

**Federal Communications Commission**

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

In the Matter of	)	
	)	
The Paradise Network (TPN) of North Carolina, Inc.	)	File Number EB-04-NF-051
Licensee of WHNC & WCBQ	)	NAL/Acct. No. 200432640003
Henderson and Oxford, North Carolina	)	FRN: 9332149
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released:** June 23, 2004

By the Resident Agent, Norfolk Office, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (“*NAL*”), we find The Paradise Network of North Carolina, Inc. (“*TPN*”), licensee of AM radio stations WHNC, Henderson, North Carolina and WCBQ, Oxford, North Carolina, apparently liable for a forfeiture in the amount of eighteen thousand dollars (\$18,000) for willful and repeated violation of Sections 11.35 and 73.3526(c)(1) of the Commission's Rules (“*Rules*”).<sup>1</sup> Specifically, we find *TPN* apparently liable for failure to install and maintain EAS equipment and for failure to make available for inspection the complete public inspection file.

**II. BACKGROUND**

2. On April 19, 2004, an agent of the Enforcement Bureau’s Norfolk Office (“*Norfolk Office*”) conducted an inspection of the co-located main studios of WHNC and WCBQ in Oxford, North Carolina. During the inspection, both stations were in operation and there was no functioning EAS equipment and no public inspection file for either broadcast station at the main studio. The stations’ owner stated that the EAS equipment had been removed for repairs “...about six months ago,” and that the stations could not afford to repair the equipment. Also, the stations’ owner stated that the documents that should have been in the public inspection files were actually located at the office of the stations’ legal counsel.

**III. DISCUSSION**

3. Section 11.35(a) of the *Rules*<sup>2</sup> states that broadcast stations are responsible for ensuring that EAS equipment is installed so that the monitoring ... functions are available during the times the stations are in operation. During an inspection on April 19, 2004, there was no EAS equipment maintained at the co-located main studios of WHNC and WCBQ and, according to the stations’ owner,

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<sup>1</sup>47 C.F.R. §§ 11.35 and 73.3526(c)(1).

<sup>2</sup>47 C.F.R. § 11.35(a).

the equipment had not been maintained for about six months.

4. Section 73.3526(a)(2) of the Rules<sup>3</sup> requires that every permittee or licensee of an AM, FM, or TV station in the commercial broadcast services maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(10) and paragraph (e)(13) of this section. Additionally, every permittee or licensee of an AM, or FM station shall maintain for public inspection a file containing the material, relating to that station, described in paragraphs (e)(12) and (e)(14) of this section. Section 73.3526(b) of the Rules<sup>4</sup> requires the public inspection file be maintained at the station's main studio. Section 73.3526(c)(1) of the Rules<sup>5</sup> requires the file be available for public inspection at any time during regular business hours. On April 19, 2004, TPN failed to make available for inspection the complete public inspection files for co-located stations WHNC and WCBQ.

5. Based on the evidence before us, we find TPN willfully<sup>6</sup> and repeatedly<sup>7</sup> violated Sections 11.35 and 73.3526(c)(1) of the Rules by failing to maintain required EAS equipment and by failing to make available for inspection the complete public inspection file(s), at WHNC and WCBQ.

6. Pursuant to *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) ("*Forfeiture Policy Statement*") and Section 1.80(b)(4) of the Rules,<sup>8</sup> the base forfeiture amount for failure to install EAS equipment is \$8,000 and the amount for violation of the public inspection file rules is \$10,000. 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.<sup>9</sup> Considering the entire record and applying the factors listed above, this case warrants an \$18,000 forfeiture.

#### IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act,<sup>10</sup> and

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<sup>3</sup>47 C.F.R. § 73.3526(a)(2).

<sup>4</sup>47 C.F.R. § 73.3526(b).

<sup>5</sup>47 C.F.R. § 73.3526(c)(1).

<sup>6</sup>Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . ." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

<sup>7</sup>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).

<sup>8</sup>47 C.F.R. § 1.80(b)(4).

<sup>9</sup>47 U.S.C. § 503(b)(2)(D).

<sup>10</sup>47 U.S.C. § 503(b).

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Sections 0.111, 0.311 and 1.80 of the Rules,<sup>11</sup> The Paradise Network is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eighteen thousand dollars (\$18,000) for willful and repeated violation of Sections 11.35 and 73.3526(c)(1) of the Rules by failing to install and maintain required EAS equipment and by failing to have available for inspection the complete public inspection file(s), at WHNC and WCBQ.

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

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.<sup>12</sup>

10. The response, if any, must be mailed to Federal Communications Commission, Norfolk Office, 1457 Mt. Pleasant Road, Suite #113, Chesapeake, Virginia 23322 within thirty days of the release date of this *NAL* 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 Enforcement 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.

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<sup>11</sup>47 C.F.R. §§ 0.111, 0.311 and 1.80.

<sup>12</sup>See 47 C.F.R. § 1.1914.

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13. **IT IS FURTHER ORDERED** that a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to The Paradise Network of North Carolina, Inc., 9300 Georgia Ave, Silver Springs, Maryland 20910. An additional copy shall be sent by regular mail and Certified Mail Return Receipt Requested to The Paradise Network of North Carolina, Inc., 601 Henderson St., Oxford, North Carolina 27565.

FEDERAL COMMUNICATIONS COMMISSION

Luther Bolden  
Resident Agent, Norfolk Office, South Central Region  
Enforcement Bureau

Attachment

**Federal Communications Commission**

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The Paradise Network (TPN) of North Carolina, Inc.,  
9300 Georgia Ave,  
Silver Springs, Maryland 20910.

The Paradise Network (TPN) of North Carolina, Inc.  
601 Henderson St.  
Oxford, North Carolina 27565.