

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

|                                   |   |                            |
|-----------------------------------|---|----------------------------|
| In the Matter of                  | ) |                            |
|                                   | ) |                            |
| Meade County Communications, Inc. | ) | File Nos. EB-10-CG-0638;   |
|                                   | ) | EB-FIELDNER-12-00004398    |
| Licensee of Station WMMG          | ) | NAL/Acct. No. 201232320001 |
| Brandenburg, Kentucky             | ) | FRN: 0003762333            |
| Facility ID # 40927               | ) |                            |

**FORFEITURE ORDER**

**Adopted:** June 3, 2014

**Released:** June 3, 2014

By the Regional Director, Northeast Region, Enforcement Bureau:

**I. INTRODUCTION**

1. We impose a penalty of \$10,000 against Meade County Communications, Inc. (Meade), the licensee of AM Station WMMG, in Brandenburg, Kentucky, for failing to maintain and make available the issues/program lists in the station's public inspection file. Station WMMG was missing 24 quarters of issues/programs lists, which at the time of the inspection covered the station's entire license term. Meade does not deny that it failed to maintain the issues/programs lists, but requests cancellation or reduction of the forfeiture based on its inability to pay and history of compliance with the Commission's rules (Rules). For the reasons stated below, we decline to either cancel or reduce the forfeiture.

2. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of ten thousand dollars (\$10,000) to Meade for willfully and repeatedly violating Section 73.3526(e)(12) of the Rules.<sup>1</sup> As noted above, the violations involved Meade's failure to maintain and make available the issues/programs lists in the station's public inspection file.

**II. BACKGROUND**

3. On October 14, 2011, the Chicago Office of the Enforcement Bureau's Northeast Region issued a Notice of Apparent Liability for Forfeiture (*NAL*) finding Meade in apparent violation of Section 73.3526(e)(12) of the Rules for failing to maintain and make available the issues/program lists in the public inspection file and proposing a \$10,000 monetary forfeiture.<sup>2</sup> As reflected in the *NAL*, an agent from the Chicago Office reviewed the materials in Station WMMG's public inspection file and found that the file did not contain any quarterly issues/programs lists for the current license term, *i.e.*, it was missing 24 quarters of issues/programs lists.<sup>3</sup>

<sup>1</sup> 47 C.F.R. § 73.3526(e)(12).

<sup>2</sup> *Meade County Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 14321 (Enf. Bur. 2011) (*NAL*). A comprehensive recitation of the facts and history of this case can be found in the *NAL* and is incorporated herein by reference.

<sup>3</sup> *NAL*, 26 FCC Rcd at 14321.

4. Meade submitted a response to the *NAL* requesting cancellation or reduction of the forfeiture. In its response, Meade does not dispute the findings in the *NAL*, but claims that cancellation or reduction is warranted based on its inability to pay and history of compliance with the Rules.<sup>4</sup>

### III. DISCUSSION

5. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,<sup>5</sup> Section 1.80 of the Rules,<sup>6</sup> and the *Forfeiture Policy Statement*.<sup>7</sup> In examining Meade's response, Section 503(b)(2)(E) 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.<sup>8</sup> As discussed below, we have fully considered Meade's response to the *NAL* in light of these statutory factors and find that neither cancellation nor reduction of the forfeiture is warranted.

6. We affirm the *NAL*'s undisputed finding that Meade failed to maintain and make available issues/programs lists in its public inspection file and decline to cancel or reduce the forfeiture. Although Meade does not dispute the finding in the *NAL*, it claims that cancellation or reduction in the forfeiture is warranted based on its inability to pay and history of compliance with the Rules. We disagree. In general, an entity's "gross revenues are the best indicator of its ability to pay a forfeiture."<sup>9</sup> Having examined the tax returns submitted by Meade, we find that a \$10,000 forfeiture expressed as a percentage of Meade's gross revenues is payable,<sup>10</sup> and as such, decline to cancel or reduce the forfeiture on this basis.

7. We also decline to reduce the forfeiture based on Meade's alleged history of compliance with the Rules. In 2004, the Enforcement Bureau issued a Forfeiture Order to Meade in the amount of \$3,000 for failure to register the antenna structure used in the operation of Station WMMG-FM.<sup>11</sup> Accordingly, after consideration of the entire record, the *Forfeiture Policy Statement*, and the factors set forth in Section 503(b)(2)(E) of the Act,<sup>12</sup> we find that Meade violated Section 73.3526(e)(12) of the Rules and a forfeiture in the amount of \$10,000 is appropriate in this case.

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<sup>4</sup> See Statement of Chris McGehee, president and sole shareholder of Meade County Communications, Inc., to Chicago Office, Northeast Region, Enforcement Bureau (rec. Nov. 10, 2011) (on file in EB-FIELDNER-13-00008780).

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. § 1.80.

<sup>7</sup> *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*).

<sup>8</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>9</sup> *PJB Commc'ns of Va., Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089, para. 8 (1992).

<sup>10</sup> See *id.* (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Coleman Enters., Inc.*, Order of Reconsideration, 16 FCC Rcd 10023, 10025, para. 6 (2001) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broad. Corp.*, Memorandum Opinion and Order, 15 FCC Rcd 8640, 8641, para. 7 (Enf. Bur. 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

<sup>11</sup> See *Meade County Communications, Inc.*, Forfeiture Order, 19 FCC Rcd 1020 (Enf. Bur. 2004) (forfeiture paid).

<sup>12</sup> 47 U.S.C. § 503(b)(2)(E). See 47 C.F.R. § 1.80(b)(8).

#### 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, Meade County Communications, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violation of Section 73.3526(e)(12) of the Rules.<sup>13</sup>

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.<sup>14</sup> 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.<sup>15</sup> Meade County Communications, Inc. shall send electronic notification of payment to [NER-Response@fcc.gov](mailto:NER-Response@fcc.gov) on the date said payment is made. 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.<sup>16</sup> 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.

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.<sup>17</sup> 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](mailto:ARINQUIRIES@fcc.gov).

<sup>13</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 73.3526(e)(12).

<sup>14</sup> 47 C.F.R. § 1.80.

<sup>15</sup> 47 U.S.C. § 504(a).

<sup>16</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>17</sup> See 47 C.F.R. § 1.1914.

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 Meade County Communications, Inc. at 1715 Bypass Road, Brandenburg, Kentucky, 40108, and to its counsel, Dawn Sciarrino, Sciarrino & Shubert, 5425 Tree Line Drive, Centreville, Virginia 20120.

FEDERAL COMMUNICATIONS COMMISSION

G. Michael Moffitt  
Regional Director, Northeast Region  
Enforcement Bureau