

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

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|-----------------------------|---|-------------------------------|
| In re Application of |) | |
| |) | |
| Radio Hatteras, Inc. |) | Facility ID No. 164162 |
| |) | NAL/Acct. No. MB-201941410012 |
| For Renewal of License for |) | FRN: 0017000449 |
| Station WHDZ(FM) |) | File No. 0000087381 |
| Buxton, North Carolina |) | |
| |) | |

ORDER

Adopted: January 13, 2020

Released: January 13, 2020

By the Chief, Audio Division, Media Bureau:

1. In this *Order*, we cancel a Notice of Apparent Liability for a Forfeiture (NAL)¹ issued to Radio Hatteras, Inc. (Radio Hatteras), licensee of Station WHDZ(FM), Buxton, North Carolina (Station), for apparently willfully violating section 73.3539 of the Commission's rules by failing to timely file a license renewal application for the Station.

2. The NAL correctly noted that the deadline for filing applications for renewal of radio stations licensed to communities in North Carolina and South Carolina was August 1, 2019, the first day of the fourth full calendar month prior to the Station's December 1, 2019, license expiration date.² However, it incorrectly stated that Radio Hatteras did not file the Station's license renewal application until October 25, 2019.³ In fact, Radio Hatteras filed the application on July 30, 2019.⁴ The filing made on October 25, 2019, was an amendment to the application.⁵ As the application was timely filed, we will cancel the NAL.

3. Accordingly, **IT IS HEREBY ORDERED** that, pursuant to Section 504(b) of the Communications Act of 1934, as amended,⁶ and Sections 0.61, 0.283, and 1.80(f)(4) of the Commission's

¹ *Radio Hatteras, Inc.*, File No. 0000087381, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 19-1286 (MB Dec. 19, 2019) (NAL).

² *Id.* at para. 2, citing 47 CFR §§ 73.1020, 73.3539(a).

³ *Id.* at para. 2.

⁴ *Applications*, Public Notice, Report No. PN-1-190801-01, at 20 (MB Aug. 1, 2019). This was brought to our attention in a pleading filed by Radio Hatteras on January 9, 2020. Radio Hatteras captioned the pleading as a "Petition for Reconsideration." However, petitions for reconsideration do not lie against interlocutory actions, such as the issuance of 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*, 27 FCC Rcd 15049 (MB 2012). Thus, we treat the pleading as the "written statement seeking reduction or cancellation of the proposed forfeiture" specifically authorized in the NAL. See NAL at para. 10. In light of the action taken here, no further action is needed on that pleading.

⁵ *Applications*, Public Notice, Report No. PN-1-191029-01, at 5 (MB Oct. 29, 2019).

⁶ 47 U.S.C. § 504(b).

rules,⁷ the Notice of Apparent Liability for a Forfeiture (NAL/Acct. No. MB-201941410012) issued to Radio Hatteras, Inc. **IS CANCELLED**.

4. **IT IS FURTHER ORDERED**, that copies of this *Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Carol O'Neal, Radio Hatteras, Inc., PO Box 339, Frisco, NC 27936, and to Timothy L. Warner, Inc., PO Box 8045, Asheville, NC 28814

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in blue ink, appearing to read 'A. Shuldiner', is written over the printed name.

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁷ 47 CFR §§ 0.61, 0.283, 1.80(f)(4).

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Carol D'Neal
Radio Hatteras, Inc.
PO Box 339
Frisco, NC 27536

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Carol D'Neal

☒ Agent

B. Received by (Printed Name)

Carol D'Neal

☒ Addressee

C. Date of Delivery

1-16-20

D. Is delivery address different from item 1?

☒ Yes

If YES, enter delivery address below:

☐ No

JAN 16 2020

USPS Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7003 1010 0002 4022 1043

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Timothy L. Warner, Inc.
PO Box 8645
Asheville, NC 28814

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Timothy L. Warner

☐ Agent

B. Received by (Printed Name)

☒ Addressee

C. Date of Delivery

☐ Yes

D. Is delivery address different from item 1?

☐ No

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7003 1010 0002 4022 1081

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$ *3.50*

Certified Fee

2.80

Return Receipt Fee (Endorsement Required)

2.80

Restricted Delivery Fee (Endorsement Required)

2.80

Total Postage & Fees

\$ 6.50

Sent To

Carol D'Neal

20701

Street, Apt. No. or PO Box No.

PO Box 339

City, State, ZIP+4

Frisco, NC 27536

PS Form 3800, June 2002

See Reverse for Instructions

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$ *3.50*

Certified Fee

2.80

Return Receipt Fee (Endorsement Required)

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Restricted Delivery Fee (Endorsement Required)

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See Reverse for Instructions