

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

In the Matter of)
Bridgewater HealthCare, Inc., d/b/a)
Bridgewater Retirement Community)
Former licensee of Station WPSE416)
File No.: EB-SED-12-00001713
Acct. No.: 201332100016
FRN: 0004631701

ORDER

Adopted: August 30, 2013

Released: August 30, 2013

By the Acting Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and Bridgewater HealthCare, Inc., d/b/a Bridgewater Retirement Community (Bridgewater). The Consent Decree resolves and terminates the Bureau's investigation into Bridgewater's compliance with Section 301 of the Communications Act of 1934, as amended (Act), and Section 1.903(a) of the Commission's rules (Rules), pertaining to the operation of a Private Land Mobile Radio Service station without Commission authority.

2. The Bureau and Bridgewater have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Bridgewater possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act, and Sections 0.111 and 0.311 of the Rules, the Consent Decree attached to this Order IS ADOPTED.

6. IT IS FURTHER ORDERED that the above-captioned investigation IS TERMINATED.

1 47 U.S.C. § 301.

2 47 C.F.R. § 1.903(a).

3 47 U.S.C. §§ 154(i), 154(j), 503(b).

4 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Rodney D. Alderfer, President, Bridgewater HealthCare, Inc., d/b/a Bridgewater Retirement Community, 302 N. Second Street, Bridgewater, VA 22812, and to John C. Trent, Esq., Putbrese Hunsaker & Trent, P.C., Counsel for Bridgewater HealthCare, Inc., d/b/a Bridgewater Retirement Community, 200 S. Church Street, Woodstock, VA 22664.

FEDERAL COMMUNICATIONS COMMISSION

Robert H. Ratcliffe
Acting Chief, Enforcement Bureau

**Before the
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Washington, D.C. 20554**

In the Matter of)	File No.: EB-SED-12-00001713
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Bridgewater HealthCare, Inc., d/b/a)	Acct. No.: 201332100016
Bridgewater Retirement Community)	
)	FRN: 0004631701
Former Licensee of Station WPSE416)	

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Bridgewater HealthCare, Inc., d/b/a Bridgewater Retirement Community, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Section 301 of the Communications Act of 1934, as amended,¹ and Section 1.903(a) of the Commission's rules,² pertaining to the operation of a Private Land Mobile Radio Service (PLMRS) station without Commission authority.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "Bridgewater" means Bridgewater HealthCare, Inc., d/b/a Bridgewater Retirement Community, its subsidiaries, as well as its predecessors-in-interest and its successors-in-interest.
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Bridgewater is subject by virtue of its business activities, including but not limited to, the Licensing Rules.
 - (g) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 10.
 - (h) "Covered Employees" means all employees and agents of Bridgewater who

¹ 47 U.S.C. § 301.

² 47 C.F.R. § 1.903(a).

perform, or supervise, oversee, or manage the performance of, duties that relate to Bridgewater's responsibilities under the Licensing Rules.

- (i) "Effective Date" means the date on which the Bureau releases the Adopting Order.
- (j) "Licensing Rules" means Section 301 of the Act, Sections 1.903(a) and 1.949(a) of the Rules, the *Universal Licensing System Orders*,³ and other Communications Laws that prohibit the use or operation of a wireless radio station without a valid Commission authorization or in a manner inconsistent with such authorization.
- (k) "Investigation" means the investigation commenced by the Bureau's October 12, 2012, letter of inquiry⁴ regarding Bridgewater's apparent violation of the Licensing Rules.
- (l) "Operating Procedures" means the standard, internal operating procedures and compliance policies established by Bridgewater to implement the Compliance Plan.
- (m) "Parties" means Bridgewater and the Bureau, each of which is a "Party."
- (n) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Section 301 of the Act⁵ and Section 1.903(a) of the Rules⁶ prohibit the use or operation of any apparatus for the transmission of energy or communications or signals by radio except under, and in accordance with, a Commission-granted authorization. Additionally, Section 1.949(a) of the Rules requires that licensees file renewal applications for wireless radio stations "no later than the expiration date of the authorization for which renewal is sought, and no sooner than 90 days prior to expiration."⁷ In

³ See *Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, 13 FCC Rcd 21027, 21071, para. 96 (1998) (*Universal Licensing System Report and Order*) (adopting inter alia Section 1.949 of the Rules); Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 11476, 11485–86, para. 22 (1999) (*Universal Licensing System MO&O*) (collectively, *Universal Licensing System Orders*).

⁴ See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Dick Stutzman, Director of Facilities Management, Bridgewater Retirement Community (Oct. 12, 2012) (on file in EB-SED-12-00001713).

⁵ 47 U.S.C. § 301.

⁶ 47 C.F.R. § 1.903(a).

⁷ *Id.* § 1.949(a). If a licensee intending continued operations fails to file a timely renewal application, the Commission nevertheless requires such licensee to seek operating authority. See *Universal Licensing System Report and Order*, 13 FCC Rcd at 21071, para. 98 (directing licensees that fail to file timely renewal applications to submit a new application or, if necessary, a request for special temporary operating authority); *Universal Licensing System MO&O*, 14 FCC Rcd at 11485–86, para. 22 (permitting, in the alternative, the acceptance and processing of late filed renewal applications under certain circumstances).

the absence of a timely filed renewal application, a wireless radio station license automatically terminates.⁸

3. Bridgewater's license for PLMRS Industrial/Business Pool station WPSE416 automatically expired on March 27, 2011, the expiration date of the station license, because Bridgewater did not timely file an application for the renewal of that license.⁹ On April 5, 2011, Bridgewater filed an application to renew the license for station WPSE416, along with a request for a waiver of Section 1.949 of the Rules to allow the late filing of its renewal application.¹⁰ On May 20, 2011, the Wireless Bureau returned the WPSE416 renewal application because Bridgewater failed to file the required notification of construction for the station.¹¹ In the Notice of Return, Bridgewater was instructed to file within 60 days the required notification of construction for station WPSE416 and an associated amendment to its renewal application.¹² Bridgewater filed the required notification of construction on June 7, 2011.¹³ However, Bridgewater did not submit an amendment to its renewal application, as required by the Return Notice, resulting in the dismissal of its renewal application on August 9, 2011.¹⁴ On March 1, 2012, Bridgewater filed a request for Special Temporary Authority to operate a PLMRS station, which was granted on March 2, 2012 under call sign WQOY340.¹⁵

4. On October 12, 2012, the Bureau issued a letter of inquiry (LOI) to Bridgewater.¹⁶ The LOI directed Bridgewater to submit a sworn written response to a series of questions relating to Bridgewater's failure to file a license renewal application for station WPSE416 and its continued operation of the station after the expiration of the station license. Bridgewater responded to the LOI on November 6, 2012.¹⁷ In its LOI Response, Bridgewater stated that it discovered on April 5, 2011 that the application to renew the WPSE416 station license had not been timely filed, and that it "immediately" contacted Wireless Bureau staff for assistance.¹⁸ The Bureau and Bridgewater executed a tolling

⁸ 47 C.F.R. § 1.955(a)(1).

⁹ On January 3, 2011, the Commission's Wireless Telecommunications Bureau (Wireless Bureau) sent Bridgewater a courtesy "renewal reminder" notice for station WPSE416, alerting Bridgewater that it was required to file renewal applications for the station prior to the expiration of the station's license if it planned to continue operation. *See* Automated Renewal Reminder Letters from the FCC Wireless Telecommunications Bureau to Bridgewater Retirement Community, Reference No. 5083342 (Jan. 3, 2011).

¹⁰ *See* FCC File No. 0004679095 (Apr. 5, 2011). In its waiver request, Bridgewater disclosed that it continued to operate the station after the expiration of the station license. *See id.*, Attachment.

¹¹ *See* Notice of Return, ULS Reference No. 5159591 (May 20, 2011) (Notice of Return).

¹² *See* Notice of Return (stating that "[i]f you do not file an Amendment to your application within 60 days of the date at the top of this letter, your application will be Dismissed.>").

¹³ *See* FCC File No. 0004755903 (June 7, 2011).

¹⁴ *See* Notice of Dismissal, ULS Reference No. 0004679095 (Aug. 9, 2011).

¹⁵ *See* FCC File No. 0005086174 (May 1, 2012).

¹⁶ *See supra* note 4.

¹⁷ *See* Letter from Tom Carper, Director of Facilities Management, Bridgewater Retirement Community, to Celia Lewis, Spectrum Enforcement Division, FCC Enforcement Bureau (Nov. 1, 2012) (on file in EB-SED-12-00001713) (LOI Response).

¹⁸ *See id.* at 1.

agreement to toll the statute of limitations.¹⁹

III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

6. **Jurisdiction.** Bridgewater agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date, as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Bridgewater agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Bridgewater concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Bridgewater with respect to Bridgewater's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Bridgewater shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Bridgewater complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Licensing Rules prior to assuming his/her duties.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, Bridgewater agrees that it shall within sixty (60) calendar days after the Effective Date develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the

¹⁹ See Tolling Agreement, File No. EB-SED-12-00001713, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and John C. Trent, Esq., Putbres Hunsaker & Trent, P.C., Counsel for Bridgewater HealthCare, Inc., d/b/a Bridgewater Retirement Community (Dec. 20, 2012) (on file in EB-SED-12-00001713).

terms and conditions of this Consent Decree. With respect to the Licensing Rules, Bridgewater shall implement the following procedures:

- (a) **Operating Procedures on Licensing Rules.** Within sixty (60) calendar days after the Effective Date, Bridgewater shall establish Operating Procedures that all Covered Employees must follow to help ensure Bridgewater's compliance with the Licensing Rules. As part of its Operating Procedures, the Compliance Officer shall designate a Covered Employee to be responsible for developing and maintaining a database of all FCC licenses held by Bridgewater and the expiration date of each such license. The Compliance Officer shall ensure that Bridgewater timely files an application for renewal for any FCC license that Bridgewater intends to operate after the license's expiration date.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Licensing Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Bridgewater's compliance with the Licensing Rules. Bridgewater shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Bridgewater shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Bridgewater shall establish and implement a Compliance Training Program on compliance with the Licensing Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Bridgewater's obligation to report any noncompliance with the Licensing Rules under paragraph 11 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Bridgewater shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

11. **Reporting Noncompliance.** Bridgewater shall report any noncompliance with the Licensing Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after the discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Bridgewater has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Bridgewater has taken or will take to prevent the recurrence of any such noncompliance. All such reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-C366, Washington, DC 20554, with a copy submitted electronically to Celia Lewis at Celia.Lewis@fcc.gov and to Daudeline Meme at Daudeline.Meme@fcc.gov.

12. **Compliance Reports.** Bridgewater shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Bridgewater's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Licensing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Bridgewater, stating that the Compliance Officer has personal knowledge that Bridgewater (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 11 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules²⁰ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Bridgewater, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that Bridgewater has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Bridgewater has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Celia Lewis at Celia.Lewis@fcc.gov and to Daudeline Meme at Daudeline.Meme@fcc.gov.

13. **Termination Date.** Unless stated otherwise, the requirements of paragraphs 9 through 12 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

14. **Voluntary Contribution.** Bridgewater agrees that it will make a voluntary contribution to the United States Treasury in the amount of seven thousand five hundred dollars (\$7,500) within thirty (30) calendar days after the Effective Date. Bridgewater shall also send electronic notification of payment to Celia Lewis at Celia.Lewis@fcc.gov, Daudeline Meme at Daudeline.Meme@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²¹ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000,

²⁰ 47 C.F.R. § 1.16.

²¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

15. **Waivers.** Bridgewater waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Bridgewater shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Bridgewater nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and Bridgewater shall waive any statutory right to a trial de novo. Bridgewater hereby agrees to waive any claims it may have under the Equal Access to Justice Act²² relating to the matters addressed in this Consent Decree.

16. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

17. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Bridgewater does not expressly consent) that provision will be superseded by such Rule or Commission order.

18. **Successors and Assigns.** Bridgewater agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

19. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

20. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

²² Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

21. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

22. **Authorized Representative.** The individual signing this Consent Decree on behalf of Bridgewater represents and warrants that he is authorized by Bridgewater to execute this Consent Decree and to bind Bridgewater to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

23. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

John D. Poutasse
Chief, Spectrum Enforcement Division
Enforcement Bureau

Date

Rodney D. Alderfer
President
Bridgewater HealthCare, Inc., d/b/a
Bridgewater Retirement Community

Date