

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

In the Matter of)	
)	
PRAISE COMMUNICATIONS, INC.)	Facility ID No. 53368
)	NAL/Acct No.: MB-AD20041810030
)	FRN: 0008972739
)	File No. BR-20030708ABY
Licensee of AM Station WKDL(AM))	
(formerly WPRZ(AM)), Warrenton, Virginia)	

FORFEITURE ORDER

Adopted: June 9, 2008

Released: June 10, 2008

By the Chief, Audio Division, Media Bureau

I. INTRODUCTION

1. In this Forfeiture Order ("Order"), we issue a monetary forfeiture in the amount of five hundred dollars (\$500) to Praise Communications, Inc. ("PCI"), licensee of Station WKDL(AM), Warrenton, Virginia (the "Station"), for willful violation of Section 73.3539 of the Commission's Rules ("Rules").¹ The violation involves PCI's failure to file a timely license renewal application for WKDL(AM).

II. BACKGROUND

2. On March 24, 2004, the Bureau issued a Notice of Apparent Liability for Forfeiture ("NAL")² in the amount of one thousand five hundred dollars (\$1,500) to PCI for this violation. PCI filed its Response to the NAL on April 15, 2004.³

3. Section 73.3539 of the Rules provides that Praise's renewal application for the WKDL(AM) license term was due on June 1, 2003, four months prior to the October 1, 2003, expiration date. The application was not filed until July 8, 2003. PCI provided no explanation for its failure to file timely the WKDL(AM) renewal application.

4. The Bureau issued a NAL to PCI on March 24, 2004, for violation of Section 73.3539 of the Rules. On April 15, 2004, PCI submitted a response to the NAL. In its Response, PCI seeks cancellation of the proposed forfeiture. PCI asserts that the staff action is "unprecedented" when compared to the staff's "leniency" in similar situations during the previous renewal cycle. Specifically, Praise states that its application was filed "scarcely a month after it was due," and refers to a station that it maintains filed its renewal application over 19 months late, and

¹ 47 C.F.R. § 73.3526.

² Letter to J. Geoffrey Bentley, Esq., NAL/Acct. No. MB-AD20041810020 (MB Mar. 24, 2004).

³ Response to Notice of Apparent Liability for Forfeiture filed by Praise Communications, Inc. on April 15, 2004 ("Response").

the application was routinely granted “without a forfeiture, admonition or any other sanction.”⁴ Praise also states that the staff failed to take into account its “20-year record” of operation “without a single violation,” and Praise’s “good faith effort” to timely file the subject application. In this regard, Praise submits a letter from Sally L. Buchanan (“Buchanan”), Praise’s General Manager and Secretary/Treasurer .

5. In her letter, Buchanan states that Praise originally filed, “in good faith,” its application on time. Buchanan states that Praise began the renewal process early, “as recommended by the National Association of Broadcasters,” by downloading a copy of the renewal application from the Commission’s web site, “several months prior to the June 1, 2003, filing deadline.” Buchanan states that Praise mailed the completed application to the Commission’s lockbox at the Mellon Bank in Pittsburgh, Pennsylvania, on May 29, 2003, but it was returned because Praise did not include FCC Form 159. Buchanan states that Praise re-filed the application, with the Form 159, on June 5, 2003, “immediately” upon receiving the returned application.

6. Buchanan states that on June 20, 2003, Praise received a telephone call from the Commission staff advising it that its application was submitted on an outdated FCC Form 303-S and was being returned. She states that she attempted to electronically file the application but, was unsuccessful because of her unfamiliarity with the electronic filing system. Buchanan asserts that “at this point,” the matter was given to Praise’s legal counsel, who filed it successfully.

7. Buchanan submits that Praise is a non-stock, not-for-profit corporation, with limited income, and that WKDL(AM) is a small station licensed to a rural community.⁵ She states that in the past, Praise has successfully prepared and filed previous renewal applications without assistance of legal counsel, and each time the applications were properly filed.

III. DISCUSSION

8. The proposed forfeiture amount 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 and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.⁸ In examining PCI’s response, Section 503(b) of the Act requires that the Commission 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 other such matters as justice may require.⁹

9. Section 73.3539 of the Rules requires, unless otherwise directed by the Commission, an application for renewal of license shall be filed not later than the first day of the fourth full calendar

⁴ Praise specifies Station WILC(AM), Laurel, Maryland, File No. BR-19970122WC, which was filed on January 22, 1997 and granted routinely on May 29, 1997. License renewal applications were due for Maryland stations for the renewal cycle covered by that application on June 1, 1995, and the station’s license expired on October 1, 1995. See 47 C.F.R. §§ 73.1020, 73.3539.

⁵ Cf. *American Broadcasting Educational Foundation*, Forfeiture Order, 15 FCC Rcd 8630 (EB 2000) (status as a noncommercial, listener-supported entity, standing alone, does not provide a basis for further reducing the forfeiture).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. § 1.80.

⁸ *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) (“*Forfeiture Policy Statement*”).

⁹ 47 U.S.C. § 503(b)(2)(D).

month prior to the expiration date of the license sought to be renewed. It is undisputed that Praise's renewal application was untimely filed.

10. First, Praise's reliance on the cited WILC(AM) 1997, renewal grant is misplaced. Specifically, we note that the staff grant of the WILC(AM) renewal application was unpublished and therefore is not a binding precedent.¹⁰ Additionally, the issuance of a *Notice of Apparent Liability* for late-filing a license renewal application is not "unprecedented," because the staff clearly has the authority to levy forfeitures for the failure to comply with Commission rules, and the full Commission did exactly that with respect to a late-filed license renewal application approximately one month after the staff issued the NAL to PCI.¹¹ The \$1,500 forfeiture amount originally proposed in this case is consistent with recent precedent involving license renewal applications that were filed after the renewal filing deadline but before the subject station's license expired.¹² Accordingly, we decline to cancel the proposed forfeiture.¹³ However, we accept PCI's description of its history of rule compliance and its explanation concerning its two "good faith" attempts to file a renewal application for the Station in a timely manner. We find that those factors warrant reduction of the proposed forfeiture to \$500.¹⁴

IV. ORDERING CLAUSES

11. For the reasons set forth above, and pursuant to Section 503(b) of the Communications Act of 1934, as amended,¹⁵ and Sections 0.283 and 1.80 of the Commission's Rules,¹⁶ Praise Communications, Inc. IS LIABLE FOR A MONETARY FORFEITURE in the amount of five hundred dollars (\$500) for willfully and repeatedly violating Section 73.3539 of the Rules.

12. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that within thirty days of the release of this Order, Praise Communications, Inc. SHALL PAY to the United States the full amount of the proposed forfeiture.

13. Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank-Government Lockbox #979088, SL-MO-C2-GL,

¹⁰ See 47 C.F.R. § 0.445(e); *Communications Vending Corporation of Arizona, Inc.*, Memorandum Opinion and Order, 17 FCC Rcd 24201, 24215 (2002) (unpublished staff letters "are not binding on the Commission").

¹¹ See *Discussion Radio, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 7433, 7438 (2004).

¹² See, e.g., *Kashunamiut School District*, Memorandum Opinion and Order and Notice of Apparent Liability, 22 FCC Rcd 2045 (MB 2007); *Faith Pleases God Corporation*, Memorandum Opinion and Order and Notice of Apparent Liability, 22 FCC Rcd 2105 (MB 2007); and *Hispanic Outreach Ministries*, Memorandum Opinion and Order and Notice of Apparent Liability, 22 FCC Rcd 2093 (MB 2007).

¹³ See *Wilson Broadcasting Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 7438 (EB 2007), *recon. denied*, 22 FCC Rcd 15963 (EB 2007) (staff declined to reduce the forfeitures, as they were consistent with current forfeiture amounts).

¹⁴ See 47 C.F.R. § 1.80, Note to Paragraph (b)(4), Downward Adjustment Criteria (2) and (3); *Lazer Licenses, LLC*, Forfeiture Order, 23 FCC Rcd 2589 (EB 2008) citing *Radio One Licenses, Inc.*, 18 FCC Rcd 15964, 15965 (EB 2003), *recon. denied*, 18 FCC Rcd 25481 (2003) (reductions in forfeiture amounts based on good faith efforts to comply generally involve situations where violators demonstrate that they initiated measures to correct or remedy violations prior to a Commission inspection or investigation); see also *WGUL-FM, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 24366 (2000) (forfeiture should be lowered to reflect the licensee's good faith efforts to comply with the rule).

¹⁵ 47 U.S.C. § 503(b).

¹⁶ 47 C.F.R. §§ 0.283, 1.80.

1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for payment of the full amount of this Forfeiture Order under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.

14. IT IS FURTHER ORDERED that, a copy of this Order shall be sent by First Class Mail and Certified Mail - Return Receipt Requested to:

J. Geoffrey Bentley, Esq.
P.O. Box 710207
Herndon, Virginia 20171

Praise Communications, Inc.
P.O. Box 3220
Warrenton, Virginia 20188

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle, Chief
Audio Division
Media Bureau