

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

In the Matter of)	
)	
Ho'ona'auao Community TV, Inc.)	File No. EB-01-HL-034
)	
Licensee of Station KWBN-TV)	NAL/Acct. No. 200132860002
Honolulu, Hawaii)	
)	FRN 0004-0750-57

MEMORANDUM OPINION AND ORDER

Adopted: December 20, 2001

Released: December 21, 2001

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* ("Order"), we deny a petition for reconsideration¹ filed by Ho'ona'auao Community TV, Inc. ("HCTV"), licensee of Station KWBN-TV, Honolulu, Hawaii, of a *Forfeiture Order*² which issued a \$10,000 forfeiture against HCTV for willful violation of Section 73.3527(c)(1) of the Commission's Rules ("Rules").³ The noted violation involved HCTV's failure to make Station KWBN-TV's public inspection file available during normal business hours.

2. In its petition for reconsideration, HCTV does not dispute that a violation of Section 73.3527(c)(1) of the Rules occurred. Rather, HCTV requests that the *Forfeiture Order* be vacated or redirected to HCTV's former controlling directors. HCTV states that a transfer of control of HCTV was consummated on January 19, 2001.⁴ HCTV contends that since the violation occurred on November 16, 2000, which was prior to the transfer of control, the violation is the responsibility of HCTV's former Board of Directors.

3. We deny HCTV's request that we vacate the *Forfeiture Order* or redirect it to HCTV's former controlling directors. HCTV was the licensee of Station KWBN-TV at the time of the violation and remains the licensee today. It is well established that the transfer of control of the stock of a licensee corporation subsequent to a violation does not excuse the licensee for the violation. *See EZ Sacramento, Inc.*, 16 FCC Rcd 4958, 4959 (2001); *Winslow Communications, Inc.*, 45 FCC 2d 662, 663 (1974); *WLDI, Inc.*, 16 FCC Rcd 3011, 3012 (Enf. Bur. 2001). Accordingly, assessment of a forfeiture against HCTV for violation of Section 73.3527(c)(1) of the Rules was appropriate, and we deny HCTV's petition for reconsideration.

¹ Although not captioned as a petition for reconsideration, we will treat the letter pleading filed by HCTV on August 21, 2001 as a petition for reconsideration pursuant to Section 1.106 of the Rules. 47 C.F.R. § 1.106.

² *Ho'ona'auao Community TV, Inc.*, 16 FCC Rcd 14422 (Enf. Bur. 2001).

³ 47 C.F.R. § 73.3527(c)(1).

⁴ The Commission staff granted HCTV's application for transfer of control on October 26, 2000 (File No. BTCET-20000914AAY).

4. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 405 of the Communications Act of 1934, as amended (“Act”),⁵ and Section 1.106 of the Rules,⁶ Ho’ona’auao Community TV, Inc.’s petition for reconsideration of the *Forfeiture Order* **IS DENIED**.

5. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules⁷ within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁸ Payment shall be made by mailing a check or similar instrument, payable to the order of the “Federal Communications Commission,” to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200132860002 and FRN 0004-0750-57. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

6. **IT IS FURTHER ORDERED** that, a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to Ho’ona’auao Community TV, Inc., 875 Waimanu Street, Suite 626, Honolulu, Hawaii 96813, and to its counsel, Robert L. Olender, Esq., Koerner & Olender, P.C., 5809 Nicholson Lane, Suite 124, Bethesda, Maryland 20852-5706.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁵ 47 U.S.C. § 405

⁶ 47 C.F.R. § 1.106.

⁷ 47 C.F.R. § 1.80.

⁸ 47 U.S.C. § 504(a).

⁹ *See* 47 C.F.R. § 1.1914.