

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

In the Matter of)	
)	File No.: EB-11-DL-0014
The L.R. Radio Group, Inc.)	NAL/Acct. No.: 201232500004
)	FRN: 0018390310
Licensee of Station KPIR)	Facility ID # 30195
Granbury, Texas)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: February 7, 2012

Released: February 7, 2012

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

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture and Order (NAL), we find that The L.R. Radio Group, Inc. (L&R), licensee of Station KPIR, in Granbury, Texas, apparently willfully and repeatedly violated Section 73.3526 of the Commission's rules (Rules)¹ by failing to maintain and make available a complete public inspection file. We conclude that L&R is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000). In addition, no later than thirty (30) calendar days from the date of this NAL, L&R must submit a statement signed under penalty of perjury by an officer or director of L&R that Station KPIR is maintaining a complete public inspection file.

II. BACKGROUND

2. On May 17, 2011, an agent from the Enforcement Bureau's Dallas Office (Dallas Office) inspected Station KPIR's main studio during regular business hours. The agent requested to inspect Station KPIR's public inspection file, but the station was only able to produce a folder of advertisements and marketing material. The station was unable to produce any issues/programs lists, service contour map, ownership reports, or the most recent Public and Broadcasting. There was no evidence that the station had ever maintained any of these items in its public inspection file.

III. DISCUSSION

3. Section 503(b) of the Act² 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. 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.³ 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,⁴ and the Commission has so interpreted the term in the Section 503(b)

¹ 47 C.F.R. § 73.3526.

² 47 U.S.C. § 503(b).

³ 47 U.S.C. § 312(f)(1).

⁴ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) ("This provision [inserted in section 312] defines the terms (continued....)")

context.⁵ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.⁶ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁷

A. Public Inspection File Violation

4. Section 73.3526 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.⁸ 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.”⁹ Sections 73.3526(e)(4), (e)(5) and (e)(8) of the Rules state that a copy of any service contour maps submitted with application, the most recent, complete ownership report, and the most recent version of the manual entitled “The Public and Broadcasting” shall be placed in the public inspection file.¹⁰ The public inspection file must be maintained at the main studio of the station,¹¹ and must be available for public inspection at any time during regular business hours.¹²

5. On May 17, 2011, an agent from the Dallas Office requested to inspect Station KPIR’s public inspection file during regular business hours, but the station was unable to make available a complete public inspection file. The station was unable to produce any issues/programs lists, contour maps, a current ownership reports, or the most recent “The Public and Broadcasting” manual. There was no evidence that the station had ever maintained these items in its public inspection file. Based on the evidence before us, we find that L&R apparently willfully and repeatedly violated Section 73.3526 of the Rules by failing to maintain and make available a complete public inspection file.

(...continued from previous page)

‘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”).

⁵ See, e.g., *Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) (*Southern California Broadcasting Co.*).

⁶ 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).

⁷ *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, para. 5; *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, para. 9.

⁸ 47 C.F.R. § 73.3526(a)(2).

⁹ 47 C.F.R. § 73.3526(e)(12).

¹⁰ 47 C.F.R. §§ 73.3526(e)(4), (e)(5), (e)(8).

¹¹ 47 C.F.R. § 73.3526(b).

¹² 47 C.F.R. § 73.3526(c).

B. Proposed Forfeiture Amount and Reporting Requirement

6. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for failing to comply with public file rules is \$10,000.¹³ 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.¹⁴ Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that L&R is apparently liable for a forfeiture of \$10,000.

7. We direct L&R to submit a written statement, pursuant to Section 1.16 of the Rules,¹⁵ signed under penalty of perjury by an officer or director of L&R, stating that Station KPIR is maintaining and making available a complete public inspection file. This statement must be provided to the Dallas Office at the address listed in paragraph 12 within thirty (30) calendar days of the release date of this NAL.

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 of the Commission's rules, The L.R. Radio Group, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of Section 73.3526 of the Commission's rules.¹⁶

9. **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 and Order, The L.R. Radio Group, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. **IT IS FURTHER ORDERED** that The L.R. Radio Group, Inc. **SHALL SUBMIT** a statement as described in paragraph 7 to the Dallas Office within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order.

11. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, 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, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When 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 under an installment plan should be

¹³ *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*), recon. denied, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

¹⁴ 47 U.S.C. § 503(b)(2)(E).

¹⁵ 47 C.F.R. § 1.16.

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

sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁷ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. The L.R. Radio Group, Inc. will send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

12. 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 1.80(f)(3) and 1.16 of the Rules.¹⁸ Mail the written statement to Federal Communications Commission, Enforcement Bureau, South Central Region, Dallas Office, 9330 LBJ Freeway, Suite 1170, Dallas, TX 75243, and must include the NAL/Acct. No. referenced in the caption. The L.R. Radio Group, Inc. also shall email the written response to SCR-Response@fcc.gov.

13. 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 practices (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.

14. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to The L.R. Radio Group, Inc. at 1620 Weatherford Highway, Granbury, Texas 76048.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director
Dallas Office
South Central Region
Enforcement Bureau

¹⁷ See 47 C.F.R. § 1.1914.

¹⁸ 47 C.F.R. §§ 1.16, 1.80(f)(3).