

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

In the Matter of)	
)	
HK Media, Inc.)	File No.: EB-10-LA-0238
)	NAL/Acct. No.: 201132900005
Licensee of Station KFOX (AM))	FRN: 0020919791
Torrance, California)	Facility ID No.: 87242

FORFEITURE ORDER

Adopted: October 28, 2013

Released: October 29, 2013

By the Regional Director, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of eight thousand dollars (\$8,000) to HK Media, Inc. (HK Media), licensee of Station KFOX(AM), Torrance, California, for willfully and repeatedly violating Section 73.3526 of the Commission's rules (Rules)¹ by failing to maintain and make available the Station KFOX(AM) public inspection file at the Station KFOX(FM) main studio.

II. BACKGROUND

2. On September 22, 2010, an agent from the Enforcement Bureau's Los Angeles Office (Los Angeles Office) conducted an inspection at the main studio of Station KFOX(AM) in Los Angeles, California. The agent requested to review the station's public inspection file. However, the station's staff, including the Operations Manager and contract engineer, could not locate the public inspection file. In response to a Letter of Inquiry issued by the Los Angeles Office, the President of HK Media stated that the Station KFOX(AM) public file materials were destroyed due to water damage at the station's main studio location in May 2010.² HK Media acknowledged that a complete public inspection file was not recreated until the week after the Los Angeles agent's inspection in September 2010.³

3. On July 29, 2011, the Los Angeles Office issued a Notice of Apparent Liability for Forfeiture (*NAL*) in the amount of \$10,000 to HK Media for failing to maintain and make available the Station KFOX(AM) public inspection file at the Station KFOX(AM) main studio.⁴ HK Media responded to the *NAL* on September 1, 2011 (*NAL Response*).⁵ In its *NAL Response*, HK Media requests that the forfeiture be reduced because it is not consistent with forfeitures issued for other public inspection file violations, and because HK Media has a history of compliance with the Rules.⁶

¹ 47 C.F.R. § 73.3526.

² See Letter of Inquiry from Nader Haghghat, District Director, Los Angeles Office, Western Region, Enforcement Bureau, to HK Media, Inc. (Mar. 8, 2011) (on file in EB-10-LA-0238) (*Letter of Inquiry*); Response from Grant Chang, President, HK Media, Inc., to Nader Haghghat, District Director, Los Angeles Office, Western Region, Enforcement Bureau (filed Apr. 8, 2011) (on file in EB-10-LA-0238) (*LOI Response*).

³ See *LOI Response* at 3.

⁴ *HK Media, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 10535 (Enf. Bur. 2011) (*NAL*).

⁵ See Response of HK Media, Inc. (filed Sept. 1, 2011) (on file in EB-10-LA-0238) (*NAL Response*).

⁶ See *id.* at 1.

III. DISCUSSION

4. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),⁷ Section 1.80 of the Rules,⁸ and the Commission's *Forfeiture Policy Statement*.⁹ In examining HK Media's *NAL Response*, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent, and gravity of the violation 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.¹⁰ We considered HK Media's *NAL Response* in light of these statutory factors and find that reduction of the forfeiture is warranted for the reasons discussed below.

5. Section 73.3526(a)(2) of the Rules requires that every licensee of an AM or FM station shall maintain a public inspection file containing the material relating to that station described in Section 73.3526(e) of the Rules.¹¹ Section 73.3526(b)(1) of the Rules requires that the public inspection file shall be maintained at the station's main studio.¹² Section 73.3526(c)(1) of the Rules specifies that the file shall be available for public inspection at any time during regular business hours.¹³ On September 22, 2010, an agent from the Los Angeles Office attempted to inspect the public inspection file during regular business hours, but was unable to access the file. In response to an inquiry by the Los Angeles Office, HK Media acknowledged that the Station KFOX(AM) public inspection file was unavailable for four months.

6. HK Media does not dispute that that the public inspection file was unavailable at the Station KFOX(AM) main studio for four months. Instead, HK Media argues that the \$10,000 forfeiture proposed by the Los Angeles Office was disproportionate to other forfeitures assessed for public file violations.¹⁴ While HK Media argues that lesser forfeiture amounts have been assessed against stations that were missing multiple quarters of issues/programs lists, we find that those decisions are not dispositive here.¹⁵ When public inspection file violations have been discovered by Enforcement Bureau agents during inspections, forfeitures of at least \$10,000 have been proposed when a significant portion of the file is unavailable.¹⁶ In the present case, the entire public inspection file was unavailable and had been

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. § 1.80.

⁹ *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), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

¹⁰ 47 U.S.C. § 503(b)(2)(E).

¹¹ 47 C.F.R. § 73.3526(a)(2).

¹² 47 C.F.R. § 73.3526(b)(1).

¹³ 47 C.F.R. § 73.3526(c)(1).

¹⁴ HK Media cites to *Stephen R. Peters*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 7623 (Enf. Bur. 2011), *forfeiture assessed in* Forfeiture Order, 28 FCC Rcd 6156 (Enf. Bur. 2013) (\$10,000 forfeiture assessed when a public inspection file inspected by an Enforcement Bureau field office was missing 26 issues/program lists for a license term), and compares that decision to *Phoenix Broad. Grp., Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 5950 (Med. Bur. 2011) (\$9,000 in total forfeitures affirmed against two stations that acknowledged on their license renewals that they were missing between 11 and 16 issues/programs lists in their public inspection files).

¹⁵ *Phoenix Broad. Grp.*, 26 FCC Rcd at 5950–51, para. 2.

¹⁶ *See, e.g., Mt. Rushmore Broad., Inc.*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1851 (Enf. Bur. 2013) (\$15,000 forfeiture proposed when 23 consecutive quarters of the issues/programs missing were unavailable at the time of inspection); *Gulf-California Broad. Co.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 11421 (Enf. Bur. 2012) (\$15,000 forfeiture proposed when 25 consecutive quarters of the issues/programs missing were unavailable at the time of inspection) (forfeiture paid).

unavailable for four months.

7. HK Media also requests a reduction based on its history of compliance with the Rules. After reviewing the Commission's records, we find reduction of the forfeiture based on HK Media's history of compliance is warranted and we reduce the forfeiture by \$2,000.¹⁷ We have examined HK Media's *NAL Response* pursuant to the statutory factors above and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that HK Media willfully and repeatedly violated Section 73.3526 of the Rules. Considering the entire record and the factors listed above, we find that a forfeiture in the amount of eight thousand dollars (\$8,000) is warranted.

IV. ORDERING CLAUSES

8. **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(f)(4) of the Commission's Rules, HK Media, Inc., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully and repeatedly violating Section 73.3526 of the Commission's Rules.¹⁸

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.¹⁹ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.²⁰ HK Media, Inc., shall also send electronic notification on the date said payment is made to WR-Response@fcc.gov. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²¹ 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.

¹⁷ See *L.R. Radio Grp., Inc.*, Forfeiture Order, 27 FCC Rcd 11260 (Enf. Bur. 2012) (reducing a forfeiture from \$10,000 to \$8,000 for failing to maintain and make available a public inspection file because of the station's demonstrated history of compliance with the Rules).

¹⁸ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 73.3526.

¹⁹ 47 C.F.R. § 1.80.

²⁰ 47 U.S.C. § 504(a).

²¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

10. 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. 20554.²² 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.

11. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested to HK Media, Inc., 4525 Wilshire Boulevard, Los Angeles, CA 90010.

FEDERAL COMMUNICATIONS COMMISSION

Rebecca L. Dorch
Regional Director, Western Region
Enforcement Bureau

²² See 47 C.F.R. § 1.1914.