

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

In the Matter of)	
)	
Media Broadcasting Corporation)	File No. EB-02-NF-019
)	
Owner of Antenna Structure)	NAL/Acct. No. 200232640005
Registration # 1011741)	
Winston-Salem, North Carolina)	FRN 0006-7563-73

MEMORANDUM OPINION AND ORDER

Adopted: January 20, 2004

Released: January 22, 2004

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order* (“Order”), we dismiss the petition for reconsideration filed on January 13, 2003, by Media Broadcasting Corporation (“Media”). Media seeks reconsideration of the *Forfeiture Order*,¹ in which the Chief, Enforcement Bureau (“Bureau”), found it liable for a monetary forfeiture in the amount of six thousand dollars (\$6,000) for willful and repeated violations of Sections 17.4(g) and 17.51(a) of the Commission’s Rules (“Rules”).² The noted violations involve Media’s failure to post its antenna structure registration (“ASR”) number (1011741) and its failure to exhibit red obstruction lighting on its antenna structure between sunset and sunrise.

II. BACKGROUND

2. Media is the licensee of broadcast station WAAA (AM) in Winston-Salem, North Carolina, and owns that station’s antenna structure (ASR number 1011741). An agent from the Commission’s Norfolk, Virginia, Resident Agent Office (“Norfolk Office”) observed violations of Sections 17.4(g) and 17.51(a) of the Rules on January 22 and 23, 2002. On February 1, 2002, the Norfolk Office issued a Notice of Violation which notified Media of those violations. On June 13, 2002, the Norfolk Office issued a \$12,000 *Notice of Apparent Liability for Forfeiture*³ to Media for willful and repeated violations of Sections 17.4(g) and 17.51(a). On December 5, 2002, the Bureau issued a \$ 6,000 *Forfeiture Order* to Media for the same violations.

3. The *Forfeiture Order* noted that Media had not yet corrected the violations and required Media to submit an affidavit within 30 days stating whether Media had dismantled its antenna structure or

¹ 17 FCC Rcd 24523 (Enf. Bur. 2002)

² 47 C.F.R. §§ 17.4(g) and 17.51(a).

³ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232640005 (Enf. Bur., Norfolk Office, released June 13, 2002).

taken other steps to correct the violations. Media submitted an affidavit received on January 13, 2003, indicating that it was planning to dismantle antenna structure 1011741 but had been unable to do so because of weather conditions. Media submitted a second affidavit received February 6, 2003, indicating that it had dismantled antenna structure 1011741. In both affidavits, Media seeks reconsideration of the *Forfeiture Order*. Media argues that financial hardship and the “expeditious dismantling” of its antenna structure warrant reconsideration.

III. DISCUSSION

4. Section 405 of the Communications Act of 1934, as amended (“Act”)⁴ and Section 1.106 of the Rules⁵ required Media to file its petition for reconsideration no later than 30 days after release of the *Forfeiture Order*. Pursuant to these provisions Media’s petition for reconsideration was due no later than on January 6, 2003, but Media did not file it until January 13, 2003. Accordingly, we find that Media’s petition for reconsideration must be dismissed as untimely.

5. Even had Media’s petition for reconsideration been timely filed, we would have denied it on the merits. In the *Forfeiture Order* we reduced the forfeiture amount to \$6,000 on the basis of financial hardship. Media has provided no information that would support an additional reduction on the basis of financial hardship. We, therefore, believe that no further reduction of the forfeiture amount would have been warranted on that basis. Media’s “expeditious dismantling” of its antenna structure also would not warrant any additional reduction. Media did not in fact dismantle its antenna structure expeditiously. It dismantled antenna structure 1011741 approximately one year after being notified of the violations – an unacceptably long delay. Furthermore, even if Media had acted expeditiously, no mitigation of the forfeiture would be warranted on the basis of correcting the violations. As the Commission stated in *Seawest Yacht Brokers*, 9 FCC Rcd 6099, 6099 (1994), “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.”⁶

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of Act and Section 1.106 of the Rules, Media’s January 13, 2003, petition for reconsideration of the Bureau’s *Forfeiture Order* issued on December 5, 2002, **IS DISMISSED** as untimely and the issuance of the \$6,000 forfeiture **IS AFFIRMED**.

7. 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.⁷ Payment may be made by mailing a check or similar instrument, payable to the order of the Federal

⁴ 47 U.S.C. § 405.

⁵ 47 C.F.R. § 1.106.

⁶ See also *AT&T Wireless Services*, 17 FCC Rcd 21866, 21871 (2002); *Radio Station KGVV, Inc.*, 42 FCC 2d 258, 259 (1973); and *Executive Broadcasting Corp.*, 3 FCC 2d 699, 700 (1966).

⁷ 47 U.S.C. § 504(a).

Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200232640005 and FRN 0006-7563-73. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Media Broadcasting Corporation, P.O. Box 11197, Winston-Salem, North Carolina 27116-1197.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.