

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

In the Matter of)	
)	File No. EB-00-BS-106
Radio One Licenses, Inc.)	
)	NAL/Acct. No. 20013226001
Licensee of Station WBOT(FM))	
)	FRN 0003-7390-34
Brockton, Massachusetts)	

MEMORANDUM OPINION AND ORDER

Adopted: July 17, 2003

Released: July 22, 2003

By the Commission:

1. In this *Memorandum Opinion and Order* (“*Order*”) we grant in part and deny in part the application for review filed by Radio One Licenses, LLC (“Radio One”), licensee of WBOT(FM),¹ of the October 18, 2002 *Memorandum Opinion and Order*² issued by the Enforcement Bureau in this proceeding.

2. On August 14, 2001, the Enforcement Bureau issued a *Forfeiture Order*³ to Radio One, finding it liable for a monetary forfeiture in the amount of \$21,500 for willful violation of the following sections of the Commission’s Rules (“the Rules”): 11.35(a) (failure to have operational Emergency Alert System (“EAS”) equipment); 73.1125(e) (failure to establish a local or toll-free telephone number in the community of license); 73.1350(c)(1) (failure to establish monitoring procedures to determine compliance with Section 73.1560 regarding operating power); 73.1800(a) (failure to maintain a station log); and 73.3526(a)(2) (failure to maintain a public inspection file).⁴

3. On September 13, 2001, Radio One filed a Petition for Reconsideration of the *Forfeiture Order*. On January 31, 2002, the Enforcement Bureau issued a *Memorandum Opinion and Order*⁵ in which it denied Radio One’s Petition for Reconsideration and upheld the *Forfeiture Order*. On March 4, 2002, Radio One filed an application for review of the Enforcement Bureau’s January 31, 2002 *Memorandum Opinion and Order*. Subsequently, on August 27, 2002, Radio One requested that its application for review be treated as a Petition for Reconsideration. On October 18, 2002, the Enforcement Bureau issued a second *Memorandum Opinion and Order* to Radio One in which it granted

¹ At the time this matter was initiated, Radio One Licenses, Inc. was the licensee of WBOT(FM). Effective December 31, 2001, Radio One Licenses, LLC became the licensee of WBOT(FM).

² *Radio One Licenses, Inc.*, 17 FCC Rcd 20408 (Enf. Bur. 2002).

³ *Radio One Licenses, Inc.*, 16 FCC Rcd 15326 (Enf. Bur. 2001).

⁴ 47 C.F.R. §§ 11.35(a), 73.1125(e), 73.1350(c)(1), 73.1560, 73.1800(a), 73.3526(a)(2).

⁵ *Radio One Licenses, Inc.*, 17 FCC Rcd 1724 (Enf. Bur. 2002).

in part and denied in part Radio One's second Petition for Reconsideration. The October 18, 2002 *Memorandum Opinion and Order* reduced the forfeiture imposed against Radio One from \$21,500 to \$9,200. Based on new evidence submitted by Radio One, the Enforcement Bureau eliminated the \$10,000 forfeiture imposed on Radio One for failure to maintain a public inspection file. The Enforcement Bureau also reduced the forfeiture amount for Radio One's remaining violations from \$11,500 to \$9,200 based on Radio One's past history of compliance with the Commission's rules.⁶ On November 18, 2002, Radio One filed an application for review of the Enforcement Bureau's October 18, 2002 *Memorandum Opinion and Order*. In its application for review, Radio One argues primarily that the remaining \$9,200 forfeiture amount should be cancelled based on its history of compliance with the Commission's rules. It requests that the Commission instead issue a formal admonishment.

4. We agree with the Enforcement Bureau that Radio One's past history of compliance with the Commission's rules, which was already taken into account by the Enforcement Bureau in reducing the forfeiture amount, does not warrant cancellation of the forfeiture. In response to Radio One's argument that it acted in good faith to comply with the EAS rules, we reduce the total forfeiture to \$8,000.⁷ Although we expect full compliance in this important public safety area, the fact that Radio One had identified the violation and ordered equipment to fix it prior to the inspection justifies this reduction in the forfeiture amount. Radio One's other arguments are fully addressed in the Bureau orders and we agree with the Bureau's disposition of those arguments.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 1.115(g) of the Rules,⁸ the application for review filed by Radio One Licenses, LLC of the Enforcement Bureau's October 18, 2002 *Memorandum Opinion and Order* for NAL No. 200132260001 **IS** hereby **GRANTED** to the extent indicated herein and **DENIED** in all other respects.

6. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, ("the Act")⁹ and Section 1.80 of the Rules,¹⁰ Radio One Licenses, LLC shall pay the amount of eight thousand dollars (\$8,000) for the above-stated violations within 30 days of the release date of this *Order*. Payment may be made by check or money order, drawn on a U.S. financial institution, payable to the Federal Communications Commission. The remittance should be marked "NAL/Acct. No. 200132260001, FRN 0003-7390-34" and mailed to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. 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.¹¹ Requests for full payment under an installment plan should be sent to: Chief,

⁶ The amount of the reduction for history of overall compliance (\$11,500 minus \$9,200) is \$2,300 not \$800 as suggested by Radio One in its Petition for Reconsideration (at n. 4).

⁷ See *The Commission's Forfeiture Policy Statement and Amendment to Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 at para. 27 (1997), *recon. denied*, 13 FCC Rcd 303 (1999) (good faith is a downward adjustment factor).

⁸ 47 C.F.R. § 1.115(g).

⁹ 47 U.S.C. § 503(b).

¹⁰ 47 C.F.R. § 1.80.

¹¹ 47 U.S.C. § 504(a).

Revenue and Receivables Operations Group, 445 Twelfth Street, S.W., Washington, D.C. 20554.¹²

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by regular mail and Certified Mail Return Receipt Requested to Pamela C. Cooper, Esq., counsel for Radio One Licenses, LLC, at Davis Wright Tremaine, 1500 K Street, NW, Suite 450, Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹² 47 C.F.R. § 1.1914.