Before the
Federal Communications Commission **FILE COPY**
Washington, DC 20554

In the Matter of

Blue Mountain Broadcasting Association	Facility ID Nos. 5906, 5909, 5914 NAL/Acct. Nos. 0941420005, 0941420006 and 0941420007 FRN: 0001571546
Licensee of Stations: K21JQ-D, Walla Walla, WA K31KL-D, Walla Walla, WA K36EW-D, College Place, WA	

FILED/ACCEPTED

APR 30 2010

Federal Communications Commission
Office of the Secretary

To: Secretary

Attn: Barbara Kreisman
Chief, Video Division, Media Bureau

PETITION FOR RECONSIDERATION

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April 30, 2010

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PETITION FOR RECONSIDERATION

Pursuant to 47 CFR § 1.106, Blue Mountain Broadcasting Association ("BMBA") timely submits this Petition for Reconsideration of the **Forfeiture Order**, DA 10-498, released March 31, 2010 ("Order"), imposing a $12,000.00 forfeiture (hereafter "Fine") on non-profit BMBA -- the licensee of three small, "Class A" TV stations in Walla Walla, WA ("Stations")[1] -- for BMBA's *inadvertent* violation of two of the FCC's many children's TV rules.[2]

Absent other proper relief,[3] the Petition should be granted and the Fine either cancelled or substantially reduced because (a) the Order erroneously fails fully to consider BMBA's request that the Fine be cancelled **or reduced** as a matter of "leniency," in light of BMBA's financial condition, (b) *new facts* should be considered that reasonably require the Division to reconsider and either cancel or reduce the Fine, (c) the Order's imposition of a large Fine against this small, non-profit licensee is unlawfully inconsistent with FCC precedents and (d) the Order's finding of "willfulness," regarding BMBA's *inadvertent* violation of the two rules at issue is arbitrary, capricious and an abuse of regulatory discretion under federal law and the U.S Constitution.

Background

In the Stations' 2006 renewal applications, as amended,[4] BMBA forthrightly conceded that -- due to a misunderstanding[5] -- (a) it had *inadvertently* failed to publicize the existence/location of the Stations' Form 398 quarterly Children's Television Programming Reports and (b) it had provided information, during the prior license term, to program guide suppliers that identified

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[1] As reflected in the above heading,, the three Walla Walla facilities are K21JQ-D, K31KL-D and K36EW-D.
[2] See 47 CFR §§ 73.3526(e)(11)(iii) and 73.673 (hereinafter "two rules").
[3] For example, BMBA is willing to negotiate a Consent Decree with the FCC, whereby BMBA would contribute up to $1,000 to the U.S. Treasury. See, e.g., Way-FM Media Group, Inc., DA 10-581, released April 27, 2010.
[4] See File Nos. BRTTA-20060929BJK, BJL, BJN and also the November 17, 2007 amendment as to each.
[5] After e-mail communications with the FCC staff, BMBA filed amendments to its renewal applications -- on November 17, 2007 -- forthrightly conceding that its stations' management was unaware of the two particular rules at issue but that the three stations had promptly remedied these inadvertent errors and that the stations had become fully compliant with all of the FCC's children's TV rules. See Responses, filed January 13, 2009.

each "core" children's program aired on the Stations but it had *mistakenly* not included information regarding the "target child audience" for that programming Order, at ¶¶ 2-4. These facts are not contested. It is also not disputed that, in BMBA's submissions to the FCC, it reported that it promptly remedied these *inadvertent* errors and the Stations had promptly moved into full compliance with all of the FCC's many children's TV programming rules. Id. at ¶ 2.

On December 19, 2008, in connection with the FCC's 2008 renewal of these small, low-powered Stations' licenses, the Video Division issued separate Notices of Apparent Liability for Forfeiture ("NAL's"), totaling $12,000.00 ($4000 for each of the three "Class A" Stations).[6]

On January 13, 2009, BMBA filed three (substantively identical) responses to the NAL's ("Responses"), arguing for either cancellation *or "leniency"* regarding the Fine because (a) the violations were *inadvertent* (based on unfamiliarity with these two rules), rather than "willful intent" by BMBA to violate FCC rules, (b) the Fine would cause financial hardship to BMBA and (c) the Fine should be cancelled/reduced because BMBA had a clean record of FCC rule compliance.[7] BMBA's 2008 financial data was filed in a Supplement on February 1. 2010.[8]

The Video Division's March 31, 2010 Order held simply that (a) BMBA "requests that the forfeitures be cancelled,"[9] (b) BMBA's "claim of financial hardship" is insufficient to justify cancellation of the Fine because the proposed $12,000.00 Fine would constitute "less than six percent" of BMBA's 2008 total ***gross*** revenues and (c) BMBA's history of compliance with FCC rules does not warrant any "reduction" of the Fine.[10]

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[6] See the three NAL account numbers, in this Petition's heading, supra.
[7] See Responses at 1-3. Because of BMBA's declining financial resources, its three January 13, 2009 Responses to the NAL's were filed without the supervision of any legal counsel. Moreover, this Petition has been prepared and is being filed by the undersigned counsel largely "pro bono."
[8] The Supplement was filed after the FCC staff (on 1/13/10) courteously requested additional financial information.
[9] See, e.g., Order at ¶¶ 6 & 9.
[10] See ¶ 9.

DISCUSSION

Reconsideration is appropriate in this case, inter alia, because (a) BMBA can demonstrate material errors and reversible omissions in the Division's Order and also (b) BMBA herein raises additional *new* facts -- not existing when it filed its Response to the NAL's in January 2009 or when it filed a Supplement on February 1, 2010 -- that require a grant of reconsideration.

A. The ORDER Erred in Failing *Fully to Consider* all of BMBA's Arguments

The Order erroneously did not even *consider* a reduction in the Fine, based on BMBA's "hardship" evidence -- (a) operating losses in 2006, 2007, 2008, (b) its $30K decrease in both "total assets" and "net assets" in 2008 and (c) an increase in total liabilities in 2008.[11]

Indeed, on its face, the Order reveals that the FCC ignored BMBA's "leniency" request, as expressly stated in its 2009 Responses. The Order recites merely that "Blue Mountain [only] requests that the forfeitures be cancelled." See Order at ¶ 5. In fact, however, BMBA's 2009 Responses requested both "cancellation" but also, noting that BMBA is a non-profit association "entirely viewer supported...and with "extremely limited available funds," that the FCC should apply "leniency" in this matter.[12] Yet, the Order's sole reference to any possible "reduction" of the Fine was in a paragraph where the FCC rejected "Blue Mountain's [separate] argument that its forfeiture should be cancelled" because of its history of FCC rule compliance. Id at ¶ 9.[13] The Order's failure even to consider a *reduction* in the Fine based on BMBA's "financial hardship" evidence constitutes an unlawful failure to consider all relevant factors in a case.[14]

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[11] See "Response to NAL," filed by BMBA on January 13, 2009 (2006, 2007 and 2008 Balance Sheets, P&L Statements and Federal Tax Returns) ("Responses"); see also "Financial Supplement" (including Federal Tax Return, P&L Statement and Balance Sheet for 2008), submitted by BMBA on February 1, 2010.

[12] See Responses, supra, at "Introduction, ¶ (1(b)" and also "Supporting Comments, ¶ 5.

[13] Even *that finding*--not to reduce the Fine--was erroneous, as the FCC has reduced fines based on rule compliance [see, e.g., Griffin OKC Licensing, LLC (KWTV(TV), DA 10-258, rel. February 17, 2010($10K fine reduced)].

[14] See, e.g., Comcast Corporation v. FCC, No. 98-1291 (D.C. Circuit), rel. April 6, 2010.

B. The ORDER Erred in Failing to Reduce the Fine Based on BMBA's "Status"

Although the Order (at¶ 7) recognized that, in some cases, other factors may be relevant in deciding whether to reduce or cancel a forfeiture, its failure in this case to recognize the special status of BMBA's three stations -- largely student-staffed, low powered, "secondary" facilities[15] -- is reversible error. See, e.g., Centerville Center Schools (WCWT-FM), DA 10-674, rel. April 21, 2010 (Audio Division)($7,000 fine reduced to $500 for low-powered FM **because of unintentional error by student-run staff of low-powered station**). The Order's failure to consider BMBA's special status as it has considered other licensee's in like circumstances is unlawful. See Melody Music v. FCC, 345 F. 2d 730 (D.C. Cir. 1965).

C. The Order's Reliance Solely on BMBA's Gross Revenues was Unlawful

The Order's failure even to consider BMBA's "financial hardship" claim was not a harmless error, given the compelling evidence. Yet, instead, the Order looked solely at BMBA's total "*gross*" revenues for 2008, holding that a $12,000 forfeiture would constitute merely six percent (6%) of BMBA's total "*gross*" revenues; then, relying on a dubious (and judicially untested) postulation that "a licensee's gross revenues...are the best indicator" of a licensee's ability to pay any FCC forfeiture, it concluded that BMBA could "afford to pay" the $12,000.00 forfeiture, without any reasoned discussion of how that capricious conclusion is conceivably justified in the case involving (a) a non-profit licensee (b) of low-powered, "Class A" stations (c) in a market so small that Nielsen does not even assign it a DMA number, (d) whose (declining) income is totally dependent upon (declining) voluntary viewer contributions and (e) whose net losses have plunged deeper in each of the last three years.[16] Thus, even without considering whether the FCC ever could lawfully rely on the dubious "gross revenues" postulation invoked

[15] See Appendix A.
[16] Id.

by the Division in this case,[17] or even considering whether BMBA's extremely modest *gross* revenues of slightly more than $215,000 (less than $20K per month) provide a sufficient basis for concluding, ipso facto, that BMBA has the "ability to pay" a Fine of $12,000.00, the Division's expository disposition of BMBA's "financial hardship" claim in this case is sufficiently opaque as to be legally unsustainable. Cf. Comcast Corp., supra.

D. The ORDER's Refusal to Reduce or Cancel the Fine is an Unexplained Departure from the FCC's Precedents and Policies

1. Not a single one of the precedents relied on by the Order involves a low-powered Class A television station (or any FCC "secondary" facility), much less a "group of three stations" that serve a hilly, small community with identical programming. Indeed, the Division should recognize that -- as a practical matter -- BMBA's three low-powered "Class A" stations operate functionally as one entity to serve the greater Walla Walla-College Place community;[18] in such circumstances, it would be arbitrary and capricious for the Division -- at a minimum -- to fail to reduce the proposed Fine by 2/3 -- to $4,000 (recognizing that the three low-powered Stations operate as one facility). See 47 USC 154(j). In a decision issued only three weeks ago, the Video Division reduced a forfeiture for a full power TV station in Tulsa, OK (the Nation's # 60 TV market), which had failed to comply with the Children's TV rules on several occasions and which made NO CLAIM of financial hardship.[19] Indeed, in cases involving full power TV stations and full power radio stations, the FCC has routinely reduced or even canceled proposed forfeitures.[20] In one case in 2008, the FCC conceded that licensees are "responsible for knowing

[17] It appears that the Division's reliance on precedents does not include any court decision sustaining a Commission - level decision on this issue.

[18] College Place, WA, is a contiguous suburb of Walla Walla, WA, the county seat. See Appendix A.

[19] See University Broadcasting, Inc., DA 10-591, rel. April 9, 2010(Video Division).

[20] See University Broadcasting, Inc. supra; WPFD (AM), DA 10-343, rel. February 26, 2010 (Audio Division) (forfeiture cancelled); Matthew H. McCormick, Esq. (WSVX), DA 10-364, rel. April 27, 2010 (Audio Division)

and observing" the FCC's rules but it nonetheless cancelled a proposed $6000 forfeiture and merely "admonished" a small town AM licensee whose inadvertent error was due to unfamiliarity with FCC rules -- failing, therefore to timely file an application to renew its license! See Peter Guttman, Esq. (WBLT), DA 08-2244, rel. October 8, 2008. Given the FCC's many precedents reducing or canceling forfeitures in cases that are *far less compelling* than BMBA's, the Order's failure even to explain its departure from those precedents in this case is arbitrary and unlawful.

2. The FCC's precedents also have routinely established that the agency is willing to reduce forfeitures for low-powered stations, which is merely a reasonable implementation of its Congressional mandate to act reasonably and "just." See 47 USC 154(j). BMBA's three stations are low-powered "Class A" facilities, which have somewhat more power than mere TV translators or TV booster stations but which, nonetheless, are "secondary" TV facilities with UHF digital stations' ERP limited to 15 KW -- drastically less power, less signal reach and, accordingly, inherently less value than full-power digital TV stations, which are authorized to operate up to 1,000,000 watts. Thus, in one recent case involving a low-power station, the FCC reduced a fine by 75% -- to only $250.[21] The Division's failure to explain its departure in this case, from its precedent of giving special dispensation with respect to forfeitures in cases involving low-powered stations, is another arbitrary and unlawful action deserving reconsideration. See Comcast Corp v. FCC, supra.

3. The Division also erred in failing to consider and factor into its decision BMBA's status as a "small business" entity, which status the FCC repeatedly has held is deserving of special

(forfeiture cancelled for small town AM station); Centerville City Schools (WCWT-FM), DA 10-674, rel. April 21, 2010 (Audio Division) ($7,000 fine reduced to $500 for low powered FM because of staff's unintentional error).

[21] See K217EY, Laramie, WY, Appendix B.

consideration.[22] Thus, not only was the Order's reliance erroneously based on its postulation involving "*percentage of total gross revenues* ,[23] it failed to consider that this tiny licensee has a budget for operating three (3) digital TV stations that is less than $70,000 per station per year (less than $6,000 each per month!). The Order's failure even to consider -- much less explain -- why a $12,000 Fine against this "small business" did not deserve special consideration, with respect to its request for reduction or cancellation of the Fine, constitutes an unlawful departure from agency policy. See Comcast Corp v. FCC, supra. Moreover, Congress requires the FCC to consider any evidence "as justice may require." See 47 USC § 503(b)(2)(E). In light of the facts of this case, the Order's failure to even consider -- in connection with BMBA's request for cancellation or reduction of the proposed Fine -- BMBA's status as a "small business" (with four years of net losses) constitutes a violation of multiple Congressional mandates.

E. New Evidence of Hardship Requires the Division to Reduce or Cancel the Fine

1. Section 1.106 of the FCC rules and settled FCC law permits a Petition for Reconsideration to rely on "new" evidence, any relevant material that was not available to the Petitioner at the last opportunity for submission. In this case, BMBA respectfully submits that the information contained in Appendix A to this Petition constitutes relevant new evidence, which alone justifies reconsideration of the Division's Order.

2. While the FCC has been faced with hundreds (if not thousands) of requests that proposed Forfeitures be cancelled or reduced, a quick review of such cases in recent decades leaves a candid observer with a conclusion that BMBA's request may be the most compelling in recent memory. As more fully developed by the "new" evidence contained in Appendix A, this non-profit licensee of a three-facility group -- providing one program service to the community

[22] See, e.g., FCC News Advisory, rel. March 4, 2010 (FCC Chairman Genachowski and SBA Administrator highlight their joint efforts to ensure opportunities in communications fields for "small businesses").
[23] See Discussion, supra, at "C".

of Walla Walla, WA -- is more deserving of a "hardship" cancellation or substantial reduction in Fine than most licensees who ever have advanced such a plea:

a. BMBA is a tiny, "viewer contribution dependent" non-profit licensee that has incurred "net losses" since 2006. In the most recent full year (2009), BMBA lost over $14,000.[24] That was more than 5% of its projected budget. Id. If the proposed Order is upheld, the FCC's imposed Fine would be almost double BMBA's net loss for 2009. BMBA's local viewer donations and total income (including underwriting) for 2009 were almost $50,000 below budget, necessitating 2009 cuts in staff and local programming. See Declaration of Board Secretary James Forsyth, attached as Appendix A.[25]

b. Having raised thousands of dollars from viewers during the last decade to comply with the FCC's request that TV stations convert to digital, BMBA requests that the Division reconsider an Order that does not even address the fact that the stations' viewers are now unable -- particularly during the recent Great Recession -- to make sufficient contributions to sustain BMBA's digital TV operations. Id. Moreover, it would also be arbitrary and capricious for the agency to fail to consider new evidence that BMBA's diligent efforts, completed only recently, to convert its modest facilities to digital has also enhanced the licensee's local service to its community, by providing to Walla Walla a digital channel of dedicated Spanish-language programming, which serves the fast growing Hispanic population of this agricultural area. Id.

c. BMBA's recent reductions in staffing and programming specifically include: cuts in access to syndicated news sources; cuts in the number of Walla Walla University students who produce and air local news and public affairs shows; refusals to sign for any new shows because

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[24] See Appendix A at Exhibit 1.

[25] In light of the FCC's recent initiatives to promote "localism," the Order here is arbitrary and capricious. BMBA's three small, low-powered TV stations provide the County with its ONLY local news and public affairs shows -- programming that will be further cut unless the Fine is cancelled or substantially reduced. See Appendix A.

of net losses; inability to hire a fulltime, paid engineer to assist the unpaid volunteer engineers; the termination of the stations' veteran Development Director; cut in two children's programs for lack of funds to re-subscribe; needed improvements to the rundown Main Studio, where Master Control etc. are housed in an abandoned nursing home facility that is badly in need of upgrading.

d. In addition, many of BMBA's most faithful, most generous longtime contributors to the stations have recently died; contributions from younger viewers have not kept pace, such that viewer contributions in 2009 were $39,261 short of budget. See Exhibit 1 to Appendix A.

e. Indeed, as BMBA's Board Secretary says, unless the $12,000 Fine is reduced, **"it is unclear if the present operations could survive."** Id. at ¶ 6.

F. Notwithstanding the Foregoing, Reconsideration is Required Because the FCC's Current Definition of "Willfulness" is Unlawful

Although we submit that the Division need not reach this issue in properly reconsidering the Order at issue, BMBA submits that, inter alia, the Order errs by relying on FCC precedent -- judicially untested -- that inadvertent, minor errors by licensees constitute "willfulness" for purposes of assessing a penalty by a federal agency.[26] The record in this case adequately establishes that BMBA and the stations' management were unaware of the two "often-violated" Children's TV rules at issue.[27] Once aware of these two rules, the licensee promptly complied and has ever since.[28] The Order's conclusion (¶ 6) that BMBA's actions were "willful" is unlawful. Under no reasoned or principled scheme of laws, rules or policies -- under the U.S. Constitution, the 14th Amendment thereto or Congressional laws thereunder -- could

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[26] Moreover, the Order fails to distinguish BMBA's case from WCWT-FM, supra (fine of $7,000 reduced to only $500 for "student-run station" due to inadvertent error **and based on FCC's recent "precedent" of leniency for "secondary services."** (Id. at ¶ 9).

[27] These two Children's TV rules have been the subject of dozens (if not hundreds) of FCC forfeitures during the last decade, establishing at a minimum that not all licensees fully understood or were aware of these rules. See, e.g., Nexstar Broadcasting, Inc. (WQRF-TV), DA 10-202, rel. February 2, 2010 (and numerous cases cited therein).

[28] See Response, filed January 13, 2009 (Supporting Comments).

BMBA's actions in this case constitute reliable evidence of a "willfulness" to violate the FCC's rules. See 47 USC § 312(f)(willful means "the conscious and deliberate commission or omission of [a prohibited] act." The absence of conscious intent on the part of BMBA here is decisional. Moreover, even if Congress had intended to eliminate "intent" in such cases, the Constitution prohibits the government from imposing a penalty on an individual without evidence establishing appropriate culpability, which the Order here unlawfully fails to do.[29]

CONCLUSION

The FCC long has noted that it is "vested with broad discretion" in its choice of remedies.[30] The Order here should be set aside, the $12,000 Fine should be either cancelled or substantially reduced, or other appropriate action should be taken, consistent with the record.[31]

Respectfully submitted,

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April 30, 2010

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[29] Cf. Vernon Broadcasting, Inc. (WYGO, Corbin, KY), 60 RR 2d 1275, 1277 (1986)(FCC cancelled Forfeiture for inadequate fencing around a tower because evidence did not show that licensee was aware of the broken fence).
[30] See WMOZ, Inc., 3 FCC 2d 637,639 (1966).
[31] See, e.g., Note 3, supra.

APPENDIX A

DECLARATION

I, James N. Forsyth, a resident of College Place, WA, and the Secretary of the Board of the Blue Mountain Broadcasting Association ("BMBA"), do declare under penalty of perjury that the factual information provided in the foregoing Petition for Reconsideration is true to the best of my information and belief. I also declare that the following new information is true and complete to the best of my information and belief:

1. The "Profit and Loss Statement," attached as Exhibit 1 hereto, was prepared by Ben Wiedemann, Treasurer, BMBA, and accurately reflects the financial condition of the BMBA, as of December 31, 2009.
2. BMBA is separate from the Walla Walla University ("WWU") but relies on WWU in many ways. First, a majority of BMBA's three stations' small news workforce are WWU's students (those interested in communications); yet, BMBA is billed by WWU for their services. Moreover, some of the WWU staff volunteer their time and services without charge (and most even contribute their own funds) to keep BMBA operations going. In addition, WWU has a production studio that feeds live (including daily news) programming to the Stations
3. BMBA's three Class A stations in Walla Walla provide the only local TV news or local public affairs programming for the approximately 60,000 viewers in Walla Walla County. There are NO full power TV stations located in the Walla Walla area. The three Class A stations actually operate as "one" TV station, as their programming is identical and the three separate transmitter sites for each are necessary only so that the entire hilly area can receive the common TV programming.
4. When the FCC commenced its digital TV transition, BMBA took seriously the FCC's request to all broadcasters that they provide digital TV programming to the entire Nation; thus, BMBA commenced a fund-raising campaign many years ago that has resulted in BMBA's three small stations being able to convert to digital (as of December 14, 2009). In fact, BMBA's conversion of its small, low-powered stations to digital has especially served the Walla Walla community by providing not only one channel of digital programming but also has allowed BMBA to offer one other digital TV channel devoted to Spanish-language programming. The Walla Walla area, known worldwide for its agricultural businesses (including top table wines), employs a large number of Spanish-speaking workers; indeed, it is estimated that about 16% of the County population is now Spanish-speaking, so that it is significant that BMBA provides the only local Spanish-speaking TV service.
5. BMBA and WWU have both been hit very hard by the Great Recession. Not only did BMBA's annual "net loss" increase again in 2009 (see Exhibit 1, attached hereto), WWU has undergone significant budget cuts -- extending into the current Fiscal Year (ending June 30, 2010) -- such that WWU has been forced to not only cut BMBA's access to some of the Stations' syndicated news sources but also BMBA itself has had to cut the number of WWU students who produce the Stations' local news. Indeed, BMBA has received requests for more local programs but, as the net losses increase, the Stations cannot afford them. In addition, the Stations' old studio sets badly need repairs but there is no money currently for that; offers of special programming have been declined because sufficient funds are not available; the Stations' badly need to hire a fulltime, paid engineer but there are not funds for that, so a couple of volunteer engineers are barely meeting the Stations' needs; two children's shows were recently cut when the producers began charging for them; a full time "Development Director" who was employed for several years has been terminated, as the net losses have grown; the Main Studio, master control etc. are located in an abandoned nursing home that needs repairs and updating.

Moreover, many of BMBA's major donors have died in recent years, having a devastating effect on the annual fund-raising efforts, as the Stations' operations are funded solely by viewer contributions. Indeed, as reflected in the attached 2009 P&L Statement (Exhibit 1), the BMBA donations and underwriting contributions last year were about $50,000 **below** the budget estimate of $205,000. In this month's "Spring Sharathon" fundraiser, contributions were less than 1/3 of BMBA's budget for the first half of this year and, thus, more layoffs are likely and local programming may have to be cut. It is unclear how long the Stations' operations can continue in their present form as these downward trends have only worsened in the last year. If many more layoffs occur, we will have to shut our doors.

6. In short, if BMBA were forced to pay a $12,000.00 forfeiture to the FCC, it is unclear that the present operations could survive. BMBA has always operated on a thin thread. BMBA's mission statement is to serve the public with local programming and shows that our viewers can get from no other source. But we refuse to go deeply into debt. We are at a turning point. We cannot believe that, in these circumstances, the FCC would inflict on us a deadly blow. We most sincerely ask them to help continue this vital source of local programming to the 60,000 residents of Walla Walla. Please cancel or greatly reduce this proposed Forfeiture. Thank you.

James N. Forsyth

James N. Forsyth
Secretary of the Board
BMBA

April 29, 2010

Post-it® Fax Note 7671 | Date 4/27/10 | # of pages ▶ 1
To ROBERT THOMPSON | From JIM FORSYTH
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Exhibit 1 to
APPENDIX A

PM

BLUE MOUNTAIN BROADCASTING
Profit & Loss Budget vs. Actual

ccrual Basis

January through December 2009

	Jan - Dec 09	Budget	$ Over Budget
Income			
Donations	169,218.53	205,500.00	-36,281.47
Int Inc	557.43	500.00	57.43
Underwriter Inc	6,485.75	20,000.00	-13,514.25
Total Income	176,261.71	226,000.00	-49,738.29
Expense			
Advertising	1,477.47	3,500.00	-2,022.53
Bank Fees	1,126.78	1,500.00	-373.22
Broadcast Equip	0.00	1,000.00	-1,000.00
Broadcast Sup	985.17	1,000.00	-14.83
Contracted Svcs			
Other	630.00	500.00	130.00
WWC Services	9,959.87	11,000.00	-1,040.13
Total Contracted Svcs	10,589.87	11,500.00	-910.13
Development Expense			
Materials/Supplies	3,124.92	3,000.00	124.92
Salary/Benefit Expense	25,885.71	44,500.00	-18,614.29
Seminars/Education/Appreciation	0.00	2,000.00	-2,000.00
Total Development Expense	29,010.63	49,500.00	-20,489.37
Electricity	887.56	800.00	87.56
Entertainment/Appreciation	636.24	1,500.00	-863.76
Equip Deprec Ex	5,057.60	6,000.00	-942.40
Equip Repair	0.00	2,000.00	-2,000.00
Equipment Maintenance Agreement	1,865.13	1,850.00	15.13
Insurance	1,730.65	2,500.00	-769.35
Legal Fees	0.00	500.00	-500.00
Licenses - Music	2,085.60	2,000.00	85.60
Office Copy/Prt	1,696.34	6,500.00	-4,803.66
Office Supplies	9,637.61	3,500.00	6,137.61
Payroll			
Emp Medical Exp	23,070.00	23,600.00	-530.00
FICA Expense	5,376.40	5,700.00	-323.60
Retirement Exp	3,861.06	4,100.00	-238.94
Salary & Wage	70,829.40	74,500.00	-3,670.60
Workmans Comp	692.51	750.00	-57.49
Total Payroll	103,829.37	108,650.00	-4,820.63
Postage	5,959.30	4,000.00	1,959.30
Production	538.65	2,000.00	-1,461.35
Programing	1,820.00	1,000.00	820.00
Property Expenses			
Taxes	573.72	800.00	-226.28
Water	1,028.68	1,200.00	-171.32
Total Property Expenses	1,602.40	2,000.00	-397.60
Seminars/Educ	1,039.51	4,000.00	-2,960.49
Sharathon Misc	1,560.17	1,000.00	560.17
Sharathon Premiums	1,007.77	1,500.00	-492.23
Telephone	2,668.10	2,500.00	168.10
Tower/Site Rent	3,966.56	4,200.00	-233.44
Total Expense	190,778.68	226,000.00	-35,221.32
Net Income	-14,516.97	0.00	-14,516.97

APPENDIX B

Cutting slack on translator fines is for real

2010-01-21 15:17:00

Back in 2/12/07, the FCC hit Bible Broadcasting Network with a $1.5K fine for getting the renewal application for K217EY Laramie WY in late – the amount when the application is received after the due date but prior to license expiration, a four-month span. But even though the FCC stands by the penalty and the licensee can certainly afford to pay it, the Commission granted a reduction.

BBN said it filed renewal applications for full power Wyoming station KYFO-FM and associated translators but inadvertently failed to include the Laramie translator. KYFO's app was timely filed 5/31/05 prior to a 6/1/05 due date and 10/1/05 license expiration date.

BBN realized its error and got the K217EY renewal application in on 7/1/05, a month late but three months prior to expiration.

BBN attempted to old defense that the violation was not willful, a trick that never works. As far as the FCC is concerned, "...violations resulting from inadvertent error are willful violations." The FCC also turned a deaf ear to requests to cut slack for getting the app in as soon as the error was discovered and taking into account the licensee's noncommercial status.

But BBN still was given a reduction to $250. Why? The Commission wrote, "However, given the Commission's recent decisions assessing forfeitures in the amount of $250 against licensees of translator stations for violations..." of this nature, it agreed to knock this fine down 1,250 notches.

RBR-TVBR observation: So there you have it – the fact that the stick is a translator buys monetary penalty breathing room regardless of the financial state of the licensee. At least in this case. If your translator is hit for anything more than $250, we'd have our legal counsel bringing the saga of K217EY Laramie WY to the FCC's attention in a heartbeat.

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