

Federal Communications Commission

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

In the Matter of)	
)	
Cochise Media Licenses LLC)	File No.: EB-FIELDSCR-12-00005185
Licensee of Radio Station KHSK)	NOV No.: V201332560006
)	
Allen, Nebraska)	Facility ID No.: 164135
)	

NOTICE OF VIOLATION

Released: November 14, 2012

By the District Director, Kansas City Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules)¹ to Cochise Media Licenses LLC, licensee of Station KHSK in Allen, Nebraska. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On October 16, 2012, an agent of the Commission’s Kansas City Office inspected Station KHSK located at 600 Stevens Port Drive, Suite 128, Dakota Dunes, South Dakota, and observed the following violation(s):

a. 47 C.F.R. § 73.1125(a): “...each AM, FM and TV broadcast station shall maintain a main studio...” The Commission has interpreted this rule to require a station to “equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence.”³ Specifically, the Commission has found that a main studio “must, at a minimum, maintain full-time managerial and full-time staff personnel.”⁴ At the time of inspection, there was no management presence at the main

¹47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ *Amendment of Sections 73.1125 and 73.1130 of the Commission’s Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5026 (1988) (*Main Studio and Program Origination Rules*), *erratum issued*, 3 FCC Rcd 5717 (1988) (correcting language in n.29).

⁴ *See Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 & n.2 (1991) (noting that, “This is not to say that the same staff person and manager must be assigned full-time to the main studio. Rather, there must be management and staff presence on a full-time basis during normal business hours to be considered ‘meaningful.’”), *clarified*, 7 FCC Rcd 6800 (1992) (*Jones Eastern II*). *See also Birach Broadcasting Corporation*, Notice of Apparent Liability, 25 FCC Rcd 2635 (Enf. Bur. 2010).

Federal Communications Commission

studio. In addition, there was no equipment to originate programming or monitor or control the radio station at the main studio. The main studio only had a public inspection file, a telephone, and a staff person, who split her time with other businesses in the suite.

b. 47 C.F.R. § 73.1225(a): “*The licensee of a broadcast station shall make the station available for inspection by representatives of the FCC during the station’s business hours, or at any time it is in operation.*” At the time of the inspection, the station’s engineer was out of town and the substitute engineer did not have a key to the transmitter building, which precluded a complete inspection of the station.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁵ and Section 1.89 of the Rules, Cochise Media Licenses LLC must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response must (i) 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.⁶

4. In accordance with Section 1.16 of the Rules, we direct Cochise Media Licenses LLC to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Cochise Media Licenses LLC with personal knowledge of the representations provided in Cochise Media Licenses LLC’s response, verifying the truth and accuracy of the information therein,⁷ 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.⁸ 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
Kansas City Office
520 N.E. Colbern Rd.
2nd Floor
Lees Summit, MO 64086-4711

5. This Notice shall be sent to Cochise Media Licenses LLC at its address of record.

⁵47 U.S.C. § 308(b).

⁶ 47 C.F.R. § 1.89(c).

⁷ Section 1.16 of the 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.

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

Federal Communications Commission

6. The Privacy Act of 1974⁹ 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, enforcement action is required to ensure compliance. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.¹⁰

FEDERAL COMMUNICATIONS COMMISSION

Ronald D. Ramage
District Director
Kansas City Office
South Central Region
Enforcement Bureau

⁹P.L. 93-579, 5 U.S.C. § 552a(e)(3).

¹⁰18 U.S.C. § 1001 *et seq.*