



Federal Communications Commission
Washington, D.C. 20554

March 4, 2021

In Reply Refer to:
1800B3-AR

Family Unity Outreach Ministry, Inc.
c/o Eustance Morrison
900 NW 8th Avenue
Gainesville, FL 32601
(via email to familyunityoutreach@yahoo.com)

In re: Family Unity Outreach Ministry, Inc.
WMBT-LP, Gainesville, FL
Facility ID No. 196950
NAL/Acct. No. MB-202041410003
FRN: 0023127723
File No. 0000100307

Dear Licensee:

We have before us a petition for reconsideration (Petition)¹ filed by Family Unity Outreach Ministry, Inc. (FUOM), licensee of low power FM (LPM) station WMBT-LP, Gainesville, Florida (Station), requesting cancellation of a Notice of Apparent Liability for Forfeiture (*NAL*)² in the amount of one thousand five hundred dollars (\$1,500) for its violation of section 73.3539 of the Commission's rules (Rules).³ The violation addressed in the *NAL* involves FUOM's failure to file a timely license renewal application for the Station. By this action, we deny FUOM's request for cancellation of the *NAL*.⁴

Background. As noted in the *NAL*, FUOM's license renewal application for the Station was due on October 1, 2019, four months prior to the February 1, 2020 license expiration date. FUOM did not file a license renewal application until January 27, 2020,⁵ and provided no explanation for the untimely filing.

¹ Petition for Reconsideration of Family Unity Outreach Ministry, Inc., File No. BNPL-20131113BUI (filed July 8, 2020).

² *Family Unity Outreach Ministry, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 5699 (MB 2020).

³ 47 CFR § 73.3539.

⁴ As an initial matter, the Petition is procedurally improper. Petitions for reconsideration do not lie against interlocutory actions, such as the *NAL*. See 47 CFR § 1.106(a)(1). See also *South Seas Broad., Inc.*, Forfeiture Order, 27 FCC Rcd 4151, 4152 n.7 (MB 2012) ("Because the *NAL* merely proposed rather than imposed a forfeiture, the Bureau's action was interlocutory in nature."), *recon. denied*, Memorandum Opinion and Order, 27 FCC Rcd 15049 (MB 2012). Accordingly, we will treat the pleading as a "written statement seeking reduction or cancellation of the proposed forfeiture" specifically authorized in the *NAL*. See *NAL* at para. 10. Additionally, the Commission's records indicate that FUOM paid the \$1,500 proposed forfeiture on September 25, 2020. Thus, we will also treat the Petition as a request for a refund of the paid *NAL*.

⁵ File No. 0000100307 (Application).

On June 5, 2020, the Audio Division, Media Bureau (Bureau) issued the *NAL* in the amount of one thousand five hundred dollars to FUOM. FUOM filed its Petition requesting cancellation of the forfeiture on July 8, 2020, and submitted a payment of \$1,500 on September 25, 2020. The Bureau subsequently granted the Application on September 25, 2020.

Discussion. The forfeiture amount proposed in this case was assessed in accordance with section 503(b) of the Communications Act of 1934, as amended (Act),⁶ section 1.80 of the Rules,⁷ and the Commission’s Forfeiture Policy Statement.⁸ 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.⁹

The Petition states that FUOM’s volunteer staff member in charge of preparing the renewal application erroneously interpreted the LPFM exclusion from EEO report filing requirements to mean that the Station was not required to file a renewal application.¹⁰ FUOM maintains that the staff member interpreted the phrase “inclusive” in section 73.3539(b) of the Rules to mean that LPFM stations were not required to comply with sections 73.3612 through 73.3615 of the Rules or renewal application filing deadlines.¹¹ FUOM argues that the staff member’s actions were the result of confusion and neglect but were not a willful violation of the Rules.¹² FUOM requests that the Commission waive the monetary forfeiture imposed in the *NAL*.

The Commission has held that violations resulting from inadvertent error or failure to become familiar with the FCC’s requirements are willful violations.¹³ In the context of a forfeiture action, “willful” does not require a finding that the rule violation was intentional. Rather, the term “willful” means that the violator knew that it was taking (or, in this case, not taking) the action in question, irrespective of any intent to violate the Rules.¹⁴ Moreover, the Commission has long held that “licensees

⁶ 47 U.S.C. § 503(b).

⁷ 47 CFR § 1.80.

⁸ *The Commission’s 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) (*Forfeiture Policy Statement*), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

⁹ 47 U.S.C. § 503(b)(2)(E).

¹⁰ Petition at 2.

¹¹ *Id.* at 2-3.

¹² *Id.* at 3.

¹³ See *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2088 (1992); *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387, para. 3 (1991), *recon. denied*, Memorandum Opinion and Order, 7 FCC Rcd 3454 (1992) (*Southern California*) (stating that “inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”).

¹⁴ See *Five Star Parking d/b/a Five Star Taxi Dispatch*, Forfeiture Order, 23 FCC Rcd 2649, 2651, para. 6 (EB 2008) (declining to reduce or cancel forfeiture for late-filed renewal based on licensee’s administrative error); *Southern California*, 6 FCC Rcd at 4387, para. 5 (“willful [does] not require licensee intent to engage in a violation”). See also *Domtar Industries, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 13811, 13817, para. 16 (EB 2006) (“ignorance of or unfamiliarity with the Commission’s requirements is not a mitigating

are responsible for the acts and omissions of their employees and independent contractors,”¹⁵ and has consistently “refused to excuse licensees from forfeiture penalties where the actions of employees or independent contractors have resulted in violations.”¹⁶

We have examined FUOM’s response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. We conclude that FUOM willfully violated section 73.3539 of the Rules and that no mitigating circumstances warrant cancellation or reduction of the proposed forfeiture amount. FUOM’s payment of \$1,500 therefore will not be refunded.

Conclusion. For the reasons stated above, Family Unity Outreach Ministry, Inc.’s request for cancellation of the Notice of Apparent Liability (NAL/Acct. No. MB-202041410003) for violation of section 73.3539 of the Commission’s Rules and request for a refund **IS DENIED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

factor and does not warrant a forfeiture reduction”); *National Weather Networks, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 3922, 3925, para. 12 (EB 2006) (“negligence does not mitigate a Commission rule violation”).

¹⁵ *Whidbey Island Center for the Arts*, Forfeiture Order, 25 FCC Rcd 8204, 8205, para. 6 (rejecting argument that proposed forfeiture for untimely filing of renewal application should be reduced or cancelled based on the health issues and departure of the party responsible for Commission filings).

¹⁶ *Id.* See also *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, 358, para. 4 (1986) (stating that “employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations”).