

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

In the Matter of)	
)	
Community Television of Southern California)	File Number: EB-10-LA-0214
)	
Licensee of Noncommercial Educational TV)	NAL/Acct. No.: 201132900003
Station KCET, Los Angeles, California)	FRN: 0001529213
Facility ID. No. 13058)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: February 4, 2011

Released: February 8, 2011

By the District Director, Los Angeles District Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Community Television of Southern California, Licensee of Noncommercial Educational TV Station KCET, Los Angeles, California (“Community Television”), apparently willfully and repeatedly violated Section 73.3527(c) of the Commission’s rules (“Rules”)¹ by failing to make available the Station KCET public inspection file. We conclude that Community Television is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On August 19, 2010, an agent from the Enforcement Bureau’s Los Angeles District Office visited Station KCET’s main studio at 4401 Sunset Boulevard, Los Angeles, California and, without identifying himself as an FCC agent, requested to view the station’s public inspection file. The security guard at the facility gave the agent a telephone number and advised him that he must make an appointment by calling the telephone number in order to access Station KCET’s public inspection file. The security guard also denied the agent’s request to speak with a station manager without a scheduled appointment. The agent left the premises without being able to view the public inspection file.

3. On August 20, 2010, around 11:20 a.m., the Los Angeles agent arrived at Station KCET’s entrance gate and requested entrance to the Station KCET main studio to inspect the station’s public inspection file. The security guard again prevented the agent from entering the building, stating that the agent did not have the necessary appointment with the station to enter the Station KCET main studio. Once again, the agent requested to speak with a station manager. This request was again denied by the security guard, and the agent left the premises without being able to access the public inspection file.

4. On August 20, 2010, around 1:10 p.m., the agent returned to Station KCET’s entrance gate

¹ 47 C.F.R. § 73.3527(c).

and again requested access to the station's public inspection file. The security guard asked the agent whether he had made an appointment with Station KCET personnel. The agent then showed his FCC badge and credentials to the security personnel and requested an FCC inspection of the Station KCET public inspection file. After a thorough examination of the agent's badge and several phone calls to Station KCET personnel inside the building, the agent was allowed to go inside of the facility and view the public inspection file. The agent found that the Station KCET public inspection file was complete.

5. Prior to reviewing the public inspection file, the agent interviewed the Executive Assistant for Station KCET. When the agent asked why he was repeatedly denied access to the public inspection file, the Executive Assistant stated that the General Counsel of Station KCET was not in the office during those two days and that she did not know the exact organizational rules regarding public access to the station's public inspection file. After reviewing the public inspection file, the agent asked the Security Supervisor the same question. The Security Supervisor, also an employee of Station KCET, stated that, in general, people had to make an appointment to enter the Station KCET facility and that he was just following Station KCET's security protocol to conduct this screening at the entrance gate.

III. DISCUSSION

6. Section 503(b) of the Communications Act of 1934, as amended ("Act"),² provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.³ The term "repeated" means the commission or omission of such act more than once or for more than one day.⁴

7. Section 73.3527(c) of the Commission's rules requires noncommercial educational stations to provide access to materials in the public inspection file. Specifically, the rule requires that "[t]he file shall be available for public inspection at any time during regular business hours."⁵ All broadcast stations have an obligation to serve their local community's needs and interests and to comply with programming and other rules. Because we do not monitor a station's programming, viewers and listeners are a vital source of information about the programming and possible rule violations. The documents in each station's public inspection file contain information about the station that can assist the public in serving this important role.⁶

² 47 U.S.C. § 503(b).

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

⁴ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, 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."

⁵ 47 C.F.R. § 73.3527(c).

⁶ *Gaston College*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 4556, 4558 (Enf. Bur., Investigations & Hearings Div. 2007), *forfeiture assessed in* Forfeiture Order, 25 FCC Rcd 982 (Enf. Bur. 2010).

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8. Community Television failed to make available Station KCET's public inspection file during three visits by the Los Angeles agent on August 19 and 20, 2010. Stations cannot require members of the public to make appointments to access a station's public inspection file.⁷ In this case, Station KCET employees instructed the Los Angeles agent during three separate visits that he must first make an appointment before he would be allowed to access the public inspection file. While the Commission has found that brief, security-related delays to access a public file are reasonable,⁸ here, Community Television did not briefly delay access to the file – it denied any access, absent an appointment. Based on the evidence before us, we find that Community Television apparently willfully and repeatedly violated Section 73.3527(c) by failing to make available Station KCET's public inspection file.

9. Pursuant to the Commission's *Forfeiture Policy* and Section 1.80 of the Rules, the base forfeiture for violations of the public inspection file rules is \$10,000.⁹ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act,¹⁰ which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that Community Television is apparently liable for a \$10,000 forfeiture.

IV. ORDERING CLAUSE

10. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, and 1.80 of the Commission's Rules, Community Television is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of \$10,000 for willfully and repeatedly violating Section 73.3527(c) of the Commission's rules.¹¹

11. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Community Television of Southern California, **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, 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.

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⁷ *Riverside Broadcasting, Inc.*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 18322, 18323 (Enf. Bur., Investigations & Hearings Div. 2000). See *Public Notice: Availability of Locally Maintained Records for Inspection by Members of the Public*, 13 FCC Rcd. 17959 (Mass Med. Bur. 1998)

⁸ See *Isothermal Community College*, Memorandum Opinion and Order, 16 FCC Rcd 21360, 21363-64 (Enf. Bur. 2001) (finding that a delay of approximately ten minutes to satisfy legitimate security concerns may be reasonable when a request is made to access a station's public inspection file).

⁹ *The Commission's 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); 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 503(b)(2)(E).

¹¹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80, 73.3527(c).

Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When 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 full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹² Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Community Television of Southern California shall also send electronic notification on the date said payment is made to WR-Response@fcc.gov.

13. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.80(f)(3) and 1.16 of the Rules. The written statement must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles Office, 18000 Studebaker Rd., #660, Cerritos, CA 90703 and must include the NAL/Acct. No. referenced in the caption. An electronic copy shall be sent to WR-Response@fcc.gov.

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

15. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Community Television of Southern California, 4401 Sunset Blvd., Los Angeles, CA 90027.

FEDERAL COMMUNICATIONS COMMISSION

Nader Haghghat
District Director
Los Angeles Office
Western Region
Enforcement Bureau

¹² See 47 C.F.R. § 1.1914.