

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

In the Matter of)	
)	
Oberlin College Student Network, Inc.)	File No. EB-02-DT-151
)	NAL/Acct. No. 200232360005
Licensee of Station WOBC-FM)	FRN 0005-0115-72
Oberlin, Ohio)	

FORFEITURE ORDER

Adopted: November 5, 2002

Released: November 7, 2002

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of one thousand dollars (\$1,000) to Oberlin College Student Network, Inc. (“Oberlin”), licensee of Station WOBC-FM, Oberlin, Ohio, for willful and repeated violation of Section 11.35(a) of the Commission’s Rules (“Rules”).¹ The noted violation involves Oberlin’s failure to maintain operational Emergency Alert System (“EAS”) equipment at Station WOBC.

2. On May 23, 2002, the Commission’s Detroit, Michigan Field Office (“Detroit Office”) issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) to Oberlin for a forfeiture in the amount of eight thousand dollars (\$8,000).² Oberlin filed a response to the *NAL* on June 24, 2002.

II. BACKGROUND

3. On March 12, 2002, an FCC agent from the Detroit Office inspected Station WOBC. At the time of the inspection, there was no EAS equipment installed and there were no entries in the station log indicating that EAS equipment had been installed but had been taken out of service for repair. The station manager showed the agent old EAS equipment which was not connected. The station manager also told the agent that the station had not conducted any EAS tests since at least January 1, 2001.

4. On March 22, 2002, the Detroit Office issued a Notice of Violation (“NOV”) to Oberlin for failing to maintain operational EAS equipment at WOBC in violation of Section 11.35(a). On April 15, 2002, the Detroit Office received Oberlin’s response to the NOV. In this response, Oberlin stated that it was in consultation with its professional engineer to update its current EAS equipment and projected that the equipment could not be purchased until June 2002.

¹ 47 C.F.R. § 11.35(a).

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232360005 (Enf. Bur., Detroit Office, released May 23, 2002).

5. On May 23, 2002, the Detroit Office issued an *NAL* for an \$8,000 forfeiture to Oberlin for failing to maintain operational EAS equipment at WOBC in willful and repeated violation of Section 11.35(a). Oberlin filed a response to the *NAL* on June 24, 2002. In its response, Oberlin admits that it did not have operational EAS equipment installed at WOBC at the time of the inspection, but requests cancellation or reduction of the forfeiture amount. Oberlin states that it has installed EAS equipment and has established protocols to ensure that EAS tests are conducted and logged by station personnel. In addition, Oberlin asserts that payment of the proposed \$8,000 forfeiture would impose a financial hardship on it and submits financial information for 1999, 2000 and 2001 in support of this assertion.

III. DISCUSSION

6. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended, (“Act”),³ Section 1.80 of the Rules,⁴ and *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) (“*Policy Statement*”). In examining Oberlin’s response, Section 503(b) 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.⁵

7. Section 11.35(a) of the Rules requires broadcast stations to install and maintain operational EAS equipment so that monitoring and transmitting functions are available during the times when the station is in operation. Oberlin admits in its response to the *NAL* that it did not have EAS equipment installed at the time of the inspection and that such equipment was not installed until sometime after the inspection. Accordingly, based on the available evidence, we conclude that Oberlin willfully and repeatedly violated Section 11.35(a) of the Rules.

8. Although Oberlin indicates that it has installed EAS equipment and has established protocols to ensure that EAS tests are conducted and logged by station personnel, the Commission has stated that remedial actions taken to correct a violation are not mitigating factors warranting reduction of a forfeiture.⁶ However, based on the financial documentation provided by Oberlin, we conclude that payment of the proposed \$8,000 forfeiture would impose a financial hardship on Oberlin. Therefore, we will reduce the forfeiture from \$8,000 to \$1,000.

9. We have examined Oberlin’s response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Policy Statement* as well. As a result of our review, we conclude that Oberlin willfully and repeatedly violated Section 11.35(a) of the Rules, but we reduce the forfeiture amount from \$8,000 to \$1,000 based on its inability to pay the forfeiture.

³ 47 U.S.C. § 503(b).

⁴ 47 C.F.R. § 1.80.

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ *See Station KGVL, Inc.*, 42 FCC 2d 258, 259 (1973).

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503 of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,⁷ Oberlin College Student Network, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of one thousand dollars (\$1,000) for willful and repeated violation of Section 11.35(a) of the Rules.

11. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁸ Payment may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200232360005 and FRN 0005-0115-72. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

12. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail return receipt requested to Oberlin College Student Network, Inc., 135 West Lorain Street, Oberlin, Ohio 44074.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

⁸ 47 U.S.C. § 504(a).

⁹ See 47 C.F.R. § 1.1914.