

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

In the Matter of	)	
	)	
Ad-Venture Media, Inc.,	)	File No. EB-02-CG-414
Licensee of Station WQRK(FM)	)	NAL/Acct. No. 200332320002
Bedford, Indiana	)	FRN 0002-882-439

### FORFEITURE ORDER

**Adopted:** May 28, 2004

**Released:** June 1, 2004

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 Ad-Venture Media, Inc. (“Ad-Venture”), licensee of Station WQRK(FM), Bedford, Indiana for willful and repeated violation of the antenna structure painting requirements of Section 17.50 of the Commission’s Rules (“Rules”).<sup>1</sup>

#### II. BACKGROUND

2. On June 25, 2002, the Commission’s Chicago, Illinois Field Office (“Field Office”) inspected Station WQRK’s antenna structure and observed that the structure’s visibility was impaired because of faded painting and rust. As a result of the inspection, the Field Office released a *Notice of Violation* (“*NOV*”) on July 2, 2002,<sup>2</sup> and released a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) on January 23, 2003.<sup>3</sup> The *NAL* found that Ad-Venture willfully and repeatedly violated Section 17.50 of the Rules and proposed a \$10,000 forfeiture.

3. Ad-Venture responded to the the *NAL* on February 8, 2003. In its response, Ad-Venture did not dispute the *NAL*’s findings. Rather, Ad-Venture sought a reduction or cancellation of the proposed forfeiture based on its inability to pay, its unblemished history of compliance, and its prompt remedial efforts.

#### III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section

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<sup>1</sup> 47 C.F.R. § 17.50 (requiring that antenna structures be “cleaned or repainted as often as necessary to maintain good visibility”).

<sup>2</sup> *Ad-Venture Media, Inc.*, NAL/Acct. No. 200332320002 (Enf. Bur., Chicago, Illinois Office, July 2, 2002).

<sup>3</sup> *Ad-Venture Media, Inc.*, NAL/Acct. No. 200332320002 (Enf. Bur., Chicago, Illinois Office, January 23, 2003).

503(b) of the Communications Act of 1934, as amended (“Act”),<sup>4</sup> Section 1.80 of the Rules,<sup>5</sup> and the *Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.<sup>6</sup> In assessing forfeitures, Section 503(b)(2)(D) of the Act requires that we 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 such other matters as justice may require.<sup>7</sup> As discussed below, we have considered Ad-Venture’s response to the *NAL* in light of these statutory factors and have found that reduction of the proposed forfeiture amount is warranted.

5. Ad-Venture claimed that payment of the proposed forfeiture could impair its ability to meet its community’s programming needs and maintain its staff at current levels. In support, Ad-Venture provided financial statements for 1999, 2000 and 2001 that were prepared in accordance with generally accepted accounting practices. In analyzing a financial hardship claim, the Commission generally has looked to gross revenues as a reasonable and appropriate yardstick in determining whether a licensee is able to pay the assessed forfeiture.<sup>8</sup> After reviewing Ad-Venture’s supporting documentation, we believe that payment of the \$10,000 forfeiture would pose a financial hardship. Therefore, we conclude that a reduction of the proposed forfeiture amount to \$1,300 is warranted.<sup>9</sup>

6. Ad-Venture also claimed, and a search of Commission, Bureau and Field Office decisions confirmed, that Station WQRK(FM) and its sister Station WBIW(AM) have an unblemished history of serving their communities in compliance with Commission regulations. After considering Ad-Venture’s past history of compliance, we conclude that a further reduction of the forfeiture amount to \$1,000 is appropriate.<sup>10</sup>

7. Finally, Ad-Venture claimed that it promptly brought its antenna structure into compliance by completing the structure’s repainting on July 14, 2002. We note that Ad-Venture’s remedial efforts were undertaken after the Field Office’s investigation and release of the *NOV*. Therefore, we conclude that, while commendable, Ad-Venture’s subsequent remedial actions are not mitigating circumstances that would warrant a further reduction of the forfeiture amount.<sup>11</sup>

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<sup>4</sup> 47 U.S.C. § 503(b).

<sup>5</sup> 47 C.F.R. § 1.80.

<sup>6</sup> 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”).

<sup>7</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>8</sup> *See Forfeiture Policy Statement*, 12 FCC Rcd at 17106-07 ¶ 43.

<sup>9</sup> The forfeiture in this case represents a percentage of gross revenues comparable to that imposed in *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088, 2089, ¶ 8 (1992).

<sup>10</sup> *See, e.g., Rotijefco, Inc.*, 18 FCC Rcd 14629, 14631 ¶ 8 (Enf. Bur. 2003); *Southern Rhode Island Public Broadcasting, Inc.*, 15 FCC Rcd 8115, 8117-18 ¶ 8 (Enf. Bur. 2000); *Aurio A. Matos and Juan Carlos Matos*, DA 99-1931 ¶ 7 (MMB 1999).

<sup>11</sup> *See, e.g., AT&T Wireless Services, Inc.*, 17 FCC Rcd 21861, 21864-75 (2002); *Sonderling Broadcasting Corp.*, 69 FCC 2d 289, 291 (1978); *Odino Joseph*, 18 FCC Rcd 16522, 16524 ¶ 8 (Enf. Bur. 2003); *South Central Communications Corp.*, 18 FCC Rcd 700, 702-03 ¶ 9 (Enf. Bur. 2003); *Northeast Utilities*, 17 FCC Rcd 4115, 4117 ¶ 13 (Enf. Bur. 2002); *AM Broadcast Station KTNC and C.R. Communications, Inc.*, DA 99-2960 ¶ 5 (Enf. Bur. 1999).

**IV. ORDERING CLAUSES**

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,<sup>12</sup> Ad-Venture Media, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of one thousand dollars (\$1,000.00) for its failure to failure to comply with the antenna structure painting requirements, in willful and repeated violation of Section 17.50 of the Rules.

9. 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.<sup>13</sup> 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. 200332320002 and FRN 0002-882-439. 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.<sup>14</sup>

10. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Dean Spencer, President, Ad-Venture Media, Inc., 424 Heltonville Road, Bedford, Indiana 47421.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>12</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>13</sup> 47 U.S.C. § 504(a).

<sup>14</sup> See 47 C.F.R. § 1.1914.