

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

In the Matter of:)	
)	Facility ID Nos. 17320, 6789
Glen Iris Baptist School)	NAL/Acct. No.: 201241420002 &
Licensee of Stations W15AZ, Alabaster, Alabama;)	201241420005
W49AY, Birmingham, Alabama)	FRN: 0001754217
)	

MEMORANDUM OPINION AND ORDER

Adopted: March 31, 2014

Released: March 31, 2014

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Video Division (“Bureau”) has before it a petition for reconsideration (“Petition”), filed by Glen Iris Baptist School (“Petitioner”), licensee of Stations W15AZ and W49AY (“Stations”). Licensee seeks reconsideration of a forfeiture in the amount of Twenty Thousand Eight Hundred Dollars (\$20,800) issued by the Video Division for Licensee’s failure to place in its public inspection file and file with the Commission electronically the Station’s Children’s Television Programming Reports in a timely manner.¹ For the reasons set forth below, we deny reconsideration.

II. BACKGROUND

2. On March 7, 2012, the Video Division issued a Notice of Apparent Liability for Forfeiture proposing a monetary forfeiture of \$26,000 for the above violations.² Licensee filed a timely response on April 6, 2012 arguing that the forfeiture should be cancelled or reduced.³ In that response, the Licensee argued that: (i) it was not clear that the requirement to submit Children’s Television Programming Reports applied to Class A television stations that operate noncommercially;⁴ (ii) the forfeiture amount should not have been considered a repeated offense or applied to both stations because a single mistake was made;⁵ (iii) the forfeiture amount was excessive relative to the Licensee’s ability to pay.⁶

3. In a May 23, 2013 Forfeiture Order, the Video Division rejected these arguments and declined to reduce the forfeiture.⁷ Licensee filed a Petition for Reconsideration on June 19, 2013.

III. DISCUSSION

¹ *Glen Iris Baptist School*, Forfeiture Order, DA 13-1177 (May 23, 2013) (“Forfeiture Order”).

² *Glen Iris Baptist School*, Notice of Apparent Liability for Forfeiture, DA 12-349 (Mar. 7, 2012) (“NAL”).

³ *Glen Iris Baptist School*, Response to Notice of Apparent Liability (Apr. 6, 2012) (“Licensee Response”).

⁴ *Id.* at 2-4.

⁵ *Id.* at 5-6.

⁶ *Id.* at 6-7.

⁷ Forfeiture Order at 1-4.

4. Petitioner raises three arguments in favor of reconsideration. First, Petitioner argues that the forfeiture should be reduced or cancelled because the Licensee reasonably believed that the requirement to file Children’s Television Programming Reports did not apply to the Stations because they operated noncommercially.⁸ We conclude this argument is repetitive of an argument raised in the NAL response⁹ but nonetheless exercise our discretion to provide a more detailed rationale for why the argument was rejected.

5. As explained in the Forfeiture Order, it is clear that Section 73.3526 applies to all Class A television stations. The word “commercial” in Section 73.3526(a)(2) is part of the phrase “commercial TV” which describes a specific type of television service. Although this is abundantly clear, added support this interpretation is found in the order establishing Class A television service, which states that Class A applicants and licensees must comply with the rules governing the preparation and filing of Children’s Television Programming Reports.¹⁰ No distinction is made between Class A stations that operate commercially and those that operate noncommercially. Indeed, the Licensee certified on behalf of both stations that it would comply with this rule in the Stations’ applications for Class A status.¹¹ The Licensee also demonstrated its awareness of this requirement in its own practice, as reports were filed on behalf of both stations through 2007.¹²

6. Second, Petitioner argues that, because the Licensee only committed one error in misinterpreting the Commission’s rule, the violation should not be considered “repeated” or assessed independently against each station.¹³ Third, Petitioner contends that the Video Division incorrectly concluded that the forfeiture amount was not excessive relative to the Licensee’s ability to pay.¹⁴ We conclude both of these arguments are repetitive of arguments raised in the response to the NAL.¹⁵

7. A petition for reconsideration that simply reiterates previously rejected arguments will be denied.¹⁶ We will not grant reconsideration “to debate matters upon which the Commission has already deliberated and spoken.”¹⁷ Because this petition simply raises arguments that have been considered and rejected in the Forfeiture Order, we deny the Petition.

⁸ Petition for Reconsideration at 2-6.

⁹ See ¶ 2, *supra*.

¹⁰ *Establishment of a Class A Television Service*, Report and Order, 15 FCC Rcd 6355, 6366 (2000).

¹¹ File Nos. BLTTA-20010712AEO & AER, Section II, Question 9 (“Licensee certifies that it maintains for its station a public inspection file that includes the documentation required by 47 C.F.R. Section 73.3526.”).

¹² Licensee attributes the failure to file reports after 2007 to a complete change in management at the Stations, but the Forfeiture Order made clear the Commission’s position that inadvertence or human error is not a mitigating circumstance under which a forfeiture amount should be reduced. Forfeiture Order at 3. In addition, Licensee argues that the rule should not apply to Class A stations that operate noncommercially. Licensee Response at 4-5. This argument is better suited for a rulemaking proceeding.

¹³ Petition for Reconsideration at 6-7.

¹⁴ *Id.* at 7-9.

¹⁵ See ¶ 2, *supra*.

¹⁶ *Saga Communications of Illinois, LLC*, Memorandum Opinion and Order, 26 FCC Rcd 5958, 5960 (MB 2011) (rejecting arguments in a petition for reconsideration because they were repetitive of arguments made in the Licensee’s earlier response and rejected in the forfeiture order).

¹⁷ *Id.*

IV. ORDERING CLAUSES

8. Accordingly, for the reasons discussed above, IT IS ORDERED, that the Petition for Reconsideration filed by Glen Iris Baptist School IS DENIED.

9. IT IS ALSO ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules, that Glen Iris Baptist School IS LIABLE FOR A MONETARY FORFEITURE in the amount of Twenty Thousand Eight Hundred (\$20,800) for its apparent willful and repeated violations of Section 73.3526 of the Commission's Rules.

10. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that within 30 days of the release date of this Memorandum Opinion and Order, that Glen Iris Baptist School SHALL PAY the full amount of the proposed forfeiture. In the event that the Licensee wishes to revert W15AZ and/or W49AY to low power television status, the Licensee need only notify us of this election and request a change in status for the Stations.¹⁸ Should the Licensee elect to revert the Stations to low power status, the Licensee would no longer be liable for the forfeiture amount described. Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at 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, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If 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 of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director-Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁹

11. IT IS FURTHER ORDERED that copies of this Memorandum Opinion and Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Glen Iris Baptist School, 1137 Tenth Place South, Birmingham, Alabama, 35205, and to its counsel, Harry C. Martin and Anne Goodwin Crump, Esquire, Fletcher, Heald & Hildreth, 1300 North 17th Street, 11th Floor, Arlington, Virginia 22209.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁸ See 47 C.F.R. § 73.6001(d).

¹⁹ See 47 C.F.R. § 1.1914.