

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

In the Matter of

Liability of Tri-State  
Inspirational Broadcasting  
Corporation, Inc.  
Licensee, Station WBHL-FM  
Florence, Alabama

For a Forfeiture

**MEMORANDUM OPINION AND ORDER**

Adopted: August 24, 1993;

Released: August 31, 1993

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to authority delegated by Section 0.283 of the Commission's Rules, has under consideration (1) A Memorandum Opinion and Order, 8 FCC Rcd 157 (1993), assessing a forfeiture of five thousand dollars (\$5,000) against Tri-State Inspirational Broadcasting Corporation, Inc. (Tri-State), licensee of non-commercial Station WBHL-FM, Florence, Alabama, for violation of Section 399B of the Communications Act of 1934, as amended,<sup>1</sup> and (2) a Petition for Reconsideration, filed February 4, 1993, by Tri-State.

2. In seeking reconsideration, Tri-State challenges both the adequacy of the notice provided it and our failure to reduce or rescind the original forfeiture in light of its showing of financial hardship. The first of these arguments is easily dismissed. Tri-State urges that it was improperly penalized for violation of a policy, as opposed to a rule, citing language in the Memorandum Opinion and Order to the effect that Tri-State had repeatedly violated Section 399B of the Communications Act of 1934, as amended, "and related rules and policies governing donor and underwriting announcements...."<sup>2</sup> It is clear in the context of the Memorandum and Order, however, that the conduct in question violated applicable statutes and rules; this is not a case where policy alone was at issue.

3. As for the assertion that Tri-State lacked adequate notice of the type of conduct proscribed, Sections 399B of the Communications Act of 1934, as amended, and 73.503(d) of the Commission's Rules, read in conjunction with the documents listed in the Note to Section 73.503, provide considerable guidance for non-commercial educational FM stations. The assertion of unconstitutional vagueness is simply untenable.

4. Our Memorandum Opinion and Order rejected Tri-State's assertion of financial hardship in large part because of its failure to submit a profit and loss statement prepared under generally accepted accounting principles. The Petition for Reconsideration includes, as an Appendix, a declaration from Tri-State's accounting firm stating that the financial statements submitted were prepared under generally accepted accounting principles and reflected procedures customary for a non-profit organization with limited funds, such as Tri-State. These statements indicate that Tri-State is in financially poor condition. A downward adjustment of the forfeiture is therefore warranted under the criteria established in the *Policy Statement, Standards for Assessing Forfeitures*, 6 FCC Rcd 4695 (1991), *on recon.*, 7 FCC Rcd 5339 (1992), *pet. for review pending sub nom. USTA v. FCC*, No. 92-1321 (D.C. Cir. filed July 30, 1992), and adjusted in the recent *Policy Statement, Standards for Assessing Forfeitures*, FCC 93-382, released August 12, 1993.

5. Accordingly, the Petition for Reconsideration filed by Tri-State Inspirational Broadcasting Corporation, Inc., IS GRANTED to the extent indicated herein, and IS DENIED in all other respects. IT IS ORDERED, that Tri-State Inspirational Broadcasting Corporation, Inc., licensee of Radio Station WBHL-FM, Florence, Alabama, FORFEIT to the United States one thousand two hundred fifty dollars (\$1,250) for its repeated violations of Section 399B of the Communications Act of 1934, as amended, and Section 73.503(d) of the Commission's Rules. Payment of the forfeiture may be made by following the instructions on the enclosed form. In regard to this forfeiture proceeding, the licensee may take any of the actions set forth in Section 1.80 of the Commission's Rules, as summarized in the attachment to this Memorandum Opinion and Order. Payment of the forfeiture in installments may be considered as a separate matter in accordance with Section 1.1914 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart, Chief  
Mass Media Bureau

<sup>1</sup> A Notice of Apparent Liability was released on August 11, 1992, 7 FCC Rcd 5123 (1992).

<sup>2</sup> The Notice of Apparent Liability described in detail both the rules governing donor and underwriting announcements and

the manner in which Station WBHL's announcements violated these rules. It cited Section 399B of the Communications Act and Section 73.503(d) of the Commission's Rules.