

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

In the Matter of)	
	)	File No.: EB-08-IH-1459
CSSI Non-Profit Educational Broadcasting Corporation	)	NAL/Acct. No.: 201332080017
	)	FRN:
	)	0005813795 https://fjallfoss.fcc.gov/coresWeb/searchDetail.do?frn=0001529247
Licensee of Noncommercial Educational Stations)	
KYQX(FM), Weatherford, Texas)	
)	
KMQX(FM), Weatherford, Texas	)	Facility ID No.: 62040
)	
KEQX(FM), Stephenville, Texas	)	Facility ID No.: 89176
)	
KQXS(FM), Stephenville, Texas	)	Facility ID No.: 89619
)	
KSQX(FM), Springtown, Texas, and	)	Facility ID No.: 89698
)	
KQXE(FM), Eastland, Texas	)	Facility ID No.: 62041
)	
	)	Facility ID No.: 89692

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: March 25, 2013

Released: March 25, 2013

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability (NAL), we find that CSSI Non-Profit Educational Broadcasting Corporation (CSSI or Licensee), licensee of the six above-captioned noncommercial Texas radio stations (Stations), apparently willfully violated Section 73.3527 of the Commission's rules¹ (Rules) by failing to make available its public inspection files. We conclude that CSSI is apparently liable for a monetary forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On June 13, 2008, Graham Newspapers, Inc. (GNI) filed a complaint² with the Commission alleging that CSSI violated its obligations with respect to the Stations' local public inspection files.³ Specifically, GNI alleges that CSSI denied access to the Stations' six public inspection

¹ 47 C.F.R. § 73.3527.

² Complaint from Graham Newspapers, Inc. (Jun. 13, 2008) (on file in EB-08-1459) (Complaint). When GNI filed the Complaint, it held the licenses of four stations: KSWA(AM) and KWKQ(FM), Graham, Texas, and KLXK(FM) and KROO(AM), Breckenridge, Texas. The licenses for these stations were subsequently assigned to a liquidating trust in connection with the bankruptcy of GNI's parent company, Affiliated Media, Inc.

³ See Complaint at 13 and Exhibit G, Affidavit of David Bell, made under penalty of perjury, dated Jun. 10, 2008 (Bell 2008 Affidavit). In addition to alleged public inspection file violations that are the subject of this NAL, GNI

(continued...)

files (Files).⁴ According to GNI employee David Bell, he visited CSSI's main studio on June 6, 2008, at approximately 10:45 a.m., and asked to see the Stations' Files.⁵ CSSI personnel told him that the general manager (GM), John Peterson, could give him "access to [the Files]" but would not arrive until after noon.⁶ When Bell returned to the studio at 12:30 p.m., however, Peterson was still absent.⁷ Bell states that the receptionist "repeatedly asked if I was with the FCC" before she again called Peterson. During that call, Peterson directed the receptionist to give Bell access to the Files.⁸ Bell further states that when Peterson eventually arrived, he, too, asked Bell if he was with the FCC and inquired about the nature of Bell's visit before monitoring Bell's examination of the Files.⁹ Based on Bell's review of the Files, GNI further alleges that they did not contain all required documents.¹⁰

3. The Enforcement Bureau (Bureau) sent a Letter of Inquiry (LOI) to CSSI requesting it to respond to the allegations and provide additional information,¹¹ which it did.¹² CSSI acknowledges that Bell visited the studio and that he discussed viewing the Files, but denies that it refused access.¹³ According to CSSI, when Bell first arrived, he told the receptionist that he wanted to speak with the GM but made no mention of reviewing the Files.¹⁴ CSSI acknowledges that the GM was out of the office when Bell first arrived, but says the GM spoke with Bell over the phone regarding inspection of the public file and offered to help Bell view the Files when he arrived.¹⁵ CSSI also acknowledges that when Bell returned to the studio, the GM had not yet arrived, but explains that CSSI staff left voicemails for the

contends that CSSI violated Section 399B of the Act and Section 73.503(b) of the Rules by apparently airing prohibited commercial material (underwriting). The alleged underwriting violations concern only one station—KYQX(FM)—and therefore will be addressed separately.

⁴ See Complaint at 13.

⁵ See Bell 2008 Affidavit. A licensee must maintain a separate public inspection file for each station it operates, and all such files must be maintained at the station's main studio. See 47 C.F.R. §§ 73.3527(a)(2), 73.3527(b)(1). The licensee must make such files available to members of the public upon request during normal business hours. See 47 C.F.R. § 73.3527(c). Moreover, all such files must contain the documents specified by the public file rule. See 47 C.F.R. §§ 73.3527(a)(2), 73.3527(e).

⁶ See Bell 2008 Affidavit.

⁷ See *id.*

⁸ See *id.*

⁹ See *id.*

¹⁰ See *id.* See also CSSI Motion to Strike, filed Apr. 15, 2010 (CSSI Motion to Strike) at Exhibit F (email from John Peterson to Lee Petro dated Sep. 24, 2009, indicating that Peterson did not charge Bell for copying the documents because Bell "only need[ed] a few copies of what was in the public file.>").

¹¹ Letter from Kenneth M. Scheibel, Jr., Assistant Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to CSSI Non-Profit Educational Broadcasting Corporation (Oct. 28, 2009) (on file in EB-08-IH-1459); Letter from Anjali K. Singh, Acting Assistant Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to CSSI Non-Profit Educational Broadcasting Corporation (May 6, 2010) (on file in EB-08-IH-1459).

¹² Letter from Charles H. Beard, President, and Melinda Beard, Secretary, CSSI Non-Profit Educational Broadcasting Corporation, to Marlene H. Dortch, Secretary, FCC (Dec. 7, 2009) (on file in EB-08-IH-1459) (CSSI Response); Letter from Charles H. Beard, President, and Melinda Beard, Secretary, CSSI Non-Profit Educational Broadcasting Corporation, to Marlene H. Dortch, Secretary, FCC (Dec. 7, 2009) (on file in EB-08-IH-1459). The parties filed a plethora of pleadings in this proceeding, all of which were carefully reviewed and considered.

¹³ See CSSI Response at 7–8, 10.

¹⁴ See *id.* at 7–8.

¹⁵ See *id.*

GM, advising of Bell's return to the studio to see the Files.¹⁶ The GM then contacted the Station and directed an employee "to assist Mr. Bell in photocopying any documents he may need from the public inspection file."¹⁷ Having thus arranged for Bell's access to the Files during his second visit, CSSI posits that, if Bell had simply asked the receptionist to see the Files, "rather than asking to speak with the General Manager," he would have been given access on his first visit.¹⁸ CSSI also challenges the reliability of Bell's sworn statements because Bell had represented to CSSI staff that he was working on a school project to view public inspection files.¹⁹ Based on its view of events, CSSI contends that it did not deny access to its Files.²⁰

4. As to the Files' completeness, CSSI's president states that on June 6, 2008, the Files contained all required documents.²¹ According to CSSI, the Files contained five copies of the "Broadcasting and the Public" manual, EAS logs, letters from the public, and complete copies of ownership reports and applications.²² CSSI contends that the documents supplied by GNI in its Complaint do not, in fact, represent all the documents that were actually in the Stations' Files at the relevant time and instead demonstrate an insufficient attempt by GNI to obtain the entire public file.²³

5. GNI disputes CSSI's contention that its Files were complete²⁴ and questions the truthfulness of CSSI's response.²⁵ GNI contends that, among other things, complete issues/programs lists and a copy of Broadcasting and the Public were missing from CSSI's public files at the time of Bell's visit.²⁶ In support, GNI provided declarations from two former CSSI personnel,²⁷ both of whom claim

¹⁶ *See id.*

¹⁷ *See id.* at 7–8.

¹⁸ *See id.* at 9.

¹⁹ *See id.* at 7–10.

²⁰ *See id.* at 10.

²¹ CSSI's president further states that the quarterly issues/programs lists were located in a computer terminal located next to the public files, and that a memo entitled "Public File Notice" (Notice) was posted near the cabinet containing the Files and described where the hard copies were located. *See* Beard Declaration. Included with the Beard Declaration is a copy of a memo labeled "Public File Notice" dated April 8, 2008, "Re: Public Files for KYQX, KSQX, KMQX, KEQX, KQXE, KQXS, and our translators." The Notice recites the availability of the public file at this location, notes business hours, and explains how to obtain copies. The Notice also indicates that the public file may be found in the bottom drawer of the filing cabinet and "in addition, we have placed our programs and lists as well as our headline news in a folder on the desktop of the computer next to the public file." *Id.*

²² Beard Declaration.

²³ *Id.*

²⁴ *See* Letter from Erwin G. Krasnow, Esquire, Garvey Schubert Barer, Attorney for Graham Newspapers, Inc., to Marlene H. Dortch, Secretary, FCC at 4-5 (Jan. 4, 2010) (on file in EB-08-IH-1459); Letter from Daniel J. Margolis, Esquire, Garvey Schubert Barer, Attorney for Affiliated Media, Inc., FCC Trust, to Marlene H. Dortch, Secretary, FCC (Jun. 29, 2010) (on file in EB-08-IH-1459). GNI claims Bell was directed to the filing cabinet, not to a computer terminal; had no recollection of any Notice posted at or near the cabinet containing the public file on June 6, 2008; and that Bell "made a complete copy of all the documents that were contained" in the Files. *See* Letter from Erwin G. Krasnow, Esquire, Garvey Schubert Barer, Attorney for Graham Newspapers, Inc., to Marlene H. Dortch, Secretary, FCC at 9 (Apr. 8, 2009) (on file in EB-08-IH-1459) and Exhibit E, Declaration of David Bell dated Apr. 3, 2009 (Bell 2009 Declaration) (stating that Bell "copied all of the documents contained in the drawer.").

²⁵ *See* Letter from Erwin G. Krasnow, Esquire, Garvey Schubert Barer, Attorney for Graham Newspapers, Inc., to Marlene H. Dortch, Secretary, FCC (Feb. 3, 2010) (on file in EB-08-IH-1459) (GNI Supplement to Reply).

²⁶ *See* Complaint at 13–14.

that the Stations' Files were incomplete on June 6, 2008.²⁸ One declarant states that CSSI did not maintain a public inspection file;²⁹ the other states, among other things, that Melinda Beard (a CSSI principal) put numerous public file documents in the computer and then "backdated" the documents to make it appear as though they had been on the computer for a longer time than they were.³⁰ GNI also raises a new issue, asserting that CSSI is unqualified to be a licensee based on a prior felony conviction of one of its principals.³¹ CSSI challenges the accuracy and reliability of GNI's declarants, noting that these former "disgruntled employees" have personal motives to harm CSSI and make misrepresentations on behalf of GNI.³²

III. DISCUSSION

6. Section 503(b) of the Communications Act of 1934, as amended (Act), 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.³³ 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.³⁴ 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,³⁵ and the Commission has so interpreted the term in the Section 503(b) context.³⁶

²⁷ See GNI Supplement to Reply at Exhibit A, Declaration of John Peterson dated Jan. 27, 2010 (Peterson Declaration), and Exhibit B, Declaration of Frank Benton dated Feb. 3, 2010 (Benton Declaration). Peterson, the GM at the time of Bell's visit to access the public file, claims CSSI fired him from his position as GM on December 18, 2009. See Peterson Declaration. Benton, a consultant on underwriting compliance, claims to have ceased volunteering at CSSI in the fall of 2009 due to a disputed underwriting announcement and because of Peterson's "firing." See Benton Declaration; GNI Opposition to Motion to Strike (filed May 5, 2010) at Further Declaration of Frank Benton, dated Apr. 29, 2010, at para. 2.

²⁸ See Peterson Declaration at 1, para. 4, and Benton Declaration at 2, para. 9.

²⁹ See Benton Declaration at 2, para. 9 (the purported Files were "not present in any file I checked.").

³⁰ See Peterson Declaration at 1, para. 4.

³¹ See *id.* at 2, para. 10; see also GNI Supplement to Reply at 1 and Exhibit C (documents related to a conviction adjudged in 1964).

³² See, e.g., CSSI Motion to Strike at 6–10. CSSI provided independent evidence demonstrating that, contrary to Peterson's claims, he was not fired but rather voluntarily left CSSI's employ. See CSSI Motion to Strike at Exhibit C (Determination on Payment of Unemployment Benefits re John Peterson from Texas Workforce Commission, dated Jan. 27, 2010) (finding that Peterson "quit" CSSI and denying unemployment benefits); Exhibit D (Certificate of Ownership of West-Plex Sports filed by John Peterson on Dec. 18, 2009) (signifying Peterson had started a business); and H (Statement from Joe Graham, General Manager, Lake Country Radio, to Hearing Officer, Texas Workforce Commission, dated Jan. 28, 2010) (a GNI employee's attesting to the purported veracity of Peterson's unemployment claim alleging that CSSI had fired him).

³³ 47 U.S.C. § 503(b).

³⁴ 47 U.S.C. § 312(f)(1).

³⁵ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms '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").

³⁶ See, e.g., *Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6

(continued...)

A. Violation of Public Inspection File Requirements

7. **Access to Public Files.** Noncommercial stations must make their public files available for inspection at any time during regular business hours.³⁷ The Commission has made clear that a simple request to see the public file is sufficient to obtain access.³⁸ Accordingly, a licensee may not require a member of the public to make an appointment, or return at another time, to inspect a public file.³⁹ In addition, licensees may not require members of the public to identify the organization they represent.⁴⁰ Based on the evidence before us and as further discussed below, we find that CSSI's failure to provide immediate access to the Stations' Files upon Bell's initial visit violated the public file rule.

8. The record establishes that CSSI denied a member of the public access to its Stations' Files. On June 6, 2008, in response to a request to inspect the Stations' Files during normal business hours, CSSI failed to provide immediate access to them.⁴¹ Although the parties contest whether Bell initially asked the receptionist to provide the Files before she called the GM,⁴² it is undisputed that Bell and the GM discussed inspection of the public file during their phone call.⁴³ It is also undisputed that CSSI did not provide access to its Files during Bell's morning visit to the studio, doing so only after Bell returned in the afternoon.⁴⁴

9. Commission precedent makes clear that a licensee may not require a member of the public to make an appointment or return at a later time to inspect a station's public file.⁴⁵ A request made during normal business hours from a member of the public triggers a licensee's obligation to provide immediate access to its public inspection files. Accordingly, CSSI's GM should have directed CSSI staff to grant Bell access to the Stations' Files when he and Bell first spoke on the telephone.⁴⁶ Instead, Bell

FCC Rcd 4387, 4388, para. 5 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992).

³⁷ See 47 C.F.R. § 73.3527(c)(1).

³⁸ *Gaston College*, Forfeiture Order, 25 FCC Rcd 982, 982–85 paras. 2–7 (Enf. Bur. 2010) (forfeiture paid) (affirming forfeiture for licensee's initial failure to make public files available to an employee of entity seeking to acquire the licensee's station, and licensee's subsequent requirement that the requestor schedule an appointment to view the file; amount reduced based on the licensee's history of compliance with the Rules).

³⁹ *Availability of Locally Maintained Records for Inspection by Members of the Public*, Public Notice, 13 FCC Rcd 17959 (1998) (*Availability Public Notice*).

⁴⁰ *Id.* (citing *WBRN, Inc.*, Memorandum Opinion and Order, 32 FCC 2d 729 (1971) (stations may require members of the public seeking access to the public file to provide personal identification, but may not require that they identify the organizations that they represent)).

⁴¹ See CSSI Response at 7–8.

⁴² The CSSI Response contains declarations from receptionist Katy Kechnie and PSA Manager Gentry Little that purport to support CSSI's responses to the Bureau's LOI. The declarations, however, do not contain statements describing the declarants' personal knowledge of the events on June 6, 2008. This lack of specificity as to the declarants' personal knowledge regarding the events of June 6, 2008, and in particular whether Bell asked the receptionist to see the Files during his first visit, limits the probative value of the declarations. See, e.g., *Green Eagle Networks, Inc.*, Memorandum Opinion and Order, 27 FCC Rcd 5732, 5737–38, paras. 11, 15 (Wireless Telecom. Bur. 2012) (poorly executed affidavits or declarations undercut credence of petitioner's claims). We therefore accord little weight to these declarations.

⁴³ See CSSI Response at 7–8.

⁴⁴ See *id.*

⁴⁵ See *Availability Public Notice at 17959*. See also *Community Television of Southern California*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 1107, 1109, para. 8 (Enf. Bur. 2011).

⁴⁶ See *Thomas P. Brunnock*, 50 RR 2d 1313 (Broadcast Bur. 1982) (noting that a station's two-hour delay in locating its public inspection file would violate the Commission's public inspection file rules), *review denied sub. nom.*

(continued...)

was advised to come back later, when the GM would be available.⁴⁷ The fact that CSSI ultimately provided access to its Files on Bell's second visit to the studio in the afternoon does not negate its failure to provide access earlier in the day. Thus, CSSI's contention that it did not deny access to its Files is unavailing. Based on the record, we therefore find that CSSI failed to provide access to its Files upon Bell's request on his initial visit, in apparent willful violation of Section 73.3527 of the Rules.

10. **Contents of the Public Files.** Licensees' public files must contain the documents specified by the Commission.⁴⁸ The record in this case does not support a finding that CSSI's Files lacked the required documents. GNI's allegations as to the Files' completeness are based on declarations that contain substantial inconsistencies and conflicting information.⁴⁹ The infirmities of these declarations undermine their probative value and raise questions as to the reliability and accuracy of GNI's allegations. After evaluating the entire record—including the declaration of CSSI's president,⁵⁰ the documents of independent parties,⁵¹ and the documents created contemporaneously with relevant events⁵²—we find the evidence on this issue equivocal and inconclusive at best. Consequently, we do not find a separate apparent violation that the Files were incomplete. Given our conclusion that CSSI denied access to its Files, and the already voluminous record, we do not believe the completeness issue warrants further investigation.

11. **Licensee Fitness.** Evidence of lack of candor, misrepresentation, or felony convictions may raise questions as to whether a licensee possesses the character qualifications to hold a Commission authorization.⁵³ As described above, GNI questions the truthfulness of CSSI's representations concerning the completeness of its public files, raising an issue of lack of candor or misrepresentation that reflects on CSSI's character qualifications.⁵⁴ GNI also argues that CSSI is unfit to be or remain a licensee because one of its principals was convicted of a felony in 1964.⁵⁵ GNI's attempt to challenge CSSI's fitness is

Complaint of Continuing Committee for Mayor Bergin against Station WATR-TV Waterbury, Connecticut, Memorandum Opinion and Order, 90 FCC 2d 813 (1982).

⁴⁷ See CSSI Response at 7–8.

⁴⁸ See, e.g., 47 C.F.R. §§ 73.3527(a)(2), 73.3527(e).

⁴⁹ For example, one GNI declarant avers that there were no Files “in any file he checked”; that he “never saw a computer terminal” near the cabinets with the Files; and that the Notice was never posted. See discussion *supra* para. 5, note 29; Benton Declaration at 2, para. 9. These statements are inconsistent with the record and conflict with not only the sworn statement of CSSI's president, but also with the sworn statements of GNI's other witnesses (Bell and Peterson), all of whom acknowledge the Files' existence. Accordingly, we place little reliance on the facts averred by this declarant (Benton).

⁵⁰ Beard Declaration at 1, paras. 6–8 (Beard declares that the Files were complete and provides a detailed explanation of the condition of the Files and the location of enumerated documents within the file cabinet and nearby computer (as specified in the Notice)).

⁵¹ See, e.g., Peterson Declaration and discussion *supra* para. 5, note 32. Peterson's claim that CSSI fired him was not sustained by the Texas Workforce Commission, who found he left CSSI voluntarily. Peterson's inaccuracy in his sworn statement undermines his credibility.

⁵² Bell's initial declaration, which was sworn to four days after his visit to CSSI's studio, acknowledges that he copied most, but not all, of the documents in the Files. Bell's later declaration, however, inconsistently states that he “copied all of the documents contained in the drawer.” See discussion *supra* para. 5, note 24; compare Bell 2008 Declaration at para. 5 with Bell 2009 Declaration at para. 4. We discount this later inconsistent declaration, which appears unreliable in the context of other submissions.

⁵³ See, e.g., *Kaye-Smith Enterprises*, Memorandum Opinion and Order, 71 FCC 2d 1402 (1979) *aff'd*, 90 FCC 2d 27 (1982).

⁵⁴ See discussion *supra* para. 5, note 25.

⁵⁵ See discussion *supra* para. 5, note 31.

unpersuasive. As stated above, we find the evidence with respect to the Files' completeness to be equivocal and inconclusive, at best.⁵⁶ We therefore cannot find that the record supports GNI's claim that CSSI lacked candor. Moreover, GNI neither accounts for its delay in raising the criminal conviction of one of CSSI's principals 18 months after filing its initial Complaint,⁵⁷ nor explains the relevancy of such stale information in light of applicable Commission precedent,⁵⁸ especially given the conviction's great remoteness in time.⁵⁹ Considering the record as a whole, we conclude that GNI has failed to raise a substantial or material question of fact regarding CSSI's fitness to hold a Commission license.

B. Proposed Forfeiture

12. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for a public inspection file violation is ten thousand dollars (\$10,000).⁶⁰ 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.⁶¹ As discussed above, CSSI failed to provide access to the Files upon Bell's request on his initial visit, in apparent willful violation of Section 73.3527 of the

⁵⁶ See, e.g., *Contemporary Media, Inc.*, Initial Decision, 12 FCC Rcd 14254, 14297, para. 168 (ALJ 1997) (subsequent history omitted) (witness statement contradicted by documentary evidence and thus not credible); *Capitol City Broadcasting Company*, Decision, 8 FCC Rcd 1726, 1736, para. 33 (Rev. Bd. 1993), *modified and remanded on other grounds*, Memorandum Opinion and Order, 8 FCC Rcd 8478 (1993) (self-serving testimony not credible in light of contradictory documentary evidence); *Silver Star Communications – Albany, Inc.*, Initial Decision, 3 FCC Rcd 1958, 1970–71, para. 26 (1988) (testimony discredited and found not believable where witness was motivated by bitterness toward licensee principal); *WWLE, Inc.*, Initial Decision, 85 FCC 2d 93, 162, para. 211, n.146 (ALJ 1977), *aff'd*, Decision, 85 FCC 2d 68 (1981) (no weight accorded to testimony of former employee who had a dispute with licensee).

⁵⁷ In October 2007, CSSI filed an application to build a new station in Graham, Texas, against which GNI filed an informal objection on June 13, 2008. See File No. BNPED-20071012AOI. GNI did not raise the fitness issue or cite the prior felony conviction until February 2010 (see GNI Supplement to Reply at 1). The Commission generally disfavors late-filed evidence and argument. See, e.g., *In Re Regionet Wireless License, LLC*, Memorandum Opinion and Order, 17 FCC Rcd 21266, 21272–73, paras. 10–11 (2002) (subsequent history omitted) (declining to consider untimely filings, noting that it is in the public interest for parties to raise arguments early in a proceeding); *In Re Carol B. Ingram*, Memorandum Opinion and Order, 11 FCC Rcd 4100, 4100, para. 3 (1996) (denying application for review and noting party's failure to raise issues at an earlier stage of the proceeding).

⁵⁸ See, e.g., *Kaiser Broadcasting Corp.*, Memorandum Opinion and Order, 48 FCC 2d 142, 143, para. 4 (1974) (denying reconsideration of license grant and noting in particular petitioner's improper assertion of new matters and failure to set forth any reason for its failure to have presented the matters at an earlier stage in the proceeding, as well as its failure to state with specificity how the matters disqualify the licensee).

⁵⁹ In its application, CSSI certified that none of its principals had prior felony convictions. See File No. BNPED-20071012AOI, at Question 9. The application's instructions require applicants to report only those convictions "that occurred within the past ten years." See Instructions for Form 340 at 6. Accordingly, CSSI was not required to disclose a principal's 40-year old conviction. See also *Policy Regarding Character Qualifications*, Report, Order and Policy Statement, 102 FCC 2d 1179, 1229, para. 105 (1986) (subsequent history omitted) (stating that misconduct that occurred prior to the current license term "should not be considered, and that, even as to consideration of past conduct indicating 'a flagrant disregard of the Commission's regulations and policies,' a ten year limitation should apply.").

⁶⁰ *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*), *recons. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

⁶¹ 47 U.S.C. § 503(b)(2)(E).

Rules. Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, prior precedent,⁶² and the statutory factors to the instant case, we conclude that CSSI is apparently liable for a total forfeiture of ten thousand dollars (\$10,000).

IV. ORDERING CLAUSES

13. 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, CSSI Non-Profit Educational Broadcasting Corporation is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of Section 73.3527 of the Commission's rules.⁶³

14. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within fifteen (15) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order, CSSI Non-Profit Educational Broadcasting Corporation **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

15. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. CSSI Non-Profit Educational Broadcasting Corporation shall send electronic notification to Jeffrey.Gee@fcc.gov, Kenneth.Scheibel@fcc.gov, and Dana.Leavitt@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁶⁴ 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.

⁶² See, e.g., *Community Television of Southern California*, 26 FCC Rcd at 1109, para. 9 (proposing \$10,000 forfeiture for repeated and willful violation of Section 73.3527(c) by failing to make available the station's public inspection files upon request); *Blountstown Communications, Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 1097 (Enf. Bur. 2007) (affirming a forfeiture of \$10,000 for willful violation of the public file rule by failing to make public inspection files available at two co-located stations).

⁶³ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 73.3527.

⁶⁴ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

16. Any request for full payment 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. 20554.⁶⁵ 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.

17. The written statement, if any, seeking reduction or cancellation of the proposed forfeiture 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.⁶⁶ Mail the written statement to Theresa Z. Cavanaugh, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C330, Washington, D.C. 20554, and include the NAL/Account number referenced above. In addition, a copy of the written statement must be transmitted via e-mail to Terry.Cavanaugh@fcc.gov, Jeffrey.Gee@fcc.gov, Kenneth.Scheibel@fcc.gov, and Dana.Leavitt@fcc.gov.

18. 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.

19. **IT IS FURTHER ORDERED** that the Complaint **IS GRANTED** to the extent indicated herein and **IS OTHERWISE DENIED**.⁶⁷

20. **IT IS FURTHER ORDERED** that a copy of this NAL shall be sent by First Class Mail and by Certified Mail, Return Receipt Requested, to Charles H. Beard, President, and Melinda Beard, Secretary, CSSI Non-Profit Educational Broadcasting Corporation, 905 Palo Pinto Street, Weatherford, Texas 76086; and to Lee G. Petro, Esquire, counsel to CSSI Non-Profit Educational Broadcasting Corporation, Drinker Biddle & Reath LLP, 1500 K Street, N.W., Washington, D.C. 20005-1209. A copy of this NAL also shall be sent by First Class Mail to Complainant's counsel, Erwin G. Krasnow, Esquire and Daniel J. Margolis, Esquire, Garvey Schubert Barer, 1000 Potomac Street, N.W., Fifth Floor, Washington, D.C. 20007.

FEDERAL COMMUNICATIONS COMMISSION

Theresa Z. Cavanaugh
Chief, Investigations and Hearings Division
Enforcement Bureau

⁶⁵ See 47 C.F.R. § 1.1914.

⁶⁶ 47 C.F.R. §§ 1.16, 1.80(f)(3).

⁶⁷ See note 3, *supra*. For purposes of the forfeiture proceeding initiated by this NAL, CSSI Non-Profit Educational Broadcast Corporation shall be the only party to this proceeding.