

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

In the Matter of)	
)	
Entertainment Media Trust, Dennis J. Watkins, Trustee)	File No.: EB-10-CG-0080; EB-FIELDNER- 12-00004411
Licensee of Station WQQX)	NAL/Acct. No. 201132320003
East St. Louis, Illinois)	FRN: 0014655476
)	Facility ID Nos.: 72815, 90598
Licensee of Station WQQW)	
Highland, Illinois)	

FORFEITURE ORDER

Adopted: March 24, 2014

Released: March 24, 2014

By the Regional Director, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of eight thousand five hundred dollars (\$8,500) to Entertainment Media Trust, Dennis J. Watkins, Trustee (Entertainment Media Trust or the Licensee), licensee of AM Stations WQQX, East St. Louis, Illinois and WQQW, Highland, Illinois, for willfully violating Section 73.3526 of the Commission's rules (Rules).¹ The noted violations involved Entertainment Media Trust's failure to make available complete public inspection files for Stations WQQX and WQQW.

II. BACKGROUND

2. On May 19, 2011, the Enforcement Bureau's Chicago Office issued a Notice of Apparent Liability for Forfeiture (*NAL*)² to Entertainment Media Trust for its failure to maintain and make available complete public inspection files for Stations WQQX and WQQW. As described in detail in the *NAL*,³ an agent from the Chicago Office conducted an inspection of co-located Stations WQQX and WQQW on April 21, 2010. In view of the record evidence, including the fact that agents from the Enforcement Bureau found public inspection file violations at two other stations owned by the Licensee on the same day as the inspection here, the *NAL* proposed a forfeiture of \$24,000 against Entertainment Media Trust for violations of Section 73.3526 of the Rules. Entertainment Media Trust submitted a response to the *NAL* requesting reduction of the proposed forfeiture, because it asserts it (1) maintained complete public inspection files and temporarily misplaced them during the inspection, (2) has a history of compliance with the Rules, and (3) is unable to pay the forfeiture.⁴

¹ 47 C.F.R. § 73.3526(e)(12).

² *Entertainment Media Trust, Dennis J. Watkins, Trustee*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 6886 (Enf. Bur. 2011)(*NAL*).

³ A comprehensive recitation of the facts and history of this case can be found in the *NAL* and is incorporated herein by reference.

⁴ Letter from Anthony T. Lepore, Esq., Counsel for Entertainment Media Trust, to the Chicago Office (June 13, 2011)(on file in EB-10- CG-0080)(*NAL Response*).

III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),⁵ Section 1.80 of the Rules,⁶ and the *Forfeiture Policy Statement*.⁷ In examining Entertainment Media Trust'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.⁸ As discussed below, we have considered Entertainment Media Trust's response in light of these statutory factors and reduce the forfeiture to \$8,500 based on its documented inability to pay.

4. We affirm the *NAL*'s finding that Entertainment Media Trust violated Section 73.3526 of the Rules. 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.⁹ As described in the *NAL*, an agent from the Chicago Office requested to inspect the public inspection files for Station WQQX and Station WQQW on April 21, 2010 and found that neither station had a public inspection file. Entertainment Media Trust does not deny these facts, but asserts that the "deficiencies in the WQQX and WQQW public files arose from the ... attendant consolidation of business operations of all four stations [KZQZ, KQQZ, WQQX and WQQW] into one location [in Belleville, Illinois] resulting in the temporary mislocation of certain portions of public files. ... Offices were temporarily relocated along with files and furnishings during the construction process and the personnel on hand on [April 21, 2010] were unable to locate the relevant documents."¹⁰

5. During the inspection of the Belleville main studio on April 21, 2010, station management mentioned the consolidation and that some public inspection file documents might be in a back room. The agent from the Chicago Office gave station staff ample time to look through the boxes in the back room, but they were unable to locate the missing public files or any evidence that the public files had been maintained. Thus, even if Entertainment Media Trust did misplace the missing contents of its public inspection files during the consolidation, the Licensee's actions would still constitute a violation of Section 73.3526 of the Rules. That section requires that the file be made available for public inspection upon request at the station's main studio, which at the time of the inspection was the Belleville location.¹¹ Therefore, we find that Entertainment Media Trust willfully violated Section 73.3526 of the Rules by failing to make available complete public inspection files.

IV. Inability to Pay

6. Entertainment Media Trust requests reduction of the proposed forfeiture based on its inability to pay.¹² With regard to an individual's or entity's inability to pay, the Commission has

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. § 1.80.

⁷ *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*).

⁸ 47 U.S.C. § 503(b)(2)(E).

⁹ 47 C.F.R. § 73.3526(a)(2).

¹⁰ *NAL Response* at 1.

¹¹ *See Spirit Broadcasting, Inc.*, Forfeiture Order, 26 FCC Rcd 15276 (Enf. Bur. 2011) *aff'g* Notice of Apparent Liability for Forfeiture and Order, 26 FCC Rcd 10212 (Enf. Bur. 2011).

¹² *NAL Response* at 2. Entertainment Media Trust also argues for a reduced forfeiture because of its history of

determined that, in general, gross revenues are the best indicator of an ability to pay a forfeiture.¹³ Having reviewed Entertainment Media Trust's submitted documentation, we conclude that the forfeiture should be reduced further to \$8,500, an amount within the range determined by the Bureau to not be excessive.

V. ORDERING CLAUSES

7. 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, Entertainment Media Trust, Dennis J. Watkins, Trustee **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand five hundred dollars (\$8,500) for violations of Section 73.3526 of the Commission's rules.¹⁴

8. 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.¹⁵ 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.¹⁶ Entertainment Media Trust, Dennis J. Watkins, Trustee shall send electronic notification of payment to NER-Response@fcc.gov on the date said payment is made.

9. 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.¹⁷ 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

compliance and good-faith efforts to comply with the Commission's public inspection file rules. Because we are already reducing the forfeiture based on the Licensee's inability to pay well beyond any reduction Entertainment Media Trust would otherwise receive, we need not address these other claims.

¹³ See *PJB Communications of Virginia, Inc.*, Forfeiture Order, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Local Long Distance, Inc.*, Forfeiture Order, 16 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, Forfeiture Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

¹⁴ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 73.3526.

¹⁵ 47 C.F.R. § 1.80.

¹⁶ 47 U.S.C. § 504(a).

¹⁷ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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 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. 20554.¹⁸ 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.

11. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Entertainment Media Trust, Dennis J. Watkins, Trustee at 6500 West Main Street, Suite 315, Belleville, IL 62223 and to its counsel, Anthony T. Lepore, Esq., P.O. Box 823662, South Florida, FL 33082-3662.

FEDERAL COMMUNICATIONS COMMISSION

G. Michael Moffitt
Regional Director
Northeast Region
Enforcement Bureau

¹⁸ See 47 C.F.R. § 1.1914.