

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

In the Matter of)	
)	Facility ID No. 2536
Applied Life Ministries, Inc.)	NAL/Acct. No. MB200741410299
)	FRN: 0006124366
Former Licensee of KALR(FM))	File No. BRED-20040712AAZ
Hot Springs, Arkansas)	

MEMORANDUM OPINION AND ORDER

Adopted: August 2, 2011**Released: August 3, 2011**

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Audio Division has before it a Petition for Reconsideration (“Petition”) filed on May 23, 2011, by Applied Life Ministries, Inc. (“Applied Life”), former licensee¹ of KALR(FM), Hot Springs, Arkansas (“Station”). The Petition requests reconsideration of a five thousand, six hundred dollar (\$5,600) *Forfeiture Order*² issued by the Media Bureau (“Bureau”) on February 8, 2011, for Applied Life’s willful violation of Section 73.3539 of the Commission’s Rules (“Rules”)³ by failing to timely file a license renewal application, and willful and repeated violation of Section 301 of the Communications Act of 1934, as amended (“Act”),⁴ by engaging in unauthorized operation of the Station. For the reasons discussed below, we dismiss the Petition.

II. BACKGROUND

2. On April 23, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of seven thousand dollars (\$7,000) to Applied Life for these violations.⁵ As noted in the NAL, the Station’s renewal application for the pertinent license term was due on February 1, 2004, four months prior to the June 1, 2004, license expiration date.⁶ The application was not filed until July 12, 2004, more than one month after the Station’s license had expired.

3. On May 8, 2007, Applied Life filed a response to the NAL (“Response”) arguing that the proposed forfeiture should be cancelled because: (1) its late filing was inadvertent and due to management changes and studio destruction; and (2) it has a history of compliance with the Rules. In the *Forfeiture Order*, issued on February 8, 2011, the Bureau rejected Applied Life’s first argument,⁷ but

¹ The Commission granted Applied Life’s application to transfer its license to Educational Media Foundation on May 29, 2007. See File No. BALED-20070412AAN; consummated on June 28, 2007.

² *Applied Life Ministries, Inc.*, Forfeiture Order, 26 FCC Rcd 1197, 1197 (MB 2011) (“*Forfeiture Order*”).

³ 47 C.F.R. § 73.3539.

⁴ 47 U.S.C. § 301 (2006).

⁵ *Applied Life Ministries, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 7508, 7508 (MB 2007).

⁶ See 47 C.F.R. §§ 73.1020, 73.3539(a).

⁷ *Forfeiture Order*, 26 FCC Rcd at 1198, citing *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387 (1991), *recon denied*, 7 FCC Rcd 3454 (1992) (stating that “inadvertence ... is at

reduced the forfeiture amount to five thousand, six hundred dollars (\$5,600) based on Applied Life's history of compliance with the Rules.⁸

4. On May 23, 2011, Applied Life filed the Petition. In the Petition, it reiterates that the Bureau should rescind the forfeiture because the violation was not willful.⁹ Applied Life also argues that: (1) the Commission is without statutory jurisdiction to impose a forfeiture because Applied Life was not a licensee when the Bureau issued the *Forfeiture Order*; (2) the statute of limitations bars the forfeiture; (3) the Bureau failed to notify Applied Life that it could have applied for Special Temporary Authority ("STA") to continue operating the Station while the license renewal application was pending; and (4) the extent of its unauthorized operations resulted from the Bureau's delay in granting the late-filed application.¹⁰

III. DISCUSSION

5. A petition for reconsideration must be filed within thirty days of the date upon which the Bureau gives public notice of the decision at issue.¹¹ The Commission cannot waive or extend this thirty day period, except in "extraordinary" circumstances.¹² Here, the Bureau provided public notice of the *Forfeiture Order* with its release on February 8, 2011.¹³ Any petition for reconsideration of the *Forfeiture Order* was due on March 11, 2011. Applied Life, however, did not file the Petition until May 23, 2011. As Applied Life presents no "extraordinary" circumstances excusing its lateness,¹⁴ the Petition must be dismissed as untimely.

6. Even if we were to consider the merits of the Petition, we would deny it. Absent a material error or omission in the underlying order, or, unless a petitioner raises additional facts not known or existing until after the petitioner's last opportunity to present such matters, reconsideration is not warranted.¹⁵ Applied Life does not meet this strict standard. First, the Bureau already found the violations to be willful in the *Forfeiture Order*.¹⁶ Thus, that issue will not be reexamined here.¹⁷

best, ignorance of the law, which the Commission does not consider a mitigating circumstance"); *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, 358 (1986) (stating that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations").

⁸ *Forfeiture Order*, 26 FCC Rcd at 1198.

⁹ Petition at 5.

¹⁰ *Id.* at 3-4.

¹¹ 47 U.S.C. § 405(a) (2006).

¹² *Gardner v. FCC*, 530 F.2d 1086, 1091 (D.C. Cir. 1976). Extraordinary circumstances include instances where a licensee's late-filing is substantially due to the Commission's failure to afford a party timely notice of the action for which reconsideration is sought.

¹³ See 47 C.F.R. § 1.4.

¹⁴ See *Gardner*, 530 F.2d at 1091.

¹⁵ See *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966).

¹⁶ See *Forfeiture Order*, 26 FCC Rcd at 1198 (noting that violations resulting from inadvertent error or failure to become familiar with the Rules are "willful" violations).

¹⁷ See *WWIZ, Inc.*, 37 FCC at 686 (there is no obligation for the Commission to debate for a second time matters on which it has already deliberated and spoken).

7. Second, it is well settled that the Bureau had authority to issue the forfeiture despite the fact Applied Life was not a licensee at the time of the *Forfeiture Order* because the violations occurred when the Station was under Applied Life's stewardship.¹⁸

8. Third, Applied Life's argument that the violations occurred more than one year prior to the issuance of the *NAL* and are, therefore, beyond the statute of limitations for issuing a forfeiture is incorrect. Section 503(b)(6) of the Act states that "no Forfeiture penalty shall be determined or imposed against any person ... if the violation charged occurred (i) more than 1 year prior to the date of issuance of the required notice or notice of apparent liability; **or** (ii) prior to the date of commencement of the Station's current license term, **whichever is earlier.**"¹⁹ Here, the grant of the renewal application and the issuance of the *NAL* occurred concurrently. Because the Bureau took these two actions simultaneously, there was no intervening renewal which would have triggered the restricting provisions of the statute of limitations and prevented us from considering Applied Life's conduct during the license term under review.²⁰

9. Fourth, Applied Life's contention that its ignorance of the STA process excuses its violation is meritless; ignorance of the law does not excuse non-compliance with the Rules.²¹ Applied Life's contention that the Commission had a duty to inform it about the possibility of applying for a STA is also meritless. The Commission has no obligation to inform licensees of their rights and duties. Rather, licensees "are responsible for knowing and observing the rules affecting their activities."²²

10. Finally, any delay by the Bureau in granting the renewal application does not justify rescinding or reducing the forfeiture. The ability to receive an STA relieves licensees of any harm stemming from the time lapse between the licensee's filing of a renewal application and the Commission's grant of that application. That the licensee neglected to adequately inform itself of its rights and duties is not the Commission's responsibility. Regardless, any claim that the Commission's actions were untimely is defeated by the fact that the Commission complied with the statute of limitations.²³

¹⁸ See *Forfeiture Order*, 26 FCC Rcd at 1197 n.1, citing *Vista Point Communications, Inc.*, Memorandum Opinion and Order and Forfeiture Order, 14 FCC Rcd 140, 140 n.2 (MMB 1999) (finding licensee who assigned license by time of forfeiture order liable for forfeiture for violations of the Rules taking place when station was under its stewardship). See also *WROV Broadcasters, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 1421, 1422-23 (1991) (statute of limitations does not bar a forfeiture being imposed on a former licensee that held the license when the *NAL* was issued).

¹⁹ 47 U.S.C. § 503(b)(6) (2006) (emphasis added).

²⁰ *Emmis Broadcasting Corporation of Boston*, Memorandum Opinion and Order and Forfeiture Order, 11 FCC Rcd 8541, 8543 (1996).

²¹ *Southern California*, 6 FCC Rcd at 4387.

²² *David R. LePage*, Letter, 25 FCC Rcd 14558, 14559 (MB 2010).

²³ See 47 U.S.C. § 503(b)(6) (2006).

IV. ORDERING CLAUSE

11. Accordingly, IT IS ORDERED THAT the Petition for Reconsideration filed on May 23, 2011, by Applied Life Ministries, IS DISMISSED as untimely.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau