

FCC Enforcement Monitor

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HEADLINES

Pillsbury's communications lawyers have published the FCC Enforcement Monitor monthly since 1999 to inform our clients of notable FCC enforcement actions against FCC license holders and others. This month's issue includes:

- *Public File Violations by Pennsylvania Class A Television Station Yield \$6,000 Consent Decree*
- *Spurious Emissions Lead to Notice of Violation for Hawaiian FM Station Licensee*
- *Texas Radio Station Licenses Designated for Hearing Over Unauthorized Transfer of Control and Lack of Candor Claims*

Pennsylvania Class A TV Station Licensee Agrees to \$6,000 Consent Decree for Public File Violations

The Video Division of the FCC's Media Bureau entered into a Consent Decree with the licensee of two Pennsylvania Class A TV stations to resolve an investigation into the stations' failure to timely upload required documents to their online Public Inspection Files.

Section 73.3526(e)(11)(i) of the FCC's Rules requires that every Class A TV station place in its Public Inspection File "a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period." The list must include a brief narrative of the issues addressed, as well as the date, time, duration, and title of each program aired addressing those issues. The list must be placed in the Public Inspection File within 10 days of the end of each calendar quarter.

In March 2023, the licensee filed its license renewal applications for the two stations. In the applications, the licensee certified that it had timely uploaded all required documentation to each station's Public Inspection File during the license term. However, after FCC staff notified the licensee that documents were in fact missing from both stations' Public Inspection Files, the licensee belatedly uploaded five missing Issues/Programs Lists to one station's Public File, and six missing Issues/Programs Lists to the other station's Public File. The licensee subsequently amended its license renewal applications to change the certification regarding timely Public Inspection File uploads from "yes" to "no."

A staff review found that during the license term, one station had a total of six late Issues/Programs Lists during the license term (five of which were entirely missing until July 2025), and the other station had a total of seven late uploads (six of which were entirely missing until July 2025). To resolve the matter, the licensee entered into the Consent Decree in which it admitted the facts surrounding the violations and agreed to implement new policies and procedures to prevent a recurrence. These include designating a compliance officer, creating formal operating procedures to prevent

future violations, drafting a compliance manual and distributing it to relevant employees, and conducting regular employee compliance training.

The licensee also agreed to report to the FCC within ten business days of discovery any violation of the Public Inspection File rule or the terms of the Consent Decree during the next two years. Finally, it agreed to make a \$6,000 voluntary contribution to the U.S. Treasury. In return, the Media Bureau agreed to grant the stations' license renewal applications, but conditioned the grants on receipt of the \$6,000 payment.

Hawaii FM Station Receives Notice of Violation for Spurious Emissions

The FCC's Enforcement Bureau issued a Notice of Violation (NOV) to the licensee of an FM radio station in Hawaii for generating spurious emissions at its transmitter site. Spurious emissions occur when unintended radio frequency signals are generated outside a station's assigned bandwidth. These have the potential to cause harmful interference to other licensed users.

According to the NOV, the FCC's Honolulu field office received a complaint from the Federal Aviation Administration, leading to an FCC field agent monitoring the FM station's transmissions on May 14, 2025. The agent observed signals emanating from the station's transmitter site that were outside its licensed frequency and which were above the allowable limit under Section 73.317(d) of the FCC's Rules. These spurious emissions should have been attenuated by at least 80 dB compared to the station's licensed transmissions, but the agent found that the spurious emissions far exceeded that level.

The NOV requests additional information from the station's licensee. It instructs the licensee to submit within 20 days a written response fully explaining each alleged violation and all relevant surrounding facts and circumstances, including the specific actions taken to correct any violations and prevent recurrence. The NOV also requires the licensee to submit a timeline for completing any pending corrective actions. It must support its response with an affidavit or declaration from an authorized officer of the licensee with personal knowledge of the facts.

While the NOV itself does not impose a monetary fine, the FCC may choose to take additional action after reviewing the licensee's response, including issuing a Notice of Apparent Liability for Forfeiture.

License Revocation Hearing Ordered Over Alleged Unauthorized Transfer of Control and Lack of Candor

The FCC's Media Bureau issued a Hearing Designation Order (HDO) that asks an Administrative Law Judge (ALJ) to determine whether the current licensee of three Texas radio stations engaged in an unauthorized transfer of control, whether the parties to a proposed transfer of control of the stations made misrepresentations and/or lacked candor in their dealings with the Commission, and depending on the result, determine whether the station licenses should be revoked. The FCC's ALJ presides over most hearings ordered by the Commission and, like a civil court judge, receives evidence, hears testimony, and issues an appealable decision.

The HDO stems from a March 2023 application seeking Commission consent to transfer control of three Texas radio stations from the current sole shareholder of the licensee parent company to her cousin, a Mexican citizen. To accomplish this, the parties also filed a petition for declaratory ruling (PDR) requesting approval for the stations to be 100 percent foreign-owned. After reviewing the filings, along with publicly available information, the Media Bureau questioned whether the licensee has maintained *de facto* control over the stations.

During the Bureau's review, it concluded that the applicants "potentially omitted" relevant information from the transfer application, leading it to issue a Letter of Inquiry in July 2024 seeking additional information about the relationship between the licensee, the proposed transferee, and a separate programming entity that supplied content to the stations. The Bureau also requested information regarding the programming arrangement, financial transactions, debt assignment, and day-to-day control of the stations.

According to the subsequent HDO, the applicants' response was incomplete, and certain facts and documents were only clarified or produced after multiple Bureau inquiries. Finding that the response "raised more questions than it resolved," the Bureau issued an additional letter in October 2024 giving the applicants an opportunity to better explain the facts surrounding the transactions and operation of the stations. Once again, however, the Bureau concluded that the parties' response to that letter contained changing explanations and failed to disclose certain documents, leading to the designation for hearing.

According to the Bureau, the current license holder of the stations is a Texas limited liability company whose sole member is a Texas corporation. The sole shareholder of the Texas corporation acquired the corporation for \$10,000 pursuant to a November 30, 2021 Stock Purchase Agreement. The FCC approved that transfer of control in March 2022.

Prior to that transaction, however, the Texas corporation had two shareholders and had a \$2,451,565 debt to one of them. The debt dated back to 2017, when capital funding was provided by the parent corporation's minority shareholder. Although that funding had not initially been documented as a loan, on November 26, 2021, the parties executed an Acknowledgement of Indebtedness Agreement formalizing the loan. Just weeks earlier, however, on November 5, 2021, the right to collect that \$2.45 million obligation had been assigned by the minority shareholder to the current proposed transferee of the stations in exchange for \$1,987,500. The Bureau emphasized the timing of these transactions, noting that the right to collect a multi-million-dollar debt was transferred to the current proposed transferee shortly before the stations were sold to her cousin for a nominal \$10,000 purchase price.

The HDO further notes that an LLC ultimately owned by the proposed transferee and her two sisters had been providing programming for the stations and selling all of the stations' advertising time. The parties initially stated that the programming arrangement began in November 2021 but later revised that date to December 2022 after the Bureau observed that the programming LLC was not formed under Texas law until August 2022. No written programming agreement was produced until November 2024, following multiple Bureau inquiries.

The Bureau also noted that the current owner of the stations had been paid as Chief Financial Officer of the programming LLC from August 2022 until January 2024 while ostensibly operating the stations. In addition, the proposed transferee's father (who is the uncle of the current stations' owner), served as her representative in connection with the debt assignment and other transactions.

Based on these complex intertwined financial arrangements, familial relationships, and evolving explanations regarding programming and control, the Bureau concluded that substantial and material questions of fact exist as to whether an unauthorized transfer of control of the stations to a foreign national has occurred. Specifically, the Bureau identified evidence suggesting that the stations may have been programmed and operated by the transferee's programming LLC rather than by the FCC's approved owner. The HDO also details discrepancies in the parties' application filings, ownership reports, and responses to Bureau inquiries, raising concerns regarding possible misrepresentation or lack of candor in violation of Sections 1.17 and 73.1015 of the Commission's Rules.

Because the Bureau found substantial and material questions of fact exist as to whether grant of the transfer application is in the public interest, it designated the matter for hearing pursuant to Sections 309(e), 310(d), and 312(a) of the Communications Act. The hearing is to examine, among other things, whether an unauthorized transfer of control occurred, whether the transfer application should be granted, denied, or dismissed, whether either applicant engaged in misrepresentation or lacked candor, and whether either applicant possesses the requisite character qualifications to remain or become a licensee, and if not, whether the station licenses should be revoked.

Adding yet one more twist, shortly after the HDO was released, the applicants requested to withdraw their pending transfer application rather than commit to participate in the hearing. The current licensee also waived its right to a

hearing on the issue of license revocation, providing instead a written statement pursuant to Section 1.92(b) of the FCC's Rules "denying or seeking to mitigate or justify the circumstances or conduct complained of." As a result, the ALJ issued an *Order Terminating Hearing Proceeding and Certifying Case to the Commission* in which she dismissed the transfer application, terminated the hearing proceeding, and certified the designated issues to the full Commission for resolution. While avoiding the time and expense of a lengthy hearing before the ALJ, the (now former) applicants have placed the stations' fate in the hands of the three sitting FCC commissioners.