

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

In the Matter of)	
)	File No.: EB-11-PA-0129
Quinn Broadcasting Inc.)	NAL/Acct. No.: 201232400005
)	FRN: 0004450680
Licensee of Station WSNJ(AM))	
Bridgeton, New Jersey)	Facility ID # 12212
)	
Licensee of Station WMVB(AM))	
Millville, New Jersey)	Facility ID # 56183
)	
)	
Owner of Antenna Structure)	
ASR # 1208476)	
Bridgeton, New Jersey)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: May 25, 2012

Released: May 25, 2012

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

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture and Order (NAL), we find that Quinn Broadcasting Inc. (Quinn), licensee of AM Station WSNJ in Bridgeton, New Jersey and AM Station WMVB in Millville, New Jersey (Stations) and owner of antenna structure number 1208476 in Bridgeton, New Jersey (Antenna Structure), apparently willfully and repeatedly violated Sections 73.3526(e)(12) and 17.57 of the Commission's rules (Rules)¹ by failing to maintain radio issues/program lists in the Stations' public inspection files and failing to immediately notify the Commission upon change in ownership information. We conclude that Quinn is apparently liable for a forfeiture in the amount of sixteen thousand dollars (\$16,000). We further direct Quinn to submit a written statement signed under penalty of perjury stating that the Stations are now in compliance with Section 73.3526(e)(12) of the Rules.²

II. BACKGROUND

2. On June 28, 2011, in response to a complaint, agents from the Enforcement Bureau's Philadelphia Office conducted an inspection at the Stations' co-located main studio, which is located at 415 North High Street in Millville, New Jersey. The agents conducted the inspection with the Stations' General Manager and Chief Operator. During the inspection, the agents found that the Stations' public inspection files did not contain the quarterly radio issues/program lists for the periods between April 1, 2009 and September 30, 2009 and between January 1, 2010 and March 31, 2011, *i.e.*, the public inspection file for each station was missing a total of 7 quarters of radio issues/program lists.

¹ 47 C.F.R. § 73.3526(e)(12) and 17.57.

² There is no need for a written statement regarding the violation of Section 17.57 of the Rules because the Antenna Structure's ownership information has been updated.

3. After conducting the main studio inspection, the agents inspected the Antenna Structure for AM Station WSNJ.³ At the time of the inspection, the Antenna Structure's registration specified that the owner was Cohanzick Broadcasting Corporation, one of the former owners of Station WSNJ.⁴ The agents later contacted Station WSNJ's General Manager, who reported that Quinn Broadcasting has owned the Antenna Structure number since 2004, when it acquired ownership of Station WSNJ.

III. DISCUSSION

4. Section 503(b) of the Communications Act of 1934, as amended (Act),⁵ provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. 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.⁶ The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act⁷ and the Commission has so interpreted the term in the Section 503(b) context.⁸ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.⁹ The term "repeated" means the commission or omission of such act more than once or for more than one day.¹⁰

A. Failure to Maintain Issues/Program Lists

5. Section 73.3526(a)(2) of the Rules requires broadcast stations to maintain for public inspection a file containing materials listed in that section.¹¹ Section 73.3526(c)(1) of the Rules specifies

³ The Antenna Structure is located at 1771 South Burlington Road, Bridgeton, New Jersey at the coordinates 39° 27' 31.9" North Latitude 075° 12' 10.4 West Longitude and has an overall height above ground of 145.7 meters.

⁴ On February 14, 2002, the Commission granted the assignment of license application for Station WSNJ transferring ownership from Cohanzick Broadcasting Corporation to New Jersey Radio Partners, L.L.C. See File No. BAL-20020102AAM. On February 12, 2004, the Commission granted the assignment of license application for Station WSNJ transferring ownership from New Jersey Radio Partners, L.L.C. to Quinn Broadcasting Inc. See File No. BAL-20031222ABS.

⁵ 47 U.S.C. § 503(b).

⁶ 47 U.S.C. § 312(f)(1).

⁷ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms 'willful' and 'repeated' for purposes of Section 312, and for any other relevant Section of the act (e.g., Section 503)... As defined ... 'willful' means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. 'Repeated' means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be 'continuous' would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms ...").

⁸ See, e.g., *Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

⁹ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362 ¶ 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator's repeated signal leakage).

¹⁰ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." See *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362.

¹¹ 47 C.F.R. § 73.3526(a)(2).

that the file shall be available for public inspection at any time during regular business hours,¹² and Section 73.3526(e)(12) of the Rules specifically requires licensees to place in their public inspection file each calendar quarter a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period (known as the issues/programs list).¹³ The issues/programs lists must include "a brief narrative describing what issues were given significant treatment and the programming that provided this treatment," including, but not limited to, the time, date, duration, and title of each program in which the issue was treated.¹⁴ Copies of the issues/programs list must be retained in the public inspection file until final action has been taken on the station's next license renewal application.

6. At the time of the inspection, Quinn was required to maintain in the Stations' public inspection files all quarterly radio issues/programs lists since the grant date of the latest renewal applications, which occurred on May 26, 2006. During an inspection on June 28, 2011, agents found that Quinn had not placed in the Stations' public inspection files the issues/programs lists for the periods between April 1, 2009 and September 30, 2009 and between January 1, 2010 and March 31, 2011, a total of 7 quarters of radio issues/program lists for each station. Accordingly, based on the evidence before us, we find that Quinn apparently willfully and repeatedly violated Section 73.3526(e)(12) of the Rules by failing to maintain and make available the required issues/programs lists in the public inspection file.

B. Failure to Update Antenna Structure Registration Database

7. Section 17.57 of the rules requires that the owner of an antenna structure for which an Antenna Structure Registration Number has been obtained must immediately notify the Commission upon any change in ownership information.¹⁵ In February 2004, Quinn acquired ownership of Station WSNJ and the associated Antenna Structure. At the time of the inspection on June 22, 2011, one of the previous owners, Cohanzick Broadcasting Corporation, was still listed as the owner on the antenna structure registration. Accordingly, based on the evidence before us, we find that Quinn apparently willfully and repeatedly violated Section 17.57 of the Rules.

C. Proposed Forfeiture Amount and Reporting Requirements

8. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the rules, the base forfeiture amount for violation of the public file rule is \$10,000 and for failing to file required forms or information is \$3,000.¹⁶ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, 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.¹⁷ Because Quinn did not update the ownership information in the Commission's antenna structure database until more than eight years after purchasing the Antenna Structure, we conclude an upward adjustment of \$3,000 is warranted.¹⁸ Applying the *Forfeiture Policy Statement*, Section 1.80 of the rules, and the statutory factors to the instant case, we

¹² 47 C.F.R. § 73.3526(c)(1).

¹³ 47 C.F.R. § 73.3526(e)(12).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *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) (*Forfeiture Policy Statement*), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

¹⁷ 47 U.S.C. § 503(b)(2)(E).

¹⁸ *See e.g., St. George Cable, Inc.*, 26 FCC Rcd 13520 (Enf. Bur. 2011) (upwardly adjusting base forfeiture amount for failure to submit FCC Form 322 more than one year after being instructed to do so).

conclude that Quinn is apparently liable for a total forfeiture of \$16,000, consisting of \$10,000 for violation of the public file rule and \$6,000 for failing to file required forms and information.

9. We direct Quinn to submit a statement, pursuant to Section 1.16 of the Rules,¹⁹ signed under penalty of perjury by an officer or director of Quinn stating that: (1) the Radio issues/program lists are being compiled, and (2) the Radio issues/program lists are being placed in the Stations' public inspection files by the tenth day of the succeeding calendar quarter. This statement must be provided to the Philadelphia Office at the address listed in paragraph 14 within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order.

IV. ORDERING CLAUSES

10. 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 of the Commission's rules, Quinn Broadcasting Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of sixteen thousand dollars (\$16,000) for violations of Sections 73.3526(e)(12) and 17.57 of the Commission's rules.²⁰

11. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order, Quinn Broadcasting Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. **IT IS FURTHER ORDERED** that Quinn Broadcasting Inc. **SHALL SUBMIT** a sworn statement as described in paragraph 9 to the Enforcement Bureau Office listed in paragraph 14 within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order.

13. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. 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, and account number 27000001. Regardless of the form of payment, an FCC Form 159 (Remittance Advice) must be submitted. When 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). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²¹ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. Quinn Broadcasting Inc. will send electronic notification on the date said payment is made to NER-Response@fcc.gov.

14. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.80(f)(3) and 1.16 of the rules.²² Mail the written statement to Federal Communications Commission, Enforcement Bureau, Northeast Region, Philadelphia Office, One Oxford Valley Building, Suite 404, 2300 East Lincoln Highway, Langhorne, Pennsylvania 19047 and include the NAL/Acct. No.

²⁰ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204(b), 0.311, 0.314, 1.80, 73.3526(e)(12) and 17.57.

²¹ See 47 C.F.R. § 1.1914.

²² 47 C.F.R. §§ 1.16, 1.80(f)(3).

referenced in the caption. Quinn Broadcasting Inc. also shall email the written response to NER-Response@fcc.gov.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to Quinn Broadcasting Inc. at 415 North High Street, Millville, New Jersey 08332.

FEDERAL COMMUNICATIONS COMMISSION

Kevin Doyle
Acting District Director
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