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Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	Facility ID Nos. 61275/58931
<b>Radio License Holding CBC, LLC</b>	)	NAL/Acct. Nos. MB-20041810074/75
	)	FRN: 0001595214
Licensee of Stations WIBR(AM)	)	File Nos. BR-20040202AXR;
Baton Rouge; WEMX(FM)	)	BR-200402020AYD
Kentwood, Louisiana	)	<b>FILED/ACCEPTED</b>

To: The Commission

AUG 22 2011

Federal Communications Commission  
Office of the Secretary

**APPLICATION FOR REVIEW**

Radio License Holding CBC, LLC, licensee of Stations WIBR(AM), Baton Rouge, and WEMX(FM), Kentwood, Louisiana, (“Licensee”) by its counsel and pursuant to 47 C.F.R. § 1.115, hereby seeks review of the Media Bureau’s (“Bureau”) *Memorandum Opinion and Order*, DA 11-1228, released July 22, 2011 in the above-captioned proceeding (“MO&O”). The MO&O denied Licensee’s October 20, 2010 Petition for Reconsideration and Request for Rescission of Forfeiture Order (“Petition”) which sought reconsideration and rescission of the \$8,000 forfeiture<sup>1</sup> assessed by the Bureau for Licensee’s self-reported, self-remedied omission many years ago of certain documents from the local public inspection files (the “Omissions”) of WIBR and WEMX (the “Stations”). This pleading is timely filed.

The MO&O denied the Petition and affirmed the imposition of an \$8,000 forfeiture against Licensee for the Omissions. The Petition had sought relief on the grounds that the lapse of time had rendered the forfeiture uncollectible under the five-year statute of limitations set

<sup>1</sup> *Citadel Broadcasting Company*, Forfeiture Order, 25 FCC Rcd 15060 (MB 2010) (“*Forfeiture Order*”).

forth in 28 U.S.C. § 2462, which governs the enforcement/collection of monetary penalties by the federal government (the “Collections SOL”).<sup>2</sup> Because the forfeiture relates exclusively to disclosures of the Omissions, all of which occurred between 1999 and 2003, in the Stations’ February 2, 2004 license renewal applications, considerably more than five years ago, the forfeiture is now uncollectible as a matter of statutory law. The MO&O does not contest, and appears to concede at note 13, that the Collections SOL precludes the federal government from collecting the \$8,000 forfeiture at issue in this proceeding, but finds nonetheless that issuance of the Forfeiture Order was consistent with a different statutory provision, namely 47 U.S.C. § 503(b)(6), requiring the Federal Communications Commission (“FCC” or “Commission”) to issue notices of apparent liability for forfeitures within certain specified time frames.

Licensee agrees that *47 U.S.C. § 503(b)(6)* does not, as a purely technical matter, preclude the Bureau’s issuance of the Forfeiture Order. Licensee has never argued otherwise. But Licensee urges the Commission, in a manner consistent with the Collections SOL and the sound exercise of its administrative authority, to dismiss the Forfeiture Order as uncollectible under the Collections SOL.<sup>3</sup> Once five years have elapsed from the relevant triggering date (*e.g.*, date of broadcast, date of self-disclosure, etc.) without federal government commencement of a trial de novo in federal court pursuant to 47 U.S.C. § 504(a) to collect a forfeiture issued by the FCC, the federal government is time barred from collecting it. In the end, a forfeiture order is

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<sup>2</sup> The Collections SOL reflects the considered judgment of Congress that five years is an adequate period of time for federal agencies to assess forfeitures and marshal the evidence necessary to support a collection action to be brought by the Department of Justice in federal court. Adherence to the five-year period has salutary collateral benefits, such as preventing the underlying facts from becoming stale, allowing parties to participate with better recollections of facts, etc.

<sup>3</sup> FCC compliance with 47 U.S.C. § 503(b)(6) does not immunize the federal government, which includes the FCC, from compliance with 28 U.S.C. § 2462.

nothing more than an FCC action looking toward the collection of a monetary penalty, and no purpose is served in further pursuing a matter that is unquestionably time barred by the Collections SOL.<sup>4</sup> Such pursuit only leads to the needless expenditure of time, effort, and funds by the government and the private parties involved, such as Licensee's otherwise unnecessary filing, and the Commission's consideration, of this request for review. Furthermore, 47 U.S.C. § 504(c) effectively renders moot all proposed forfeitures that the government is precluded by statute from collecting. Under 47 U.S.C. § 504(c), a proposed forfeiture cannot be used by the FCC "to the prejudice of" the subject of the proposed forfeiture unless it is paid or ordered to be paid by a court.

As explained above, this application for review amply meets the tests set forth in 47 C.F.R. § 1.115(b)(2)(i), (ii) and (v). That is, the Bureau's decision to keep alive a forfeiture proceeding where collection of the assessed forfeiture is time barred by the Collections SOL: (i) is in conflict with statute (both 28 U.S.C. § 2462 and 47 U.S.C. § 504(c)); (ii) involves questions of law and policy which have not previously been resolved by the Commission; and (iii) entails prejudicial procedural error.

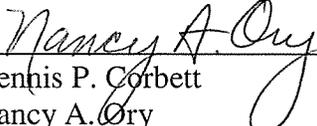
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<sup>4</sup> As a general rule, legal actions that are time barred by a relevant statute of limitations are routinely dismissed by the courts.

**CONCLUSION**

For all of the foregoing reasons, Licensee strongly urges the Commission to terminate this proceeding promptly without adverse consequence to Licensee.

Respectfully submitted,

  
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