



Federal Communications Commission
Washington, D.C. 20554

JUL 19 2007

In Reply Refer to:
1800B3-SS

Infinity Radio, Inc.
2000 K St., N.W., Suite 725
Washington, DC 20006

In re: CBS Radio Stations, Inc.
KSFN(AM), North Las Vegas, NV
Facility ID: 47745
File No. BR-20050601CQI

Dear Licensee:

This letter refers to the captioned application of CBS Radio Stations, Inc. (the "Licensee") for renewal of license for Station KSFN(AM), North Las Vegas, Nevada. For the reasons set forth below, we admonish the Licensee for violation of Section 73.3526¹ of the Commission's Rules (the "Rules") regarding a commercial broadcast station's public inspection file, and we grant the KSFN(AM) license renewal application.

Violation. Section III, Item 3 of the license renewal application form, FCC Form 303-S, requests that the licensee certify that the documentation required by Section 73.3526 or 73.3527 of the Rules, as applicable, has been placed in the Station's public inspection file at the appropriate times. The Licensee indicated in Exhibit 11 to the application that the issues/programs lists for the third and fourth quarters of 1997 have been misplaced from the public inspection file and cannot be recreated.²

Section 73.3526 of the Rules requires a commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations. The purpose of this requirement is to provide the public with timely information at regular intervals throughout the license period.³ In this regard, where lapses occur in maintaining the public file, neither the negligent acts or omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee's rule violation.⁴

¹ 47 C.F.R. Section 73.3526.

² Application at Exhibit 11.

³ Cf. *Letter to Kathleen N. Benfield from Linda B. Blair, Chief, Audio Services Division* (April 3, 1997), 13 FCC Red 4102 (1997), citing *License Renewal Applications of Certain Commercial Radio Stations*, 8 FCC Red 6400 (1993).

⁴ See *Padre Serra Communications, Inc.*, Letter, 14 FCC Red 9709 (1999)(citing *Gaffney Broadcasting, inc.*, 23

Section 503(b) of the Communications Act of 1934, as amended (the “Act”)⁵ and Section 1.80(a) of the Rules,⁶ each state that any person who willfully or repeatedly fails to comply with the provisions of the Act or the Rules shall be liable for a forfeiture penalty. For purposes of Section 503(b) of the Act, the term “willful” means that the violator knew it was taking the action in question, irrespective of any intent to violate the Rules.⁷ A continuing violation is “repeated” if it lasts more than one day.⁸

The Commission’s *Forfeiture Policy Statement* sets a base forfeiture amount of \$10,000 for these violations.⁹ In this case, the violations were admitted to the Commission in the context of the license renewal application. On the other hand, the Licensee states that the missing files cannot be recreated. Considering the record as a whole, we believe that an admonishment rather than a forfeiture is appropriate for the violations in this case.¹⁰

License renewal application. In evaluating an application for license renewal, the Commission’s decision is governed by Section 309(k) of the Act. That section provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.¹¹ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”¹²

F.C.C.2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, Notice of Apparent Liability. 33 F.C.C. 706 (1962)); *Surrey Front Range Limited Partnership*, Letter, 71 RR 2d 882 (FOB 1992).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. § 1.80(a).

⁷ See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-4388 (1991).

⁸ *Id.*, 6 FCC Rcd at 4388.

⁹ *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission’s Rules*, Report and Order, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

¹⁰ See note to 47 C.F.R. § 1.80(b)(4). See also *Tabback Broadcasting Company*, 15 FCC Rcd 10384 (2000); *Sarkes Tarzian, Inc.*, 65 F.C.C.2d 17 (1975).

¹¹ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Order, Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

¹² 47 U.S.C. §§ 309(k)(2), 309(k)(3).

The public inspection file rule serves the critical function of making available to the public important information regarding programs that provided a station's most significant treatment of community issues during the license term. On balance, however, we find that the Licensee's violation of Section 73.3526 does not constitute a "serious violation" of the Rules warranting designation for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, evidence a pattern of abuse.¹³ Further, we find that station KSFN(AM) served the public interest, convenience, and necessity during the subject license term. Further, we find that Station KSFN(AM) served the public interest, convenience, and necessity during the subject license term. We will therefore grant the license renewal application below.¹⁴

Conclusion/Actions. CBS Radio Stations, Inc. IS HEREBY ADMONISHED for its violation of 47 C.F.R. § 73.3526, and we caution the licensee to be and remain more diligent in the future regarding the operation of KSFN(AM).

Finally, IT IS FURTHER ORDERED, pursuant to Section 309(k) of the Communications Act of 1934, as amended, that the application (File No. BR-20050601CQI) of CBS Radio Stations, Inc., for renewal of license for station KSFN(AM), North Las Vegas, Nevada, IS GRANTED.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Linda D. Feldman, Esq.

¹³ For example, we do not find here that the licensee's station operation "was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies." *See Heart of the Black Hills Stations*, Decision, 32 FCC2d 196, 198 (1971). Nor do we find on the record here that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission's Rules." *Heart of the Black Hills Stations*, 32 F.C.C.2d at 200. *See also Center for Study and Application of Black Economic Development*, Hearing Designation Order, 6 FCC Rcd 4622 (1991), *Calvary Educational Broadcasting Network, Inc.*, Hearing Designation Order, 7 FCC Rcd 4037 (1992).

¹⁴ *See* 47 U.S.C. § 309(k).