

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

In the Matter of	)	
	)	
Cochise Broadcasting LLC	)	File No.: EB-FIELDSCR-13-00010408
	)	NAL/Acct. No.: 201432560004
Licensee of AM Station KOMJ	)	FRN: 0005641998
Omaha, NE	)	Facility ID No.: 74104

**FORFEITURE ORDER**

**Adopted: December 16, 2014**

**Released: December 16, 2014**

By the Regional Director, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. We impose a penalty of \$7,000 against Cochise Broadcasting LLC (Cochise) for failing to maintain and staff its main studio in Omaha, Nebraska. The Commission's main studio requirements ensure that broadcast stations remain responsive to the needs and interests of their communities of license and provide residents with a place to access important licensee information, including public inspection files. To fulfill this function, a broadcast station must, among other duties, maintain a fully equipped and staffed main studio. Cochise admits that it failed to fully staff the main studio for its station and has since established a new, compliant main studio in Omaha.

2. Specifically, we issue a monetary forfeiture to Cochise, licensee of AM Station KOMJ in Omaha, Nebraska (Station), for willfully and repeatedly violating Section 73.1125(a) of the Commission's rules (Rules)<sup>1</sup> by failing to maintain and fully staff its main studio for the Station.

**II. BACKGROUND**

3. On February 20, 2014, the Enforcement Bureau's Kansas City Office issued a Notice of Apparent Liability for Forfeiture and Order (*NAL*) to Cochise for violations of the Commission's main studio and public inspection file rules.<sup>2</sup> In its *NAL Response*, Cochise "accepts the finding that its former main studio was not fully staffed."<sup>3</sup> Cochise adds that it established a new main studio for the Station in Omaha, which is fully staffed "with both a receptionist who is present at the main studio full-time, and a general manager who is based at that location."<sup>4</sup> The new main studio for the Station also contains equipment to originate programming and the Station's public inspection file.<sup>5</sup> Cochise states that a complete

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<sup>1</sup> 47 C.F.R. § 73.1125(a).

<sup>2</sup> *Cochise Broadcasting LLC*, Notice of Apparent Liability for Forfeiture and Order, 29 FCC Rcd 1724 (Enf. Bur. 2014) (*NAL*). A comprehensive recitation of the facts and history of this case can be found in the *NAL* and is incorporated herein by reference. As explained below, we do not impose a forfeiture for the public inspection file rule violations alleged in the *NAL*. See *supra* note 15.

<sup>3</sup> Letter from Susan A. Marshall, counsel for Cochise Broadcasting LLC, to Ronald D. Ramage, District Director, Kansas City Office, South Central Region, FCC Enforcement Bureau, at 1 (Mar. 24, 2014) (on file in EB-FIELDSCR-13-00010408) (*NAL Response*).

<sup>4</sup> *Id.* at 5.

<sup>5</sup> *Id.*

public inspection file was available at Cochise's former main studio and provided the Enforcement Bureau with a copy of the file at the Enforcement Bureau's request.<sup>6</sup>

### 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),<sup>7</sup> Section 1.80 of the Rules,<sup>8</sup> and the *Forfeiture Policy Statement*.<sup>9</sup> In examining Cochise's *NAL 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>10</sup> As discussed below, we have fully considered Cochise's *NAL Response* in light of these statutory factors and find that a \$7,000 forfeiture is appropriate.

5. We affirm the *NAL*'s finding that Cochise willfully and repeatedly violated Section 73.1125(a) of the Rules, which requires broadcast stations to maintain a main studio.<sup>11</sup> The Commission has interpreted Section 73.1125 to require broadcast licensees 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."<sup>12</sup> Specifically, the Commission has found that a main studio "must, at a minimum, maintain full-time managerial and full-time staff personnel."<sup>13</sup> Cochise admits that it failed to fully staff the Station's main studio.<sup>14</sup> While Cochise disputes that it did not maintain production and transmission equipment, it neither identified any Cochise equipment located at its former studio nor demonstrated that it contracted for production and transmission equipment. Therefore, based on the evidence before us, we conclude that Cochise willfully and repeatedly violated Section 73.1125(a) of the Rules by failing to maintain and fully staff a main studio.<sup>15</sup> Accordingly, after consideration of the entire record, the *Forfeiture Policy Statement*, and the factors set forth in Section

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<sup>6</sup> *Id.* at 2.

<sup>7</sup> 47 U.S.C. § 503(b).

<sup>8</sup> 47 C.F.R. § 1.80.

<sup>9</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>10</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>11</sup> 47 C.F.R. § 73.1125(a).

<sup>12</sup> *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, para. 24 (1988), *erratum issued*, 3 FCC Rcd 5717 (1988) (correcting language in n.29).

<sup>13</sup> *See Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 n.2 (1991) (noting that, "[t]his 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*, Memorandum Opinion and Order, 7 FCC Rcd 6800 (1992) (*Jones Eastern II*); *see also Birach Broad. Corp.*, Notice of Apparent Liability for Forfeiture and Order, 25 FCC Rcd 2635 (Enf. Bur. 2010).

<sup>14</sup> *NAL Response* at 1.

<sup>15</sup> We do not impose a forfeiture against Cochise for the public inspection file rule violations alleged in the *NAL*. If Cochise had maintained a fully staffed main studio, the agent would have been able to locate and request the public inspection file in person. However, Cochise did not refuse to make the public inspection file available to agents and it subsequently provided the Enforcement Bureau with a copy of the file.

503(b)(2)(E) of the Act,<sup>16</sup> we find that a \$7,000 forfeiture is sufficient to address the violations in this case.

#### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Rules, Cochise Broadcasting LLC **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of seven thousand dollars (\$7,000) for violations of Section 73.1125(a) of the Rules.<sup>17</sup>

7. 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>18</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>19</sup> Cochise Broadcasting LLC shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made.

8. 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>20</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.

9. 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>21</sup> If you have questions regarding payment

<sup>16</sup> 47 U.S.C. § 503(b)(2)(E). See 47 C.F.R. § 1.80(b)(8).

<sup>17</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 73.1125(a).

<sup>18</sup> 47 C.F.R. § 1.80.

<sup>19</sup> 47 U.S.C. § 504(a).

<sup>20</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>21</sup> See 47 C.F.R. § 1.1914.

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).

10. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Cochise Broadcasting LLC at its address of record and to its counsel, Susan A. Marshall, Fletcher, Heald and Hildreth, at 1300 North 17th Street, 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton  
Regional Director, South Central Region  
Enforcement Bureau