

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

In the Matter of)
)
WBLB, Inc.)
Licensee of WBLB)
Pulaski, Virginia)

File Number EB-03-NF-061
NAL/Acct. No. 200432640001
FRN 8693277

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: March 11, 2004

By the Enforcement Bureau, Norfolk Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find WBLB Incorporated, (“WBLB”), licensee of AM station WBLB, Pulaski, Virginia, apparently liable for forfeiture in the amount of eight thousand dollars (\$8,000) for repeated violation of Section 11.35(a) of the Commission's Rules (“Rules”).¹ Specifically, we find WBLB apparently liable for failure to have its Emergency Alert System (“EAS”) transmitting functions available during times the station is in operation.

II. BACKGROUND

2. The Federal Communications Commission issued a license to WBLB that expired October 1, 2003 and a Special Temporary Authority that will expire when it processes WBLB's renewal application or on June 13, 2004, whichever ever occurs first. WBLB's authorizations allow it to transmit AM broadcasts for the community of Pulaski, Virginia, on a frequency of 1.340 MHz from its studio and transmitter site located at 3570 Robinson Tract Road, Pulaski, Virginia, 24301.

3. On March 26, 2003, in response to receiving information about WBLB not transmitting EAS messages, and on February 26, 2004, to follow up on a previous inspection, an agent of the Commission's Norfolk Field Office (“Norfolk Office”) inspected WBLB's station. On both occasions, WBLB's EAS equipment was not fully operational. Specifically, WBLB's EAS equipment malfunctioned so that it could not interrupt WBLB's broadcasts on 1.340 MHz to transmit EAS attention signals during station broadcasts. At the March 26, 2003, inspection, the station manager stated the EAS equipment had been malfunctioning since at least May 27, 2002, when she had requested the station's contract engineer to visit the station. At the February 26, 2004, inspection, no station personnel could remember the last time an EAS test had been heard on-the-air. The station's logs contained no entries indicating that EAS equipment had been removed from service for repair. On February 27, 2004, the station's contract engineer told the agent that the EAS equipment had been repaired by replacing an audio switch.

¹ 47 C.F.R. § 11.35(a).

III. DISCUSSION

4. Section 11.35(a) of the Rules requires the licensee of a broadcast station to ensure that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times stations and are in operation. At the time of inspections on March 26, 2003 and on February 26, 2004, WBLB's EAS equipment was not capable of transmitting the attention signal on its assigned frequency of 1.340 MHz. Station logs contained no entries showing EAS equipment had been removed from service for repair.²

5. Based on the evidence before us, we find WBLB repeatedly³ violated Section 11.35(a) of the Rules by failing to have its EAS transmitting functions available during times the station is in operation.

6. Pursuant to Section 1.80(b)(4) of the Rules,⁴ the base forfeiture amount for failing to have Emergency Alert System ("EAS") transmitting functions available during times the station is in operation is \$8,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include 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 Considering the entire record and applying the factors listed above, this case warrants an \$8,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ WBLB is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for repeated violation of Section 11.35(a) of the Rules by failing to have its EAS transmitting functions available during times the station is in operation.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, WBLB SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

² EAS tests and activations, failure to conduct such tests and activations, and EAS equipment malfunctions must be recorded in the station log. See 47 C.F.R. §§ 11.35(a)-(b), 11.54(b)(12), 11.55(c)(7) and 11.61(b).

³ The 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." 47 U.S.C. § 312(f)(2).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau – Spectrum Engineering Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Spectrum Engineering Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to WBLB, Inc., 3570 Robinson Tract Road Pulaski, VA 24301 and by mail to PO Box 150, Pulaski, VA, 24301.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Husnay
Resident Agent, Norfolk Office, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.

Attachment