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

In the Matter of:	)	
	)	
	)	
Word of Life Ministries, Inc.	)	FRN: 0005870498
Licensee of Station KADO-LP	)	NAL/Acct. No. 201341420039
Shreveport, Louisiana	)	Facility ID No. 38497
	)	

FORFEITURE ORDER

Adopted: December 2, 2013 **Released: December 3, 2013**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order*, issued pursuant to Sections 0.61(f)(1) and 1.80(a)(1) and (2) of the Commission's rules,[1] we find that Word of Life Ministries, Inc., licensee of Station KADO-LP, Shreveport, Louisiana, repeatedly violated Section 73.3514(a) by failing to report violations in its license renewal application and 73.3526(e)(11)(iii) of the Commission's Rules by failing to file electronically with the Commission in a timely manner the Station's Children's Television Programming Reports (FCC Form 398). Based on our review of the facts and circumstances, we find the Licensee liable for a forfeiture of Three Thousand Five Hundred Dollars ($3,500.00).

II. BACKGROUND

2. The Video Division issued a Notice of Apparent Liability ("NAL") for Forfeiture on August 9, 2013.[2] The NAL notified the Licensee that its failure to report violations in its license renewal application constituted an apparent willful or repeated violation of Section 73.3514(a) of the Commission's rules[3] and its failure to file timely its Children's Television Programming Reports constituted an apparent willful or repeated violation of Section 73.3526(e)(11)(iii) of the rules.[4] The Division concluded that the Licensee was apparently liable for a forfeiture of $12,000.

3. In a timely response dated September 9, 2013, the Licensee admitted that it could not rebut the claimed violations but nonetheless asserted that the proposed forfeiture amount should be reduced.[5]

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[1] 47 C.F.R. §§ 0.61(f)(1), 1.80(a)(1) & (2).

[2] *Word of Life Ministries, Inc.*, Notice of Apparent Liability for Forfeiture, DA 13-1730 (Aug. 9, 2013).

[3] 47 C.F.R. § 73.3514(a).

[4] 47 C.F.R. § 73.3526(e)(11)(iii).

[5] Licensee Response to Notice of Apparent Liability ("Licensee Response") (Sept. 9, 2013) at 1-5.

III. DISCUSSION

4. The Commission is authorized to license radio and television broadcast stations and is responsible for enforcing the Commission's rules and applicable statutory provisions concerning the operation of those stations. Under section 503(b)(1) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[6] In order to impose a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such penalty should be imposed.[7] The Commission will then issue a forfeiture order if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.[8] As we set forth in greater detail below, we conclude that the Licensee is liable for a forfeiture for repeated violations of Sections 73.3514 and 73.3526(e)(11)(iii) of the Commission's rules. We ultimately conclude that the forfeiture amount should be reduced to $3,500 from the amount proposed in the NAL.

5. The Community Broadcasters Protection Act requires that Class A television stations comply with all rules applicable to full-power television stations except for those rules that could not apply for technical or other reasons.[9] The Commission rules establish that Class A licensees must (i) offer informational and educational children's programming; (ii) prepare and place in a public inspection file quarterly Children's Television Programming Reports; and (iii) electronically file those reports with the Commission.[10] The Commission's Rules further provide that "each application shall include all information called for by the particular form on which the application is required to be filed. . . ."[11]

6. The Licensee does not dispute that it failed to file electronically its Children's Television Programming Reports with the Commission in a timely manner for the quarters identified in the NAL. The Licensee also does not dispute that the late filing of the reports was not reported in the renewal application.[12] These deficiencies, regardless of the cause, constitute repeated violations of the relevant Commission rules.

7. Commission policy establishes a base forfeiture amount of $3,000 for failure to file a

[6] 47 U.S.C. § 503(b)(1) (A) & (B); 47 C.F.R. § 1.80(a)(1) & (2). The Commission may assess a forfeiture order for violations that are merely repeated, and not willful. *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, (2001) (issuing a Notice of Apparent Liability for a cable television operator's repeated violations of the Commission's signal leakage rules). "Repeated" means that the act was committed or omitted more than once. *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

[7] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

[8] *See, e.g., SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002).

[9] Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594-1501A-598 (1999), *codified at* 47 U.S.C. § 336(f).

[10] *Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000); 47 C.F.R. § 73.3526 (a)(2) & (e)(11)(iii).

[11] 47 C.F.R. § 73.3514(a).

[12] Licensee Response at 1.

required form or required information.[13] In determining the appropriate forfeiture amount, the Commission may adjust the base amount upward or downward by considering the factors in Section 503(b)(2)(E), which include "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 such other matters as justice may require." In the NAL, the Commission proposed a forfeiture amount of $12,000. Licensee argues that the forfeiture amount should be reduced or cancelled.[14]

8. The Licensee first argues that the forfeiture amount is excessive compared to forfeitures assessed in other recent cases.[15] All of the cases cited are factually distinct, as described below.

9. Two of the cases involved Licensees who were assessed forfeitures in part due to the 2011-2012 public file audit inquiry.[16] All licensees subject to that inquiry were assessed an identical $3,000 forfeiture for all deficient quarters identified in that inquiry. Therefore, for example, with respect to *San-Lee Community Broadcasting, Inc.*, the 20 quarters of late filings identified in the audit letter were subject to a $3,000 total forfeiture.[17] The Licensee here was not subject to the audit inquiry.

10. In *D.T.V. LLC*,[18] none of the untimely reports were filed over a year late. Here, the Licensee filed five reports over a year late. We consider both the number of reports that are filed late and how late the reports are filed in determining the appropriate forfeiture amount.

11. In *Teleadoracion Christian Network, Inc.*,[19] the Licensee made a good faith effort to identify quarters in which reports were filed late in its renewal application. We consider such self-reporting as an indicator of good faith in determining the appropriate forfeiture amount, and that factor was taken into consideration in that case. Here, the Licensee acknowledges it made no similar effort to identify the quarters in which reports were filed late.

12. We therefore conclude that the Licensee has been treated fairly in identifying the appropriate forfeiture given the factual circumstances in this case.

13. The Licensee also argues that its history of compliance warrants a reduction in the forfeiture amount.[20] In addition, the Licensee argues that it cannot afford to pay the forfeiture.[21]

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[13] *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines,* Report and Order, 12 FCC Rcd 17087, 17113-15 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4).

[14] Licensee Response at 1-2.

[15] Licensee Response at 2-4.

[16] *Waters & Brock Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd. 10064 (Vid. Div. 2013); *San-Lee Community Broadcasting, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 10088, 10089 (Vid. Div. 2013).

[17] *San-Lee Community Broadcasting, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 10088, 10089 (Vid. Div. 2013).

[18] *D.T.V. LLC*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 10112 (Vid. Div. 2013).

[19] *Teleadoracion Christian Network, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 11742 (Vid. Div. 2013).

[20] Licensee Response at 5-6. We will analyze this argument in combination with the Licensee's request to reduce the payment amount based on an inability to pay.

The Commission will not consider reducing or canceling a forfeiture in response to inability to pay unless the licensee submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the licensee's current financial status. Typically, the Commission uses gross revenue as the primary measuring stick by which it evaluates a licensee's ability to pay.[22] Here, the Licensee provided financial documentation in an effort to support its argument that it cannot pay the forfeiture amount.[23]

14. In the NAL, the Video Division proposed a forfeiture amount of $12,000. Having carefully reviewed the Licensee's arguments and submitted documentation, we reduce the forfeiture to $3,500, and we conclude the revised forfeiture amount is in line with previous forfeitures the Commission has determined are not excessive relative to the Licensee's ability to pay.[24]

15. The Licensee has also requested a period of 120 days to pay the forfeiture imposed. We hereby grant this request for an extension of the normal forfeiture payment deadline.

IV. ORDERING CLAUSES

16. ACCORDINGLY, IT IS ORDERED THAT, pursuant to section 503(b) of the Communications Act of 1934, as amended, and Sections 0.61(f)(1) and 1.80(a)(1)&(2) of the Commission's rules,[25] Word of Life Ministries, Inc. SHALL FORFEIT to the United States the sum of Three Thousand, Five Hundred Dollars ($3,500) for repeatedly violating Section 47 U.S.C. § 336(f)(2)(A)(ii) and 47 C.F.R. § 73.3526(e)(11)(iii).

17. In the event that the Licensee wishes to revert KADO-LP to low power television status, the Licensee need only notify us of this election and request a change in status for the station.[26] Should the Licensee elect to revert to low power status, the Licensee would no longer be liable for the forfeiture amount described.

18. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 (h) of the Commission's rules within one hundred and twenty days (120) calendar days after the release date of this Forfeiture Order. If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Communications Act of 1934, as amended. The Licensee shall send electronic notification of the payment to Peter Saharko at peter.saharko@fcc.gov on the date payment is made.

19. The payment must be made by check or similar instrument, wire transfer, or credit

[21] Licensee Response at 2-3.

[22] *San Jose State University*, Memorandum Opinion and Order, 26 FCC Rcd 5908 (2011).

[23] Licensee Response at 4-5.

[24] *Hoosier Broadcasting Corporation*, Memorandum Opinion and Order, 15 FCC Rcd 8640, 8641 (EB 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues); *Bruno Goodworth Network, Inc.*, Forfeiture Order, DA 13-1585, 2013 WL 3777827 (Vid. Div. Jul. 18, 2013) (forfeiture amount reduced to approximately 7 percent of the violator's gross revenues).

[25] 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.61(f)(1) & 1.80(a)(1)&(2).

[26] *See* 47 C.F.R. § 73.6001(d).

card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the "FORF" in block number 24A (payment type code). Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

20. IT IS FURTHER ORDERED THAT a copy of this FORFEITURE ORDER shall be sent by Certified Mail Return Receipt Requested to Word of Life Ministries, Inc., 4425 Meriwether Road, Shreveport, Louisiana, 71109, and to its counsel, A Wray Fitch III and Carol L. Browne, Gammon & Grange, P.C., 8280 Greensboro Drive, 7th Floor, McLean, Virginia, 22102-3807.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau