

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

In re Application of
Riverside Youth & Rehabilitation d/b/a
Riverside Ministries
and
Christian Voice of Central Ohio, Inc.
For Assignment of Permit
WZNP(FM), Newark, Ohio
Facility I.D. No. 89343
NAL/Acct. No. MB-200841410029
FRN: 0006146088
File No. BAPED-20080408AAA

MEMORANDUM OPINION AND ORDER
AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 1, 2008

Released: July 2, 2008

By the Chief, Audio Division:

I. INTRODUCTION

1. The Media Bureau has before it the above-captioned application (the "Assignment Application") of Riverside Youth & Rehabilitation ("Riverside") for assignment of the license of noncommercial educational ("NCE") station WZNP(FM), Newark, Ohio, to Christian Voice of Central Ohio, Inc. ("Christian Voice"). On May 9, 2008, Kent State University ("KSU") filed a Petition to Deny ("Petition") the Assignment Application, alleging that Riverside made a false certification in an earlier application to modify the WZNP(FM) facilities. For the reasons stated below, we treat the Petition as an Informal Objection and deny it, and we grant the Assignment Application. However, the Bureau finds that Riverside did, in fact, demonstrate a lack of candor on the Modification Application in violation of Section 1.17(a)(1) of the Commission's Rules (the "Rules"). In this Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture ("NAL"), issued pursuant to 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Rules, by the Chief,

1 Christian Voice filed an Opposition to the Petition on May 22, 2008, and Riverside filed an Opposition to the Petition on June 4, 2008.

2 FCC File No. BMPED-20070409ACG (the "Modification Application").

3 47 C.F.R. § 1.17(a)(1) ("In any written statement of fact, [no licensee shall] intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect").

4 See 47 U.S.C. § 503(b).

5 See 47 C.F.R. § 1.80.

Audio Division, Media Bureau, by the authority delegated under Section 0.283 of the Rules,<sup>6</sup> we find that Riverside is apparently liable for a monetary forfeiture in the amount of twenty thousand dollars (\$20,000).

## II. BACKGROUND

2. Riverside originally submitted an application to the Commission for a new NCE FM station in Newark, Ohio, on November 17, 1997.<sup>7</sup> The Commission determined that the application was mutually exclusive with a KSU application for a minor change to NCE station WKRW(FM), Wooster, Ohio, filed on April 20, 1998.<sup>8</sup> Making a “fair distribution” preference under Section 307(b) of the Act,<sup>9</sup> the staff named Riverside the tentative selectee from the mutually exclusive applicant group.<sup>10</sup> The staff ultimately granted the uncontested Riverside application on August 23, 2005.

3. When an applicant is awarded a construction permit on the basis of the “fair distribution” comparative criterion, the Commission prohibits such applicant from downgrading service during a four-year period of on-air operations.<sup>11</sup> On April 9, 2007, Riverside submitted the Modification Application for WZNP(FM), proposing to move its operations to another tower located approximately one mile from the initial site designated by Riverside’s construction permit.<sup>12</sup> In the Modification Application, Riverside answered “Yes” on Section II, Item 18 of the requisite application form, which states: “Applicant certifies that this application does not propose a modification to an authorization that was awarded on the basis of a preference for fair distribution of service pursuant to 47 U.S.C. Section 307(b).”<sup>13</sup> Applicants who answer “Yes” to this question do not have to answer subpart “a.,” which asks whether the “Applicant certifies that the proposed modification will not downgrade service to the area on which the Section 307(b) preference was based.”<sup>14</sup> KSU, however, contends that Riverside did propose to modify an authorization awarded on the basis of a preference for fair distribution of service, and that by answering “Yes” to Section II, Item 18, Riverside “concealed” the fact that the modification would result in an

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<sup>6</sup> *See id.* § 0.283.

<sup>7</sup> FCC File No. BPED-1997111MS.

<sup>8</sup> FCC File No. BPED-19980420IA.

<sup>9</sup> *See* 47 C.F.R. § 73.7002.

<sup>10</sup> *See Letter to Kent State University and Carl Sullivan*, Reference 1800B3-CNZ (MB Jun. 3, 2005) (“we determine that Riverside . . . is entitled to a decisive Section 307(b) preference”).

<sup>11</sup> *See* 47 C.F.R. § 73.7005(b) (once a mutually exclusive NCE station applicant is selected by the Commission, the selectee “can not downgrade service to the area which the preference is based for a period of four years of on-air operations”).

<sup>12</sup> Riverside states that it made its decision to change locations because the original tower owner no longer wanted to lease the property to other broadcasters. *See* Christian Voice Opposition to Petition to Deny, Attachment A, Declaration of Carl Sullivan, President of Riverside. Sullivan asserts that he has no other supporting documentation regarding the loss of the original tower site because communications with the tower owner were conducted over the telephone. He does, however, declare under penalty of perjury that his statements are correct. *See* Riverside Opposition to Petition to Deny at 2.

<sup>13</sup> FCC Form 340, § II, Item 18; *see also* Petition to Deny, Exhibit B.

<sup>14</sup> *Id.*

unacceptable loss of first and second NCE service.<sup>15</sup> KSU supports this argument by citing an engineering statement included in Exhibit C of the Petition, which shows that the modification would result in a loss of first NCE service by 381 persons and a loss of second NCE service by 4,736 persons.<sup>16</sup> Based on Riverside's uncontested certification, the Commission approved the Modification Application on August 10, 2007, and that grant has become final.

4. KSU challenges the Assignment Application, contending that Riverside may not assign the license because it falsely certified Section II, Item 18 of the Modification Application. Accordingly, KSU contends that Riverside should be prohibited from assigning the Station to Christian Voice because it lacks the requisite character qualifications to hold a license and is operating in violation of Commission rules.<sup>17</sup>

5. Christian Voice argues that KSU does not have standing to file a petition to deny the Assignment Application. Christian Voice also points out that KSU's allegations depend substantially upon the Modification Application, which received final approval from the Commission in August 2007. Because KSU did not file its Petition within the Commission's thirty-day deadline for challenging final actions, Christian Voice asserts that the Commission may not revisit the application grant. Beyond these procedural arguments, however, Christian Voice contends that Riverside made an inadvertent mistake on the Modification Application rather than intending to deceive the Commission; and that operations still satisfy Section 73.7005(b) of the Rules because the downgrade prohibition allows for a *de minimis* exception if the size of the downgrade is negligible.<sup>18</sup> In its Opposition, Riverside simply joins and incorporates all of Christian Voice's arguments.

### III. DISCUSSION

6. *Procedural Issues. Standing.* Before reviewing the merits of KSU's pleading, we agree with Christian Voice's Opposition and find that KSU lacks standing to petition to deny the Assignment Application. Section 309(d)(1) of the Act<sup>19</sup> requires a party petitioning to deny a pending application to demonstrate standing by providing "specific allegations of fact sufficient to show that [it] is a party of interest."<sup>20</sup> These allegations must show 1) that the petitioner would suffer a direct injury that is more than hypothetical or purely speculative;<sup>21</sup> 2) that the injury is causally linked to the challenged action;<sup>22</sup>

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<sup>15</sup> Petition to Deny at 4-5.

<sup>16</sup> *Id.* Christian Voice contests these numbers in its Opposition. It claims that Riverside's modification would result in a downgrade of only four persons because the first service loss of 381 persons will be offset by a gain of 377 persons from the relocation. See Christian Voice Opposition at 6-7. Riverside cites to and relies on those numbers used in the Christian Voice Opposition. See Riverside Opposition at 1.

<sup>17</sup> Petition to Deny at 3-6.

<sup>18</sup> Christian Voice Opposition at 3-8; see also 47 C.F.R. § 73.7005(b).

<sup>19</sup> 47 U.S.C. § 309(d)(1).

<sup>20</sup> *Id.*

<sup>21</sup> See, e.g., *In re Conn-2 RSA Partnership*, Memorandum Opinion and Order, 9 FCC Rcd. 3295, 3297 (1994) (injury cannot be hypothetical, but rather fairly traceable to whether the Commission decides to grant the license).

<sup>22</sup> See *In re PCS 2000, L.P.*, Memorandum Opinion and Order, 12 FCC Rcd. 1681, 1685-86 (1997) (petitioner did not meet the requirements of standing because although it provided sufficient facts to show an injury, it did not adequately explain how denying the pending license would remedy its injury).

and 3) that the relief sought will likely be remedied with the Commission's denial of the pending application.<sup>23</sup> KSU has not established how grant of the Assignment Application would result in a direct injury to it or how denial of the Assignment Application would redress that injury. Therefore, KSU lacks standing to petition the Assignment Application. We will, however, treat KSU's pleading as an Informal Objection under Section 73.3587 of the Rules.<sup>24</sup>

7. Filing Deadline and Finality. Staff action taken pursuant to delegated authority generally becomes final and not subject to administrative review forty days after the release of public notice announcing the action,<sup>25</sup> unless a petition for reconsideration or an application for review has been filed.<sup>26</sup> The Commission has made exceptions to the administrative doctrine of finality when ministerial errors have occurred in processing an application<sup>27</sup> or when manifestly unconscionable consequences would result from a failure to revisit a case.<sup>28</sup> Otherwise, the Commission will honor the public interest in ensuring certainty, convenience, and order by freezing the administrative record at a predetermined point in time.<sup>29</sup>

8. Applying the finality doctrine here, we reject the allegations made in KSU's Petition because they are substantially based on issues pertaining to the Modification Application. The Commission approved the Modification Application in August 2007. That action is now final. Because KSU did not meet the filing deadline or present evidence supporting one of the exceptions to the finality doctrine, we will not reexamine the grant of the Modification Application.

9. *Substantive Issues.* Pursuant to Section 309(e) of the Act, informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest.<sup>30</sup> We will consider KSU's objections based on this standard of review.

10. Section 307(b) of the Act requires the Commission to issue radio licenses as to "provide a fair, efficient, and equitable distribution of radio service."<sup>31</sup> Applying this standard to the selection of mutually exclusive NCE station applicants, the Commission uses a point-system to name tentative selectees, considering criteria such as which applicant will serve the "largest geographic area and

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<sup>23</sup> *Id.*

<sup>24</sup> See 47 C.F.R. § 73.3587.

<sup>25</sup> See *id.* § 1.117(a).

<sup>26</sup> See *id.* §§ 1.106, 1.115.

<sup>27</sup> *In re VSS Enterprises, LLC*, Memorandum Order and Opinion, 18 FCC Rcd 6225, 6227 (2003).

<sup>28</sup> See *In re Radio Para La Raza*, Memorandum Order and Opinion, 40 FCC 2d 1102 (1973).

<sup>29</sup> See *Golden State Broadcasting*, 102 FCC 2d at 797.

<sup>30</sup> 47 U.S.C. § 309(e); See also *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 R.R. 2d 862 (1986) (informal objections, like petitions to deny, must contain adequate and specific factual allegations sufficient to warrant the relief requested).

<sup>31</sup> 47 U.S.C. § 307(b).

population.”<sup>32</sup> The “fair distribution” criterion is designed to advance Section 307(b) by awarding a dispositive preference to an applicant that proposes to provide substantially greater first and/or second NCE service than any other mutually exclusive application.<sup>33</sup> The Commission further ensures an equitable distribution of radio service by requiring applicants selected pursuant to Section 73.7002 to operate “facilities substantially as proposed” and “not downgrade service to the area on which the preference was based” for a “period of four years of on-air operations” once the Commission finalizes its 307(b) preference.<sup>34</sup> Beyond these technical parameters, the Commission also expects selectees to maintain certain character qualifications including traits demonstrating candor and a “proclivity . . . to deal truthfully with the Commission.”<sup>35</sup> Such traits provide important ballast to the Commission’s work because licensees operate in “a regulatory system that is largely self-policing.”<sup>36</sup>

11. Based on this record, KSU first argues that Riverside violated Section 1.17 of the Rules by falsely certifying on its Modification Application that it did not propose a modification to an authorization awarded on the basis of a preference for fair distribution of service, thus failing to inform the Commission that the tower relocation would result in a prohibited service downgrade.<sup>37</sup> Secondly, KSU contends that because the modification resulted in a downgrade, Riverside has since operated in violation of Section 73.7005(b).<sup>38</sup> Accordingly, KSU maintains that the Commission should deny the Assignment Application because Riverside lacks the requisite character qualifications to hold the license and that the existing permit is invalid.<sup>39</sup>

12. Notwithstanding the fact that the staff grant of the Modification Application is now final and will not be revisited, the staff retains the authority under Section 503(b)(6) of the Act to impose a forfeiture on Riverside for falsely certifying a material fact on its Modification Application, until one year after the date of grant.<sup>40</sup>

13. *Lack of Candor and Misrepresentation.* A “lack of candor in an applicant’s dealings with the Commission” constitutes a “serious breach of trust,”<sup>41</sup> and is exhibited when an applicant makes

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<sup>32</sup> 47 C.F.R. § 73.7003(b)(4).

<sup>33</sup> *See id.* § 73.7002.

<sup>34</sup> *Id.* § 73.7005(b) (such applicants also are prohibited from downgrading service “to the one on which the [the fair distribution] preference is based” during this period).

<sup>35</sup> *See, e.g., Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 192 (D.C. Cir. 2000) (“*Contemporary Media*”); *see also* 47 U.S.C. § 308(b).

<sup>36</sup> *See Contemporary Media*, 214 F.3d at 193.

<sup>37</sup> 47 C.F.R. § 1.17.

<sup>38</sup> *Id.* § 73.7005(b).

<sup>39</sup> Petition to Deny at 6.

<sup>40</sup> *See* 47 U.S.C. § 503(b)(6). Although Riverside submitted the Modification Application on April 9, 2007, we did not approve it until August 10, 2007. *See* FCC File No. BMPED-2007-4-0ACG. The false certification violation, therefore, falls within the one-year statute of limitations set forth in Section 503(b)(6) of the Act because Riverside had an opportunity to amend the false certification prior to grant of the Modification Application in August.

<sup>41</sup> *Swan Creek, Inc. v. FCC*, 39 F.3d 1217, 1221-22 (D.C. Cir. 1994) (quoting *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1211 (1986)) (“*Swan Creek*”).

an affirmative misrepresentation or fails to disclose “relevant facts” of “decisional significance.”<sup>42</sup> Such a violation also requires a showing of evidence that the applicant “inten[ded] to deceive” the Commission.<sup>43</sup> Intent to deceive is generally found in cases where a false statement is “coupled with proof that the party . . . [knew] of its falsity,”<sup>44</sup> or where evidence allows intent to be derived from a motive to deceive.<sup>45</sup> However, an applicant’s “indifference and wanton disregard” for the accuracy of its representations and its “obligations to the Commission [may also be] ‘equivalent to an affirmative and deliberate intent.’”<sup>46</sup>

14. In the present case, Riverside’s false certification cannot be reconciled in any way with the staff’s clear and unequivocal award of the WNZP(FM) construction permit to Riverside on the basis of a “decisive” fair distribution preference.<sup>47</sup> At a minimum, this false certification demonstrates a complete disregard for the accuracy of statements made to the Commission. Furthermore, having made such a misrepresentation, Riverside avoided answering subpart “a.” of Section II, Item 18, which asks whether the modification would result in a service downgrade.<sup>48</sup> A necessary predicate for making the certification called for by subpart “a.” is a comparison of coverage provided by the original permit and that of the modification. If Riverside had conducted such a comparison, it clearly would have found that the Modification Application proposed a reduction in area and population. Accordingly, Riverside’s false certification violates Section 1.17(a)(1) of the Rules and shows a lack of candor in dealing with the Commission.<sup>49</sup>

15. To explain for Riverside’s false certification, Christian Voice alleges in its Opposition that Riverside made an “inadvertent mistake” on the Modification Application. Christian Voice also argues that Section 73.7005(b) of the Rules allows for a *de minimis* exception to the prohibition against service downgrades.<sup>50</sup> According to this reasoning, Riverside’s downgrade after the modification was negligible enough to allow Riverside to remain in compliance with Section 73.7005(b).

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<sup>42</sup> *In re Fox Television Stations, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 8452, 8478 (1995) (quoting *Swan Creek*, 102 FCC 2d at 1222, and *RKO General, Inc. v. FCC*, 670 F.2d 215, 229 (D.C. Cir. 1981)).

<sup>43</sup> See *In re Century Cellunet of Jackson*, Memorandum Opinion and Order, 6 FCC Rcd 6150 (1991) (“*Century Cellunet*”).

<sup>44</sup> *David Ortiz Radio Corp. v. FCC*, 941 F.2d 1253, 1260 (D.C. Cir. 1991) (quoting *Leflore Broadcasting Co. v. FCC*, 636 F.2d 454, 462 (D.C. Cir. 1980)).

<sup>45</sup> *In re Bahr*, Memorandum Opinion and Order, 10 FCC Rcd 32 (1994); see also *In re Hispanic Broadcast System, Inc.*, Memorandum Order and Opinion, 16 FCC Rcd 8072, 8074 (2001) (desire for favorable action on application is insufficient to establish intent to deceive) (“*Hispanic Broadcast System*”).

<sup>46</sup> See *In re Liberty Cable Co.*, Memorandum Order and Opinion, 16 FCC Rcd 16105, 16112 (2001).

<sup>47</sup> See *Letter to Kent State University and Carl Sullivan*, *supra* note 10.

<sup>48</sup> See Petition to Deny at 4-5. KSU claims that the modification would result in a downgrade of 341 persons based on the engineering statement included in Exhibit C of the Petition. Christian Voice contests these numbers and asserts that the downgrade will be offset by 377 persons for a net loss of only four people. Christian Voice incorrectly contends that the Section 307(b) preference is based on “solely the area of first NCE service.” The preference can be based on both first and second NCE service. See 47 C.F.R. § 73.7002(b). Mutually exclusive NCE applicants are first compared based on first NCE service population coverage totals, and if no applicant is entitled to first service preference, we will consider combined first and second NCE service population totals. *Id.*; see also *Letter to Kent State University and Carl Sullivan*, *supra* note 10.

<sup>49</sup> See 47 C.F.R. § 1.17(a)(1).

<sup>50</sup> Christian Voice Opposition at 7-8.

16. We reject both of these arguments. If we excused this level of “inadvertence” we would greatly undermine the Commission’s interest in ensuring accurate self-reporting by licensees. Therefore, we will not consider inadvertence as a “mitigating circumstance.”<sup>51</sup> At issue here is the clear Section 73.7005(b) requirement that permittees that receive 307(b) preferences must “construct and operate technical facilities substantially as proposed and *shall not* downgrade service to the area on which the preference is based.”<sup>52</sup> This Rule plainly and explicitly prohibits any changes that will result in a downgrade. Therefore, the Modification Application proposed an unacceptable downgrade, and, had it been disclosed, the staff would have dismissed it. Accordingly, because Riverside showed a lack of candor by falsely certifying a material fact on the Modification Application, we will issue a Notice of Apparent Liability to Riverside.<sup>53</sup>

17. *Proposed Forfeiture.* This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act.<sup>54</sup> 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.<sup>55</sup> 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.<sup>56</sup> 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,<sup>57</sup> and the Commission has so interpreted the term in the Section 503(b) context.<sup>58</sup>

18. The Commission’s *Forfeiture Policy Statement*, Section 1.80(b)(4) of the Rules, and Section 503(b)(2)(A) of the Act establish a base forfeiture amount of \$32,500 for misrepresentation and lack of candor.<sup>59</sup> To determine 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.”<sup>60</sup>

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<sup>51</sup> See *Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991).

<sup>52</sup> 47 C.F.R. § 73.7005(b).

<sup>53</sup> See 47 C.F.R. § 1.80(e) (Commission has discretion on whether a forfeiture proceeding may be initiated by a notice of apparent liability or a notice of opportunity for a hearing).

<sup>54</sup> 47 U.S.C. § 50(b)(1)(B) (emphasis added).

<sup>55</sup> *Id.*; see also 47 C.F.R. § 1.80(a)(1).

<sup>56</sup> 47 U.S.C. § 312(f)(1).

<sup>57</sup> See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

<sup>58</sup> See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

<sup>59</sup> 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)(4), note to paragraph (b)(4), Section I; 47 U.S.C. § 503(b)(2)(A); see also *Inflation Adjustment of Maximum Forfeiture Penalties*, Order, 69 FR 47788 (2004).

<sup>60</sup> 47 U.S.C. § 503(b)(2)(D); 47 C.F.R. § 1.80(b)(4); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100.

19. In the present case, Riverside falsely certified on the Modification Application a fundamentally basic question regarding whether it received authorization based on a preference for fair distribution of service. By doing so, Riverside also failed to disclose that proposed changes to the construction permit would result in an unacceptable downgrade of service. These actions demonstrate Riverside's lack of candor and a disconcerting level of indifference to the accuracy of its representations to the Commission. Despite the gravity of this violation, however, Riverside has a history of prior compliance. Therefore, taking into consideration these facts, the factors required by Section 503(b)(2)(D) of the Act, and the *Forfeiture Policy Statement*, we propose to reduce the forfeiture from the base forfeiture amount to \$20,000 for the false certification.

#### IV. ORDERING CLAUSES

20. 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 Riverside Youth & Rehabilitation, is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of twenty thousand dollars (\$20,000) for the apparent false certification in violation of Section 1.17(a)(1) of the Commission's Rules.

21. 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*, Riverside Youth & Rehabilitation SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

22. 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).

23. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington D.C. 20554, ATTN: Peter H. Doyle, Chief, Audio Division, Media Bureau, and MUST INCLUDE the *NAL*/Acct. No. referenced above.

24. 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 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.

25. 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.<sup>61</sup>

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<sup>61</sup> See 47 C.F.R. § 1.1914.

26. IT IS FURTHER ORDERED, pursuant to the authority delegated under 47 C.F.R. § 0.283, that the Petition to Deny filed May 9, 2008, by Kent State University, treated herein as an Informal Objection, IS DENIED.

27. IT IS FURTHER ORDERED that that the application (File No. BAPED-20080408AAA) of Riverside Youth & Rehabilitation, for assignment of license for station WZNP(FM), Newark, Ohio, from Riverside Youth and Rehabilitation d/b/a Riverside Ministries of Central Ohio, Inc. IS GRANTED.

28. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Riverside Youth & Rehabilitation d/b/a Riverside Ministries, 2620 South River Road, Zanesville, Ohio 43701, and to its counsel, James E. Price III, Sterling Communications, Inc., 219 Dodd Road, Ringgold, GA 30736. Copies shall also be sent to Kent State University, 1613 East Summit Street, Kent, Ohio 44242, and to its counsel, Margaret L. Miller, Dow Lohnes, PLLC, 1200 New Hampshire Avenue, NW, Suite 800, Washington, DC 20036; and to Christian Voice of Central Ohio, Inc., PO Box 783, New Albany, Ohio 43054.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau