

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

In the Matter of)	
)	
Pollack/Belz Communication Company, Inc.)	Facility I.D. No. 52907
Licensee of Station KLAX-TV)	NAL/Acct. No.: 20134140061
Alexandria, Louisiana)	FRN: 0006096200

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: February 5, 2014

Released: February 5, 2014

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION:

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”) issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the “Act”), and Section 1.80 of the Commission’s Rules (the “Rules”),¹ the Commission finds that Pollack/Belz Communication Company, Inc. (the “Licensee”), licensee of Station KLAX-TV, Alexandria, Louisiana (“KLAX”), willfully and repeatedly violated Section 73.3539(a) of the Rules by failing to timely file with the Commission its Application for Renewal of Broadcast Station License (Form 303-S). Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of two thousand, four hundred dollars (\$2,400).

II. BACKGROUND:

2. Section 73.3539(a) of the Rules requires a broadcast television license renewal application to be filed “not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed...”² The Licensee’s last license renewal for KLAX-TV was granted on August 7, 1997 and expired on June 1, 2005. On February 1, 2005, the Licensee filed a timely license renewal application.³ This application remains pending. On March 12, 2012, the Commission issued a Public Notice stating that “a station must file [a new license renewal application (Form 303-S)] even if its last renewal application remains pending.”⁴ In accordance with the Public Notice the license term for KLAX-TV would have expired on June 1, 2013 and pursuant to the Public Notice was therefore required to file its license renewal application by February 1, 2013. Licensee did not file its Form 303-S until June 3, 2013.⁵

¹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

² 47 C.F.R. § 73.3539(a).

³ See *Application for Renewal of Broadcast Station License*, FCC File No. BRCT-20050201BHM.

⁴ *Media Bureau Announces Revisions to License Renewal Procedures and Form 303-S License Renewal Application; Television License Renewal Filings Accepted Beginning May 1, 2012*, Public Notice, 27 FCC Rcd 2460, 2461 (MB 2012).

⁵ See *Application for Renewal of Broadcast Station License*, FCC File No. BRCDT-20130603BFV.

III. DISCUSSION

3. The Licensee failed to file a timely application for renewal of its broadcast license for KLAX. A Form 303-S for KLAX was not filed with the Commission until June 3, 2013—four months and two days after the filing deadline and two days after the date the license would have expired. This late filing constitutes an apparent willful and repeated violation of Section 73.3539(a) of the Rules.

4. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, 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 Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.⁷ Furthermore, the Commission has held that an inadvertent error, oversight or failure to become familiar with Commission requirements are willful violations.⁸ The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,⁹ and the Commission has so interpreted the term in the Section 503(b) context.¹⁰ Section 312(f)(2) of the Act also provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”¹¹

5. The Commission’s *Forfeiture Policy Statement* and Section 1.80(b) of the Rules establish a base forfeiture amount of \$3,000 for failure to file a required form.¹² In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the Act, including “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.”¹³

⁶ 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a)(1).

⁷ 47 U.S.C. § 312(f)(1); *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), recons. denied, 7 FCC Rcd 3454 (1992) (“*Southern California*”) (stating that “Commission interpretations of “willful” do not require licensee intent to engage in a violation”).

⁸ *See PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order 7 FCC Rcd 2088 (1992) (asserting that “[t]he fact that a licensee’s violation occurred through inadvertence does not prevent it from being willful. It is not necessary that the violation be intentional”); *see also Southern California*, 6 FCC Rcd at 4387 (finding that “inadvertence ... is at 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 (1986) (stating that “employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations”).

⁹ *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

¹⁰ *See Southern California*, 6 FCC Rcd at 4388.

¹¹ 47 U.S.C. § 312(f)(2); *see also Callais Cablevision, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 1359, 1362 (2001).

¹² *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) (“*Forfeiture Policy Statement*”), recon. denied, 15 FCC Rcd. 303 (1999); 47 C.F.R. § 1.80(b), Section I.

¹³ 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(5); 47 C.F.R. § 1.80(b), Section II.

6. Although in some instances the Video Division has decided to issue admonishments instead of forfeitures due to a late filed license renewal application,¹⁴ in this case we believe forfeiture is appropriate due to the lengthy delay in filing the application.¹⁵ Because the filing was over four months late, there was significant delay in consideration of the licensee's renewal application by both the public and the Commission. We conclude based on these facts that a forfeiture is appropriate. In light of the Licensee's overall history of compliance with the Rules, we find that a downward adjustment of the base forfeiture is warranted. Accordingly, we propose a forfeiture in the amount of \$2,400 for the Licensee's apparent willful and repeated violation of Section 73.3539(a) of the Rules.¹⁶

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules, that Pollack/Belz Communication Company, Inc., is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of two thousand, four hundred dollars (\$2,400) for its apparent willful and repeated violation of Section 73.3539(a) of the Commission's Rules.

8. **IT IS FURTHER ORDERED**, pursuant to Section 1.80 of the Commission's Rules, that within thirty (30) days of the release date of this *NAL*, Pollack/Belz Communication Company, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. 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, 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).

10. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Evan S. Morris, Staff-Attorney, Video Division, Media Bureau, and **MUST INCLUDE** the *NAL*/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent 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

¹⁴ See, e.g., *PTP Holdings, Inc.*, Admonishment Letter, 28 FCC Rcd 13845 (MB 2013) (issued an admonishment letter for filing its license renewal application 9 days after the filing deadline).

¹⁵ See *WDKA Acquisition Corp.*, Forfeiture Order, DA 13-2316, ¶ 7 (Dec. 4, 2013) (finding that the licensee's late filing of one month and three days warranted a forfeiture and not an admonishment due to the extended nature of the late filing).

¹⁶ See, e.g., *Woods Comm. Corp.*, Forfeiture Order, 25 FCC Rcd 5215, 5217 (MB 2010) (reducing forfeiture by 20% percent based on history of compliance).

respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.¹⁷

12. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁸

13. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Pollack/Belz Communication Company, Inc., 5500 Poplar Avenue, Suite 1, Memphis, TN, 38119, and to its counsel, Barry D. Wood, Wood, Martin & Hardy, P.C., 3300 Fairfax Drive, Suite 202, Arlington, VA 22201-4400.

FEDERAL COMMUNICATIONS COMMISSION



Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁷ See *San Jose State Univ.*, 26 F.C.C. Rcd. 5908 (2011) (noting that “[t]ypically, the Commission uses gross revenue as the primary measuring stick by which it evaluates a licensee's ability to pay. Other financial indicators may be considered....”).

¹⁸ See 47 C.F.R. § 1.1914.