

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

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| In re Application of |) | MB Docket No. 22-76 |
| |) | NAL/Acct. No. MB-202241410006 |
| The Marion Education Exchange |) | FRN: 0023109846 |
| |) | |
| For Renewal of License for |) | Facility ID No. 193826 |
| Station WWGH-LP |) | File No. 0000115702 |
| Marion, Ohio |) | |

**HEARING DESIGNATION ORDER, NOTICE OF OPPORTUNITY FOR HEARING, AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Adopted: February 23, 2022

Released: February 23, 2022

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this *Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture*, we commence a hearing proceeding before the Administrative Law Judge to determine whether The Marion Education Exchange (MEE) has committed violations of the Communications Act of 1934, as amended (Act) and/or the rules and regulations (Rules) of the Federal Communications Commission (Commission), and, as a consequence, whether MEE's application (Renewal Application) to renew the license of low power FM radio station WWGH-LP, Marion, Ohio (Station) should be granted or denied pursuant to section 309(k) of the Act, and whether a forfeiture should be imposed against MEE.¹ As discussed more fully below, substantial and material questions of fact exist regarding whether MEE: (1) willfully and repeatedly violated section 73.1015 of the Rules by failing to respond fully to letters of inquiry (LOIs) from Media Bureau (Bureau) staff; (2) made misrepresentations to and/or lacked candor with the Commission in violation of section 1.17(a)(1) of the Rules, or violated section 1.17(a)(2) of the Rules by providing incorrect material factual information or omitting material information necessary to prevent a material factual statement from being incorrect or misleading, and doing so without a reasonable basis for believing the information to be correct and not misleading; and (3) willfully violated section 73.865 of the Rules by failing to notify the Commission that a *pro forma* transfer of control of MEE had occurred.

II. BACKGROUND

2. MEE was registered with the State of Ohio as a non-profit corporation (Entity #: 4330904) on May 2, 2019, with Shawn Craft as the registered agent.² On May 9, 2019, MEE and Marion Midget Football (MMF)—the Station's former licensee—filed an application for Commission consent to the *pro forma* assignment of the Station's license from MMF to MEE (Assignment Application).³

¹ This *Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture* is issued by the Chief, Media Bureau pursuant to sections 309(e), 309(k) and 503(b) of the Act, and the Bureau's delegated authority under 47 CFR § 0.283.

² See Ohio Secretary of State, *Business Details and Filings* (Entity #: 4330904), <https://businesssearch.ohiosos.gov/> (last visited Feb. 2, 2022).

³ File No. BALL-20190509AAH (Assignment Application). MEE and MMF utilized FCC Form 316, which is available to applicants only if the assignment is a *pro forma* transaction or an involuntary transaction. See

Therein, MEE indicated that “[t]here are no changes in the board members, only the name of the licensee.”⁴ MEE listed Patti Worcester (Worcester), Martha Maniaci (Maniaci), Mary Ann Stolarczyk (Stolarczyk), Betty Compton (Compton), and Marge Hazelett (Hazelett) as its board members, and indicated each had 20 percent voting rights.⁵ We granted the unopposed Assignment Application on May 21, 2019.⁶ In the course of this license renewal proceeding, we have learned that Compton died on November 7, 2016, more than two years before MEE filed the Assignment Application that listed her as one of five existing and continuing members of MEE’s board.⁷

3. On May 28, 2019, MEE filed a *pro forma* transfer of control application (Transfer Application).⁸ MEE reported that “Worcester has decided to retire and voluntarily transfers her position to Shawn Craft.” We granted the unopposed Transfer Application on July 11, 2019.⁹

4. On June 6, 2020, MEE filed the Renewal Application.¹⁰ Spencer Phelps (Phelps)—the former President of the licensee of another LPFM station licensed to Marion, Ohio, and the current Station Manager of that station—then filed an Informal Objection.¹¹ Phelps alleged that MEE had misrepresented its board composition in the Assignment Application.¹² Phelps stated that the board members of MEE were “completely different people” than those MEE listed in the Assignment Application, and argued that MEE’s statement in that application that there were “no changes in the board members, only the name of the licensee” was false.¹³ To support his claim, Phelps submitted copies of corporate materials that MEE had filed with the State of Ohio.¹⁴ The corporate materials did not list Worcester, Maniaci, Stolarczyk, Compton, or Hazelett, the names listed in the Assignment Application. Instead, they listed four different individuals: Shawn Craft (Craft), Linda Sims (Sims), Glenn Coble (Coble), and Terry Tackett (Tackett).

Instructions to FCC Form 316, Application for Consent to Assign Broadcast Station Construction Permit or License or Transfer Control of Entity Holding Broadcast Station Construction Permit or License, General Instruction A. *See also* Instructions—Form 2100, Schedule 316—Application for Consent to Assign Broadcast Station Construction Permit or License or Transfer Control of Entity Holding Broadcast Station Construction Permit or License, General Instructions. Under our Rules, an involuntary transaction involves a death or legal disability of a licensee or person controlling a licensee, a situation that is not presented here. *See* 47 CFR § 73.3541.

⁴ Assignment Application at Exh. 12.

⁵ *Id.*

⁶ *Broadcast Actions*, Public Notice, Report No. 49494, at 4 (MB May 24, 2019).

⁷ *See* Assignment Application at Exh. 12 and Response of Spencer Phelps, Application File No. 0000115702, at 3, Exh. 2 (rec’d April 20, 2021) (Third LOI Reply).

⁸ File No. BTCL-20190528AAN.

⁹ *Broadcast Actions*, Public Notice, Report No. 49592, at 1 (MB July 16, 2019).

¹⁰ Application File No. 0000115702.

¹¹ Informal Objection of Spencer Phelps, Application File No. 0000115702 (filed July 22, 2020) (Informal Objection).

¹² Phelps also alleged that MMF made false statements and certifications, and included misleading language in its portions of the Assignment Application. Informal Objection at 3. We do not discuss these allegations further because they relate to the Station’s former licensee, and are not relevant to our renewal inquiry. Section 309(k) of the Act limits that inquiry to whether, during the preceding license term, (1) the station served the public interest, convenience, and necessity, (2) “there have been no serious violations *by the licensee*” of the Act or the Rules, and (3) “there have been no other violations *by the licensee*” of the Act or the Rules “which, taken together, would constitute a pattern of abuse.” 47 CFR § 309(k)(1) (emphasis added). We note that Phelps does not claim that MMF holds any FCC licenses at this time.

¹³ Informal Objection at 4.

¹⁴ *Id.* at Exh. 6.

5. MEE did not respond to the Informal Objection. Accordingly, we sent the first of three letters of inquiry (First LOI) to MEE in December of 2020.¹⁵

6. *First LOI.* The First LOI requested information regarding MEE's board, and its officers and directors, and directed MEE to submit copies of all corporate materials related to its board composition, or the appointment, resignation or termination of MEE officers or directors. It also required MEE to provide an affidavit or declaration made under penalty of perjury in support of its response.

7. The LOI directed MEE to respond no later than January 7, 2021. MEE did not meet this deadline. Thus, on February 12, 2021, we dismissed the Renewal Application, cancelled the Station's license, and informed MEE that its authority to operate the Station had terminated.¹⁶ On February 16, 2021, MEE filed a pleading (First LOI Response) that served as both a petition for reconsideration of the actions taken on February 12, 2021, and a response to the First LOI.¹⁷ Upon receipt of this pleading, we reinstated the Renewal Application and reinstated the license.¹⁸

8. In terms of the substance of the First LOI Response, MEE listed a board that was entirely different from the board it had identified in the Assignment Application.¹⁹ MEE stated that its board consisted of Craft, Sims, Coble, and Tackett, each of whom MEE contends had been on the MEE board from "2019-Present."²⁰ MEE indicated that Craft also had been its President from "2019-Present."²¹ MEE appeared to explain away any inconsistencies between the board it identified in its Assignment Application and the one it identified in its First LOI Response by stating that "[s]everal of the board members that left [MMF] in 2019 became ill and have since passed away such as . . . Maniaci, and . . . Hazelett."²² However, MEE failed to identify specifically each former MEE board member and the duration of their tenure on the MEE board. MEE then obliquely explained that "there [sic] positions were filled with members who knew the radio station and have had its best interests and that of the community at heart."²³ MEE did not specify whether the positions filled were on its or MMF's board. Furthermore, despite the fact that, like Maniaci and Hazelett, Compton was listed as an MEE board member in the Assignment Application, and despite the fact that Compton preceded Maniaci and Hazelett in death, MEE did not mention Compton in the First LOI Response.²⁴ MEE did not provide either the documents

¹⁵ Letter from Albert Shuldiner, Chief, Audio Division, to Shawn Craft, Marion Education Exchange, Application File No. 0000115702 (dated Dec. 8, 2020) (First LOI).

¹⁶ Letter from Albert Shuldiner, Chief, Audio Division, to Shawn Craft, Marion Education Exchange, Application File No. 0000115702 (dated Feb. 12, 2021).

¹⁷ Petition for Reconsideration of The Marion Education Exchange, File No. BLL-20140616AEW (rec'd Feb. 16, 2021) (First LOI Response).

¹⁸ The reinstatement was required by section 307(c)(3) of the Act, which states that the filing of a renewal application continues a station's license in effect. 47 U.S.C. 307(c)(3). This continuance runs through "any hearing and final decision on such an application and the disposition of any petition for rehearing." *Id.*

¹⁹ First LOI Response at para. 7.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at para. 8.

²³ *Id.* at para. 9.

²⁴ See Betty Jane Compton, <https://www.legacy.com/us/obituaries/marionstar/name/betty-compton-obituary?pid=182411328> (last visited June 24, 2021). Notably, Compton was the grandmother of Scott Spears, who is not a board member of MEE but is one of the Station's general managers, and was a board member and officer of MMF. *Id.* (stating Compton was survived by, among others, her grandson Scott Spears); WWGH Radio 107.1 FM, Our General Managers, <http://wwgh1071.com/2016/> (last visited Feb. 22, 2022). Spears resigned from his positions as an officer and board member of MMF on May 7, 2019, and has entered into an agreement with the Attorney General for the State of Ohio that bars him from holding a position as an officer, trustee or employee of MMF or any

required to be produced in response to the First LOI, or the supporting affidavit or declaration requested in the First LOI. Finally, MEE asserted that the Station “has fulfilled the education qualification for LPFM stations very well” and that the Station is “the last station in Marion[,] Ohio to provide local news [and] weather every hour.”²⁵

9. Phelps replied to the First LOI Response, asserting that it was incomplete, and repeating his allegations that MEE had made misrepresentations to the Commission.²⁶ Specifically, Phelps argued that MEE had lied either in the Assignment Application, or in the First LOI Response.²⁷ He also asserted that MEE had made additional false statements in the First LOI Response regarding the Station being the only station in Marion offering hourly news and weather.²⁸ Finally, Phelps noted that MEE had continued to operate the Station between February 12, 2021, and February 16, 2021, after the cancellation of the license, and before the reinstatement.²⁹

10. *Second LOI.* Having noted the inconsistencies between MEE’s statements in the First LOI Response and the Assignment Application, and having identified deficiencies in the First LOI Response, we sent a second letter of inquiry in February of 2021 (Second LOI).³⁰ The Second LOI directed MEE to provide the information, documentation, and supporting affidavit (or declaration) missing from the First LOI Response.³¹ It also noted that, based on the information provided in the First LOI Response, it appeared MEE had made a false statement about its board composition in the Assignment Application.³² The Second LOI directed MEE to explain “what basis it had” for stating in the Assignment Application that the MEE and MMF boards were identical.³³

11. MEE submitted a response (Second LOI Response), which included one document (its Initial Articles of Incorporation, which are dated April 29, 2019),³⁴ and a supporting declaration.³⁵ In its Second LOI Response, MEE stated that it was incorporated in 2019 by Craft, Sims, Coble and Tackett.³⁶

other charitable organization or charitable trust in the State of Ohio. *See State of Ohio v. Marion Midget Football*, Case No. 19-MS-000263, Assurance of Discontinuance (Franklin County Court C.P. 2019) (available at <https://fcdfcjs.co.franklin.oh.us/CaseInformationOnline/imageLinkProcessor.pdf?coords=yILz9Qf8L6iM0f3fDVRnIghmHHy0%2BTsKIggyI2EeKE%2Fq905PjnpIQxoSY7TsjShW7vR8o%2F6cQCbHe8n%2Flx4P4KevdnP9AKITQtVJkIhmnbp7w29JkKT0L92Ah24gDBY1M2rlzfnO7VDtxzYaF5h2maYkmMVEgxcCkDpSN4G%2Ffig%3D>) (Assurance). Spears is not a party to this proceeding. However, he has made email submissions to the Commission regarding the merits of the case.

²⁵ First LOI Response at para. 12.

²⁶ Response of Spencer Phelps, File No. BLL-20140616AEW (rec’d Feb. 17, 2021) (First LOI Reply).

²⁷ *Id.*

²⁸ *Id.* at paras. 2-4.

²⁹ *Id.* at paras. 2-3, 12.

³⁰ Letter from Albert Shuldiner, Chief, Audio Division, to Shawn Craft, The Marion Educ. Exchange, Application File No. 0000115702 (dated Feb. 26, 2021) (Second LOI).

³¹ Specifically, we directed MEE to identify all individuals who had served as officers and directors of MEE and state the position(s) each person held, and the dates on which the person held the position(s). Second LOI at 1. We also required MEE to submit copies of all corporate materials that related to, or included information regarding MEE’s board composition, or the appointment, resignation, or termination of MEE officers or directors. *Id.*

³² *Id.* at 2.

³³ *Id.*

³⁴ This document had previously been provided to us by Phelps. *See* Informal Objection at Exh. 6.

³⁵ Response of The Marion Educ. Exchange, Application File No. 0000115702 (dated Mar. 10, 2021) (Second LOI Response). As required, the declaration was made under penalty of perjury.

³⁶ *Id.* at para. 1.

According to MEE, at the time the Assignment Application was filed on May 9, 2019, “it was believed and thought that the [MMF] board members would be able to continue in the same capacity.”³⁷ The Second LOI Response listed Worcester, Maniaci, Stolarczyk, and Hazelett as “board members” but did not specify whether they were board members of MEE, MMF, or both.³⁸ MEE indicated that Worcester had set a resignation/retirement date for late May 2019.³⁹ It stated that, on May 29, 2019, MEE’s incorporators held a meeting (5-29-19 Meeting) at which they “decided to form a new board, with Craft serving as President, Sims as Secretary, and Coble and Tackett as board members.”⁴⁰ According to MEE, this decision was made based on the “health and age of board members who were coming over from [MMF].”⁴¹ Like the First LOI Response, the Second LOI Response did not discuss Compton at all.

12. Phelps again replied to the Second LOI Response, noting that MEE still had not included all of the information or documents requested.⁴² Phelps also highlighted inconsistencies in the information provided by MEE and questioned certain statements made by MEE in the Second LOI Response.⁴³

13. *Third LOI.* Because the Second LOI Response raised more questions than it answered, we sent a third and final letter of inquiry in March of 2021 (Third LOI).⁴⁴ The Third LOI again requested that MEE provide the missing information.⁴⁵ It also directed MEE to clarify statements made in the Second LOI Response.⁴⁶

³⁷ *Id.* at para. 4.

³⁸ *Id.* at para. 5.

³⁹ *Id.* at para. 4.

⁴⁰ *Id.* at para. 1.

⁴¹ *Id.*

⁴² Response to Reply of WWGH of Spencer Phelps, Application File No. 0000115702 (rec’d Mar. 11, 2021) (Second LOI Reply). Phelps noted that MEE had not clearly provided names and dates for each of its current and former board members and officers. *Id.* at 1, 2. Phelps also noted that MEE had not submitted any corporate documents or meeting minutes, as had been requested. *Id.* at 2. Phelps acknowledged that MEE indicated it did not have these materials but questioned the veracity of that statement given that Ohio law required MEE to prepare and keep such materials. *Id.*

⁴³ Specifically, Phelps questioned (1) why Compton was not discussed in the First and Second LOI Responses but was listed as an MEE Board member in the Assignment Application, *id.* at 2, (2) how Craft, Sims, Coble and Tackett could incorporate MEE on April 29, 2019, but not be MEE board members on May 9, 2019, *id.* at 2, (3) why the Initial Articles of Incorporation that MEE filed with the State of Ohio listed one set of names but the Assignment Application listed another completely different set of names, *id.* at 2-3, (4) how the MEE board could be changed if the only people at the 5-29-19 Meeting (Craft, Tackett, Coble and Sims) had no voting rights, *id.* at 6, 7, and (5) how MEE could claim that the Station was the last station in Marion, Ohio to provide local news and weather every hour. *Id.* at 8.

⁴⁴ Letter from Albert Shuldiner, Chief, Audio Division, to Shawn Craft, Marion Education Exchange, Application File No. 0000115702 (dated Mar. 30, 2021) (Third LOI).

⁴⁵ The Third LOI requested information regarding (1) MEE’s board composition since its incorporation in 2019, (2) the process by which MEE’s board was installed, and the process for changes to the board, (3) MEE officers since its incorporation, and any overlap of MEE and MMF officers, (4) the process by which MEE officers are installed, and the process by which changes to MEE officers are effected, and (5) the 5-29-19 Meeting held by Craft, Sims, Coble, Tackett. *Id.* at 3-4.

⁴⁶ The Third LOI required MEE to explain why it did not list Compton as an initial MEE board member in the Second LOI Response, why it was unable to provide any meeting minutes, emails or other documentation to support statements it made in its First and Second LOI Responses, and why it did not file a *pro forma* transfer of control application after the changes made to its board at the 5-29-19 Meeting. *Id.* at 5.

14. MEE submitted a response (Third LOI Response),⁴⁷ which purports to list all current and former MEE board members (and the specific dates on which each member served on the MEE board). MEE also submitted copies of bylaws, a document recording the appointment of MEE's initial board, and meeting minutes. MEE now indicates that Worcester sat on its board from April 29, 2019, until May 28, 2019, and Maniaci, Stolarczyk and Hazelett were on the board from April 29, 2019, to May 29, 2019.⁴⁸ MEE states that the initial board was "chosen by vote of the incorporators" and that, to MEE's knowledge, no person served on the MEE and MMF boards at the same time.⁴⁹ MEE notes that Worcester chose to resign/retire from MEE on May 28, 2019, and that Craft took over her position as President of MEE on that date as set forth in the MEE bylaws.⁵⁰ MEE states that Maniaci, Stolarczyk, and Hazelett were invited to participate in the 5-29-19 Meeting but did not because "their health was failing."⁵¹ MEE explains that they resigned from the MEE board effective May 29, 2019, because they "could not attend meetings on a regular basis."⁵² MEE reports that, at the 5-29-19 Meeting, the incorporators "voted on who would fill" the vacant board seats.⁵³ According to MEE, this was done as specified in its bylaws.⁵⁴ In terms of Compton, MEE explains that she "had passed away" prior to the 5-29-19 Meeting, but avoids specifying the date of Compton's death and does not address the Third LOI's question as to why MEE did not list Compton as an initial board member in the Second LOI Response.⁵⁵ MEE states that "her successor had not been chosen at that time" (apparently meaning after her death but prior to the 5-29-19 Meeting).⁵⁶ MEE indicates that, "when the transfer was being filed with the FCC [Compton's death] was pointed out to an FCC representative."⁵⁷ According to MEE, the Commission representative "explained that a certain percentage of board members had to change for this to be an issue as it would not [a]ffect the voting quorum."⁵⁸ MEE states that it did not file a *pro forma* transfer of control application regarding the board changes made at the 5-29-19 Meeting, "because we had hoped that some of the original board members might have been able to return."⁵⁹

15. Phelps replied to the Third LOI Response, accusing MEE of lying to the Commission about Compton,⁶⁰ and about the existence of certain corporate documents like bylaws and meeting minutes.⁶¹

16. *Legal Standard.* Section 309(k) of the Act provides that the Commission shall renew a station's license if it finds that during the previous license term: (a) the station served the public interest, convenience, and necessity; (b) there were no serious violations by the licensee of the Act or the Rules;

⁴⁷ Response of The Marion Education Exchange, Application File No. 0000115702 (rec'd April. 13 2021) (Third LOI Response).

⁴⁸ *Id.* at 1.

⁴⁹ *Id.*

⁵⁰ *Id.* at 1-2.

⁵¹ *Id.* at 1.

⁵² *Id.*

⁵³ *Id.* at 2.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* at 3.

⁶⁰ Third LOI Reply. at 3, Exh. 2.

⁶¹ *Id.* at 2, 6.

and (c) there have been no other violations by the licensee of the Act or Rules which, taken together, would constitute a pattern of abuse.⁶² If a licensee has not met these requirements, the Commission may deny the licensee's application to renew its station's license, or grant the application on such terms and conditions as are appropriate, including a short-term renewal.⁶³ Prior to denying a renewal application, the Commission must provide notice and opportunity for a hearing conducted in accordance with section 309(e) of the Act and consider whether any mitigating factors justify the imposition of lesser sanctions.⁶⁴

17. The Commission and the courts have recognized that “[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing.”⁶⁵ Full and clear disclosure of all material facts in every application (or response to a Commission request for information) is essential to the efficient administration of the Commission's licensing process, and the Commission's proper analysis of an application is critically dependent on the accuracy and completeness of information and data that only the applicant can provide.⁶⁶ Misrepresentation and lack of candor raise serious concerns as to the likelihood that the Commission can rely on an applicant, permittee, or licensee to be truthful.⁶⁷ Thus, misrepresentation and lack of candor constitute the types of serious violations of the Rules that may be grounds for denying a license renewal application.⁶⁸

18. Section 1.17(a)(1) provides that no person shall, in any written or oral statement of fact, “intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is being made from being incorrect or misleading.”⁶⁹ A misrepresentation (a false statement of fact or false certification made with intent to deceive the Commission) is within the scope of section 1.17.⁷⁰ Similarly, lack of candor (a concealment, evasion, or other failure to be fully informative, accompanied by an intent to deceive the Commission) is within the scope of the rule.⁷¹ A necessary and essential element of both misrepresentation and lack of candor is intent to deceive.⁷² Intent to deceive can be found where a licensee or applicant knowingly makes a false statement (or false certification), and can also be found

⁶² 47 U.S.C. § 309(k)(1).

⁶³ *Id.* § 309(k)(2).

⁶⁴ *Id.* § 309(k)(3).

⁶⁵ See *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000) (*Contemporary Media*); *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order and Policy Statement, 102 F.C.C.2d 1179, 1209-10, para. 58 (1986) (*Character Policy Statement*), *recon. granted in part and denied in part*, Memorandum Opinion and Order, 1 FCC Rcd 421 (1986) (subsequent history omitted).

⁶⁶ *Entertainment Media Trust*, Hearing Designation Order and Notice of Opportunity for Hearing, MB Docket No. 19-156, 34 FCC Rcd 4351, 4370, para. 58 (MB 2019).

⁶⁷ *Character Policy Statement*, 102 FCC 2d at 1209-11, paras. 54-61. The fundamental importance of truthfulness and candor on the part of applicants and licensees in their dealings with the Commission is well established. See *FCC v. WOKO, Inc.*, 329 U.S. 223 (1946) (*WOKO*); *Nick J. Chaconas*, Decision, Docket No. 18391, 28 FCC 2d 231 (1971); *Lebanon Valley Radio, Inc.*, Decision, Docket No. 15835, 35 FCC 2d 243 (Rev. Bd 1972).

⁶⁸ See, e.g., *WOKO*, 329 U.S. at 225-27; *Contemporary Media*, 214 F.3d at 196; *Schoenbohm v. FCC*, 204 F.3d 243, 247 (D.C. Cir. 2000); *Swan Creek Communications, Inc. v. FCC*, 39 F.3d 1217, 1221-24 (D.C. Cir. 1994) (*Swan Creek*); *Garden State Broad. Ltd. v. FCC*, 996 F.2d 386, 393-94 (D.C. Cir. 1993).

⁶⁹ *Id.* § 1.17(a)(1).

⁷⁰ See *Fox River Broad., Inc.*, Order, 93 FCC 2d 127, 129, para. 6 (1983) (*Fox River*); *San Francisco Unified Sch. Dist.*, Hearing Designation Order and Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 13326, 13334, nn.40-41 (2004) (subsequent history omitted); *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7435 (2004) (*Discussion Radio*).

⁷¹ See *Fox River*, 93 FCC 2d at 129, para. 6; *Discussion Radio*, 19 FCC Rcd at 7435, para. 7.

⁷² *Swan Creek*, 39 F.3d at 1222; *Discussion Radio*, 19 FCC Rcd at 7435, para. 7.

from motive or logical desire to deceive,⁷³ or when the surrounding circumstances clearly show the existence of intent to deceive.⁷⁴

19. Section 1.17(a)(2) further requires that no person may provide, in any written statement of fact, “material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”⁷⁵ Thus, even absent an intent to deceive, an incorrect statement regarding material factual information (or an omission of such information) may constitute an actionable violation of section 1.17 of the Rules if the statement (or omission) was made without a reasonable basis for believing that the material factual statement was correct and not misleading.⁷⁶

III. DISCUSSION

20. We find that the record in this proceeding raises substantial and material questions of fact, and thus a hearing is required.⁷⁷ Specifically, it appears MEE repeatedly failed to fully respond to Commission inquiries, contrary to section 73.1015 of the Rules, and deliberately failed to notify the Commission of a *pro forma* transfer of control that occurred in 2019 in violation of section 73.865 of the Rules. These apparent violations suggest an indifference to the Commission’s regulatory authority that is patently inconsistent with the responsibilities of a licensee. Furthermore, it appears MEE misrepresented its board composition in the Assignment Application, and made misrepresentations to or lacked candor with the Commission in its responses to the LOIs in violation of section 1.17 of the Rules.

A. Failure to Submit Full and Complete Responses to LOIs

21. We find there is a substantial and material question of fact as to whether MEE violated section 73.1015. Section 73.1015 of the Rules states: “The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license

⁷³ See *Discussion Radio*, 19 FCC Rcd 7435, para. 7; *Black Television Workshop of Los Angeles, Inc.*, Decision, 8 FCC Rcd 4192, 4198, n.41 (1993) (citing *California Public Broad. Forum v. FCC*, 752 F.2d 670, 679 (D.C. Cir. 1985)); *Joseph Bahr*, Memorandum Opinion and Order, 10 FCC Rcd 32, 33, para. 6 (Rev. Bd. 1994).

⁷⁴ *Leflore Broad. Co., Inc. v. FCC*, 636 F.2d 454, 462 (D.C. Cir. 1980); *American Int’l Dev., Inc.*, Memorandum Opinion and Order, BC Docket No. 78-40, 86 FCC 2d 808, 816, n.39 (1981), *aff’d sub nom. KXIV, Inc. v. FCC*, 704 F.2d 1294 (D.C. Cir. 1983).

⁷⁵ 47 CFR § 1.17(a)(2).

⁷⁶ See *Amendment of Section 1.17 of the Commission’s Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4017, para. 4 (2003) (stating that the revision to section 1.17 was intended to “prohibit incorrect statements or omissions that are the result of negligence, as well as an intent to deceive”), *recons. denied*, Memorandum Opinion and Order, 19 FCC Rcd 5790, *further recons. denied*, Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004).

⁷⁷ We note that Phelps made three other allegations related to MEE. We have reviewed these allegations but concluded that we need not address them further. Specifically, we find that Phelps failed to substantiate his claim that MEE should have but did not discuss whether two officers of MMF were serving as board members or officers of MEE. Second LOI Reply at 2. Likewise, Phelps has offered no evidence to support his claim that submissions made to the Commission by MEE and signed by Craft actually were authored by Spears. First LOI Reply at paras. 13-16. Third LOI Reply at 4-5. Finally, we find immaterial Phelps’ allegation that MEE has failed to comply with the laws of the State of Ohio related to non-profit corporations. Second LOI Reply at 2. It is well settled that the Commission does not consider unadjudicated misconduct in evaluating a licensee’s character qualifications. *Character Policy Statement*, 102 FCC 2d at 1205, para. 48 & n. 60. Further, even if these alleged violations had been adjudicated, Phelps has not shown that they involve the type of non-FCC misconduct relevant to the Commission’s evaluation of a licensee’s character qualifications. *Id.* at 1195, para. 34.

should be revoked, or to any other matter within the jurisdiction of the Commission.”⁷⁸ It is important that licensees (and applicants and permittees) fully respond to Commission requests for information, and do so in a timely manner. The failure to do so impedes the Commission’s ability to carry out its responsibilities.⁷⁹

22. The First LOI made a straightforward request for a list of all MEE board members and officers, present and past, and the dates each person served on the board or as an officer. Despite the clarity and simplicity of the request, and despite the fact that MEE clearly was in possession of this information, MEE submitted a list of only its current board members and officers, and specified only the year (as opposed to the month, day, and year) in which these individuals were installed as board members and/or officers. Further, MEE did not submit any documentation related to its board composition, or the installation and removal of its board members and officers. MEE also did not submit the supporting affidavit or declaration required by the First LOI.

23. The Second LOI again requested that MEE identify all individuals who had served as officers and directors of MEE since it was first incorporated.⁸⁰ It again specified that MEE “must also state the position or positions the person held, and the dates on which the person held those positions.”⁸¹ In addition, it offered the guidance that “if John Doe was an officer or director of MEE, [MEE] would list his name and then identify the position that he held and when he held it (*i.e.*, Vice President from January 1, 2019, to December 31, 2020).”⁸² Even though the Second LOI included this specific guidance and even though it noted that, based on the First LOI Response, it appeared MEE had made false statements to the Commission, MEE submitted a Second LOI Response that contained oblique and unclear language regarding its board composition.⁸³

24. The Third LOI directed MEE “to explain why Compton—who is listed as an MMF and MEE board member in the Assignment Application—is not included in its list” of board members who supported the changes made to the MEE board membership on May 29, 2019.⁸⁴ MEE also was instructed to “indicate whether Compton was an MEE board member on May 29, 2019.”⁸⁵ In the Third LOI Response, MEE stated that Compton “had passed away” prior to the 5-29-19 Meeting, but avoided specifying the date of Compton’s death and did not explain why MEE did not list Compton as an initial board member in the Second LOI Response.⁸⁶

25. There are substantial and material questions of fact regarding whether MEE submitted incomplete responses to the First, Second, and Third LOIs in willful and repeated violation of section 73.1015 of the Rules.⁸⁷ We therefore designate appropriate issues to determine whether MEE submitted incomplete responses to these three LOIs in willful and repeated violation of the Commission’s Rules.

⁷⁸ 47 CFR § 73.1015. Section 73.1015 applies to MEE pursuant to 47 CFR §§ 73.801 and 73.1001(c).

⁷⁹ See, e.g., *Kenai Educ. Media*, Order, 34 FCC Rcd 4865, 4869, para. 3 (2019); *Fox Television Stations, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7074, 7078, para. 10 (EB 2010).

⁸⁰ Second LOI at 1.

⁸¹ *Id.*

⁸² *Id.*

⁸³ The Second LOI Response also may have omitted relevant materials within MEE’s possession. Specifically, if the bylaws and meeting minutes submitted with the Third LOI are determined to be genuine, see *infra* para. 29, these materials should have accompanied the First LOI Response and/or the Second LOI Response.

⁸⁴ Third LOI at 5, and n.18.

⁸⁵ *Id.* at 5.

⁸⁶ Third LOI Response at 2.

⁸⁷ 47 CFR § 73.1015.

B. Misrepresentation and/or Lack of Candor

26. In addition, we find that there are substantial and material questions of fact regarding whether MEE violated section 1.17(a)(1) (or violated section 1.17(a)(2)) when it listed Worcester, Maniaci, Stolarczyk, and Hazelett as MEE's board members in the Assignment Application. We note that the MEE board members listed in the Assignment Application were not those listed in the First LOI Response or in the materials filed with the State of Ohio upon MEE's formation,⁸⁸ and MEE's explanation for this discrepancy has changed over time. Moreover, as noted in paragraph 29 below, questions have arisen regarding the authenticity of the materials that MEE submitted to support its claim that Worcester, Maniaci, Stolarczyk, and Hazelett were members of the MEE board in May 2019.

27. We further find that there are substantial and material questions of fact regarding whether MEE's listing of Compton as a board member in the Assignment Application constituted a misrepresentation in violation of section 1.17(a)(1), or a violation of section 1.17(a)(2). We note that, at the time MEE filed the Assignment Application, MEE appears to have been aware that Compton had passed away. We find that this raises questions as to whether MEE listed Compton as a board member in the Assignment Application in order to deceive the Commission.⁸⁹ It also suggests that, at a minimum, MEE may have lacked a reasonable basis for believing that its inclusion of Compton in the list of MEE board members was correct and not misleading. We note that, even if, as MEE claims, it pointed Compton's death out to an "FCC representative," MEE did not do so prior to filing the Assignment Application, nor has it adequately explained why the Assignment Application nevertheless listed Compton as a board member of MMF and MEE.⁹⁰

28. A substantial and material question of fact also exists regarding whether MEE lacked candor in violation of section 1.17(a)(1) (or violated section 1.17(a)(2)) when it failed to disclose Compton's death in the First and Second LOI Responses, and failed to divulge the date of Compton's death in the Third LOI Response.⁹¹ Given that MEE divulged the deaths of Maniaci and Hazelett in the First LOI Response and indicated they had passed away at some point after May 29, 2019,⁹² it appears MEE intentionally avoided mentioning Compton in the First LOI Response and did so again in the Second LOI Response. Further evidence of MEE's apparent intent to deceive the Commission can be found in the Third LOI Response. Therein, despite being instructed to address Compton's involvement with MEE, MEE only acknowledged Compton's passing, and avoided stating when Compton had passed away or acknowledging that Compton had never been involved with MEE.⁹³ We assume that MEE believed it was in its interest to mislead the Commission about Compton's death because, by revealing that Compton passed away in 2016, MEE would have made clear to the Bureau that it had engaged in misrepresentation and lack of candor in the Assignment Application and its LOI Responses.

29. Moreover, there is a substantial and material question of fact regarding whether MEE violated section 1.17(a)(1) by fabricating the materials it submitted with the Third LOI Response in a *post*

⁸⁸ See Ohio Secretary of State, *Business Details and Filings (Entity #: 4330904)*, <https://businesssearch.ohiosos.gov/> (last visited Feb. 2, 2022).

⁸⁹ The Assignment Application was filed on May 9, 2019. Compton—the grandmother of one of the Station's general managers—passed away in November 2016. See *supra*, para. 2 and note 24.

⁹⁰ Third LOI Response at 2 (discussing the 5-29-19 Meeting, and a conversation with an "FCC representative" which took place after that meeting). Even if this conversation had taken place before the Assignment Application was filed, MEE does not claim that the "FCC representative" ever advised it to list a dead person as a member of its board.

⁹¹ See 47 CFR § 73.1015 (providing that statements of fact made in response to Commission inquiries or correspondence are subject to section 1.17 of the Rules).

⁹² First LOI Response at para. 8.

⁹³ Third LOI Response at 2 (stating "Compton . . . had passed away prior to" the installment of new board members on May 29, 2019).

hoc attempt to provide evidence supporting the version of events set forth therein.⁹⁴ We find it suspicious that MEE did not submit these materials with its earlier LOI Responses, particularly the Second LOI Response (which did include some documentation). If, as we suspect, the bylaws and meeting minutes did not exist at the time MEE submitted its earlier LOI Responses, that would explain why MEE did not include them with those responses, and why, in the Second LOI Response, MEE stated it had provided all materials in its possession.⁹⁵ While MEE states in the Third LOI Response that it omitted these materials from its earlier responses because it was “not aware that the FCC wanted to see them,”⁹⁶ we find this explanation unconvincing. The first two LOIs clearly required such documents to be produced, and MEE never indicated any confusion over what was required in its responses to those LOIs.

30. Finally, there is a substantial and material question of fact regarding whether, as Phelps alleges,⁹⁷ MEE falsely stated that the Station is the “last station” in Marion, Ohio, providing local news and weather to listeners every hour.⁹⁸ Phelps states that, contrary to MEE’s statement, another three stations (WMRN(AM), WMRN-FM, and WYNT-FM) licensed to the community of Marion provide local news and weather every hour, and an additional two stations (WDIF-LP, and WZMO-LP) licensed to Marion provide “weather every hour and local programming throughout their broadcast days.”⁹⁹ MEE has offered no evidence demonstrating that Phelps’ statement is incorrect. However, we note that WYNT-FM actually is licensed to Caledonia, Ohio. The other four stations, though, are licensed to Marion, and, of those, at least one (WZMO-LP) provides hourly news and weather updates.¹⁰⁰ Accordingly, we conclude that it appears MEE knowingly provided false information to the Bureau in order to bolster its argument that the Station’s license should be renewed.¹⁰¹

31. We note that Phelps made one additional allegation that MEE had made a false statement, but find that Phelps did not raise a substantial and material question of fact regarding this allegation. Specifically, Phelps alleged that MEE made a false statement in the Transfer Application regarding why Worcester resigned from the MEE board.¹⁰² MEE stated that Worcester’s resignation was voluntary,¹⁰³ but Phelps alleged it was not, citing an Assurance of Discontinuance that Worcester (and Spears and MMF) entered into with the Ohio Attorney General.¹⁰⁴ Because the Assurance of Discontinuance was related to Worcester’s involvement with MMF, not MEE, we find it is not probative of whether Worcester

⁹⁴ Phelps alleges that MEE created the materials submitted with the Third LOI Response only after receiving the Third LOI, and did so in order to back up the claims it makes in the Third LOI Response regarding the initial MEE board and the replacement of those initial board members on May 29, 2019. Third LOI Reply at 2.

⁹⁵ We note that, if it is determined that the materials were created on the dates indicated by MEE, then it appears MEE falsely stated—in the Second LOI Response—that it had provided all materials in its possession in violation of either section 1.17(a)(1) or 1.17(a)(2).

⁹⁶ Third LOI Response at 3.

⁹⁷ First LOI Reply at paras. 2-4; Second LOI Reply at 8; Third LOI Reply at 6.

⁹⁸ First LOI Response at para. 12.

⁹⁹ Second LOI Reply at 8.

¹⁰⁰ WZMO 104.7 Marion Community Radio, Program Schedule, <http://wzmofm.com/program-schedule/> (last visited Feb. 22, 2022).

¹⁰¹ We note that this information was not “material factual information” and thus MEE’s provision of this incorrect information would not fall within the scope of section 1.17 of the Rules, which covers only the provision of incorrect *material* factual information. However, as noted *infra* para. 32, it is probative of whether MEE is capable of honesty in future dealings with the Commission.

¹⁰² Informal Objection at 4.

¹⁰³ Transfer Application, Section I (General Information), Item 4, and Exh. 5.

¹⁰⁴ Informal Objection at 4 (arguing that Worcester “was ordered by the State of Ohio to leave the organization” and citing Assurance).

voluntarily resigned from the MEE board. Phelps has submitted no other information to support his allegation that Worcester's resignation from the MEE board was not voluntary. Therefore, we find he has not raised a substantial and material question of fact that requires further investigation.

32. To summarize, MEE appears to have misrepresented its board composition in the Assignment Application. Then, when we inquired about its board composition, MEE offered different and, at times inconsistent, explanations. This, in turn, reinforced our initial concern that MEE knowingly submitted false information in the Assignment Application, and engendered additional concerns that, in an attempt to cover up its original misrepresentation, MEE made additional misrepresentations to, or lacked candor with, the Commission in the LOI Responses. Our concerns about whether MEE is capable of honesty in future dealings with the Commission are further bolstered by MEE's apparent false statement regarding its programming being unique in its community of license.

C. Failure to File Required Form

33. We find that a question of fact exists regarding whether MEE intentionally chose not to notify the Commission that a *pro forma* transfer of control of MEE occurred in May 2019. If, as MEE asserts in the LOI Responses, its entire board turned over between May 28, and May 29, 2019, then MEE should have filed a *pro forma* transfer of control application within 30 days of this event.¹⁰⁵ It did not do so despite the fact that it was aware of the need to file such an application based both on the conversation with an "FCC representative" that it mentions in the Third LOI Response,¹⁰⁶ and based on the fact that it filed an unnecessary *pro forma* transfer of control application when Worcester allegedly resigned as President and board member on May 28, 2019, and Craft allegedly took her place as President.¹⁰⁷ MEE admits as much in the Third LOI Response.¹⁰⁸ Thus, a question of fact exists regarding whether MEE intentionally chose not to notify the Commission. We find that this question of fact is both substantial and material, and thus should be examined in the hearing proceeding. We reach this conclusion because, if MEE intentionally ignored the notice requirement set forth in section 73.865, that would demonstrate a propensity for ignoring Commission rules and requirements, and could render serious a rule violation that might otherwise be considered minor.

D. Unauthorized Operations

34. We reject Phelps' argument that MEE violated section 301 of the Act, which prohibits any person from transmitting signals by radio "except under and in accordance with this chapter and with a license . . . granted under the provisions of this chapter."¹⁰⁹ Phelps argues that MEE violated section 301 of the Act because it lacked authority to operate the Station between February 12, 2021 (when we dismissed the Renewal Application), and February 16, 2021 (when we returned the Renewal Application to pending status), but kept the Station on the air.¹¹⁰ However, Phelps ignores section 307(c)(3) of the Act, which applies to renewal applications and provides that, "[p]ending any administrative or judicial hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405 or section 402 of [the Act], the Commission shall continue such license in

¹⁰⁵ 47 CFR § 73.865(d).

¹⁰⁶ Third LOI Response at 2 ("When the transfer was being filed with the FCC[,] [Compton's death] was pointed out to an FCC representative. The FCC representative explained that a certain percentage of board members had to change for this to be an issue as it would not effect [sic] the voting quorum.").

¹⁰⁷ File No. BTCL-20190528AAN.

¹⁰⁸ MEE indicates that a *pro forma* transfer of control application "was not filed, because we had hoped that some of the original board members might have been able to return" rather than because MEE was unaware of the need to file such an application. Third LOI Response at 3.

¹⁰⁹ 47 U.S.C. § 301.

¹¹⁰ First LOI Reply at paras. 2-3, 12.

effect.”¹¹¹ Because there had been no final decision regarding the Renewal Application, the Station’s license continued in effect, and no unauthorized operation occurred between February 12, and 16, 2021.

IV. PROCEDURES FOR HEARING

35. *Restricted Proceeding.* This hearing proceeding is a “restricted” proceeding pursuant to section 1.1208 of the Rules and thus *ex parte* presentations to or from Commission decision-making personnel, including the presiding officer and her staff and Bureau staff, are prohibited, except as otherwise provided in the Rules.¹¹²

36. *Electronic Filing of Documents.* All pleadings in this proceeding, including written submissions such as letters, discovery requests and objections and written responses thereto, excluding confidential and/or other protected material, must be filed in MB Docket No. 22-76 using ECFS.¹¹³ ECFS shall also act as the repository for records of actions taken in this proceeding, excluding confidential and/or other protected material, by the presiding officer and the Commission. Documents responsive to any party’s requests for production of documents should not be filed on ECFS. Such responsive documents shall be served directly on counsel for the party requesting the documents and produced either in hard copy or in electronic form (*e.g.*, hard drive, thumb drive) with files named in such a way as it is clear how the documents are organized.

37. *Case Caption.* The caption of any pleading filed in this proceeding, as well as all letters, documents, or other written submissions including discovery requests and objections and responses thereto, shall indicate whether it is to be acted upon by the Commission or the presiding officer.¹¹⁴ The presiding officer shall be identified by name.

38. *Service.* Electronic service on the Enforcement Bureau shall be made using the following email address: EBHearings@fcc.gov.

V. ORDERING CLAUSES

39. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 309(e), and 309(k) of the Communications Act of 1934, as amended,¹¹⁵ and section 1.221(a) of the Commission’s Rules,¹¹⁶ the captioned application of The Marion Education Exchange for renewal of license of station WWGH-LP, Marion, Ohio, IS DESIGNATED FOR HEARING in a proceeding before the FCC Administrative Law Judge, at a time and place to be specified in a subsequent order, upon the following issues:

- (a) To determine whether The Marion Education Exchange violated section 73.1015 of the Commission’s rules by failing to fully and completely respond to Commission letters of inquiry.
- (b) To determine whether The Marion Education Exchange violated section 1.17 of the Commission’s rules by making misrepresentations to, and/or lacking candor with, the Commission both in the application for consent to assignment of the license of WWGH-LP, Marion, Ohio, and in its responses to letters of inquiry sent by the Media Bureau on December 8, 2020, February 17, 2021, and March 30, 2021.

¹¹¹ 47 U.S.C. § 307(c)(3).

¹¹² *Id.* § 1.1208 (“Proceedings in which *ex parte* presentations are prohibited, referred to as ‘restricted’ proceedings, include . . . all proceedings that have been designated for hearing . . .”). *See also id.* §§ 1.1202(b) (describing what constitutes an *ex parte* presentation), 1.1204 (exceptions).

¹¹³ *Id.* § 1.51.

¹¹⁴ *Id.* § 1.209.

¹¹⁵ 47 U.S.C. § 309(e), (k).

¹¹⁶ 47 CFR § 1.221(a).

- (c) To determine whether The Marion Education Exchange violated section 73.865 of the Commission's rules by failing to notify the Commission of the *pro forma* transfer of control that appears to have occurred on May 29, 2019, and, if so, whether it did so intentionally.
- (d) To determine, in light of the evidence adduced pursuant to the specified issues, if the captioned application for renewal of license for station WWGH-LP should be granted.

40. IT IS FURTHER ORDERED that, in addition to resolving the foregoing issues, the hearing shall determine, pursuant to section 503(b)(1) of the Communications Act of 1934, as amended,¹¹⁷ whether an ORDER OF FORFEITURE should be issued against The Marion Education Exchange in an amount not to exceed the statutory limit of \$55,052 for each violation (or each day of a continuing violation) of each Commission rule section above for which the statute of limitations in section 503(b)(6) of the Communications Act of 1934, as amended,¹¹⁸ has not lapsed.

41. IT IS FURTHER ORDERED, that, in connection with the possible forfeiture liability noted above, this document constitutes notice pursuant to section 503(b)(4) of the Communications Act of 1934, as amended.¹¹⁹

42. IT IS FURTHER ORDERED that, pursuant to sections 309(e), 309(k), 312(c) of the Communications Act of 1934, as amended, and section 1.221(c) of the Commission's Rules,¹²⁰ in order to avail itself of the opportunity to be heard and the right to present evidence at a hearing in this proceeding, The Marion Education Exchange, itself or by its attorney, SHALL FILE with the Commission, within 20 calendar days of the mailing of this *Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture*, a written appearance stating its intention to appear at the hearing and present evidence on the issues specified above.

43. IT IS FURTHER ORDERED, that pursuant to section 1.221(c) of the Commission's Rules,¹²¹ if The Marion Education Exchange fails to file a written appearance within the time specified above, or has not filed prior to expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the pending application will be dismissed with prejudice for failure to prosecute.

44. IT IS FURTHER ORDERED that, pursuant to section 1.221(d) of the Commission's rules,¹²² the Chief, Enforcement Bureau, IS MADE A PARTY to this proceeding without the need to file a written appearance.

45. IT IS FURTHER ORDERED that, in accordance with section 309(e) of the Communications Act of 1934, as amended, and section 1.254 of the Commission's Rules,¹²³ the burden of proceeding with the introduction of evidence and the burden of proof with respect to the issues listed in paragraph 39 SHALL BE upon The Marion Education Exchange.

46. IT IS FURTHER ORDERED that a copy of each document filed in this proceeding subsequent to the date of adoption of this *Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture* SHALL BE SERVED on the counsel of record appearing

¹¹⁷ 47 U.S.C. § 503(b).

¹¹⁸ *Id.* § 503(b)(6)

¹¹⁹ *Id.* § 503(b)(4).

¹²⁰ *Id.* § 312(c); 47 CFR § 1.221(c).

¹²¹ 47 CFR § 1.221(c).

¹²² *Id.* § 1.221(d).

¹²³ 47 U.S.C. § 309(e); 47 CFR § 1.254.

on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations & Hearings Division of the Enforcement Bureau at (202) 418-1420. Such service copy SHALL BE ADDRESSED to the named counsel of record, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.

47. IT IS FURTHER ORDERED, that The Marion Education Exchange, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 73.3594 of the Commission's Rules,¹²⁴ SHALL GIVE NOTICE of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as mandated by section 73.3594 of the Commission's Rules.¹²⁵

48. IT IS FURTHER ORDERED that a copy of this *Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture* shall be sent via Certified Mail, Return Receipt Requested, and by regular first-class mail to The Marion Education Exchange, PO Box 43302, Marion, OH 43302, and Shawn Craft, 1366 Montego Drive, Marion, OH 43302.

49. IT IS FURTHER ORDERED that the Secretary of the Commission shall cause to have this *Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture*, or a summary thereof published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Holly Saurer
Chief, Media Bureau

¹²⁴ 47 U.S.C. § 311(a)(2); 47 CFR § 73.3594.

¹²⁵ 47 CFR § 73.3594(b).