

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Mobile Communications America, Inc.
Holding Various Authorizations in the Wireless
Radio Services
File No.: EB-IHD-18-00028100
Acct. No.: 201932080006
FRN: 0026218487

ORDER

Adopted: December 26, 2018

Released: December 26, 2018

By the Deputy Chief, Enforcement Bureau:

1. The Enforcement Bureau of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve the Commission’s investigation into whether Mobile Communications America, Inc. (Mobile Communications)1 violated Sections 310(d) and 301 of the Communications Act, of 1934, as amended (Act),2 and Sections 1.948 and 1.903 of the Commission’s rules (Rules),3 related to the transfer of control of wireless radio licenses prior to receiving Commission approval, and its operation of wireless stations after their licenses had expired. These sections of the Act and the Rules ensure that the transfer, assignment, and operation of wireless radio authorizations are limited to instances where there has been a prior determination that such a transfer, assignment, and operation is in the public’s “interest, convenience, and necessity.”4 To settle this matter, Mobile Communications admits that it failed to obtain the necessary Commission approval prior to transfer of the wireless licenses in question. Mobile Communications also agrees to implement a compliance plan and to pay a settlement of \$93,600 in redress.

2. 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 referenced investigation regarding Mobile Communications’ compliance with the Act,5 and Sections 1.948 and 1.903 of the Rules,6 pertaining to unauthorized transfers of control, assignment, and operation of wireless radio licenses. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Mobile Communications’ basic qualifications to hold or obtain any Commission license or authorization.7

1 Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

2 47 U.S.C. §§ 310(d), 301.

3 47 CFR §§ 1.948, 1.903.

4 Supra notes 2-3.

5 47 U.S.C. §§ 310(d), 301.

6 47 CFR §§ 1.948, 1.903.

7 See 47 CFR § 1.93(b).

3. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act⁸ and the authority delegated by Sections 0.111 and 0.311 of the Rules,⁹ the attached Consent Decree **IS ADOPTED**, and its terms incorporated by reference.

4. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

5. **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 Mark Blackman, Chief Executive Officer, Mobile Communications, 100 Dunbar Street, Suite 304, Spartanburg, South Carolina 29306 and Elizabeth Sachs, Esq., Lukas, Lafuria, Gutierrez & Sachs LLP, 8300 Greensboro Drive, Suite 1200, Tysons, Virginia 22102.

FEDERAL COMMUNICATIONS COMMISSION

Phillip Rosario
Deputy Chief
Enforcement Bureau

⁸ 47 U.S.C. § 154(i).

⁹ 47 CFR §§ 0.111, 0.311.

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)
)

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Mobile Communications America, Inc. (Mobile Communications or the Company),¹ by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether the Company violated Section 310(d) of the Communications Act of 1934, as amended (Act),² and Section 1.948 of the Commission’s rules (Rules),³ pertaining to unauthorized transfers of control and assignments of licenses in connection with its acquisition of seven commercial wireless companies and two subsidiary companies that held authorizations for wireless radio services. The instant settlement also resolves questions about whether the Company violated Section 301 of the Act⁴ and Section 1.903 of the Rules,⁵ pertaining to unauthorized operation of wireless stations and station equipment.

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) “Adopting Order” means an Order of the Enforcement Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification
(c) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
(d) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Mobile Communications is subject by virtue of its business activities, including but not limited to, the Wireless Radio Service Rules.
(e) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at Paragraph 16.

¹ Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

² 47 U.S.C. § 310(d).

³ 47 CFR § 1.948.

⁴ 47 U.S.C. § 301.

⁵ 47 CFR § 1.903.

- (f) “Covered Employees” means all employees and agents of the Company who perform, supervise, oversee, or manage the performance of duties that relate to Mobile Communications’ responsibilities under the Communications Laws, including Sections 310(d) and 301 of the Act and Sections 1.948 and 1.903 of the Rules.
- (g) “Effective Date” means the date on which the Bureau and Mobile Communications have signed the Consent Decree.
- (h) “Enforcement Bureau” or “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (i) “Investigation” means the proceeding commenced by the Bureau in File No. EB-IHD-18-00028100 to determine whether the Company violated provisions of the Communications Laws relating to unauthorized transfer of wireless radio station licenses and unauthorized operation of wireless stations and station equipment.
- (j) “Mobile Communications” or “Company” means Mobile Communications America, Inc., its subsidiaries, affiliates, predecessors-in-interest, and successors-in-interest.
- (k) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Mobile Communications to implement the Compliance Plan.
- (l) “Parties” means Mobile Communications and the Bureau, each of which is a “Party.”
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (n) “Unauthorized Operations Rules” means Section 47 U.S.C. § 301 of the Act⁶ and Section 1.903 of the Rules,⁷ pertaining to unauthorized transfers of control and assignments of wireless radio licenses.
- (o) “Unauthorized Transfer Rules” means Section 310(d) of the Act⁸ and Section 1.948 of the Rules,⁹ pertaining to unauthorized transfers of control and assignments of licenses.
- (p) “Wireless Bureau” means the Wireless Telecommunications Bureau of the Commission.
- (q) “Wireless Radio Services” means those wireless radio services defined in Section 1.907 of the Rules.¹⁰

II. BACKGROUND

3. Section 310(d) of the Act provides that “[n]o construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission

⁶ 47 U.S.C. § 301.

⁷ 47 CFR § 1.903.

⁸ 47 U.S.C. § 310(d).

⁹ 47 CFR § 1.948.

¹⁰ 47 CFR § 1.907.

that the public interest, convenience, and necessity will be served thereby.”¹¹ Section 1.948 of the Rules similarly requires Commission consent prior to the transfer of control or assignment of a wireless radio license.¹²

4. According to Mobile Communications, the Company is a privately held Delaware corporation, created for the purpose of acquiring the stock of Mobile Communications of Hall, LLC, and Mobile Communications of DeKalb, Inc., as well as other radio sales and service organizations on an ongoing basis.¹³ Mobile Communications currently operates and has offices in seven states in the Southeast, and all offices report to, and are managed from, the company’s headquarters in Spartanburg, South Carolina.¹⁴

5. On August 23, 2013, Mobile Communications began executing a series of stock or other asset transactions to acquire entities that then held, among other things, FCC wireless radio licenses.¹⁵ The required Commission consent for transfer of those licenses, however, was not obtained prior to completing such acquisitions.¹⁶

6. In early 2018, Mobile Communications became aware that it had consummated stock or asset transactions involving wireless radio licenses without obtaining the required prior FCC approval.¹⁷ The Company engaged communications counsel to facilitate an inventory of its licensed and operating facilities and identify non-compliant transactions and the FCC authorizations involved.¹⁸ During that review, the Company also determined that two of the licenses involved had expired for approximately one year and three and one-half months, respectively.¹⁹ Additionally, the Company also discovered that it had completed a pro forma assignment of certain wireless radio assets without obtaining the required prior Commission approval.²⁰

7. In April of 2018, Mobile Communications filed a waiver request with the Wireless Bureau, which thereafter referred the matter to the Enforcement Bureau for investigation.²¹ Mobile Communications also filed curative applications seeking Commission consent, *nunc pro tunc*, to cover the transfers of control of the wireless radio licenses and authorizations conveyed to Mobile Communications.²² Mobile Communications stated in the application filings that its “failure to have

¹¹ 47 U.S.C. § 310(d).

¹² 47 CFR § 1.948.

¹³ See Letter from Elizabeth Sachs, Counsel for Mobile Communications, to Gary Oshinsky, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, FCC (July 13, 2018) (on file in File No. EB-IHD-18-00028100) (*Mobile Communications Letter*).

¹⁴ *Id.* at unnumbered page 2.

¹⁵ *Id.* Those transactions occurred between August 2013 and July 2017, and the FCC licenses involved were for facilities in the 150-174 MHz (“VHF”) or 450-470 MHz (“UHF”) band, subject to either Part 90 (Private Land Mobile Radio Services) or Part 22, Subpart E (Public Mobile Services), of the FCC rules. See *id.*, Attachment A.

¹⁶ See Application for Transfer of Control, ULS License No. 0008173582, et al., Request for Waiver Unauthorized Transfer of Control/Assignments/Pro Forma Assignments (April 25, 2018) (*Waiver Request*). <http://appsint.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=1384996574&attachmentKey=20350116&attachmentInd=applAttach>.

¹⁷ *Mobile Communications Letter* at unnumbered page 2.

¹⁸ *Id.*

¹⁹ *Mobile Communications Letter*, Attachment A.

²⁰ *Id.*

²¹ See *Waiver Request* at unnumbered page 1.

²² *Id.* These filings were completed in April of 2018, and some of the applications remain pending.

followed the necessary FCC processes in these [transfers] is not attributable to indifference to Commission requirements, but to a less than complete understanding of FCC licensing requirements and a lack of appropriate regulatory oversight during a period of unexpectedly rapid growth.”²³ The Company also represented that it “deeply regrets these errors and has already taken steps to ensure that they will not be repeated.”²⁴

8. The Enforcement Bureau’s Investigation revealed that Mobile Communications completed seven substantial and two pro forma transfers of control,²⁵ concerning more than 50 separate licenses without first obtaining prior Commission consent. These transactions comprised two initial stock acquisitions and further transactions involving additional wireless businesses acquired by Mobile Communications or its subsidiaries, and for which the Company thereafter filed applications and associated waiver requests seeking the Commission’s *nunc pro tunc* approval.²⁶ In most of those cases, the applications qualified for conditional licensing under FCC Rule Section 90.159.²⁷ For those that did not qualify for conditional licensing, Mobile Communications submitted applications²⁸ for Special Temporary Authority.²⁹

9. Mobile Communications represents that it has adopted internal procedures designed to prevent future FCC rule violations.³⁰ The Company explains that it has developed a defined process for conducting due diligence on all potential acquisitions in order to identify possible compliance issues.³¹ The Company also represents that it has centralized its FCC licensing procedures and developed a Compliance Manual for distribution to all employees that have any involvement in FCC licensing issues, including the area of customer equipment.³² Neither the Company nor the Commission has received, or is

²³ *Waiver Request* at unnumbered page 1.

²⁴ *See id.*

²⁵ A substantial transfer of control is, *inter alia*, a transaction whereby controlling interest in the licensee shifts to a party whose qualifications have not yet been ascertained by the Commission. *See Questions and Answers Regarding Private Wireless Licensees’ Obligations Under Section 310(d) of the Communications Act of 1934*, Fact Sheet (Sept. 19, 2000), 2000 WL 1340584, at *2. By contrast, a pro forma transaction involves a non-substantial change in ownership of the license or the licensee entity where the controlling interest is not acquired or lost. *See id.* at *3.

²⁶ *Waiver Request* at unnumbered page 1.

²⁷ 47 CFR § 90.159(c) (“An applicant...seeking the assignment of authorization or transfer of control of a license for an existing station below 470 MHz or in the 929-930 MHz band (other than a commercial mobile radio service applicant or licensee on these bands) may operate the proposed station during the pendency of the application for a period not to exceed one hundred eighty (180) days upon the filing of a properly completed formal Form 601 application that complies with § 90.127 of this part”). *See, e.g., Oregon Pacific Railroad Company*, Memorandum Opinion and Order, 16 FCC Rcd 2972, 2972, para. 3, n.5 (EB 2001).

²⁸ *See Mobile Communications Letter*, Attachments.

²⁹ Under 47 CFR § 1.931(a)(1), special temporary authority to operate a station without a license may be granted “[i]n circumstances requiring immediate or temporary use of station in the Wireless Telecommunications Services [and where] carriers . . . request special temporary authority (STA) to operate new or modified equipment.” *Id.* *See, e.g., Township of Mount Olive, New Jersey*, Order, DA 18-1167, 2018 WL 6017702 *2, para. 6 (PSHSB Nov. 15, 2018) (if a licensee “needs to operate while its application [for licenses] is being prepared and coordinated, it may file requests for special temporary authority pursuant to Section 1.931 of the Commission’s rules”).

³⁰ E-mail from Elizabeth Sachs, Counsel for Mobile Communications, to Gary Oshinsky, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, FCC (June 12, 2017, 14:28 EDT) (on file in EB-IHD-18-00028100).

³¹ *Mobile Communications Letter* at unnumbered page 3.

³² *See Mobile Communications Letter*, Attachments.

aware of, any third-party complaints regarding Mobile Communications' unauthorized transfers of control.³³ In addition, Mobile Communications acknowledges that the scope of its FCC-based regulatory noncompliance, as described above, was significant.³⁴ To resolve the Bureau's Investigation, the Parties find it advantageous to enter into this Consent Decree to ensure Mobile Communications' future compliance with all applicable Communications Laws.

III. TERMS OF AGREEMENT

10. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order without change, addition, deletion, or modification.

11. **Jurisdiction.** The Company 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.

12. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

13. **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, the Company agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the 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 the Company 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 the 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 the Company with respect to the Company's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission licenses or authorizations.³⁵

14. **Admission of Liability.** Mobile Communications admits, for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of Paragraph 13 herein, that its actions described in Paragraphs 5 through 9 of this Consent Decree violated the Unauthorized Transfer Rules and the Unauthorized Operations Rules.

15. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, to the extent it has not already done so under its current compliance procedures, the Company shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a 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 the Company 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 or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Unauthorized Transfer Rules and Unauthorized Operations Rules prior to assuming his or her duties.

16. **Compliance Plan.** For purposes of settling the matters set forth herein, the Company agrees that it shall continue to maintain its existing compliance procedures. In addition, within ninety (90) calendar days after the Effective Date, the Company shall develop and implement the measures described below, if not already in place, to ensure future compliance with the Communications Laws and with the

³³ *Id.*

³⁴ *Waiver Request* at unnumbered page 1.

³⁵ *See* 47 CFR § 1.93(b).

terms and conditions of this Consent Decree. With respect to the Unauthorized Transfer Rules and Unauthorized Operations Rules, including with regard to transfers of control and assignments of wireless licenses as the result of corporate acquisitions or asset transfers, the Company will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, the Company shall establish Operating Procedures that all Covered Employees shall follow to help ensure the Company's compliance with The Unauthorized Transfer Rules and Unauthorized Operations Rules. The Company's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Company complies with the Unauthorized Transfer Rules and Unauthorized Operations Rules. The Company shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Unauthorized Transfer Rules and Unauthorized Operations Rules.
- (b) **Compliance Manual.** Within ninety (90) 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 Communications Laws that apply to the Company, including the Unauthorized Transfer Rules and Unauthorized Operations Rules, and shall set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's compliance with the Unauthorized Transfer Rules and Unauthorized Operations Rules. The Company shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Company shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Within ninety (90) calendar days after the Effective Date, the Company shall establish and implement a Compliance Training Program on compliance with the Communications Laws, including the Unauthorized Transfer Rules and Unauthorized Operations Rules, and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any noncompliance with the Communications Laws, including the Unauthorized Transfer Rules and Unauthorized Operations Rules, under Paragraph 17 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 one hundred twenty (120) calendar days after the Effective Date except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Company shall repeat 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.

17. **Reporting Noncompliance.** The Company shall report to the Commission any noncompliance with the Communications Laws, the Unauthorized Transfer Rules, the Unauthorized Operations Rules, and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to address such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, SW, Washington, DC 20554, with

a copy submitted electronically to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Christopher J. Sova at Christopher.Sova@fcc.gov, and Gary Oshinsky at Gary.Oshinsky@fcc.gov.

18. **Compliance Reports.** The Company shall file Compliance Reports with the Commission one hundred twenty (120) 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 the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree, the Communications Laws, the Unauthorized Transfer Rules, and the Unauthorized Operations Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (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 17 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.³⁶
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, 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 the Company has taken or will take to address such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that the Company 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, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, SW, Washington, DC 20554, with a copy submitted electronically to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Christopher J. Sova at Christopher.Sova@fcc.gov, and Gary Oshinsky at Gary.Oshinsky@fcc.gov.

19. **Termination Date.** Unless stated otherwise, the requirements set forth in Paragraphs 15 through 18 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

20. **Civil Penalty.** The Company will pay a civil payment to the United States Treasury in the amount of Ninety-Three Thousand Six-Hundred Dollars (\$93,600) within thirty (30) calendar days after the Effective Date. The Company shall send electronic notification of payment to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Christopher J. Sova at Christopher.Sova@fcc.gov, and Gary Oshinsky at Gary.Oshinsky@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.³⁷ When completing the FCC Form 159, enter the Account Number in block number

³⁶ 47 CFR § 1.16.

³⁷ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

21. Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

22. **Waivers.** As of the Effective Date, the Company 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. The Company 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 Consent Decree or the Adopting Order, neither the Company nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Company shall waive any statutory right to a trial *de novo*. The Company hereby agrees to waive any claims they may otherwise have under the Equal Access to Justice Act³⁸ relating to the matters addressed in this Consent Decree.

23. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

24. **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.

25. **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 the Company does not expressly consent) that provision will be superseded by such Rule or Order.

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

27. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

³⁸ See 5 U.S.C. § 504; 47 CFR §§ 1.1501-1.1530.

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

29. **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.

30. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

31. **Counterparts.** This Consent Decree may be **signed** in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Phillip Rosario
Deputy Chief
Enforcement Bureau

Date

Mark Blackman
Executive Chairman
Mobile Communications America, Inc.

Date