

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

In the Matter of)	
)	
Steckline Communications, Inc.)	File No.: EB-FIELDSCR-13-00008450
)	NAL/Acct. No.: 2013325600006
Licensee of Station KYUL-AM)	FRN: 0009951286
Scott City, KS)	Facility ID No.: 71854
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 6, 2013

Released: May 6, 2013

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

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Steckline Communications, Inc. (Steckline), licensee of AM Station KYUL, in Scott City, Kansas, apparently willfully and repeatedly violated Sections 73.1125(a), and 73.3526 of the Commission's rules (Rules),¹ by failing to (1) have a fully staffed main studio, and (2) maintain and make available a complete public inspection file. We conclude that Steckline is apparently liable for a forfeiture in the amount of twenty thousand dollars (\$20,000).²

II. BACKGROUND

2. On July 12, 2012, an agent from the Enforcement Bureau's Kansas City Office (Kansas City Office) attempted to inspect Station KYUL-AM's main studio, but was unable to locate one in Scott City, Kansas or the immediate environs. Ultimately, the agent located Station KYUL-AM's public inspection file at a Scott City insurance agency, an address provided by Steckline, but the file contained no documents dated after 2009.

3. On July 27, 2012, the Kansas City Office issued a Letter of Inquiry (LOI) to Steckline regarding the lack of a main studio and public inspection file.³ In response, Steckline conceded that "there was no KYUL main studio on July 12, 2012," and "the KYUL main studio became completely unstaffed in April 2011."⁴ Steckline claimed the "absence of additions to [the KYUL public inspection] file after 2009

¹ 47 C.F.R. §§ 73.49, 73.3526.

² We adopt this NAL on the same day as a separate Notice of Apparent Liability for Forfeiture, which finds Steckline apparently liable for AM antenna structure fencing violations at Station KIUL-AM. *See Steckline Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Order, DA 13-971 (May 6, 2013).

³ Letter from Ronald D. Ramage, District Director, Kansas City Office, South Central Region, Enforcement Bureau, to Steckline Communications, Inc. (July 27, 2012) (on file in EB-FIELDSCR-12-00003414) (LOI).

⁴ Letter from Greg Steckline, President, Steckline Communications, Inc., to Ronald D. Ramage, District Director, Kansas City Office, South Central Region, Enforcement Bureau at 2 (Aug. 24, 2012) (on file in EB-FIELDSCR-12-00003414) (LOI Response).

was an oversight” and that it had placed an advertisement in the local Scott City paper listing the location of the KYUL file at the insurance agency.⁵ Steckline discontinued operations of Station KYUL-AM on July 13, 2012, “due to its present inability to maintain a properly staffed main studio.”⁶

III. DISCUSSION

4. Section 503(b) of the Communications Act of 1934, as amended (Act), 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.⁷ 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.⁸ 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 Act,⁹ and the Commission has so interpreted the term in the Section 503(b) context.¹⁰ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.¹¹ The term “repeated” means the commission or omission of such act more than once or for more than one day.¹²

A. Failure to Maintain a Fully Staffed Main Studio for Station KYUL-AM

5. Section 73.1125(a) of the Rules requires broadcast stations to maintain a main studio.¹³ The Commission has interpreted Section 73.1125 (also known as the Main Studio Rule) to require, among

⁵ *Id.* at 3.

⁶ Letter from James P. Riley, Counsel for Steckline Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (July 17, 2012) (on file in EB-FIELDSCR-12-00003414). *See also* Letter from James P. Riley, Counsel for Steckline Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (July 26, 2012) (requesting a waiver to co-locate the main studio of Station KYUL with Station KIUL) (on file in EB-FIELDSCR-12-00003414). Steckline’s main studio waiver request was accepted for filing by the Media Bureau on March 15, 2013. We remind Steckline that if its waiver is granted it will be required to maintain a complete public inspection file for Station KYUL at Station KIUL’s main studio.

⁷ 47 U.S.C. § 503(b).

⁸ 47 U.S.C. § 312(f)(1).

⁹ 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”).

¹⁰ *See, e.g., Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992).

¹¹ *See, e.g., Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

¹² 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.

¹³ 47 C.F.R. § 73.1125.

other things, that a licensee maintain a “meaningful management and staff presence” at its main studio.¹⁴ Specifically, the Commission has found that a main studio “must, at a minimum, maintain full-time managerial and full-time staff personnel.”¹⁵ On July 12, 2012, an agent from the Kansas City Office observed that Station KYUL-AM had no main studio. Steckline admitted that on July 12, 2012, Station KYUL-AM did not have a main studio.¹⁶ Steckline also admitted that Station KYUL-AM had been completely unstaffed since April 2011.¹⁷ Thus, based on the evidence before us, we find that Steckline apparently willfully violated Section 73.1125(a) of the Rules by failing to maintain a main studio for Station KYUL-AM and apparently willfully and repeatedly violated Section 73.1125(a) of the Rules by failing to maintain any staff for Station KYUL-AM at its main studio.

B. Failure to Maintain and Make Available a Complete Public Inspection File

6. Section 73.3526 (a)(2) of the Rules states that “[e]very permittee or licensee of an AM, FM, TV or a Class A station in the commercial broadcast services shall maintain a public inspection file containing the material” set forth in that section.¹⁸ Section 73.3526(e)(12) of the Rules states that commercial AM and FM broadcast stations must retain in the file “every three months a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period. [. . .] The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station’s next license renewal application.”¹⁹ The public inspection file must be maintained at the main studio of the station,²⁰ and must be available for public inspection at any time during regular business hours.²¹

7. On July 12, 2012, an agent from the Kansas City Office requested to inspect Station KYUL-AM’s public inspection file during regular business hours at a local insurance agency in Scott City. The public inspection file contained no documents or issues programs lists dated after 2009. Steckline claims the omission of more current documents was an oversight,²² but as the Commission has held, violations resulting from inadvertent error or failure to become familiar with the Commission’s requirements are willful violations.²³ Based on the evidence before us, we find that Steckline apparently

¹⁴ *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).

¹⁵ *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 for Forfeiture, 25 FCC Rcd 2635 (Enf. Bur. 2010).

¹⁶ *LOI Response* at 2.

¹⁷ *Id.*

¹⁸ 47 C.F.R. § 73.3526(a)(2).

¹⁹ 47 C.F.R. § 73.3526(e)(12).

²⁰ 47 C.F.R. § 73.3526(b).

²¹ 47 C.F.R. § 73.3526(c).

²² Steckline also notes that the contents of the public inspection files for Stations KYUL-AM and KIUL-AM would be the same, as Station KYUL-AM broadcasts Station KIUL’s programming, and that Station KIUL maintained a complete public inspection file. *LOI Response* at 3. However, this is irrelevant as *each* station is required to maintain its own public inspection file.

²³ *See, e.g., USA Teleport, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 6431, 6434, para. 9 (Enf. Bur. 2011) (ignorance of a filing requirement does not negate willfulness of failure to file); *Heidelberg College*, Forfeiture

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willfully and repeatedly violated Section 73.3526(a)(2) of the Rules by failing to maintain a complete public inspection file and apparently willfully violated Section 73.3526(c) of the Rules by failing to make available a complete public inspection file.

B. Proposed Forfeiture

8. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for violation of the main studio rule is \$7,000 and the base forfeiture amount for violation of public file rules is \$10,000.²⁴ 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.²⁵ We conclude that an upward adjustment in the amount of \$2,000 is appropriate for Steckline's public inspection file violations due to its over two-year duration.²⁶ Similarly, we conclude that an upward adjustment in the amount of \$1,000 is appropriate for Steckline's main studio violations, which occurred over 14 months.²⁷ Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Steckline is apparently liable for a total forfeiture in the amount of \$20,000, consisting of the following: \$8,000 for the main studio violation, and \$12,000 for the public inspection file violation.

IV. ORDERING CLAUSES

9. 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, Steckline Communications, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty thousand dollars (\$20,000) for violations of Sections 73.1125(a), and 73.3526 of the Commission's rules.²⁸

10. **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, Steckline Communications, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Steckline

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Order, 24 FCC Rcd 11923, 11924, para. 6 (MB 2009) (unintentional failure to file timely license renewal is willful).

²⁴ *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*), *recons. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

²⁵ 47 U.S.C. § 503(b)(2)(E).

²⁶ See 47 C.F.R. § 1.80(b)(6), Note (to be recodified at 47 C.F.R. § 1.80(b)(8) per 77 Fed. Reg. 77131, 77132 (2012)) (establishing "repeated or continuous violation" as an upward adjustment factor). See also *Gulf-California Broadcasting Co.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 11421 (Enf. Bur. 2012) (imposing upward adjustment for duration of public inspection file violation).

²⁷ See *B&C Kentucky, LLC (Assignor)*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 9305 (MB 2001) (proposing \$1,500 upward adjustment because licensee intentionally failed to comply with main studio rules for two years). We propose a slightly lower upward adjustment because the violation occurred for less than two years.

²⁸ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 73.1125(a), 73.3526.

Communications, Inc. shall also send electronic notification on the date said payment is made to SCR-Response@fcc.gov. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁹ 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.
- 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.

12. Any request for making full payment over time 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. 20554.30 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.

13. 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 1.16 and 1.80(f)(3) of the Rules.³¹ Mail the written statement to Federal Communications Commission, Enforcement Bureau, South Central Region, Kansas City Office, 520 N.E. Colbern Rd., 2nd Floor, Lees Summit, MO 64086-4711, and include the NAL/Acct. No. referenced in the caption. Steckline Communications, LLC also shall e-mail the written response to SCR-Response@fcc.gov.

14. 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 principles (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.

15. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and First Class Mail to

²⁹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

³⁰ See 47 C.F.R. § 1.1914.

³¹ 47 C.F.R. §§ 1.16, 1.80(f)(3).

Steckline Communications, Inc. at 1632 S. Maize Rd., Wichita, KS 67209 and to its attorney, James P. Riley at Fletcher, Heald and Hildreth, 1300 North 17th Street, 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

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