiture based on its history of compliance is justified.

4. We find that the evidence supports the Bureau’s findings that L&R failed to make available a complete public inspection file at Station KPIR’s main studio on May 17, 2011. It is undisputed that on May 17, 2011, an agent from the Dallas Office requested to inspect the Station’s public inspection file and did not find, among other things, any issues programs lists. L&R, however, asserts that it did make its public inspection file available,⁹ but due to several contributing factors – (1) a language barrier; (2) the brevity of the inspection;¹⁰ and (3) insufficient main studio staffing¹¹ – the agent did not find the missing documents,¹² which it alleges were located in the bottom drawer of the a cabinet. According to the agent’s contemporaneous notes, at the conclusion of the public inspection file and Emergency Alert System (EAS) inspections, the agent asked the Station president whether there was anything else in the file. The Station president replied that he had recently acquired the Station and did not know the whereabouts of the missing information.¹³

5. Based on the evidence described above, we find the Station president had a clear and sufficient opportunity to make the public inspection file available during the inspection, but failed to do so. We are not persuaded by L&R’s asserted excuses for its failure to provide the agent with a complete copy of the file. Indeed, L&R still has not provided any physical evidence that its issues programs lists exist in the first place, having failed to provide copies either after the inspection or as an attachment to the *NAL Response*.¹⁴ In any event, even if the lists existed at the time of the inspection, the licensee must make the public inspection file available; it is not the agent’s responsibility to search the station to locate the station’s

⁷ *The Commission’s 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), recons. denied, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

⁸ 47 U.S.C. § 503(b)(2)(E).

⁹ L&R states that it maintained all of the required issues programs lists, the contour map, and a 2009 ownership report in the bottom drawer of a file cabinet. L&R admits that its public inspection file was missing “The Public and Broadcasting” and the most recent ownership report. *NAL Response* at 2.

¹⁰ According to the agent’s recollections, which are supported by a seven-page inspection checklist, the public inspection file and EAS portions of the inspection took at least 15 minutes each, as opposed to the 10 minute total overall inspection time described by L&R.

¹¹ L&R states that when the agent arrived at the main studio it was staffed by only the Station president, who “at that moment … had no one to help him with both a live, on-air show and the FCC inspector.” *NAL Response* at 2. L&R’s failure to have adequate staff presence at its main studio, for whatever reason, does not warrant mitigation of the forfeiture. The Commission has explained that a station must “maintain a meaningful management and staff presence” at its main studio. *Main Studio and Program Origination Rules*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5026 (1988). The Commission has defined a minimally acceptable “meaningful presence” as full-time managerial and full-time staff personnel. *Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 (1991), clarified, 7 FCC Rcd 6800 (1992). Although the NAL did not propose a forfeiture based on L&R’s lack of a staff person at the main studio, we caution the licensee that future failures to maintain a meaningful presence of both management and staff may result in monetary penalties.

¹² *NAL Response* at 2.

¹³ By this point of the inspection, the Station president had stepped out of the studio and was no longer on the air.

¹⁴ We caution L&R that it could be subject to more severe forfeiture penalties if a subsequent FCC inspection encounters similar difficulties or determines that L&R has not properly maintained its issues programs lists.

public inspection file.¹⁵ Thus, based on the preponderance of the evidence before us, we find that L&R willfully failed to make available a complete public inspection file in violation of Section 73.3526 of the Rules.¹⁶

6. We do, however, agree with L&R that we should reduce the forfeiture to reflect its history of compliance with the Commission's rules. We conclude that a reduction in forfeiture in the amount of \$2,000 is warranted. Accordingly, pursuant to Section 503(b) of the Act,¹⁷ and in conjunction with the *Forfeiture Policy Statement*, we reduce the forfeiture to \$8,000, based on L&R's history of compliance with the Commission's rules.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's rules, The L.R. Radio Group, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for violation of Section 73.3526 of the Commission's rules.¹⁸

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.¹⁹ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.²⁰ The L.R. Radio Group, Inc. shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²¹ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

¹⁵ See, e.g., *Taylor Communications, Inc.*, Forfeiture Order, 26 FCC Rcd 12885 (Enf. Bur. 2011) (licensee, who was unable to locate station's public inspection file, held liable for willfully failing to make available public inspection file); *Media East, LLC*, Forfeiture Order, 26 FCC Rcd 7618 (Enf. Bur. 2011) (same).

¹⁶ Because we conclude L&R failed to make a complete public inspection file available, we need not address whether L&R willfully and repeatedly failed to maintain a complete public inspection file. The Enforcement Bureau has issued forfeitures in the amount of \$10,000 for failing to make available a complete public inspection file. See, e.g., *Media East, LLC*, Forfeiture Order, 26 FCC Rcd 7618 (Enf. Bur. 2011); *127, Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 3801 (Enf. Bur. 2007) (upholding finding that station willfully failed to make available a complete public inspection file).

¹⁷ 47 U.S.C. § 503(b).

¹⁸ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 73.3526.

¹⁹ 47 C.F.R. § 1.80.

²⁰ 47 U.S.C. § 504(a).

²¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

9. Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²² If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

10. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by both First Class and Certified Mail, Return Receipt Requested, to The L.R. Radio Group, Inc. at 1620 Weatherford Highway, Granbury, Texas 76048 and to its counsel, Anne Goodwin Crump, Fletcher, Heald & Hildreth, 1300 North 17th Street, 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director, South Central Region
Enforcement Bureau

²² See 47 C.F.R. § 1.1914.