

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

In the Matter of )
Mountain View Communications, Inc. ) NAL/Acct. No. MB200941410003
Assignor ) FRN: 0003780152
and ) File No. BAL-20080516AAK
Patrick County Communications, L.L.C. ) Facility ID No. 46335
Assignee )
Application For Assignment of License )
for Station WHEO(AM) )
Stuart, VA )

MEMORANDUM OPINION AND ORDER AND ADOPTING ORDER

Adopted: November 3, 2009

Released: November 4, 2009

By the Chief, Media Bureau:

1. This Order concerns the captioned application, as amended (the "Application"), of Mountain View Communications, Inc. ("Mountain View"), licensee of Station WHEO(AM), Stuart, Virginia (the "Station"), for assignment of the Station's license of to Patrick County Communications, L.L.C. ("PCC"). The application is unopposed. For the reasons set forth below, we grant the Application with conditions. We also adopt the attached Consent Decree entered into by the Media Bureau (the "Bureau") and H. Dean Goad, 50 percent owner, Co-Manager, and Member of PCC, regarding an unauthorized transfer of control of the Station

I. BACKGROUND

2. Jamie T. Clark is President and owner of Mountain View. On March 25, 2008, Mr. Clark pleaded guilty to four counts of felony distribution of child pornography and one count of felony possession of child pornography under Sections 18.2-374.1 and 18.2-374.1:1 of the Virginia Criminal Code.<sup>1</sup> On May 28, 2008, Mr. Clark was sentenced to three years in prison.<sup>2</sup>

3. On May 16, 2008, Mountain View filed the captioned application to assign the license and sell the assets of the Station to PCC for \$150,000.<sup>3</sup> In the Application, Mountain View states that the Station's \$150,000 purchase price will be less than the debts that Mountain View owes to creditors,

<sup>1</sup> VA Code Ann. §§ 18.2-374.1; 18.2-374.1:1. See amended Application, Exhibit 7.

<sup>2</sup> See Case Nos. CR07017439-00, CR07017440-00, CR07017441-00, CR07017442-00, and CR071443-00 (Patrick County Circuit Court, Criminal Division).

<sup>3</sup> The parties amended the Application on November 24, 2008, in response to an informal staff inquiry. Among the amendments filed were: changing the response to Section II, Item 6 ("Adverse Findings") from "No" to "Yes" and detailing Mr. Clark's guilty plea in an Exhibit, and amending the Contract of Purchase to provide more detail regarding disbursement of the sale proceeds.

including the Internal Revenue Service. Mountain View provides an itemization of debts owed to innocent creditors and settlement expenses, payable at closing, totaling \$150,082.00.<sup>4</sup> The parties acknowledge in the amended contract that the application of the entire balance of the purchase price would be insufficient to pay the unpaid taxes for which Mountain View is liable.<sup>5</sup>

4. In the course of evaluating the Application, the staff requested that the parties supply additional information and documentation to enable it to determine if the proposed transaction conformed to existing precedent regarding assignment applications involving sellers whose qualifications are in question. In response to informal staff inquiries, the parties initially filed an amendment to the Application on November 24, 2008, and subsequently filed a letter from attorney Christopher A. Corbett, who had represented the station's principals for a number of years, detailing the Station's recent history and ownership.<sup>6</sup>

5. *Prior Station History.* Although the Station was originally licensed in 1960,<sup>7</sup> we present here a more recent history of the Station. This recitation is necessary for several reasons: (1) to understand that control of the station was transferred several times without prior Commission approval, in apparent violation of Section 310 of the Communications Act of 1934, as amended (the "Act"); and (2) to understand the details of the proposed transaction in order to make a reasoned determination regarding whether or not Mr. Clark will derive any benefit from the sale of the Station to PCC.

6. In 1986, Community Broadcasting sold the Station to Patrick County Cablevision, wholly owned by Dr. Samuel P. Massie.<sup>8</sup> In this transaction, Patrick County Cablevision acquired the Station license and all equipment and personalty situated on a 3.678-acre parcel outside the Town of Stuart, a 1985 mobile home also situated on that parcel and used as an office, an adjacent 2-acre parcel, and anything specified as accounts receivable and goodwill. Subsequently, Dr. Massie assigned the Station license and assets to Mountain View Communications, Inc., a corporation in which he also owned 100% of the stock.<sup>9</sup>

7. In 1996, Dr. Massie transferred control of Mountain View to John W. Hopkins, Sr., Henry G. Ayers, G. Jack Martin, H. Dean Goad, Bennie C. Weaver, and Bruce Dollarhite, each of whom held 16-2/3% voting and equity interests. This was done with Commission approval.<sup>10</sup>

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<sup>4</sup> See November 21, 2008, "Amendment to Contract of Purchase" at Appendix B, and U.S. Department of Housing and Urban Development Settlement Statement (the "HUD Settlement Statement"), submitted as Exhibit 4 to the amended Application. For easier reference, the HUD Settlement Statement is reproduced as an Appendix to this decision. The HUD Settlement Statement indicates that not only will Mountain View receive none of the proceeds from the sale of WHEO(AM), but in fact Mountain View must pay \$82.00 at closing.

<sup>5</sup> Amendment to Contract of Purchase at ¶ 5.

<sup>6</sup> See *Letter to Marlene Dortch, Esquire from Christopher A. Corbett, Esq.* (rec'd Jan 12, 2009) (the "Corbett Letter").

<sup>7</sup> See Application No. BI-7687, granted October 6, 1960.

<sup>8</sup> See Application No. BAL-19860410ET, granted on May 21, 1986, and consummated on July 3, 1986.

<sup>9</sup> Although the Mountain View's current counsel indicates that "it is believed that this change of name and legal ownership was properly submitted to the Commission for approval," see *Corbett Letter at 2*, the Commission has no record of Dr. Massie requesting or receiving Commission approval for this *pro forma* assignment of the Station's license.

<sup>10</sup> See Application No. BTC-19960202EG, granted on March 18, 1996.

8. Over the next several years, H. Dean Goad acquired the shares of the other co-owners, ultimately resulting in his ownership of 100% of the shares of Mountain View.<sup>11</sup> No Commission approval was sought or granted for Mr. Goad's acquisition of control of Mountain View.

9. In April of 2000, Mr. Goad sold 24.5% of the shares to Mr. Clark and 24.5% of the shares to Richard Rogers, a longtime employee of the station, leaving Mr. Goad with a controlling interest of 51% of the shares.<sup>12</sup> Approximately 18 months thereafter, Richard Rogers conveyed his 24.5% interest to Mr. Clark, leaving the latter with a 49% interest in Mountain View.<sup>13</sup>

10. In April, 2005, Mr. Goad sold his 51% interest in MVC to Mr. Clark. The sale price was \$115,000 and the 2-acre parcel of land mentioned above. Mr. Clark executed the deed to the two acres to Dean Goad, paid him \$15,000 in cash, and executed a promissory note by which Clark would pay Goad the \$100,000 balance (at 6-1/2% interest) in installments of \$871.11 per month for 15 years. The note was secured by a mortgage on the 3.678-acre parcel of land on which the Station operates.<sup>14</sup> No Commission approval was sought or received for Mr. Clark's acquisition of control of Mountain View.

11. Mr. Clark apparently made the required \$871.11 monthly payments for almost 3 years through March, 2008, leaving a balance owned to Mr. Goad of \$86,543.42 at that time. By that point, Clark's legal and business problems had reached the point that he desired to sell the Station. According to the *Corbett Letter*, Mr. Goad at that time could have salvaged the balance due to him on the note by foreclosing the mortgage on the Station's 3.678 acres, but that course would have put the station off the air, possibly for good. Therefore, Mr. Goad joined forces with Tom Beasley, another local citizen, to form Patrick County Communications, LLC, and to buy the Station from Mr. Clark for the gross price of \$150,000.

12. The *Corbett Letter* also indicates that Clark did not pay when due a variety of federal, state, and local taxes, including but not limited to income, employee withholding, unemployment insurance, real property, and personal property.<sup>15</sup> It observes that \$11,000 was all the money that could possibly be channeled to the IRS, and that if the IRS did not lift its lien and accept the \$11,000 as partial satisfaction of the delinquency, there would be no Station sale. Mr. Clark apparently will remain liable for the balance of the delinquent taxes owed to the IRS.<sup>16</sup>

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<sup>11</sup> *Corbett Letter* at 2.

<sup>12</sup> *Id.*

<sup>13</sup> If the Commission had approved Mr. Goad's acquisition of control of Mountain View, no Commission approval would have been needed for these transactions, as Mr. Goad retained control of Mountain View. Mr. Clark's acquisition of a 49% interest in Mountain View was, however, reported in the Station's 2001 and 2003 Ownership Reports. See Application Nos. BOA-20010621AAV, BOA-20030529ACF.

<sup>14</sup> *Corbett Letter* at 2.

<sup>15</sup> The *Corbett Letter* included an "Estimated Payroll and Sales Taxes Indebtedness" as of July 15, 2008, prepared by Mountain View's certified public accountant and totaling \$96,560.58, and it includes a copy of a July 3, 2008, Federal Tax Lien against Mountain View in the amount of \$56,433.36.

<sup>16</sup> *Corbett Letter* at 3.

13. In addition, the *Corbett Letter* indicates that the Station under Clark's stewardship was in arrears on bills due for telephone service, property insurance, accounting fees, and for music rights to BMI, ASCAP, and SESAC. In order to keep the Station on the air, Messrs. Goad and Beasley have already paid \$31,565.68 of the \$150,000 purchase price to Station creditors and to attorneys.<sup>17</sup>

14. Finally, the *Corbett Letter* discusses in detail the HUD Settlement Statement. This document, it claims, "documents to the penny where the \$150,000 purchase price is going."<sup>18</sup> A major portion, \$89,901.87, will be paid to Mr. Goad, the mortgage-holder on the 3.678 acres, to allow Patrick County Communications to take the property free and clear of liens. Another major component, the \$31,565.68 described above and already paid to third parties, is itemized in the HUD Settlement Statement. Mr. Corbett states that, outside of the \$11,000 to be paid to the IRS, and \$2,234.08 to be paid to the Virginia Employment Commission for other unpaid taxes, every other dollar is going to PCC's attorneys, recording fees, FCC fees, and property taxes. The *Corbett Letter* argues that the only benefit Mr. Clark could possibly derive from the sale of the Station would be the \$11,000 credit toward his existing liability to the IRS.<sup>19</sup> As noted earlier, without the cooperation of the IRS, there would be no sale.

## II. DISCUSSION

15. The Commission's *Jefferson Radio* policy precludes consideration of license assignment applications where a character issue has been resolved against the seller or is pending.<sup>20</sup> This is because, as the Commission explained in one case, "there is no authorization to assign" if the seller ultimately is found unqualified.<sup>21</sup> The policy's underlying purpose is to prevent licensees from evading responsibility for wrongdoing.<sup>22</sup> The policy serves as a deterrent because a licensee would likely suffer an "awesome loss" that would result from revocation or non-renewal of license.<sup>23</sup> This deterrent effect would be undermined if a licensee could "sell out from under a potential disqualification."<sup>24</sup>

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<sup>17</sup> *Id.* The payments by PCC principals are reflected in the HUD Settlement Statement.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> See *Jefferson Radio Corp. v. FCC*, 340 F.2d 781 (D.C. Cir. 1964).

<sup>21</sup> *Catherine C. Murphy*, Decision, 42 FCC 2d 346, 347 ¶ 5 (1973).

<sup>22</sup> See, e.g., *Harry O'Connor*, Memorandum Opinion and Order and Notice of Apparent Liability, 2 FCC 2d 45, 48 ¶ 8 (1965) ("The purpose underlying this policy is obvious: A licensee cannot act inconsistently with the Communications Act or the Commission's rules and policies, and then, when a question is raised concerning such improper activity, transfer or assign the license to another; if he could, the only result of the wrongdoing would be a forced sale.").

<sup>23</sup> See *Stereo Broadcasters, Inc. v. FCC*, 652 F.2d 1026, 1030 (D.C. Cir. 1981).

<sup>24</sup> See *Cellular System One of Tulsa, Inc.*, Memorandum Opinion and Order, 102 FCC 2d 86, at ¶ 7 (1985) ("To permit a licensee to sell out from under a potential disqualification would significantly impair the Commission's ability to police and deter licensee misconduct."), citing *Pass Word, Inc.*, Order to Revoke Licenses, to Terminate Comparative Proceedings, and to Proceed with Docket 20941, 76 FCC 2d 465, 516 (1980), *modified*, 86 FCC 2d 437 (1981), *aff'd sub nom.*, *Pass Word, Inc. v. FCC*, 673 F.2d 1363 (D.C. Cir. 1982).

16. Under the Commission's *Character Qualifications Policy Statement*,<sup>25</sup> non-FCC misconduct may raise a substantial and material question of fact concerning a licensee's character. In the *1986 Character Policy Statement* the Commission stated that "there may be circumstances in which an applicant has engaged in nonbroadcast misconduct so egregious as to shock the conscience and evoke almost universal disapprobation . . . . Such misconduct might, of its own nature, constitute *prima facie* evidence that the applicant lacks the traits of reliability and/or truthfulness necessary to be a licensee . . . ."<sup>26</sup> The *1990 Character Policy Statement* substantially expanded the scope of relevant non-FCC misconduct. In that Statement, the Commission concluded that a licensee's propensity to comply with the law generally is relevant to the Commission's public interest analysis and that evidence of any felony conviction, not just those that involve fraud or untruthfulness, is pertinent to its evaluation of a licensee's character.<sup>27</sup> We conclude that Jamie T. Clark's guilty pleas to charges of felony distribution of child pornography and felony possession of child pornography raise a substantial and material question of fact as to whether he possesses the requisite qualifications to remain a Commission licensee.

17. In rare circumstances, the Commission has exempted sellers from application of the *Jefferson Radio* policy based on compelling public interest considerations.<sup>28</sup> We find that consenting to the proposed license assignment, as conditioned herein, would advance the public interest, consistent with precedent. Most importantly, Mr. Clark will not receive any direct benefit from the sale of the Station. The parties have created an escrow account for the collection and distribution of the proceeds, and have averred that the proceeds from the sale will be distributed to the creditors listed in the Amended Contract of Purchase and as detailed in the HUD Settlement Statement, Exhibit 4 of the amended Application.<sup>29</sup> We condition the grant of this Application on the distribution of sale proceeds as set forth in the escrow

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<sup>25</sup> *In the Matter of Policy Regarding Character Qualifications In Broadcast Licensing*, Report, Order, and Policy Statement, 102 FCC 2d 1179, *recon. granted in part*, 1 FCC Rcd 421 (1986) ("*1986 Character Policy Statement*"), *modified*, 5 FCC Rcd 3252 (1990) ("*1990 Character Policy Statement*"), *on reconsideration*, 6 FCC Rcd 3448 (1991), *modified in part*, 7 FCC Rcd 6564 (1992).

<sup>26</sup> *1986 Character Policy Statement*, 102 FCC 2d at 1205 n. 60.

<sup>27</sup> *1990 Character Policy Statement*, 5 FCC Rcd at 3252. *See, e.g., South Carolina Radio Fellowship*, Memorandum Opinion and Order, 6 FCC Rcd 4823 (1991) (felony convictions involving possession of cocaine constitute a sufficient and independent basis for disqualification).

<sup>28</sup> *See, e.g., Lane Broadcasting Corporation*, Letter, 20 FCC Rcd 19373, 19375 (MB 2005) (approving assignment of radio station licenses from convicted child molester under strict supervision of proceeds distribution by District Attorney to ensure that no shareholder would receive direct benefit from the sale). *See also Second Thursday Corp.*, Memorandum Opinion and Order, 22 FCC 2d 515 (1970), *recon. granted*, Memorandum Opinion and Order, 25 FCC 2d 112 (1970) (to harmonize policies of federal bankruptcy law with those of the Communications Act, a grant without hearing of applications by applicant with qualifications issues may be made if the individuals charged with misconduct will have no part in the proposed operations and will either derive no benefit from favorable action on the applications or only a minor benefit which is outweighed by equitable considerations in favor of innocent creditors); *Hertz Broadcasting of Birmingham, Inc.*, Memorandum Opinion and Order, 57 FCC 2d 183, 184-85 (1976) (evidentiary hearing terminated on basis of principal's disabling illness; station sale permitted for no profit); and *Lois I. Pingree*, Memorandum Opinion and Order, 69 FCC 2d 2179, 2183-84 (1978) (no-profit sale permitted where disability provides mitigation for wrongdoing).

<sup>29</sup> *See* Amended Contract of Purchase at ¶ 4 (use of escrow account for collection and disbursement of funds). *Compare Lane Broadcasting Corporation, supra*, (District Attorney's continued oversight of the distribution of proceeds from sale of station owned by convicted child molester "will ensure strict compliance" with requirement that no shareholder will receive direct benefit from the sale.)

agreement. We will also require a post-consummation demonstration from the parties that the distribution of proceeds complied with this condition. Importantly, the denial of proceeds to shareholders and principals such as Mr. Clark imposes an economic result similar to the “awesome loss” which results from revocation. Thus, grant of the Application will not lessen the *Jefferson Radio* policy’s broad deterrent effect on wrongdoing. This contract term is substantially harsher than that approved in *Harry O’Connor*, a case involving an alleged unauthorized transfer of control and misrepresentation to the Commission.<sup>30</sup> In *Harry O’Connor*, the Commission concluded that grant of the assignment application was warranted because the seller would receive substantially less than he paid for his interest in the licensee entity.<sup>31</sup> By contrast, in the instant case, Mr. Clark will not directly receive *any* money from the proposed assignment, as all of the proceeds will go to creditors.

18. Other public interest factors which the Commission has relied on previously to permit license assignments where the seller’s qualifications were at issue also are present here. Grant of the applications will result in Mr. Clark’s full withdrawal from broadcasting<sup>32</sup> and will ensure the Station’s continued and non-interrupted service as the only currently licensed local broadcast outlet for residents of Stuart, Virginia.<sup>33</sup> The Commission also has long recognized the protection of creditors and lien holders as a public interest benefit.<sup>34</sup> The claims of Mountain View’s creditors and lien holders, save for the debt owed to the Internal Revenue Service, will be substantially satisfied out of the sale proceeds in this case.

19. *Unauthorized Transfers of Control.* Section 310(d) of the Act prohibits the transfer, assignment or disposal of any construction permit or station license “in any manner, voluntary or involuntary, directly or indirectly . . . to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.”<sup>35</sup>

20. There appear to have been at least three “disposals” of the WHEO(AM) license occurring without prior Commission approval, in violation of Section 310 of the Act. The first, albeit *pro forma*, violation occurred when Dr. Massie assigned the Station license and assets from Patrick County Cablevision to Mountain View subsequent to his 1986 acquisition of the Station. The second occurred in

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<sup>30</sup> *Harry O’Connor*, *supra*, n.22.

<sup>31</sup> *Id.* at ¶ 10.

<sup>32</sup> See *Radio San Juan, Inc.*, Letter, 45 FCC 2d 375, 376 (1974); see also, *Northwestern Indiana Broadcasting Corp.*, Decision, 65 FCC 2d 66, 70 (1977).

<sup>33</sup> See, e.g., *Lane Broadcasting Corporation*, *supra*, 20 FCC Rcd at 19375; *Harry O’Connor*, 2 FCC 2d at 49 ¶ 10. See also *Spanish Int’l Communications Corp.*, Memorandum Opinion and Order, 2 FCC Rcd 3336, 3339-40 (1987), *rev’d sub nom. Coalition for the Preservation of Hispanic Broadcasting v. FCC*, 893 F.2d 1349, 1362 (D.C. Cir 1990), *vacated and aff’d*, 931 F.2d 73 (D.C. Cir) (*en banc*), *cert. denied*, 502 U.S. 907 (1991) (permitting the sale of seven television stations for which renewal applications had been designated for evidentiary hearing would “expeditiously remove the ‘cloud’ that has surrounded the operation of these stations” during the pendency of this proceeding, acknowledging that “service to the public may deteriorate during an extended period of uncertainty”). The Appalachian Educational Communication Corporation has filed an application (File No. BNPED-20071012ABD) for a new noncommercial educational FM station at Stuart, Virginia. That application remains pending.

<sup>34</sup> See *LaRose v. FCC*, 494 F.2d 1145, 1146 n.2, 1148 (D.C. Cir 1974); *Dale J. Parsons, Jr.*, Memorandum Opinion and Order, 10 FCC Rcd 2718, 2720 (1995); and *Shell Broadcasting, Inc.*, Memorandum Opinion and Order, 38 FCC 2d 929, 931 (1973).

<sup>35</sup> 47 U.S.C. §310(d).

the years subsequent to 1996, when Mr. Goad bought out the other then-shareholders in Mountain View and became the company's sole shareholder. The third unauthorized transfer occurred in April of 2005, when Mr. Clark acquired 100 percent of Mountain View's stock. Commission precedent is clear that unauthorized transfers of control may raise substantial and material questions of fact calling for further inquiry in an evidentiary hearing on the issue of whether the applicant possesses the basic qualifications to be or remain a Commission licensee.<sup>36</sup> Nevertheless, we do not believe that designating the application for evidentiary hearing on the bases of these unauthorized conveyances would serve any fruitful purpose. Although the unauthorized transfers occurred more than once, there is no evidence in the record that intended to deceive the Commission, nor can we perceive a motive for doing so.<sup>37</sup> Additionally, as discussed earlier, Mr. Clark's guilty plea has already placed in issue Mountain View's qualifications to assign the Station. The exceptions to the *Jefferson Radio* policy described above attach to these violations of the Act as well.

21. Moreover, although we have the authority to issue a Notice of Apparent Liability ("NAL") to Mountain View, rather than designate the Application for hearing, for its unauthorized transfers of control, we will not do so here. We are barred by Section 503(b)(6)<sup>38</sup> of the Act from issuing a NAL for the first two unauthorized conveyances here – the post-1986 assignment to Mountain View and the post-1996 transfer of control of the Station license to Mr. Goad – because of the intervening grant of the Station's license renewal application in 2003.<sup>39</sup> With respect to Mr. Clark's unauthorized acquisition of control of Mountain View, we note that Mr. Clark's existing arrearages (most notably with respect to the Internal Revenue Service) and incarceration render it highly unlikely that an NAL for unauthorized transfer of control here would be anything other than a symbolic gesture. We will therefore exercise our prosecutorial discretion<sup>40</sup> and decline to take further action against Mr. Clark regarding the apparent unauthorized transfers of control of Station WHEO(AM).<sup>41</sup> With respect to Mr. Goad, however, who

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<sup>36</sup> See, e.g., *William L. Zawila*, Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order, 18 FCC Rcd 14938, 14964 (2003); *Norcom Communications Corporation Association*, Order to Show Cause, Hearing Designation Order, and Notice of Apparent Liability for Forfeiture, 13 FCC Rcd 21493 (1998). See also *Roy M. Speer*, Memorandum Opinion and Order, 11 FCC Rcd 18393 (1996) (unauthorized transfer of control did not necessitate designation of applications for hearing where there was no substantial and material question of fact as to whether parties intended to deceive the Commission); *FM Broadcasters of Douglas County*, Memorandum Opinion and Order, 10 FCC Rcd 10429 (1995) (no qualification issues raised by license assignment applications notwithstanding unauthorized transfer of control by assignor and issuance of NAL); see also *Mountain Signals, Inc.*, Letter, 6 FCC Rcd 2874 (MMB 1991).

<sup>37</sup> For example, Mr. Clark's guilty plea followed his 2005 acquisition of control of Mountain view by some three years, and his qualifications to control the station would not have been at issue on those grounds.

<sup>38</sup> 47 U.S.C § 503(b)(6).

<sup>39</sup> See File No. BR-20030529ADH, granted on September 25, 2003.

<sup>40</sup> The Commission is a regulatory agency with broad prosecutorial discretion in enforcement proceedings. The courts have found that, as a general matter, the Commission is best positioned to weigh the benefits of pursuing an adjudication against the costs to the agency and the likelihood of success. *Radio One Licenses, LLC*, Forfeiture Order, 19 FCC Rcd 23922, 23932 (2004), citing *Emery Telephone*, Memorandum Opinion and Order, 15 FCC Rcd 7181, 7186 (1999) and *New York State Dept. of Law v. F.C.C.*, 984 F.2d 1209, 1213 (D.C. Cir. 1993).

<sup>41</sup> See, e.g., *Morgan County Industries, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 21 FCC Rcd 13712, 13714 (2006) (staff exercises prosecutorial discretion and declines to issue Notice of Apparent Liability to prior licensee/principals for failure to notify the Commission of station's silence and failure to secure Commission approval for station site change).

transferred control of WHEO(AM) to Mr. Clark without Commission approval, the Bureau and Mr. Goad have negotiated the terms of a Consent Decree, a copy of which is attached hereto and incorporated by reference. The Consent Decree provides, among other things, that Mr. Goad will make an \$8,000 voluntary contribution to the United States Treasury.

22. We have reviewed the Consent Decree and evaluated the circumstances underlying the apparent unauthorized transfers of control of Station WHEO(AM), and we believe that the public interest would be served by adopting the Consent Decree.

### III. ORDERING CLAUSES

23. In light of the considerations discussed above, we find it appropriate to exercise our discretion not to pursue further the issue of Jamie T. Clark's and Mountain View Communications, Inc.'s qualifications and to approve the captioned assignment application. Accordingly, IT IS ORDERED, that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,<sup>42</sup> and by the authority delegated by Sections 0.61 and 0.283 of the Rules,<sup>43</sup> the Consent Decree attached hereto IS ADOPTED.

24. IT IS FURTHER ORDERED, that, following confirmation of payment by Mr. Goad of the voluntary contribution specified above, and provided that there are no other issues that would preclude the grant, the Media Bureau staff IS DIRECTED TO GRANT the application (File No. BAL-20080516AAK) to assign the license of Station WHEO(AM), Stuart, Virginia from Mountain View Communications, Inc. to Patrick County Communications, L.L.C., subject to the following conditions:

(1) Jamie T. Clark shall not, without advance notice and prior Commission consent, hold or acquire an attributable interest in any Commission authorization or application. Jamie T. Clark, in connection with any proposal to hold or acquire such an interest, shall provide a full showing of his qualifications and include a copy of this letter decision;

(2) The proceeds from the sale of the Station shall be distributed as set forth in the November 21, 2008, Amended Contract of Purchase and the HUD Settlement Statement referenced in Exhibit 4 of the Application, as amended on November 24, 2008, reproduced in the Appendix to this decision; and

(3) Within 30 days of consummation of the transaction approved herein, Mountain View Communications, Inc. and Patrick County Communications, L.L.C., shall jointly file with the Office of the Secretary a demonstration – including affidavits from pertinent creditors and recipients of settlement-related fees, supported by cancelled checks or other extrinsic indicia – that the proceeds from the sale of Station WHEO(AM) have been disbursed in accordance with condition (2), above.

25. IT IS FURTHER ORDERED that the investigation by the Media Bureau of the matters noted above IS TERMINATED.

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<sup>42</sup> 47 U.S.C. § 154(i).

<sup>43</sup> 47 C.F.R. §§ 0.61, 0.283.



26. IT IS FURTHER ORDERED that copies of this Order shall be sent, by first class mail and certified mail, return receipt requested, to Ms. Gayna C. Clark, Attorney-in-fact-for Jamie T. Clark, Mountain View Communications, Inc., 3824 Wayside Road, Stuart, Virginia 24171, to Harold Dean Goad, Co-Manager, Patrick County Communications, L.L.C., P.O. Box 1282, Stuart, Virginia 24171, and to its counsel, Nicole F. Ingle, Woods Rogers, P.L.C., Wachovia Tower, Suite 1400, 10 South Jefferson Street, Roanoke, Virginia 24011.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake  
Chief, Media Bureau