

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

MM Docket No. 92-36

In the Matter of

STARETT MEDIA CORP.

Licensee of Station WFRK(AM),
Coleman, Florida

Order to Show Cause Why the
License for Station WFRK(AM),
Coleman, Florida, Should Not
Be Revoked

**ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER**

Adopted: February 27, 1992; Released: March 26, 1992

By the Commission:

1. The Commission has before it for consideration (a) the license held by Starett Media Corp. ("Starett") for Station WFRK(AM), Coleman, Florida, and (b) the results of an investigation into WFRK(AM)'s silent status.

2. The Commission's records indicate that WFRK(AM) has been off the air without authority since October 14, 1989. By letters, dated November 9, 1990, and June 24, 1991, the Chief, Audio Services Division, Mass Media Bureau, requested Starett to submit information concerning its compliance with § 73.1740 (Minimum Operating Schedule) and § 73.1750 (Discontinuance of Operation) of the Commission's Rules. However, the letters, both of which were directed to Starett at the only available addresses which could be derived from the Commission's files, were returned by the U.S. Postal Service as undeliverable. Because WFRK(AM) has apparently been off the air without authority for an extended period of

time and the licensee has not turned in his license, Starett is in apparent violation of §§ 73.1740(a)(4)¹ and 73.1750,² of the Commission's Rules.

3. Accordingly, IT IS ORDERED, That, pursuant to § 312(a)(3) and (4) of the Communications Act of 1934, as amended, the licensee is DIRECTED TO SHOW CAUSE why the license for Station WFRK(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

(a) To determine whether Starett has violated §§ 73.1740 and/or 73.1750 of the Commission's Rules.

(b) To determine, in light of the evidence adduced pursuant to the foregoing issue, whether Starett is qualified to be and remain the licensee of Station WFRK(AM).

4. IT IS FURTHER ORDERED, That the Chief, Mass Media Bureau, SHALL SERVE upon the licensee within thirty (30) days of the release of this Order, a BILL OF PARTICULARS, with respect to the issues specified above.

5. IT IS FURTHER ORDERED, That, pursuant to § 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

6. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to § 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that it will appear at the hearing and present evidence on the matters specified in this Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CER-

¹ Section 73.1740(a)(4) provides:

In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this

date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.

² Section 73.1750 provides:

The licensee of each station shall notify the FCC in Washington, DC of permanent discontinuation of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, DC for cancellation.

TIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered. See §§ 1.92(c) and (d) of the Commission's Rules.³

7. IT IS FURTHER ORDERED, That, if it is determined that the hearing record does not warrant an Order revoking the license for WFRK(AM), it shall be determined, pursuant to § 503(b) of the Communications Act of 1934, as amended, whether an ORDER OF FORFEITURE shall be issued against the licensee in an amount not exceeding \$250,000.00 for the willful and/or repeated violation of §§ 73.1740 and/or 73.1750 of the Commission's Rules.

8. IT IS FURTHER ORDERED, That this document constitutes a NOTICE OF APPARENT LIABILITY for willful and repeated violation of §§ 73.1740 and/or 73.1750 of the Commission's Rules. The Commission has determined that in every case designated for hearing involving the potential revocation of a station license, it shall, as a matter of course, include a forfeiture notice so as to maintain the fullest possible flexibility of action. Since the practice of including such forfeiture notice is a routine procedure, such inclusion here should not be viewed in any manner as suggesting or otherwise indicating what the initial or final disposition of this proceeding should be.

9. IT IS FURTHER ORDERED. That the Secretary shall send a copy of this Order, by Certified Mail - Return Receipt Requested, to Starett at the following addresses:

Starett Media Corp.
Radio Station WFRK(AM)
1725 Mt. Vernon Road
Leesburg, Florida 32748

Starett Media Corp.
Radio Station WFRK(AM)
193 East Bergen Place
Red Bank, New Jersey 07701

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

³ The Commission has delegated authority to the Mass. Media Bureau to issue revocation orders in silent station cases. See *Radio Northwest Broadcasting Company*, 4 FCC Rcd 596, n.3 (1989).