

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

In the Matter of	)	
	)	
<b>Full Channel TV, Inc.</b>	)	NAL/Acct. No. MB-201241410026
<b>Bristol, Rhode Island</b>	)	FRN: 0003596293
	)	Employment Unit I.D. No. 12275

**FORFEITURE ORDER**

**Adopted: July 25, 2016**

**Released: July 25, 2016**

By the Chief, Media Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of eleven thousand dollars (\$11,000) to Full Channel TV, Inc. (Full Channel), operator of Employment Unit 12275, Bristol, Rhode Island (the Full Channel Unit or Unit). We conclude that the Unit willfully and repeatedly violated the Commission's equal employment opportunity (EEO) rules, by failing to comply with the Commission's recruitment, self-assessment, EEO public file report, and public inspection file requirements.

**II. BACKGROUND**

2. The Media Bureau (Bureau) audited the Full Channel Unit for its compliance with the Commission's multichannel video programming distributor (MVPD) EEO Rules in 2011.<sup>1</sup> The Unit submitted its response on January 18, 2012, for the reporting period of October 1, 2010 through September 30, 2011.<sup>2</sup>

3. On April 11, 2012, the Bureau issued a Notice of Apparent Liability (NAL) for Forfeiture against the Full Channel Unit.<sup>3</sup> The Bureau found that the Unit apparently filled three full-time vacancies and failed to recruit widely for all three vacancies, as required by Section 76.75(b)(1)(i) of the Commission's Rules.<sup>4</sup> Specifically, the Unit apparently (1) hired one employee on October 4, 2010, using a vacancy announcement that was posted only on the Unit's own website; (2) hired another employee on January 31, 2011, using a vacancy announcement that was posted on only one external website (Craigslis); and (3) hired a third employee on April 11, 2011, using an announcement again posted only on its own website. The Bureau also found that the Unit failed to compile and maintain an EEO public

<sup>1</sup> Letter from Lewis Pulley, Assistant Chief, Policy Division, FCC Media Bureau, to Full Channel TV, Inc. (November 15, 2011).

<sup>2</sup> Letter from Linda Jane Maaia, President/CEO, Full Channel, Inc., to EEO Staff, Policy Division, FCC Media Bureau (January 18, 2012).

<sup>3</sup> *Full Channel TV, Inc., Notice of Apparent Liability for Forfeiture*, 27 FCC Rcd. 3970 (MB 2012) (NAL).

<sup>4</sup>Section 76.75(b)(1)(i) requires that an MVPD employment unit use recruitment sources for each vacancy in a manner sufficient, in its reasonable, good faith judgment, to widely disseminate information concerning the vacancy. 47 CFR § 76.75(b)(1)(i).

file report for the reporting period ending in 2011, in apparent violation of Section 76.1702(a) of the Commission's rules.<sup>5</sup> As a result, the Unit failed to make its EEO public file reports available for public inspection and to place its EEO program information on its website, in apparent violation of Section 76.1702(b) of the rules.<sup>6</sup> Because of these failures, the Bureau determined that it was not possible for the Unit to have adequately analyzed its recruitment program on an ongoing basis to ensure that it was effective in achieving broad outreach or address any problems found as a result of its analysis, in apparent violation of Section 76.75(f) of the rules.<sup>7</sup>

4. Because of the one-year statute of limitations on the Commission's authority to issue forfeitures for MVPD EEO violations, the Bureau could not redress two of the Unit's recruiting failures – the hires on October 4, 2010 and January 31, 2011 – through monetary forfeitures.<sup>8</sup> Accordingly, the Bureau admonished the Full Channel Unit in the NAL for failing to recruit widely for these two vacancies. The Bureau proposed a forfeiture in the NAL with respect to the third hire, which occurred on April 11, 2011 and was therefore within the statute of limitations, and for which the Unit also failed to recruit widely. The Bureau further proposed a forfeiture for the Unit's other EEO violations, which also occurred within the statute of limitations. Accordingly, the Bureau found that the Unit is apparently liable for the following forfeiture amounts for its willful and repeated violations of the rules: (1) \$5,000 for its violation of Section 76.75(b)(1)(i); (2) \$1,000 for its violation of Section 76.1702(a); (3) \$4,000 for its violation of Section 76.1702(b); and (4) \$1,000 for its violation of Section 76.75(f), for a total proposed forfeiture of \$11,000. The Bureau also imposed reporting conditions on the Unit and any successor owner of the Unit, and it adjudged the Unit not certified for compliance with the Commission's EEO rules for the year 2011.

5. The Unit thereafter submitted its responses to the NAL and requested cancellation of the proposed forfeiture.<sup>9</sup>

### III. DISCUSSION

6. We affirm our findings in the NAL that the Unit violated Sections 76.75(b)(1)(i),

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<sup>5</sup> Section 76.1702(a) requires a unit to compile and maintain annual EEO public file reports. 47 CFR § 76.1702(a).

<sup>6</sup> Section 76.1702(b) requires a unit to make its EEO public file reports available for public inspection and place its EEO program information on its website. 47 CFR § 76.1702(b).

<sup>7</sup> Section 76.75(f) requires that an MVPD unit analyze its recruitment program on an ongoing basis to ensure that it is effective in achieving broad outreach, and address any problems found as a result of its analysis. 47 CFR § 76.75(f).

<sup>8</sup> Section 503(b)(6)(B) of the Communications Act of 1934, as amended, limits the time period within which the Commission can initiate a forfeiture proceeding against non-broadcast entities to only those violations that occur within one year prior to the issuance date of a notice of apparent liability for forfeiture. 47 U.S.C. § 503(b)(6)(B). Because the NAL was issued on April 11, 2012, the hires that occurred in October 2010 and January 2011 were outside the statute of limitations.

<sup>9</sup> Letter from William Maaia, Esq., attorney for Full Channel TV, Inc., to William Lake, Chief, FCC Media Bureau (May 9, 2012); letter from William Maaia, Esq., attorney for Full Channel TV, Inc., to William Lake, Chief, FCC Media Bureau (May 14, 2012); email from William Maaia, Esq., attorney for Full Channel TV, Inc., to FCC EEO staff (July 17, 2014); letter from William Maaia, Esq., attorney for Full Channel TV, Inc., to William Lake, Chief, FCC Media Bureau (July 31, 2012); letter from William Maaia, Esq., attorney for Full Channel TV, Inc., to William Lake, Chief, FCC Media Bureau (September 18, 2015); letter from William Maaia, Esq., attorney for Full Channel TV, Inc., to FCC EEO staff (December 2, 2015); letter from William Maaia, Esq., attorney for Full Channel TV, Inc., to FCC EEO staff (January 8, 2016).

76.1702(a), 76.1702(b), and 76.75(f) of our rules.<sup>10</sup> As discussed below, we have considered the NAL responses and find that an \$11,000 forfeiture is appropriate.

7. Under Section 503(b)(1)(B) of the Communications Act of 1934, as amended (the Act),<sup>11</sup> any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.<sup>12</sup> 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.<sup>13</sup> The legislative history of Section 312(f)(1) clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,<sup>14</sup> and the Commission has so interpreted the term in the Section 503(b) context.<sup>15</sup> The Commission also may assess a forfeiture for violations that are merely repeated and not willful.<sup>16</sup> Section 312(f)(2) of the Act provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”<sup>17</sup> In order to impose a forfeiture, the Commission must issue a notice of apparent liability identifying the alleged violation and proposing a forfeiture amount, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such penalty should be imposed or why it should be reduced and must include a detailed factual statement and pertinent documents and affidavits as support.<sup>18</sup> The Commission may then adjust the proposed forfeiture as necessary or appropriate based on the response and issue a final forfeiture if it finds, by a preponderance of the evidence, that the person has willfully or repeatedly violated the Act or a Commission rule.<sup>19</sup>

8. The Commission’s *Forfeiture Policy Statement* and Section 1.80(b)(4) of the rules do not establish a base forfeiture amount for EEO violations.<sup>20</sup> However, the *Forfeiture Policy Statement* does include a base forfeiture amount of \$3,000 for failure to file required information and of \$10,000 for failure to comply with the public inspection file rule.<sup>21</sup> In determining the appropriate forfeiture amount, we may adjust the amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the Act, including “the nature, circumstances, extent and gravity of the violation, and,

<sup>10</sup> 47 CFR §§ 76.75(b)(1)(i), 76.1702(a), 76.1702(b), and 76.75(f).

<sup>11</sup> 47 U.S.C. § 503(b)(1)(B); *see also* 47 CFR § 1.80(a)(1).

<sup>12</sup> *Id.*

<sup>13</sup> 47 U.S.C. § 312(f)(1).

<sup>14</sup> H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982).

<sup>15</sup> *See Southern California Broadcasting Co., Memorandum Opinion and Order*, 6 FCC Rcd 4387, 4388 (1991).

<sup>16</sup> *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana, Notice of Apparent Liability for Monetary Forfeiture*, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator’s repeated signal leakage).

<sup>17</sup> 47 U.S.C. § 312(f)(2).

<sup>18</sup> *See* 47 U.S.C. § 503(b)(4); 47 CFR § 1.80(f).

<sup>19</sup> *See, e.g., SBC Communications, Inc., Forfeiture Order*, 17 FCC Rcd 7589, 7591, para. 4 (2002).

<sup>20</sup> 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines, Report and Order*, 12 FCC Rcd 17087, 17100-01, para. 27; 17113-16 (1997) (*Forfeiture Policy Statement*), *recon. denied*, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b)(4); 47 CFR § 1.80(b)(4), note to paragraph (b)(4), Section II.

<sup>21</sup> *Forfeiture Policy Statement*, 12 FCC Rcd at 17113-15.

with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”<sup>22</sup>

#### A. The Unit Violated the FCC Rules

9. We find that the Full Channel Unit willfully and repeatedly violated Section 76.75(b)(1)(i) of our rules, which requires MVPD employment units to use recruitment sources for each vacancy in a manner sufficient, in their reasonable, good faith judgment, to “widely disseminate information concerning the vacancy.”<sup>23</sup> In this case, the Unit posted vacancies only on the Unit’s own website and one external website for the reporting period of October 1, 2010 through September 30, 2011. Specifically, the Unit reports that it only used the following Internet recruitment sources to fill vacancies during this reporting period: Full Channel Website Intranet, Full Channel Careers page Internet, and Craigslist.<sup>24</sup>

10. We are not persuaded by the Unit’s arguments that its online advertising for these vacancies was sufficient under our rules. The Unit claims that its Internet-only advertising was a better way to reach potential qualified applicants than print advertising because online advertising is more effective and far reaching than print advertising in its community.<sup>25</sup> It argues that “69% of Rhode Island homes and 72% of nearby Massachusetts’s homes were connected to the Internet with access to Craigslist.”<sup>26</sup> It further notes that it uses its website and Craigslist to post vacancies because it seeks computer literate applicants.<sup>27</sup> The Unit maintains that, in addition to Internet advertising, it “cultivates relationships with technical schools and training programs” and utilizes “job fairs, specific contact people, referrals from current employees and past employees, and cable television advertisements” for dissemination of vacancy notifications.<sup>28</sup>

11. While the Commission does not require the use of a specific number of recruitment sources, if a source or sources cannot reasonably be expected, collectively, to reach the entire community, as here, a Unit will be found in noncompliance with Section 76.75(b)(1)(i).<sup>29</sup> By the Unit’s own calculations, 31 percent of Rhode Island homes and 28 percent of nearby Massachusetts homes are not connected to the Internet and therefore do not have readily available access to Craigslist or the Unit’s website.<sup>30</sup> Internal postings such as the Unit’s Intranet website do not result in sufficient public outreach to inform job seekers who are unconnected to Unit staff that positions at the Unit are available.<sup>31</sup> Further, the Commission’s EEO policy requires a Unit to recruit from non-Internet sources, in addition to any

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<sup>22</sup> 47 CFR § 1.80(b)(4).

<sup>23</sup> 47 CFR § 76.75(b)(1)(i).

<sup>24</sup> NAL Response, July 17, 2014.

<sup>25</sup> NAL Response, May 9, 2012, p. 2.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at p. 5.

<sup>28</sup> NAL Response, July 31, 2012, p. 2 – 3.

<sup>29</sup> 47 CFR § 76.75(b)(1). *See also, Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Policies*, MM Docket No. 98-204, *Second Report and Order and Third Notice of Proposed Rulemaking*, 17 FCC Rcd 24018, 24047, para. 86 (2002), *recon. pending (Second Report and Order)*.

<sup>30</sup> NAL Response, May 9, 2012, p. 2.

<sup>31</sup> *See Cox Radio, Inc., Notice of Apparent Liability for Forfeiture*, 24 FCC Rcd 8889, 8890 (MB 2009) (*Cox Radio, Inc.*).

sources from the Internet, in order for its recruitment to sufficiently widely disseminate information concerning the vacancy.<sup>32</sup> We also disagree that lack of Internet access equates to a lack of requisite computer skills as argued by the Unit. Lack of online access can be due to a variety of factors unrelated to computer proficiency. In addition, we caution the Unit that relying only its own employees or its own private contacts does not constitute recruitment as contemplated under the Commission's rules, which require public outreach.<sup>33</sup>

12. We also find that the Full Channel Unit failed to compile and maintain an EEO public file report for the reporting period ending in 2011, in violation of Section 76.1702(a).<sup>34</sup> As a result, the Unit failed to make its EEO public file reports available for public inspection and to place its EEO program information on its website, in violation of Section 76.1702(b).<sup>35</sup> The Unit argues that it "made good faith efforts to comply with EEO public file report requirements and acted to conform immediately after being notified of its non-compliance" by FCC staff.<sup>36</sup> It explains that "[a]ny violation is either unintentional or the result of innocent omission" and that "it will immediately cure any failure due to any unintentional nonfeasance."<sup>37</sup> Again, we are not persuaded by the Unit's arguments. The Unit did not compile its 2011 EEO public file report and place that report in its public inspection file and on its website until after being notified by FCC staff of the omission. Remedial action taken by a Unit after notification of a violation does not mitigate the forfeiture.<sup>38</sup> As the Commission has repeatedly stated, "corrective action taken to come into compliance with Commission rules or policy is expected, and does not nullify or mitigate any prior forfeitures or violations."<sup>39</sup>

13. In light of the Unit's failure to use recruitment sources for each vacancy in a manner sufficient to widely disseminate information concerning the vacancy in violation of Section 76.75(b)(1)(i); to compile and maintain an EEO public file report for the reporting period ending in 2011, in violation of Section 76.1702(a); and to make its EEO public file reports available for public inspection and to place its EEO program information on its website, in violation of Section 76.1702(b), we find that it was not possible for the Unit to have adequately analyzed its recruitment program on an ongoing basis to ensure that it was effective in achieving broad outreach and address any problems found as a result of its analysis, in violation of Section 76.75(f).<sup>40</sup>

### **B. We Find No Basis to Cancel or Reduce the Forfeiture**

14. We conclude that the Full Channel Unit has not offered any reasonable basis for us to cancel or reduce the forfeiture. The Unit asserts that cancellation is appropriate because its failure to recruit properly applied to only one vacancy out of 21 total employees, and that its noncompliance

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*; NAL Response, May 9, 2012, p. 5.

<sup>34</sup> 47 CFR § 76.1702(a).

<sup>35</sup> 47 CFR § 76.1702(b).

<sup>36</sup> NAL Response, July 31, 2012, p. 3.

<sup>37</sup> NAL Response, May 9, 2012, p. 2.

<sup>38</sup> See *Velocitel Towers, Inc., F/K/A Towercel, Inc., Forfeiture Order*, 17 FCC Rcd 2219, 2220 (EB 2002).

<sup>39</sup> *WOYK, Inc., Forfeiture Order*, 29 FCC Rcd 10505, 10507 (EB 2014); see also *Urban Radio of Pennsylvania, LLC, Forfeiture Order*, 19 FCC Rcd 19467, 19468 (2004).

<sup>40</sup> 47 CFR § 76.75(f).

percentage was therefore miniscule.<sup>41</sup> It also claims that the Commission should cancel the forfeiture because the Unit has no prior record of an FCC violation.<sup>42</sup> We disagree. We calculate the percentage of unrecruited or improperly recruited vacancies in comparison to the total number of vacancies filled and not to the total number of current employees.<sup>43</sup> In this case, the Unit filled three full-time vacancies during the reporting period and failed to recruit widely for all three vacancies – a 100 percent failure rate. The Unit’s argument that its forfeiture should be cancelled because it has no prior record of an FCC violation is also baseless.<sup>44</sup> To the contrary, our records show that the Unit was issued a Notice of Violation for violating Section 76.605 of the Commission’s rules in 2001.<sup>45</sup> Accordingly, the Unit does not qualify for a reduction of the forfeiture amount based on a history of overall compliance with our rules.

#### IV. ORDERING CLAUSES

15. Accordingly, **IT IS ORDERED**, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission’s rules, that Full Channel TV, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of eleven thousand dollars (\$11,000) for violations of Sections 76.75(b)(1)(i), 76.1702(a), 76.1702(b), and 76.75(f) of the Commission’s rules.

16. 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. 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. Full Channel TV, Inc. shall send electronic notification on the date said payment is made to Lewis Pulley, Assistant Chief, Policy Division, Media Bureau, Federal Communications Commission, at [Lewis.Pulley@fcc.gov](mailto:Lewis.Pulley@fcc.gov).

17. 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>46</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters

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<sup>41</sup> NAL Response, May 9, 2012, p. 7.

<sup>42</sup> *Id.* at 8.

<sup>43</sup> See *New Northwest Broadcasters, LLC, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture*, 21 FCC Rcd 10748 (MB 2006) (Licensee paid a \$5,000 forfeiture for failing to recruit for eight out of 25 vacancies (32%) by relying solely on walk-in applicants or referrals as recruitment sources); *Cox Radio Inc.* at 8891 (Licensee paid a \$1,000 forfeiture for failing to recruit properly for one out of 25 vacancies (4%) by relying on industry and employee referrals, and a separate \$6,000 forfeiture for failing to recruit widely for seven out of 25 vacancies (28%) by relying on websites and internal postings, industry or employee referrals, or walk-in applicants); *MHR License LLC, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture*, 26 FCC Rcd 17144 (MB 2011) (Licensee paid a \$6,000 forfeiture for failing to recruit widely for five out of 14 vacancies (36%) by relying solely on Internet websites to fill two vacancies, and websites, word-of-mouth referrals and vacancy postings on its employee board to fill three vacancies.)

<sup>44</sup> In accordance with section 1.80(b), the Commission may choose to apply a downward adjustment in consideration of an MVPD’s history of overall compliance with the Commission’s Rules. 47 CFR § 1.80(b).

<sup>45</sup> See *Enforcement Bureau Field Operations List of Actions Taken*, 16 FCC Rcd 13837, 13843 (2001) (Notice of Violation issued to Full Channel TV, Inc. of Warren, Rhode Island by the Boston, Massachusetts District Office on May 24, 2001).

<sup>46</sup> FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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“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. Any requests 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. 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).

18. **IT IS FURTHER ORDERED** that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Linda Jane Maaia, President/CEO, Full Channel, Inc., 57 Everett Street, Warren, Rhode Island 02885 and William Maaia, Esq., 349 Warren Ave., East Providence, Rhode Island 02914.

**FEDERAL COMMUNICATIONS COMMISSION**

William T. Lake  
Chief  
Media Bureau