



Federal Communications Commission
Washington, D.C. 20554

September 20, 2010

DA 10-1766

In Reply Refer to:

1800B3-ACS

NAL/Acct No.: MB-200741410400

FRN: 0003619269

Released: September 20, 2010

Mr. Nathan Burke
Station Manager, WCMX(AM)
194 Electric Avenue
Lunenburg, Massachusetts 01462-2214

Re: Twin City Baptist Temple, Inc.
Station WCMX(AM), Leominster, Massachusetts
Facility ID No. 54850
File No. BRED-20060224AAK

Dear Mr. Burke:

We have before us the November 20, 2007, Response to our Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture¹ ("Response") filed on behalf of Twin City Baptist Temple, Inc. ("Licensee"), licensee of Station WCMX(AM), Leominster, Massachusetts ("Station"). The Response requests the cancellation of the October 30, 2007, *NAL* in the amount of one thousand five hundred dollars (\$1,500) issued to Licensee for willfully violating Section 73.3539 of the Commission's Rules ("Rules"), by failing to timely file a license renewal application.² By this action, we cancel the *NAL* and admonish Licensee for filing the renewal application in paper format without demonstrating good cause.

Background. As noted in the *NAL*, Licensee's renewal application for the Station's current license term was due on December 1, 2005, four months prior to the April 1, 2006, license expiration date. According to Commission records, no such application was filed until February 24, 2006. On October 30, 2007, the staff advised Licensee of its apparent liability for a forfeiture of \$1,500 for a failure to file a timely renewal application for the Station.³ Licensee filed its response on November 20, 2007.

Licensee asserts that it should be excused from liability because: 1) it timely filed a renewal application for the Station, although it did not do so electronically; 2) its failure to properly file the renewal application was not willful; and 3) it did not receive a timely notice from the Commission that it should have filed electronically.

¹ *Twin City Baptist Temple, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 19178 (MB 2007) ("*NAL*"). The Commission granted the above-referenced license renewal application on October 30, 2007.

² 47 C.F.R. § 73.3539.

³ *Twin City Baptist Temple, Inc.*, 22 FCC Rcd at 19178.

Discussion. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,⁴ Section 1.80 of the Rules,⁵ and the Commission's *Forfeiture Policy Statement*.⁶ In assessing forfeitures, Section 503(b)(2)(E) 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.⁷

Licensee states that a paper copy of the renewal application was submitted in November 2005. However, Licensee was required to file its renewal application electronically.⁸ Licensees are responsible for knowing and observing the rules affecting their activities, including the timely submission of required forms.⁹ Untimely or improperly filed renewal applications disrupt the orderly processing of renewal applications in accordance with the staggered filing set forth in Section 73.1020 of the Rules.¹⁰ Because Licensee did timely tender a renewal application for the Station, albeit in paper form, we will cancel the NAL. However, because it improperly filed the renewal application and did not provide a showing of good cause, we will admonish it.¹¹ In light of this finding, we need not address Licensee's remaining arguments.

Conclusion/Actions. In view of the foregoing, the Notice of Apparent Liability (MB-200741410400) for violation of Section 73.3539 of the Rules is HEREBY CANCELLED. Twin City Baptist Temple, Inc., is instead hereby ADMONISHED for filing the license renewal application for Station WCMX(AM), Leominster, Massachusetts, in paper format without demonstrating good cause.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. § 1.80.

⁶ *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ *See New FCC Form 303-S Available for Use*, Public Notice, 18 FCC Rcd 5088 (MB 2003); *see also* Instructions for FCC 303-S ("Application for Renewal of Broadcast Station License").

⁹ *See, e.g., Rego, Inc.*, Forfeiture Order, 16 FCC Rcd 16795, 16797 (EB 2001).

¹⁰ 47 C.F.R. § 73.1020.

¹¹ *See K.S.L.O. Broadcasting Co., Inc.*, Letter, 24 FCC Rcd 4785 (MB 2009) (cancelling NAL and admonishing licensee for failure to file its renewal application in electronic form); *Peter Gutmann, Esq.*, Letter, 23 FCC Rcd 14666 (MB 2008) (same).