

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

In re Application of
Centro Cristiano de Vida Eterna
For Renewal of License for
FM Translator Station W252AW
Chicago, Illinois
NAL/Acct. No. MB-202241410009
FRN: 0017010596
Facility ID No. 149046
Application File No. 0000120118

MEMORANDUM OPINION AND ORDER

Adopted: April 5, 2022

Released: April 5, 2022

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. We have before us the application (Application), filed by Centro Cristiano de Vida Eterna (Licensee) to renew its license for FM translator station W252AW, Chicago, Illinois (Translator).1 Also before us is an Informal Objection (Objection) filed by Albert David (David) and responsive pleadings.2 We also have before us a response filed by Licensee to a letter of inquiry issued by the Media Bureau (Bureau) and responsive pleadings.3 For the reasons discussed below, we grant in part and otherwise deny the Objection, and adopt the attached Consent Decree, which resolves issues raised during our review of the Application and the responsive pleadings. As set forth in the Consent Decree, we grant the Application conditioned on the Licensee fully and timely paying the civil penalty required by the Consent

1 Application File No. 0000120118 (filed Aug. 3, 2020).

2 Objection, Pleading File No. 0000125018 (filed Oct. 23, 2020); Opposition, Pleading File No. 0000129167 (filed Dec. 1, 2020); Reply, Pleading File No. 0000129650 (Dec. 14, 2020); Supplement 1, Pleading File No. 0000138042 (filed Mar. 7, 2021); Supplement 2; Pleading File No. 0000138202 (filed Mar. 9, 2021); Comments of Larry Langford, Pleading File Nos. 0000138726 and 0000138872 (filed Mar. 11, 2021); Supplement 3; Pleading File No. 0000139394 (filed Mar. 14, 2021); Supplement 4, Pleading File No. 0000139627 (filed Mar. 15, 2021); Supplement 5, Pleading File No. 0000140872 (filed Mar. 23, 2021); Second Opposition, Pleading File No. 0000144491 (filed May 4, 2021); Second Reply, Pleading File No. 0000145002 (filed May 11, 2021); Supplement 6, Pleading File No. 0000145608 (filed May 14, 2021), Supplement 7, Pleading File No. 0000146404 (filed May 20, 2021).

3 See Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, FCC, to Centro Cristiano de Vida Eterna (sent by electronic mail, Nov. 9, 2021, 7:50 AM) (LOI); Email from Dan J. Alpert, Attorney, to Alexander T. Sanjenis, Attorney, Audio Division, MB, FCC, (sent by electronic mail, Dec. 9, 2021, 11:54 PM) (LOI Response). On December 17, 2021, David filed Comments Regarding Centro Cristiano de Vida Eterna's Responses to the FCC's Letter of Inquiry, Pleading File No. 0000177403 (filed Dec. 17, 2021) (Reply to LOI Response). Also on December 17, 2021, Licensee filed a Supplemental Response to Commission Letter of Inquiry. See Email from Dan J. Alpert, Attorney, to Alexander T. Sanjenis, Attorney, Audio Division, MB, FCC, (sent by electronic mail, Dec. 17, 2021) (Supplemental LOI Response). On December 20, 2021, David filed Comments Regarding Centro Cristiano de Vida Eterna's Supplemental Response to the FCC's Letter of Inquiry. See Email from Albert David, to Alexander T. Sanjenis, Attorney, Audio Division, MB, FCC, Comments to Supplemental LOI Response (sent by electronic mail, Dec. 20, 2021) (Reply to Supplemental LOI Response).

Decree, and provided there are no issues other than those resolved by the Consent Decree that would preclude grant of the Application.⁴

II. BACKGROUND

2. The Translator rebroadcasts WRL(AM), Cicero, Illinois as its primary station. Until 2021, WRL(AM) operated on a part-time basis, sharing airtime with WCEV(AM), Cicero, Illinois.⁵ Licensee filed the Application on August 3, 2020.⁶ David filed the Objection on October 23, 2020, in which he argued that the Application should be denied because the Translator had not been constructed. David and Licensee subsequently filed a series of related responsive pleadings from December 1, 2020, to May 20, 2021. In his responsive pleadings, David further alleged that Licensee failed to timely obtain special temporary authority from the Commission to remain silent for more than 30 days, that Translator does not comply with station identification requirements, and that the Translator operates when WRL is not scheduled to broadcast. The Bureau issued the LOI to the Licensee on November 9, 2021, to investigate potential violations of sections 74.1263(b), 74.1283(c)(1), and 74.1283(c)(2) of the Commission's rules (Rules) related to the operation of a translator station while the primary station is off the air, and station identification requirements.

3. *Procedural Arguments.* In its Opposition, Licensee argues that the Objection should be dismissed because it was not served on Licensee.⁷ In his Reply, David states that he filed an informal objection, not a petition to deny, and therefore was not required to serve the Licensee by mail.⁸ In the Second Opposition, Licensee argues that David's allegations are speculative, contradictory and not under penalty of perjury.⁹ In his Second Reply, David maintains that the Supplements were not required to be submitted under penalty of perjury because they are an extension of an informal objection, not petition to deny, however, they were submitted with certifications required by LMS.¹⁰

4. *Construction of Facilities and Translator Silence 2017-2019.* In his Objection, David argues that the Application should be denied based on pleadings filed by Larry Langford against Licensee's prior applications, which allege that the Translator was never constructed at its original site and that Licensee falsely claimed it was silent due to transmitter issues, when it was instead due to unconstructed facilities.¹¹

5. In its Opposition, Licensee argues the Objection should be denied because David claims Licensee failed to address Langford's allegations of unconstructed facilities, yet Licensee addressed them in a response to a letter of inquiry issued by the Bureau, after which Bureau staff concluded the inquiry and reissued the license.¹²

⁴ Consent Decree, para. 11.

⁵ See Application File No. BL-19790802AE (filed October 15, 1979); Application File No. BP-20210303AAD (filed March 3, 2021).

⁶ See 47 CFR § 73.3539(a) (applications for renewal of license for broadcast stations must be filed "not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed."). Because August 1, 2020, was a Saturday, and August 2, 2020, was a Sunday, August 3, 2020 was the filing deadline for the Application.

⁷ Opposition at 1.

⁸ Reply at 1.

⁹ Second Opposition at 3, 7-8.

¹⁰ Second Reply . at 2

¹¹ Objection at 1.

¹² Opposition at 2-8, Attach. 1-2.

6. In his Reply, David concedes that his Objection is based only on the public record and Licensee's Response is not publicly available, therefore, he has no objection to granting the Application if the Bureau determined that Licensee did not make false claims with regard to the construction of the Translator.¹³

7. *Translator Silence and Resumption 2020-2021.* In Supplement 1, David argues that the Translator's license automatically expired under section 312(g) of the Communications Act of 1934 (Act), as amended,¹⁴ because it did not resume operations prior to March 7, 2021 at 12 a.m.¹⁵ David also states that when he travelled to the transmitter area on March 3, 2021, March 4, 2021, twice on March 6, 2021, and March 7, 2021, the Translator was silent.¹⁶ In Supplement 2, David maintains that the Translator was back on the air on March 9, 2021,¹⁷ and therefore, if it had been on the air when he listened from March 3, 2021 through March 7, 2021, he would have heard the broadcast.¹⁸ He concludes that the Translator did not return to air prior to one year of silence and therefore its license has expired under 312(g).¹⁹

8. In his Comments, Langford acknowledges that he has filed pleadings against applications related to the Translator in the past but maintains that he must clarify the record because he heard the Translator broadcasting on March 5, 2021 and March 6, 2021 and includes the locations and times he listened to the broadcast.²⁰

9. In Supplement 3, David argues that Langford's Comments present a conflict of interest because Langford is a technician who has worked with Licensee in the past, and may have an ongoing relationship with the Translator.²¹ In Supplement 5, David states that while he cannot prove that the Translator did not resume prior to March 7, 2021 at 12 a.m., based on inaccuracies and falsehoods in filings, he believes the Translator did not return to air.²²

10. In its Second Opposition, Licensee counters that: 1) the Translator was granted STA to resume operations at a lower output on March 4, 2021, and therefore resumed operations on March 5, 2021, avoiding 312(g) expiration;²³ 2) the only times David reports the Translator as silent were prior to its return on March 5, 2021 and during a brief technical issue on the evening of March 6, 2021, after which the Translator resumed at 11:20 a.m. on March 7, 2021;²⁴ and 3) under section 74.1262(a), the Translator is not required to adhere to a regular operating schedule so the March 6, 2021 evening interruption of service should not prevent grant of the Application.²⁵

¹³ Reply. at 2.

¹⁴ 47 U.S.C. § 312(g).

¹⁵ Supplement 1 at 1.

¹⁶ *Id.* at 1-2.

¹⁷ Supplement 2 at 1.

¹⁸ *Id.* at 1.

¹⁹ *Id.* at 2.

²⁰ Comments at 1.

²¹ Supplement 3 at 2.

²² Supplement 5 at 1.

²³ Second Opposition at 1, 4-5.

²⁴ *Id.* at 1-3.

²⁵ *Id.* at 6.

11. *Station Identification.* In Supplement 3, David alleges that the Translator did not identify its call sign during a one-hour period.²⁶ In Supplement 5, David acknowledges that the Translator need not identify its call sign if it is operating pursuant to section 74.1283(c)(1) instead of 74.1283(c)(2).²⁷

12. In its Second Opposition, Licensee counters that David has made this allegation moot.²⁸ In its LOI Response, Licensee states that it conforms to the station identification requirements under section 73.1283(c)(2)(i).²⁹

13. *Broadcasting While Primary Station is Off the Air.* In Supplement 3, David maintains that Licensee's resumption of operations notice, explaining why David did not hear the Translator broadcasts, contains the following inaccuracies: 1) the primary station's weekend broadcast schedule is incorrect, and moreover, Licensee claims it resumed operation on March 7, 2021 at 11:20 a.m. but the primary station was not on the air at that time;³⁰ and 2) the Translator does not suspend programming while its primary station is off the air because he listened to the Translator broadcasting on at least two occasions while the primary station was off the air.³¹ In Supplement 4, David reasserts that the Translator is continuing to operate while the primary station is off the air, in violation of section 74.1263(b).³²

14. In its Second Opposition, Licensee argues that David's allegations that the Translator is broadcasting or originating programming while its primary station is off the air are false because operations are suspended while the primary station is off the air and the Translator has no program origination capability.³³

15. In his Second Reply, David alleges that Licensee's claims that it was not broadcasting while the primary station was off the air are false because he heard its broadcast when the primary was not scheduled to air.³⁴ In Supplements 6 and 7, David submits an affidavit under penalty of perjury and a link to a recording in support of his allegations that the Translator was broadcasting while its primary station was off the air on March 14, 2021.³⁵

16. In the LOI Response, Licensee admits that it inadvertently transmitted an unmodulated carrier when the primary station was off the air.³⁶ Licensee also states that during periods of storm activity, the Translator would unmute or remain on the air due to occasional bursts of static.³⁷ Licensee also maintains that: 1) no other primary station was ever broadcast during the requested timeframe, or at any time since then;³⁸ and 2) it has never originated programming.³⁹

²⁶ Supplement 3 at 2.

²⁷ Supplement 5 at 1.

²⁸ Second Opposition at 5.

²⁹ LOI Response at 2.

³⁰ Supplement 3 at 1.

³¹ *Id.* at 2.

³² Supplement 4 at 1.

³³ Second Opposition at 6-7.

³⁴ Second Reply at 1-2.

³⁵ Supplement 6.

³⁶ LOI Response at 1.

³⁷ *Id.*

³⁸ *Id.* at 2.

³⁹ *Id.*

17. In his Reply to LOI Response, David counters that: 1) on March 9, 2021 and March 13, 2021, he observed the Translator broadcasting while the primary station was off the air, and heard programming, not static, as Licensee claimed in the LOI Response;⁴⁰ and 2) WRLI was identified in the programming he heard on March 14, 2021, despite the primary being off the air.⁴¹

18. In its Supplemental LOI Response, Licensee states that it worked to identify the discrepancies raised by David and explains that: 1) due to over the air signal reception issues, the Translator was set up to receive the WRLI programming via an internet feed;⁴² 2) when WRLI is on the air, its internet feed is identical to its aired content, however, during the time David observed in March, WRLI was off the air so WRLI's internet-only content was being automatically rebroadcast on the Translator;⁴³ 3) the internet feed continued through April 9, 2021 when a new receiver capable of receiving over the air content was installed, however, in September of 2021, WRLI began broadcasting 24 hours a day and resumed use of the internet feed;⁴⁴ David is correct that he observed the Translator broadcasting WRLI programming while WRLI was off the air, however, it was not original programming nor produced in any way by the Translator.⁴⁵

19. *Truthful and Accurate Statements.* In his Objection, David maintains that because there was nothing in the record to refute allegations that the Translator facilities were never constructed, Licensee has a history of making false claims and the Application should be denied.⁴⁶ In his Reply, David argues that Licensee's disregard for the Rules is further evidenced by the fact that although the Translator went silent on March 6, 2020, Licensee failed to file an application for special temporary authority (STA) to remain silent until July 6, 2020.⁴⁷ In Supplement 5, David reiterates that the discrepancies in the resumption of operations cannot be explained as inadvertent mistake because the timeline is critical to determine whether the Translator resumed operations prior to expiration under 312(g), and whether the Translator is broadcasting while the primary station is off the air.⁴⁸ In his Second Reply, David states that Licensee has motive to mislead the Commission to avoid license expiration and violations of the Rules;⁴⁹ and reiterates that Licensee acknowledged that David accurately listed the primary station's schedule, making its claim of resumption on March 7, 2021 at 11:20 a.m. false because the primary station was off the air.⁵⁰ In his Reply to LOI Response, David notes that Licensee still has not confirmed whether its claimed resumption on March 7, 2021, was consistent with the primary station's schedule;⁵¹ and 2) because Licensee has made multiple false statements in its LOI Response and previous filings, dismissal of the Application is appropriate.⁵²

⁴⁰ Reply to LOI Response at 1.

⁴¹ *Id.*

⁴² Supplemental LOI Response at 1.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Objection at 1.

⁴⁷ Reply at 2.

⁴⁸ Supplement 5 at 1-2.

⁴⁹ Second Reply at 3.

⁵⁰ *Id.* at 1.

⁵¹ Reply to LOI Response at 1.

⁵² *Id.*

20. Lastly, in his Reply to Supplemental LOI Response, David argues that: 1) Licensee only admitted to broadcasting while the primary station was off the air after presentation of irrefutable evidence;⁵³ 2) in both the LOI Response and prior filings, Licensee repeatedly made false claims;⁵⁴ 3) Licensee must have been aware the Translator was rebroadcasting while the primary was off the air because its claimed resumption on March 7, 2021 was outside the WRLD operating schedule, which it confirmed;⁵⁵ and 4) since Licensee made multiple provable false statements to the Commission, dismissal of the Application is appropriate.⁵⁶

III. DISCUSSION

A. Procedural Issues.

21. We reject Licensee's argument that the Objection should be dismissed because it was not served on Licensee, citing section 1.106(f) of the Rules outlining requirements for petitions for reconsideration.⁵⁷ Licensee confuses the requirements applicable to petitions for reconsideration and applications for review with those governing informal objections.⁵⁸ Section 73.3587 of the Rules requires that informal objections be made in writing, signed, and submitted prior to any action by the Commission on the challenged application.⁵⁹ The Objection satisfies these requirements.⁶⁰ We also reject Licensee's attempt to challenge certain of David's pleadings that were not signed under penalty of perjury.⁶¹ Because David's pleadings were corroborated by a video recording that supported his claims, we find David's pleadings reliable.⁶²

B. Substantive Issues.

22. *Construction of Facilities and Translator Silence 2017-2019.* We reject David's allegations that the Translator was never constructed, never resumed operations, and falsely claimed it was silent due to transmitter issues, in violation of sections 312(g) and section 1.17 of the Rules.⁶³ In 2019, Bureau staff sent Licensee an Operational Status Inquiry Letter (OSI) in response to pleadings alleging that the Translator's facilities were never constructed and the Translator was silent.⁶⁴ After

⁵³ Reply to Supplemental LOI Response at 1.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ 47 CFR § 1.106(f).

⁵⁸ Compare 47 U.S.C. §§ 405(a) and 47 CFR §§ 1.106, 1.115, 73.3584 with 47 CFR § 73.3587. None of the decisions Licensee cites concern informal objections. See Opposition at 1.

⁵⁹ 47 CFR § 73.3587.

⁶⁰ Moreover, in cases where an informal objection is not served on a party, the Bureau's practice is to provide the party with a copy and afford them the opportunity to respond.

⁶¹ Second Opposition at 3, n. 4.

⁶² *Rock'n'Roll Preservation Society*, Letter Order, 23 FCC Rcd 16630, 16638 (MB 2008), *aff'd*, *Applications for Review of Decisions Regarding Six Applications for New Low Power FM Stations*, Memorandum Opinion and Order, 28 FCC Rcd 13390, 13399-13401 (2013) (hearsay statements made in an unsworn declaration were unreliable without corroborating evidence).

⁶³ 47 U.S.C. § 312(g); 47 CFR § 1.17.

⁶⁴ See *Letter from Victoria McCauley, Attorney, Audio Division, MB, FCC, to Centro Cristiano de Vida Eterna* (sent Apr. 18, 2019); see also pleadings attached to Application File No. BPFT-20170908AAN (filed Dec. 11, 2017,

review of Licensee's OSI Response and related documentation, Bureau staff concluded the inquiry and reissued a corrected license.⁶⁵ Accordingly, we find that Licensee did not make false claims regarding the construction of the Translator's facilities.

23. *Translator Silence and Resumption 2020-2021.* We also reject the assertion that the Translator failed to resume operations prior to one year of silence, resulting in expiration under section 312(g) of the Act. The Translator went silent the evening of March 6, 2020, and it resumed operations on March 5, 2021, after grant of STA to operate at lower power.⁶⁶ Licensee maintains that it resumed operations on March 5, 2021 and only temporarily went silent due to a brief technical issue on the evening of March 6, 2021, after which the Translator resumed on March 7, 2021.⁶⁷ Moreover, in his Comments in support of the Application, Langford stated that he observed the Translator broadcasting on the evening of March 5, 2021, and the morning of March 6, 2021.⁶⁸ Lastly, David ultimately concedes that he cannot offer any proof that the Translator did not resume, as it claims, prior to March 7, 2021.⁶⁹ As such, we find that the Translator resumed operations prior to one year of silence and therefore did not expire pursuant to section 312(g) of the Act.

24. *Station Identification.* We also reject David's allegation that Licensee failed to adhere to station identification requirements, in violation of sections 74.1283(c)(1) or 74.1283(c)(2) of the Rules.⁷⁰ In the LOI Response, under penalty of perjury, Licensee confirmed that it conforms with the station identification requirements under section 73.1283(c)(2)(i) using International Morse Code.⁷¹ Moreover, David does not submit any evidence to refute Licensee's assertion that it complies with section 73.1283(c)(2)(i).

25. *Broadcasting While Primary Station is Off the Air.* We find that, as alleged in the Objection and related pleadings,⁷² the Translator was on the air, radiating during extended periods of time, while the primary station was off the air, in violation of section 74.1263(b) of the Rules.⁷³ Licensee states in its LOI Response that the Translator transmitted an unmodulated carrier when the primary station

supplemented Dec. 13, 2017 and Mar. 13, 2018) and Application File No. BLSTA-20171212ACW (filed Dec. 14, 2017).

⁶⁵ See *Email from Dan J. Alpert, Attorney, to Victoria McCauley, Attorney, Audio Division, MB, FCC*, (sent by electronic mail, Jun. 7, 2019, 12:03 PM); *Email from Victoria McCauley, Attorney, Audio Division, MB, FCC, to Dan J. Alpert, Attorney* (sent by electronic mail, Jun. 20, 2019, 4:12 PM).

⁶⁶ Request for Silent STA, Application File No. BLSTA-20200706AAR (filed Jul. 8, 2020); Application File No. BSTA-20210226AAJ (filed Mar. 1, 2021) (authorizing the Translator to resume operations at a lower power and reminding Licensee that the Translator license will expire if operations do not resume by March 6, 2021).

⁶⁷ Second Opposition. at 1-3.

⁶⁸ Comments at 1. We find Langford's Comments persuasive because although he has worked in some capacity as a technician for the Translator, David has failed to show that he has a current relationship with the Translator.

⁶⁹ Supplement 5 at 1.

⁷⁰ 47 CFR §§ 74.1283(c)(1), 74.1283(c)(2) (requiring translator station identification using one of the two methods listed).

⁷¹ LOI Response at 1.

⁷² Supplement 3 at 1-2; Supplement 4 at 1; Second Reply at 1-2; Supplement 6; Supplement 7; Reply to LOI Response at 1.

⁷³ 47 CFR § 74.1263(b) (providing that “. . . FM Translator station[s] rebroadcasting the signal of an AM, FM or LPFM primary station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted.”).

was off the air,⁷⁴ and during periods of storm activity, the Translator would unmute or remain on air due to occasional bursts of static.⁷⁵ Licensee then clarifies its initial response and confirms that the Translator was in fact broadcasting programming while the primary station was off the air.⁷⁶ Licensee explains that the Translator received the primary station's programming via an internet feed,⁷⁷ and admits that during the primary station's scheduled off the air periods, the Translator rebroadcast the primary's internet-only content from March 5, 2021 when it resumed operations, through April 9, 2021.⁷⁸ The Consent Decree adopted herein addresses these violations.

26. *Truthful and Accurate Statements.* We also find that, as alleged in the Objection and related pleadings, Licensee has provided material factual information that is incorrect, in violation of section 1.17(a)(2) of the Rules.⁷⁹ Since the Translator's resumption of operations on March 5, 2021, Licensee failed to monitor its broadcast, resulting in continuous periods of operation while the primary station was off the air. Licensee further failed to notify the Commission that it was broadcasting while the primary station was off the air. Despite numerous pleadings alleging that Licensee violated section 74.1263(b), Licensee maintained that the Translator never broadcast any programming while its primary station was off the air.⁸⁰

27. In fact, Licensee never admitted to broadcasting while the primary station was off the air until the Bureau's investigation and LOI. Even then, Licensee's statement that the Translator was transmitting static rather than programming, was inaccurate.⁸¹ It was not until Licensee's Supplemental LOI Response, prompted by David's Reply to LOI Response, that Licensee apparently investigated the allegations further, admitting that the primary station's internet-only feed was being broadcast while the primary station was off the air.⁸² Moreover, Licensee verified the primary station's broadcast schedule, yet in numerous pleadings still claimed to resume operation after a brief technical issue, at 11:20 a.m. on March 7, 2021, a time at which the primary station was off the air.⁸³

C. Consent Decree.

28. As part of this Order, we are adopting a Consent Decree entered into by the Bureau and Licensee. The Consent Decree resolves issues related to Licensee's 1) broadcasting for extended periods of time while its primary station was off the air; 2) failure to timely notify the Commission that the Translator was silent and failure to timely seek authority to remain silent for more than 30 days; and 3) failure to make truthful and accurate statements to the Bureau, in violation of sections 74.1263(b),

⁷⁴ LOI Response at 1.

⁷⁵ *Id.*

⁷⁶ Supplemental LOI Response at 1.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ 47 CFR § 1.17(a)(2).

⁸⁰ Second Opposition at 6-7 ("To the extent Albert David is implying that Station W252AW is broadcasting or originating programming when its primary station is off the air, Albert David is providing false allegations to the FCC . . . Station W252AW *also* suspends programming on a daily basis in accordance with the WRLI license . . . at no time has Station W252AW ever originated programming (or even 'radiated' for 'extended periods') when Station WRLI is not broadcasting programming, in violation of Section 74.1263(b)."); LOI Response at 1 ("This did result in periods of time where although the FM translator was not picking up an actual station RF transmission of a carrier . . . there were static bursts that held the carrier on air.").

⁸¹ LOI Response at 1.

⁸² Supplemental LOI Response at 1.

⁸³ Second Opposition at 2, n. 3.

74.1263(c), and 1.17(a)(2) of the Rules. Pursuant to the Consent Decree, Licensee agrees, among other things, to make a civil penalty payment to the United States Treasury in the amount of nine thousand dollars (\$9,000).

29. We conclude that nothing in the record before us creates a substantial or material question of fact whether Licensee possesses the basic qualifications to be a Commission licensee. Moreover, we find no evidence of violations that, when considered together, constitute a pattern of abuse.⁸⁴ After reviewing the terms of the Consent Decree, we find the public interest would be served by its approval and by terminating the Bureau's investigation of Licensee's violations of the Rules, subject to the terms of the Consent Decree. We note that, given Licensee's acknowledgment that the Translator did broadcast programming while its primary station was off the air, we grant the Objection in part. As provided in the Consent Decree,⁸⁵ however, we otherwise deny the Objection.

IV. CONCLUSION/ACTIONS

30. **IT IS ORDERED**, that the Informal Objection filed by Albert David on October 23, 2020, and its related pleadings, **ARE GRANTED IN PART AND OTHERWISE DENIED**.

31. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,⁸⁶ and by the authority delegated by sections 0.61 and 0.283 of the Rules,⁸⁷ the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification.

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

33. **IT IS FURTHER ORDERED** that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Centro Cristiano de Vida Eterna c/o Dan J. Alpert, Law Office of Dan J. Alpert, 2120 N. 21st Rd. Arlington, VA 22201, and to Albert David, 2632 Kenilworth Ave, Berwyn, IL 60402.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁸⁴ For example, we do not find here that the Licensee's Translator operation "was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies." See *Heart of the Black Hills Stations*, Decision, 32 FCC 2d 196, 198, para. 6 (1971). Nor do we find on the record here that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission's Rules." *Id.* at 200, para. 11. See also *Center for Study and Application of Black Econ. Dev.*, Hearing Designation Order, 6 FCC Rcd 4622 (1991); *Calvary Educ. Broad. Network, Inc.*, Hearing Designation Order, 7 FCC Rcd 4037 (1992).

⁸⁵ Consent Decree, para. 10.

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

⁸⁷ 47 CFR §§ 0.61, 0.283.

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CONSENT DECREE

Adopted: April 5, 2022

Released: April 5, 2022

1. The Media Bureau of the Federal Communications Commission and Centro Cristiano de Vida Eterna (hereafter "Licensee," as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Media Bureau's investigation into the Licensee's compliance with sections 74.1263(b) and 1.17(a)(2) of the Commission's rules¹ relating to the operation of a translator station while its primary station is off the air and providing truthful and accurate information to the Commission.

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 Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) "Application" means the pending application (Application File No. 0000120118) filed on August 3, 2020, for renewal of the Translator's license.
(d) "Bureau" means the Media Bureau of the Commission.
(e) "Commission" or "FCC" means the Federal Communications Commission and all of its bureaus and offices.
(f) "Effective Date" means the date on which the Bureau releases the Adopting Order.
(g) "Execution Date" means the date by which both the Bureau and the Licensee have signed the Consent Decree.
(h) "Investigation" means the Bureau's investigation into the Licensee's alleged violation of sections 74.1263(b) and 1.17(a)(2) of the Rules.
(i) "Licensee" means Centro Cristiano de Vida Eterna and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
(j) "Parties" means the Licensee and the Bureau, each of which is a "Party."

¹ 47 CFR §§ 74.1263(b) and 1.17(a)(2).

- (k) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (l) “Silent STA Rule” means 47 CFR 74.1263(c).
- (m) “Translator” means FM translator station W252AW, Chicago, Illinois (Facility ID No. 149046).
- (n) “Translator Rebroadcasting Rule” means 47 CFR § 74.1263(b).
- (o) “Truthful and Accurate Statements Rule” means 47 CFR § 1.17(a)(2).
- (p) “Violations” means the violations of sections 74.1263(c), 74.1263(b) and 1.17(a)(2) of the Rules.

II. BACKGROUND

3. Section 74.1263(c) of the Rules require licensees of translator stations to notify the Commission within 10 days of temporarily discontinuing operations and to obtain Commission authorization if the discontinued operations last beyond 30 days.² Here, the record indicates that the Translator went silent on March 6, 2020, and did not resume operations until March 5, 2021. Licensee should have notified the Commission of the Translator’s discontinued operations no later than March 17, 2020, but did not. Additionally, Licensee should have filed a request for special temporary authority for the Translator to remain silent on April 5, 2020, but did not file such a request until July 8, 2020.³

4. Section 74.1263(b) of the Rules provides that “. . . FM Translator station[s] rebroadcasting the signal of an AM, FM or LPFM primary station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted.”⁴ The Translator’s primary station is WRL(AM), Cicero, Illinois. Licensee admits that from March 5, 2021 through April 9, 2021, the Translator rebroadcasted its primary station’s internet-only feed while the primary station was off the air.

5. Section 1.17(a)(2) of the Rules provides 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.”⁵ Thus, even absent an intent to deceive, a false statement of fact may constitute an actionable violation of section 1.17 of the Rules if it is provided without a reasonable basis for believing that the statement is correct and not misleading.⁶ Licensee filed a number of pleadings claiming that the Translator never broadcasted any programming while its primary station was off the air.⁷ Additionally, in

² 47 CFR § 74.1263(c).

³ Application File No. BLSTA-20200706AAR (filed Jul. 8, 2020).

⁴ 47 CFR § 74.1263(b).

⁵ 47 CFR § 1.17(a)(2).

⁶ *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. 5 (2003) (subsequent history omitted). *See also* 47 CFR § 73.1015, which states in pertinent part that “No applicant . . . shall . . . in any application, pleading, or report or any other written statement submitted to the Commission, make any . . . willful material omission bearing on any matter within the jurisdiction of the Commission.”

⁷ Second Opposition at 6-7 (“To the extent Albert David is implying that Station W252AW is broadcasting or originating programming when its primary station is off the air, Albert David is providing false allegations to the FCC . . . Station W252AW *also* suspends programming on a daily basis in accordance with the WRL license . . . at no time has Station W252AW ever originated programming (or even ‘radiated’ for ‘extended periods’) when

its LOI Response resulting from the Bureau's Investigation, Licensee still maintained that it was only broadcasting static bursts, not programming.⁸ Licensee did not admit to or clarify that it was in fact rebroadcasting programming from the primary station's internet-only feed while its primary station was off the air until its final filing, the Supplemental LOI Response.⁹

6. We have determined that the Licensee did not comply with the Silent STA Rule, the Translator Rebroadcasting Rule, or the Truthful and Accurate Statements Rule. Specifically, as noted in paragraph 3 above, Licensee did not timely notify the Commission of silence exceeding 10 days, and did not request STA to remain silent for more than 30 days. As discussed in paragraph 4, the Translator was rebroadcasting internet-only programming while its primary station was off the air. Finally, as outlined in paragraph 5 above, Licensee provided inaccurate information in its pleadings and its initial LOI Response when it repeatedly claimed that the Translator was not rebroadcasting while its primary station was off the air, when it was in fact broadcasting internet-only programming. Based on allegations of Licensee's failure to comply with the Silent STA Rule, the Translator Rebroadcasting Rule and the Truthful and Accurate Statements Rule, the Bureau commenced the Investigation and suspended processing the Application.

7. The Bureau and Licensee have negotiated the terms of the Consent Decree that terminates the Investigation into the matters discussed above. As part of the Consent Decree, the Licensee acknowledges that it violated the Silent STA Rule, the Translator Rebroadcasting Rule, and the Truthful and Accurate Statement Rules, and has agreed to make a civil penalty payment of Nine Thousand (\$9,000) to the U.S. Treasury (Civil Penalty).

III. TERMS OF AGREEMENT

8. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

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

10. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. 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. The Licensee 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 the Licensee fails to satisfy any condition or Rule, in the absence of Commission alteration of the condition or Rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures. Any violation of the Adopting Order or the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to enforcement of a Commission order.

11. **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 grant the Objection in part and deny it in all other respects, terminate the Investigation, and process the Application

Station WRLI is not broadcasting programming, in violation of Section 74.1263(b)."); LOI Response at 1 ("This did result in periods of time where although the FM translator was not picking up an actual station RF transmission of a carrier . . . there were static bursts that held the carrier on air.").

⁸ LOI Response at 1.

⁹ Supplemental LOI Response at 1.

in the ordinary course. In consideration for such, the Licensee agrees to the terms, conditions, and procedures contained herein.

12. The Bureau agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion or in response to any petition to deny or other third-party objection, any new proceeding, formal or informal, or take any action on its own motion against the Licensee 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 to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.¹⁰

13. **Admission of Liability.** Licensee admits it failed to timely notify the Commission that the Translator suspended operations and failed to request STA to remain silent for more than 30 days, in violation of section 74.1263(c) of the Rules. The Licensee also admits for the purpose of this Consent Decree that it broadcasted programming while its primary station was off the air, in violation of section 74.1263(b) of the Rules. Licensee also admits that it provided inaccurate information to the Commission in pleadings and its LOI Response, in violation of section 1.17(a)(2) of the Rules during the Translator's prior license term.

14. Pursuant to section 503(b)(2)(E) of the Act, in exercising its forfeiture authority, the Commission may consider, among other things, "any history of prior offenses" by the licensee.¹¹ The Licensee acknowledges that the Commission or its delegated authority may consider the Licensee's admission of liability in this Consent Decree in proposing any future forfeiture against Licensee in the event the Licensee is determined to have apparently committed a violation of the Act, the Rules, or of any orders of the Commission after the Effective Date, whether related to the Violations or otherwise.

15. **Civil Penalty.** Licensee agrees to pay the Civil Penalty to the United States Treasury in the amount of Nine Thousand Dollars (\$9,000), within thirty (30) calendar days after the Effective Date. Licensee acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in section 3701(b)(1) of the Debt Collection Improvement Act of 1996.¹² Licensee will also send electronic notification of payment to Alexander Sanjenis at Alexander.Sanjenis@fcc.gov on the date said payment is made.

16. **Payment.** Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),¹³ or by wire transfer. Payments by check or money order to pay a civil penalty are no longer accepted. Below are instructions that payors should follow based on the form of payment selected:¹⁴

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as

¹⁰ See 47 CFR § 1.93(b).

¹¹ See 47 U.S.C. § 503(b)(2)(E).

¹² Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

¹³ Payments made using CORES do not require the submission of an FCC Form 159.

¹⁴ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at <mailto:ARINQUIRIES@fcc.gov>.

having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹⁵ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/core/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/core/paymentFrnLogin.do>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL/Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

17. **Waivers.** As of the Effective Date, the Licensee 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 Licensee 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 Adopting Order, neither the Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensee shall waive any statutory right to a trial *de novo*. The Licensee hereby agrees to waive any claims it may have under the Equal Access to Justice Act¹⁶ relating to the matters addressed in this Consent Decree.

18. **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.

19. **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.

¹⁵ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

¹⁶ See 5 U.S.C. § 504; 47 CFR §§ 1.1501-1.1530.

20. **Subsequent Rule or Order.** The Parties agree that if any provision of this 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 Licensee does not expressly consent) that provision will be superseded by such Rule or Order.

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

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

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

24. **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.

25. **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.

26. **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.



Albert Shuldiner
Chief, Audio Division
Media Bureau

4/5/2022
Date

Martin Guevara
President/Director
Centro Cristiano de Vida Eterna

Date

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Date



Martin Guevara
President/Director
Centro Cristiano de Vida Eterna

04/01/2022

Date