

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

In the Matter of:	)	
	)	File Nos.: BTCTTA-20120503ABK;
JBS, Inc.	)	BRTTA-20120601AGM
Licensee of Station WYSJ-CA,	)	FRN: 0004078622
Yorktown, Virginia	)	Facility ID No.: 35134
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: February 6, 2014****Released: February 6, 2014**

By the Chief, Media Bureau:

**I. INTRODUCTION**

1. This Order grants the above-captioned applications of JBS, Inc., licensee of WYSJ-CA, Yorktown, Virginia, for transfer of control of the Station's license from Samuel Jacobs to Neal A. Rosenbaum and renewal of the Station's Class A license. The applications are unopposed. The Order also adopts the attached Consent Decree entered into between the Media Bureau ("Bureau") and JBS, Inc. ("Licensee").

**II. BACKGROUND**

2. JBS, Inc. is the licensee of WYSJ-CA of Yorktown, Virginia.<sup>1</sup> Samuel Jacobs owns 70 percent of the stock in JBS, Inc. Neal A. Rosenbaum owns the remaining 30 percent of the stock.

3. Mr. Jacobs' Criminal Prosecution. On April 3, 2012, a jury convicted Jacobs of 27 counts of mail fraud, money laundering to conceal mail fraud, engaging in monetary transactions in property derived from specified unlawful activity, and possessing and uttering forged securities of an organization. Asstated in the amended License Renewal Application, evidence introduced at trial showed that "Jacobs used a company he owned, Alliance Financial Services Corporation ("Alliance"), to solicit money from parties on the pretext that the monies would be invested in bona fide enterprises. Alliance's investors primarily were local pastors and their congregations with whom Jacobs had established relationships through the Station and two other low power stations owned by JBS. Over the course of three (3) years, Alliance received over \$750,000 from investors. The funds were never invested in bona fide enterprises but were instead used inter alia, (i) to cover expenses of JBS's television stations, (ii) to repay prior investors, and (iii) to cover Jacobs' personal expenses. Court evidence reflected that Jacobs repaid initial investors with newly invested funds in order to keep the scheme afloat for nearly three (3) years."<sup>2</sup> On February 21, 2013, U.S. District Judge Mark Davis sentenced Jacobs to 12 years in prison and ordered that Jacobs and co-defendant Christopher C. Rice were jointly and severally liable for \$627,963.34 as part of a Restitution Order.

4. The License Renewal and Transfer of Control Applications. On May 3, 2012, JBS filed the Transfer of Control Application. Under the proposal outlined in the application, Mr. Rosenbaum

<sup>1</sup> JBS also owns low power television stations WJHJ-LP, Newport News, Etc., Virginia and WVBN-LP, Virginia Beach, Virginia.

<sup>2</sup> File No. BRTTA-20120601AGM, Exhibit 28.

would become the company's sole stockholder, as well as its President and a Director.<sup>3</sup> On June 1, 2012, the Station filed the License Renewal Application.<sup>4</sup>

### III. DISCUSSION

5. The above-captioned transfer of control application contemplates an agreement that would make Mr. Rosenbaum the sole stockholder of JBS, Inc. The Commission's *Jefferson Radio* policy does not permit consideration of a transfer of control or assignment application where a character issue has been resolved against the seller or is pending.<sup>5</sup> The policy's underlying purpose is to prevent licensees from evading responsibility for wrongdoing.<sup>6</sup> Pursuant to the policy, a licensee cannot undermine the deterrent effect of potential revocation or non-renewal by "sell[ing] out from under a potential disqualification."<sup>7</sup>

6. Under the Commission's *Character Qualifications Policy Statement*,<sup>8</sup> non-FCC misconduct may raise a substantial and material question of fact concerning a licensee's character.<sup>9</sup> A licensee's propensity to comply with the law generally is relevant to the Commission's public interest analysis and evidence of any felony conviction is pertinent to its evaluation of a licensee's character.<sup>10</sup> We conclude that Samuel Jacobs' conviction on 27 counts related to criminally fraudulent behavior raises a substantial and material question of fact as to whether he possesses the requisite qualifications to remain a Commission licensee.

7. In rare circumstances, the Commission has exempted sellers from application of the *Jefferson Radio* policy based on compelling public interest considerations. Under the Commission's *Second Thursday* policy, a license may be assigned or transferred despite the licensee's wrongdoing if "the individual[] charged with the misconduct will have no part in the proposed operations and will derive no benefit from favorable action on the application or only a minor benefit which is outweighed by equitable considerations in favor of innocent [parties]."<sup>11</sup>

8. We find that consenting to the proposed transfer of control, as conditioned herein, has public interest benefits, consistent with precedent. Most importantly, Mr. Jacobs will not receive any direct benefit from the sale of the Station. The parties have consented to the distribution of the proceeds from a future sale of the JBS stations to a third party to satisfy a portion of Mr. Jacobs' obligations under the Restitution Order issued by Judge Davis on February 21, 2013. This will ensure that the victims of

<sup>3</sup> File No. BTCTTA-20120503ABK.

<sup>4</sup> File No. BRTTA-20120601AGM.

<sup>5</sup> *Jefferson Radio Corp. v. FCC*, 340 F.2d 781 (D.C. Cir. 1964).

<sup>6</sup> See, e.g., *Harry O'Connor*, Memorandum Opinion and Order and Notice of Apparent Liability, 2 FCC Rcd 45, 48 (1965) ("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 [a licensee] could, the only result of the wrongdoing would be a forced sale.").

<sup>7</sup> *Cellular System One of Tulsa, Inc.*, Memorandum Opinion and Order, 102 FCC 2d 86, 90 (1985).

<sup>8</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>9</sup> *1986 Character Policy Statement*, 102 FCC 2d at 1205 n. 60.

<sup>10</sup> *1990 Character Policy Statement*, 5 FCC Rcd at 3252.

<sup>11</sup> *Second Thursday Corp.*, Memorandum Opinion and Order, 22 FCC 2d 515, 516, *recon. granted*, 25 FCC 2d 112 (1970) ("*Second Thursday*").

Mr. Jacobs' fraud receive some reimbursement. In addition, grant of the applications will result in Mr. Jacobs' full withdrawal from broadcasting.<sup>12</sup> And this result is consistent with precedent that recognizes the protection of victims of fraud, creditors, and lien holders as a public interest benefit.<sup>13</sup> The claims of Mr. Jacobs' victims will be partially satisfied out of the future sale proceeds in this case.

9. The Bureau thus concludes that grant of the transfer of control and the renewal application conditioned on consummation of the transaction and compliance with the consent decree will serve the public interest and comply with both the *Second Thursday* policy and section 309(k). The terms of the Consent Decree include but are not limited to: (i) Mr. Jacobs' full withdrawal from JBS and broadcasting in general; (ii) JBS' agreement to sell the station licenses to a third party; and (iii) JBS's agreement to use the proceeds from the sale of the stations to fulfill a portion of the payment due under the Restitution Order.

#### IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED**, that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,<sup>14</sup> and by the authority delegated by Sections 0.61 and 0.283 of the Rules,<sup>15</sup> the Consent Decree attached hereto **IS ADOPTED**.

11. **IT IS FURTHER ORDERED** that, following execution of the Consent Decree, the application (File No. BTCTTA-20120503ABK) to transfer control of the license of Station WYSJ-CA, Yorktown, Virginia from Samuel Jacobs to Neal A. Rosenbaum **SHALL BE GRANTED**, subject to the following conditions:

- (1) Samuel Jacobs is permanently banned from holding or acquiring any interest in any Commission license;
- (2) The proceeds from the sale of the Stations to a third party shall be distributed as set forth in the attached Consent Decree; and
- (3) Within 30 days of consummation of the transaction between JBS and a third party contemplated herein, JBS shall file with the Office of the Secretary a demonstration - including affidavits from recipients, supported by cancelled checks or other extrinsic indicia - that the proceeds from the sale of Stations have been disbursed in accordance with condition (2), above.

12. **IT IS FURTHER ORDERED** that, subject to the same conditions described in the preceding paragraph, the application (BRTTA-20120601AGM) to renew the license of WYSJ-CA **IS GRANTED**.

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

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<sup>12</sup> See *Mountain View Communications, Inc.*, Memorandum Opinion and Order and Adopting Order, 24 FCC Rcd 13516, 13521 (2009).

<sup>13</sup> *Id.*

<sup>14</sup> 47 U.S.C. § 154(i).

<sup>15</sup> 47 C.F.R. §§ 0.61, 0.283.

14. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by both First Class mail and Certified Mail, Return Receipt Requested, to Licensee's counsel, Lewis J. Paper, Esq., 2300 N Street NW, Washington, D.C. 20037-1122, and to JBS, Inc., 739 Thimble Shoals Boulevard, Suite 704, Newport News, Virginia, 23606.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake  
Chief, Media Bureau

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Licensee of Station WYSJ-CA,	)	FRN: 0004078622
Yorktown, Virginia	)	Facility ID No.: 35134
	)	

**CONSENT DECREE**

1. The Media Bureau of the Federal Communications Commission (the “Bureau”), Neal A. Rosenbaum (“Rosenbaum”), and JBS, Inc. (“JBS”) hereby enter into this Consent Decree for the purposes of (i) resolving the pending license renewal and transfer of control applications regarding Station WYSJ-CA and (ii) satisfying a portion of the Restitution Order against JBS’s majority interest holder, Samuel A. Jacobs (“Jacobs”).

**I. DEFINITIONS**

2. 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) “Additional Sale Proceeds” means any proceeds received by JBS, Rosenbaum, or any entity in which Rosenbaum holds any financial interest above the \$950,000 sale price contemplated by this agreement, including but not limited to additional proceeds from JBS’s sale of the Stations and/or payment from any subsequent sale of the stations.
  - (c) “Adopting Order” means the Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (d) “Bureau” means the Media Bureau of the Federal Communications Commission.
  - (e) “Commission” or “FCC” means 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 JBS is subject by virtue of it being a Commission licensee, including but not limited to Sections 73.3526, 73.670, 73.3615, and 73.6001 of the Commission’s Rules.
  - (g) “Effective Date” means the date on which the Bureau releases the Adopting Order.
  - (h) “Jacobs” means Samuel A. Jacobs, the current majority stockholder of JBS.
  - (i) “JBS” or “Licensee” means JBS, Inc. and its predecessors-in-interest and/or successors-in-interest that control the Stations’ licenses.
  - (j) “License Renewal Application” means application File No. BRTTA-20120601AGM, by which JBS, Inc. seeks another term for WYSJ-CA as a Class A television station.
  - (k) “Parties” means JBS, Inc., Rosenbaum, and the Bureau, each of which is a “Party.”
  - (l) “Restitution Order” means the Order entered by U.S. District Judge Mark Davis of the United States District Court for the Eastern District of Virginia on February 21, 2013

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in *United States v. Samuel B. Jacobs*, Criminal No. 4:10-CR149-001, which is incorporated herein by reference and attached as Exhibit A to this Consent Decree.

- (m) “Rosenbaum” means Neal A. Rosenbaum.
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (o) “Stations” means Class A TV Station WYSJ-CA, Yorktown, Virginia (Facility ID No. 35134) and low power television stations WJHJ-LP (Facility ID No. 35137 and WVBN-LP (Facility ID No. 32941), each of which is a “Station.”
- (p) “Transfer of Control Application” means File No. BTCTTA-20120503ABK, by which Jacobs, acting through a power of attorney, applied to the Commission to transfer his 70 percent interest in JBS to Rosenbaum, the current 30 percent interest holder in JBS.
- (q) “Transferee” means Rosenbaum, currently the minority interest holder in WYSJ-CA.
- (r) “WYSJ” means Class A TV Station WYSJ-CA, Yorktown, Virginia (Facility ID No. 35134).

## **II. TERMS OF AGREEMENT**

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

4. **Jurisdiction.** The Parties agree that the Bureau has jurisdiction over them and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

5. **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.

6. **Grant of the License Renewal and Transfer Applications.** In express reliance on Transferee’s agreement to use the proceeds from the sale of the Stations to a third party to satisfy the terms of this Consent Decree, including the payment obligations in the Restitution Order in accordance with paragraph 7, the Bureau agrees to grant the License Renewal Application and the Transfer of Control Application.

7. **Sale of Stations to Third Party; Use of Proceeds From Sale.** JBS and Transferee agree that JBS will make all reasonable efforts to reach an agreement to sell the licenses for the Stations to a third party. JBS and Transferee further agree that JBS will distribute the proceeds from any sale of the Stations as follows (following payment of the broker fee): (a) reimbursement of Rosenbaum for certain reasonable expenses, which are currently anticipated to be approximately \$225,000, including attorneys’ fees, incurred by Rosenbaum (i) for the operation of the Stations after Jacobs’ conviction in April 2012 in the case of *United States v. Samuel B. Jacobs*, Criminal No. 4:10-CR149-001, and to bring the Stations into compliance with Commission Rules (including filing necessary applications and responding to letters and other communications from the Commission) and (ii) to sell the Stations, including the negotiation and preparation of a sales agreement and the prosecution of an application seeking the Commission’s consent thereto, (b) \$225,000 to satisfy a portion of Jacobs’ monetary obligations under the Restitution Order, and (c) the remaining funds of approximately \$452,500 to reimburse JBS’s creditors as of April 2012 on a pro rata basis. This Consent Decree is further conditioned upon 35.8 percent of any Additional

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Sale Proceeds being used to satisfy the monetary obligations of the Restitution Order (with the proceeds to be used to fulfill the restitution being capped at \$627,963, which would satisfy the Restitution Order in full).

8. **Notification of Payments.** JBS agrees that it will pay \$225,000 from the sale of the Stations in accordance with paragraph 7 to satisfy Jacobs' obligations under the Restitution Order. JBS and Rosenbaum shall send electronic notification to Peter Saharko at Peter.Saharko@fcc.gov within three (3) business days of the date on which payments are made in accordance with paragraph 7 and confirmation that all monies received from the sale of the Stations to a third party have been disbursed.

9. **Jacobs' Participation and Benefit.** JBS and Transferee agree that Jacobs is barred from any role in the future operation of or any involvement with the Stations. Jacobs is also barred from profiting in any way from the sale or operation of the Stations, except for any incidental benefit from the satisfaction of his obligations under the Forfeiture Order. Jacobs is also permanently barred from holding any interest in any Commission license.

10. **Waivers.** JBS 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. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, JBS, Transferee, and/or the Bureau shall not contest the validity of the Consent Decree or the Adopting Order, and JBS and Transferee shall waive any statutory right to a trial *de novo*. JBS and Transferee hereby agree to waive any claims they may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

11. **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.

12. **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 a rule or order specifically intended to revise the terms of this Consent Decree to which JBS and Transferee expressly consent) that provision will not be superseded by such rule or Commission order.

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

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

15. **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.

16. **Authorized Representative.** The individual signing this Consent Decree on behalf of JBS represents and warrants that he is authorized by JBS to execute this Consent Decree and to bind JBS 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.

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

**Federal Communications Commission**

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Media Bureau

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William T. Lake  
Chief  
Media Bureau

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Date

JBS, Inc.

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Name:  
Title:

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Date

Neal A. Rosenbaum

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Date