

Federal Communications Commission

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

In the Matter of)	
)	
Believe & Achieve Family And)	
Educational Center, Inc.)	File No. EB-09-PA-0198
Licensee of Radio Station WZUM)	
Facility ID # 27137)	NOV No. V201032400016
Carnegie, Pennsylvania)	
)	

NOTICE OF VIOLATION

Released: January 7, 2010

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (“Notice”) issued pursuant to Section 1.89 of the Commission’s Rules¹ to Believe & Achieve Family and Educational Center, Inc., (“Believe & Achieve”), licensee of AM radio station WZUM in Carnegie, Pennsylvania. This Notice may be combined with a further action, if further action is warranted.²

2. On September 16, 2009, agents of the Commission’s Philadelphia Office inspected radio station WZUM located in Carnegie, Pennsylvania, and observed the following violations:

- a. 47 C.F.R. § 11.52(d): “Broadcast stations and cable systems and wireless cable systems must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook....” A review of the station’s EAS logs revealed that WZUM was monitoring only one EAS source.
- b. 47 C.F.R. § 11.61(b): “Entries shall be made in EAS Participant records, as specified in Sections 11.35(a) and 11.54(b)(13).” A review of the station’s EAS logs revealed that entries were not made in the EAS logs to show required weekly EAS tests for the weeks of June 7, 2009, August 16, 2009, and August 23, 2009. The station’s EAS logs also revealed that entries were not made in the EAS logs to show required monthly EAS tests received and retransmitted for the months of January, February, March, June, and August of 2009. There were no entries in the station logs indicating the reason why

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

the required weekly tests and required monthly tests were not conducted.

- c. 47 C.F.R. § 73.61(a): “Each AM station using a directional antenna must make field strength measurements at the monitoring point locations specified in the instrument of authorization, as often as necessary to ensure that the field at those points does not exceed the values specified in the station authorization.” On September 16, 2009, the field strength measurement exceeded the authorized value of 1.11 mV/m during the day for WZUM’s 221.5° monitoring point. The FCC agents measured 1.78 mV/m.³
- d. 47 C.F.R. § 73.69(e): “The antenna monitor must be calibrated according to the manufacturer’s instructions as often as necessary to ensure its proper operation.” At the time of inspection, the antenna monitor was not properly functioning.
- e. 47 C.F.R. § 73.1201(a)(2): “Broadcast station identification announcements shall be made ... [h]ourly, as close to the hour as feasible, at a natural break in program offerings.” On September 14, 2009, Believe & Achieve did not transmit the proper call sign on station WZUM at the top of the 8:00 pm hour. Instead, agents heard station WZUM transmit the call sign for the station whose programming it retransmits.
- f. 47 C.F.R. § 73.1350(b)(2): “The transmitter control personnel must have the capability to turn the transmitter off at all times. If the personnel are at a remote location, the control system must provide this capability continuously or must include an alternate method of acquiring control that can satisfy the requirement of paragraph (d) of this section that operation be terminated within 3 minutes.” Believe & Achieve operates station WZUM on an unattended basis but does not have the capability to terminate operations of the WZUM transmitter within 3 minutes. The personnel designated by the licensee to control the transmitter must have the capability to turn the transmitter off at all times, or include an alternate method of taking control of the transmitter which can terminate the station's operation within 3 minutes.
- g. 47 C.F.R. § 73.1350(c)(1): “Monitoring procedures and schedules must enable the licensee to determine compliance with §73.1560 regarding operating power and AM station mode of operation, § 73.1570 regarding modulation levels, and, where applicable, § 73.1213 regarding antenna tower lighting, and §73.69 regarding the parameters of an AM directional antenna system.” On the day of inspection, the chief operator stated that the field strength measurements have not been verified in over two years indicating that there was not a set procedure to ensure compliance.

³ The authorized field strength during the night time along the 221.5° monitoring point is 0.3 mV/m. The FCC agents measured 0.31 mV/m at night time.

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3. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees. Pursuant to Section 403 of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Commission's Rules, we seek additional information concerning the violation(s) and any remedial actions the station may have taken. Therefore, Believe & Achieve Family and Educational Center, Inc. must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁵

4. In accordance with Section 1.16 of the Commission's Rules, we direct Believe & Achieve Family and Educational Center, Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Believe & Achieve Family and Educational Center, Inc. with personal knowledge of the representations provided in Believe & Achieve Family and Educational Center, Inc.'s response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁷

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Philadelphia Office
One Oxford Valley Building, Suite 404
2300 East Lincoln Highway
Langhorne, Pennsylvania 19047

⁴47 U.S.C. § 403.

⁵47 C.F.R. § 1.89(c).

⁶Section 1.16 of the Commission's Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'" 47 C.F.R. § 1.16.

⁷18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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6. This Notice shall be sent to Believe & Achieve Family and Educational Center, Inc. at its address of record.

7. The Privacy Act of 1974⁸ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, further action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Gene J. Stanbro
District Director
Philadelphia District Office
Northeast Region
Enforcement Bureau

⁸P.L. 93-579, 5 U.S.C. § 552a(e)(3).