

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

In re Applications)	NAL/Acct. No. MB-201541410024
)	FRN: 0011339116
For Renewal of License for Station KTRT(FM), Winthrop, Washington)	Facility I.D. No. 164605
)	File No. BRH-20131118BIG
and)	
)	
For Consent to Assignment of License From Tin Can Communications, LLC, Assignor, To KTRT Radio, Inc., Assignee)	File No. BALH-20131021AIE
)	
)	

ORDER

Adopted: March 31, 2015

Released: April 1, 2015

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (“Bureau”) and KTRT Radio, Inc. (“KTRT Radio”) with respect to Station KTRT(FM), Winthrop, Washington (“Station”). The Consent Decree resolves issues arising from the Bureau’s review of the captioned applications (the “Applications”) concerning an admitted unauthorized assignment of the Station.

2. The Consent Decree stipulates that KTRT Radio violated Section 310(d) of the Communications Act of 1934, as amended,¹ and Section 73.3540² of the Commission’s Rules (“Rules”), and provides, among other things, that it will make a two thousand five hundred dollar (\$2,500) civil penalty payment to the United States Treasury. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau’s consideration of potential violations of the Rules disclosed in the Applications.

4. Based on the record before us, we conclude that nothing in that record creates a substantial or material question of fact whether KTRT Radio possesses the basic qualifications, including those relating to character, to be a Commission licensee.

5. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,³ and by the authority delegated by Sections 0.61 and 0.283 of

¹ 47 U.S.C. § 301(d).

² 47 C.F.R. § 73.3540.

³ 47 U.S.C. § 154(i).

the Rules,⁴ the Consent Decree attached hereto IS ADOPTED.

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

7. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail-Return Receipt Requested, to KTRT Radio, Inc., P.O. Box 3008, Winthrop, WA 98862, and to its counsel, Todd A. Steiner, Esq., Steiner Law Offices, PLC, P.O. Box 751, Woodstock, VA 22664.

FEDERAL COMMUNICATIONS COMMISSION



William T. Lake
Chief, Media Bureau

⁴ 47 C.F.R. §§ 0.61, 0.283.

CONSENT DECREE**I. Introduction**

1. This Consent Decree for Station KTRT(FM), Winthrop, Washington, is entered into by the Media Bureau of the Federal Communications Commission and KTRT Radio, Inc., by their respective authorized representatives, for the purpose of resolving certain issues regarding compliance with Section 301(d) of the Communications Act of 1934, as amended, and Section 73.3540 of the Commission's Rules, that have arisen in the Media Bureau's review of the captioned applications for Station KTRT(FM), Winthrop, Washington.

II. 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) "Assignment Application" means the FCC Form 314 for assignment of license of the Station (File No. BALH-20131021AIE);
- (c) "Bureau" means the Media Bureau of the Federal Communications Commission;
- (d) "Commission" or "FCC" means the Federal Communications Commission;
- (e) "Compliance Plan" means the compliance plan provided in the Appendix hereto;
- (f) "Effective Date" means the date on which the Bureau releases the Order;
- (g) "Investigation" means the Bureau's investigation of information contained in the Assignment Application;
- (h) "KTRT Radio" means KTRT Radio, Inc., the assignee and unapproved licensee of the Station;
- (i) "Order" means an order of the Bureau adopting this Consent Decree;
- (j) "Parties" means KTRT Radio and the Bureau;
- (k) "Renewal Application" means the FCC Form 303-S application for renewal of license for the Station (File No. BRH-20131118BIG);
- (l) "Rules" means the Commission's regulations set forth in Title 47 of the Code of Federal Regulations;
- (m) "Station" means Station KTRT(FM), Winthrop, Washington (Facility ID No. 164605); and
- (n) "TCC" means Tin Can Communications, LLC, the approved licensee and assignor of the Station.

III. Background

3. On August 26, 2005, the Commission granted TCC a license for the Station. On June 2, 2009, TCC engaged in a corporate transaction that resulted in the Station's license being held by KTRT Radio rather than by TCC, without prior Commission consent.⁵ On October 21, 2013, the Assignment Application disclosing the transaction was filed. According to Don R. Ashford, President of both TCC and KTRT, Inc., the unauthorized transaction was due to his lack of knowledge of the Rules.⁶ In preparation for filing the Station's Renewal Application, communications counsel informed him that the transaction violated the Act and the Rules due to the failure to seek and obtain Commission consent. Mr. Ashford therefore filed the instant Assignment Application seeking Commission consent *nunc pro tunc* to the assignment of license for the Station. On March 28, 2014, Mr. Ashford also submitted for the Commission's consideration federal income tax records for the Station for the preceding four years (2009, 2010, 2011, and 2012); the returns revealed negative taxable income for each year.

4. Because of the issues identified in the Bureau's Investigation, the Parties have agreed to enter into this Consent Decree to which KTRT Radio and the Bureau intend to be legally bound.

IV. Agreement

5. The Parties acknowledge that any proceeding that might result from the Investigation will be time-consuming and will require the expenditure of public and private resources. In order to conserve such resources and to promote future compliance by KTRT Radio with the Act and the Rules, the Parties are entering into this Consent Decree in consideration of the mutual commitments made herein.

6. The Parties agree to be legally bound by the terms and conditions of this Consent Decree. KTRT Radio and the Bureau each represents and warrants that its signatory is duly authorized to enter into this Consent Decree on its behalf. KTRT Radio agrees that the Commission has jurisdiction over the matters contained in this Consent Decree and the authority to enter and adopt this Consent Decree.

7. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between them concerning the Bureau's Investigation of the matters discussed herein. The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether KTRT Radio possesses the basic qualifications, including those relating to character, to be a Commission licensee.

8. The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon the Effective Date, the Order and this Consent Decree shall have the same force and effect as any other order of the Bureau. Any violation of the terms of this Consent Decree shall constitute a separate violation of a Bureau order, entitling the Bureau or the Commission to exercise any rights and remedies attendant to the enforcement of a Bureau order.

⁵ See Assignment Application, Exhibit 5. Specifically, TCC was 100% owned and controlled by RDR Partners, which in turn was comprised of three general partners and co-managers: Don R. Ashford, Richard T. Mills, and Ronald J. Lone. KTRT Radio is owned and controlled as follows (expressed as percentages of both voting rights and equity): Don R. Ashford, Officer/Shareholder, 20.15%; Scott Rogers, Shareholder, 13.3%; Rick Dewbrey, Shareholder, 13.3%; Rick LeDuc, Shareholder, 13.3%; Bruce Child, Shareholder, 13.3%; Paul Pinsky, Shareholder, 13.3%; and Laurel Canan, Shareholder, 13.3%.

⁶ See *Don R. Ashford Letter*, (undated), Assignment Application, Exhibit 1.

9. As part of the Order, the Bureau shall terminate the Investigation. Additionally, the Bureau shall grant the Assignment Application and the Renewal Application after the Effective Date, provided that the following conditions have been met: (1) the civil penalty payment referenced in Paragraph 12 below has been fully and timely satisfied; and (2) there are no issues that would preclude grant of the Assignment Application and/or the Renewal Application. In the event that there are issues that would preclude the grant of the Assignment Application and/or Renewal Application, the impacted application will remain pending.

10. From and after the Effective Date, the Bureau shall not, either on its own motion or in response to third-party objection, initiate any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against KTRT Radio, based in whole or in part on the Investigation. The Bureau agrees that, in the absence of material new evidence, it will not, on its own motion, initiate or recommend to the Commission, any new proceeding, formal or informal, regarding the matters discussed in this Consent Decree, with regard to any violations of the Act, the Rules, or Commission policy, that occurred prior to the Effective Date. The Bureau further agrees that, in the absence of material new evidence, it will not use the facts developed in the Investigation prior to the Effective Date to initiate on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action on its own motion against KTRT Radio with respect to its basic qualifications to own and operate the Station. Nothing in this Consent Decree shall prevent the Bureau from instituting, or recommending to the Commission, new investigations or enforcement proceedings against KTRT Radio, in the event of any alleged future misconduct, for violation of this Consent Decree, or for violation of the Act or the Rules, consistent with the provisions of this Consent Decree.

11. KTRT Radio stipulates that it violated Section 310(d) of the Act and Section 73.3540 of the Rules by assignment of the Station license without prior Commission authorization.

12. The Bureau has reviewed the Station's financial showings as set forth in its federal income tax records for the years 2009-2012. Based on these records, which demonstrate the Station's limited financial resources, the Bureau has agreed to accept and KTRT Radio has agreed to make a civil penalty payment to the United States Treasury in the amount of Two Thousand Five Hundred Dollars (\$2,500) within thirty (30) calendar days after the Effective Date. KTRT Radio will also send electronic notification of payment to Kim Varner at Kim.Varner@fcc.gov and Penelope Dade at Penelope.Dade@fcc.gov on the date said payment is made. Such payment will be made, without further protest or recourse to a *trial de novo*, by a check or similar instrument, wire transfer or credit card and must include the Account Number and FRN referenced in the caption to the Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. 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 that should be followed based on the form of payment selected:

- 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, 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.

13. KTRT Radio represents that, in addition to existing policies, it has adopted, and is currently in the process of implementing, and agrees to abide by the Compliance Plan for the purpose of preventing future violations of the Act and of the Rules. A summary of the plan is set forth in the Appendix. KTRT Radio agrees to the extent that it has not already done so, to implement the Compliance Plan at the Station no later than thirty (30) days after the Effective Date and to keep such Compliance Plan in effect for three (3) years after the Effective Date.

14. KTRT Radio agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that KTRT Radio fails to satisfy any condition, in the absence of Commission alteration of the condition, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, designation of the matter for hearing, letters of admonishment, or forfeitures.

15. The Consent Decree will be binding on the Station's successors-in-interest and assigns, if any. Additionally, any future application filed within three (3) years of the Effective Date to assign or transfer control of the Station will include a statement executed by an authorized representative of the proposed assignee or transferee consenting to assumption of the responsibilities and duties set forth in this Consent Decree with regard to the Station.

16. KTRT Radio waives any and all rights that 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 Order, provided that the Order adopts the Consent Decree without change, addition or modification.

17. KTRT Radio waives any claims that it may otherwise 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 discussed in this Consent Decree.

18. If any Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Order, none of the Parties shall contest the continuing validity of the Consent Decree or the Order. KTRT Radio and the Bureau further agree that they will waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and that they will consent to a judgment incorporating the terms of this Consent Decree.

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

20. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: Wm T. Lake
William T. Lake, Chief

Date: 3-31-15

KTRT RADIO, INC.

By: _____
Don R. Ashford, President

Date: _____

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
William T. Lake, Chief

Date: _____

KTRT RADIO, INC.

By: Don R. Ashford
Don R. Ashford, President

Date: 3/25/15

APPENDIX**COMPLIANCE PLAN FOR STATION KTRT(FM)**

KTRT Radio, or its successor-in-interest ("Licensee"), will institute the following procedures with regard to Station KTRT(FM) to ensure compliance with the Commission's Rules and the Communications Act of 1934, as amended. Unless otherwise provided, all terms defined in the Consent Decree apply to this Compliance Plan.

1. Within 30 days from the Effective Date of this Compliance Plan, Licensee will conduct training for all Station employees and management on compliance with FCC Rules applicable to Station operations. It will designate its Station Manager as a Compliance Officer responsible for responding to Station employee questions and consulting with outside counsel familiar with communications law regarding compliance matters. The Station will conduct refresher training for Station employees and management at least once every twelve (12) months, and will train any new Station employee within five (5) business days of commencement of his or her duties at the Station.

2. Licensee shall engage communications counsel on an ongoing basis to provide guidance to the Station on Commission compliance issues, to provide regular updates and notices on developments in communications law applicable to the Station and the Station's operations, and to review the Station's applications and reports prior to filing with the Commission. In regard to the last matter, Licensee recognizes and acknowledges that any and all information provided to the Commission must completely and candidly set forth all relevant facts and circumstances, regardless of whether such submission may disclose a violation of the Act or Rules.

3. Licensee shall maintain control of its programming, personnel, and finances and shall for a period of three years annually submit a sworn affidavit or declaration signed by the President of Licensee, certifying that, since the commencement of this Compliance Plan or the filing of the last such report, if any, Licensee has maintained such control and is in compliance with the Consent Decree. In the event that the Licensee is unable to so certify, it will disclose the reasons therefore and indicate what steps it has taken to render its operation of the Station in compliance with the Act, the Rules, and Commission Policy. The affidavit or declaration is due on or before December 31 (but no earlier than December 1) of each year and shall be served on Peter H. Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission and e-mailed to him at Peter.Doyle@FCC.Gov.