

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

In re Application of
OMI Oilfield Investments, LLC
for Approval of Transfer of Control of
KBIJ(FM), Guymon, Oklahoma
from
Oralia Cowan (Transferor)
to
Mike Castanon (Transferee)
Facility ID No. 164274
NAL/Acct. No. MB-202241410013
FRN: 0022417547
Application File No. 0000134834

ORDER

Adopted: April 20, 2022

Released: April 20, 2022

By the Chief, Audio Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and OMI Oilfield Investments, LLC (OMI or Licensee), licensee of Station KBIJ(FM), Guymon, Oklahoma (Station). The Consent Decree resolves issues arising from the Bureau’s review of the captioned application, as amended, for Commission consent to the proposed transfer of control of OMI (Application), from Oralia Cowan (Cowan or Transferor) to Mike Castanon (Castanon or Transferee). Licensee seeks nunc pro tunc grant of the Application.1 While we anticipate the future grant of the Application, subject to the terms of the Consent Decree, the grant will not be nunc pro tunc.2

2. The Consent Decree resolves the Bureau’s investigation of Licensee’s compliance with section 310 of the Communications Act of 1934, as amended (the Act)3 and sections 73.35404 and 73.36155 of the Commission’s rules (Rules). Specifically, in an unauthorized transaction that occurred in

1 Application, Attachment, “Ownership Transfer of KBIJ.”

2 Here, the unauthorized transfer of control occurred on October 3, 2017, nearly four years prior to when OMI notified the Commission of the violation. In addition, OMI has failed to file required biennial ownership reports for the years 2017 and 2019. Given these facts, we cannot conclude that OMI has adequately discharged its legal obligations and we decline to grant the Application nunc pro tunc. See e.g. McCaw Communications Companies, Inc., Order and Notice of Apparent Liability, 4 FCC Rcd 547, para. 7 (CCB 1989) (“Given these facts, we cannot conclude that the licensee has adequately discharged its legal obligations . . . we will not grant discontinuance nunc pro tunc”). See also e.g. Beasley Broadcast Group, Inc., Order, 33 FCC Rcd 2748, para. 1 (MB 2018); and Dickey Broadcasting Company, Order, 33 FCC Rcd. 8103, para. 1 (MB 2018).

3 47 U.S.C. § 310.

4 47 CFR § 73.3540.

5 47 CFR § 73.3615.

2017, Cowan transferred control of Licensee to Castanon without Commission consent. In addition, Licensee failed to file required biennial ownership reports for the years 2017 and 2019.

3. Pursuant to the terms of the Consent Decree, Licensee stipulates that it violated section 310 of the Act and sections 73.3540 and 73.3615 of the Rules. The Consent Decree also requires, among other things, that OMI make a four thousand dollar (\$4,000) civil penalty payment to the United States Treasury. A copy of the Consent Decree is attached hereto and incorporated by reference.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau's investigation of potential violations of the Rules and the Act in connection with the Application.

5. Based on the record before us, we conclude that nothing in that record creates a substantial and material question of fact as to whether OMI possesses the basic qualifications to continue to be a Commission licensee.

6. ACCORDINGLY, IT IS ORDERED that, pursuant to section 4(i) of the Act,⁶ and by the authority delegated by sections 0.61 and 0.283 of the Rules,⁷ the Consent Decree attached hereto IS ADOPTED without change, addition, or modification.

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

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by email, to OMI Oilfield Investments, LLC, Oralia Cowan and Mike Castanon, c/o their counsel Dawn Sciarrino, Esq., Sciarrino & Schubert, PLLC, 330 Franklin Road, Suite 135A-133, Brentwood, TN 37027.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁶ 47 U.S.C. § 4(i).

⁷ 47 CFR §§ 0.61, 0.283.

- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order;
- (j) “Investigation” means the Bureau’s investigation of information contained in the Application, as detailed herein;
- (k) “License” refers to the license authorization for Station KBIJ(FM), Guymon, Oklahoma (Fac. ID No. 164274);
- (l) “Licensee” means OMI and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest;
- (m) “OMI” means OMI Oilfield Investments, LLC;
- (n) “Ownership Report Rule” means 47 CFR § 73.3615;
- (o) “Parties” means OMI, and the Bureau;
- (p) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations;
- (q) “Transfer of Control Rule” means 47 CFR § 73.3540; and
- (r) “Violations” means the unauthorized transfer of control of the Licensee in violation of section 73.3540 of the Rules and section 310(d) of the Act, and the failure to file biennial ownership reports for the years 2017 and 2019 in violation of section 73.3615 of the Rules.

III. Background

3. Section 310(d) of the Act, provides in pertinent part:

No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.⁸

4. The Transfer of Control Rule implements section 310(d) of the Act.⁹ Additionally, the Ownership Report Rule requires that, among other things, covered broadcasters, including licensees of FM stations, must file a biennial ownership report by December 1 in all odd-numbered years.¹⁰

5. On July 23, 2013, OMI acquired the license for KBIJ(FM) pursuant to an authorized assignment of license.¹¹ At that time, OMI was controlled by Cowan, its sole shareholder.¹² Licensee reports that on October 3, 2017, Cowan gifted 100% of her interests in OMI to her son Castanon, who served as vice president of OMI but previously held no other interest in OMI.¹³

6. After notifying communications counsel of the 2017 transfer, on February 1, 2021, Licensee

⁸ 47 U.S.C. § 310(d).

⁹ 47 CFR § 73.3540.

¹⁰ 47 CFR § 73.3615.

¹¹ See FCC Form 905, Consummation Notice for Application File No. BALED-20130207AAZ (filed Jul. 24, 2017).

¹² Application, “Ownership Transfer of KBIJ.”

¹³ *Id.*

filed the instant Application, as amended on March 16, 2021, disclosing the unauthorized transfer of control of OMI. Licensee requests *nunc pro tunc* grant of the Application because the 2017 transfer of control of the Licensee was part of “Cowan’s estate planning efforts and was inadvertently completed without FCC counsel.”¹⁴ In addition, during the Bureau’s investigation of the above unauthorized transfer of control of the Licensee, the Bureau further discovered that OMI failed to file required biennial ownership reports for the years 2017 and 2019. Based on the foregoing, the Bureau commenced the Investigation and suspended processing of the Application.

7. The Bureau and the Licensee have negotiated the terms of this Consent Decree, which terminates the Investigation into the matters discussed above. As part of the Consent decree, the Licensee agrees to make a Civil Penalty payment of four thousand dollars (\$4,000) to the U.S. Treasury.

IV. 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 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 defined herein. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. 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. 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 terminate the Investigation. In consideration for the termination of the Investigation, Licensee agrees to the terms, conditions, and procedures contained herein.

12. The Bureau further agrees that, in the absence of new material evidence, it will not use the Violations or the existence of this Consent Decree in any action against Licensee concerning the matters that were the subject of the Investigation, provided that the Licensee satisfies all of its obligations under this Consent Decree. In the event that the Licensee fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to each Violation, and/or the violation of this Consent Decree.

13. **Admission of Liability.** For purposes of this Consent Decree Licensee admits that it engaged in an unauthorized transfer when Castanon acquired control of OMI without obtaining prior Commission consent to the transfer in violation of section 310(d) of the Act and 47 CFR § 73.3540(a). Licensee also admits that it failed to file required biennial ownership reports during its license term in violation of 47 CFR § 73.3615.

14. **Civil Penalty.** Licensee agrees to pay the Civil Penalty to the United States Treasury in the amount of four thousand dollars (\$4,000), 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

¹⁴ *Id.* As noted, *supra*, in the order adopting this Consent Decree, grant of the Application will not be *nunc pro tunc*.

1996.¹⁵

15. **Payment.** Licensee will also send electronic notification of payment to Kim Varner at Kim.Varner@fcc.gov and Christopher Clark at Christopher.Clark@fcc.gov on the date said payment is made. 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),¹⁶ or by wire transfer. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:¹⁷

- 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 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).¹⁸ 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/cores/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/cores/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.

16. **Qualifications; Agreement to Grant.** The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether the Licensee possesses the basic qualifications, including those relating to character, to hold a Commission license or authorization. Accordingly, the Bureau agrees to grant the Application, after the Effective Date, provided that the following conditions

¹⁵ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

¹⁶ Payments made using CORES do not require the submission of an FCC Form 159.

¹⁷ 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 ARINQUIRIES@fcc.gov.

¹⁸ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

have been met: 1) the Civil Penalty payment, referenced in paragraph 14 of this Decree, has been fully and timely satisfied; and 2) there are no issues other than the Violations that would preclude grant of the Application.

17. **Waivers.** Licensee agrees to waive any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Adopting Order, provided the Consent Decree is adopted without change, addition or modification. If any 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, no Party will contest the validity of the Consent Decree or Adopting Order, and Licensee will waive any statutory right to a *trial de novo*. Licensee further agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. Section 504 and Section 1.1501 *et. seq.* of the Rules relating to the Consent Decree or Adopting Order.

18. **Severability.** The Parties agree that if a court of competent jurisdiction renders any of the provisions of this Consent Decree unenforceable, such unenforceability shall not render unenforceable the 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 will become null and void and may not be used in any manner in any legal proceeding.

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 Licensee does not expressly consent), such provision will be superseded by such Rule or Order.

21. **Successors and Assigns.** 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.

23. **Modifications.** This Consent Decree cannot be modified or amended without the advance written consent of all 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 Party 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 counterparts and/or electronically and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed electronically or by original signatures.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: Albert Shuldiner
Albert Shuldiner, Chief, Audio Division

Date: 4/20/2022

OMI Oilfield Investments, LLC

By: _____
Mike Castanon, Sole Member, OMI Oilfield
Investments, LLC

Date: _____

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
Albert Shuldiner, Chief, Audio Division

Date: _____

OMI Oilfield Investments, LLC

By: Mike Castanon
Mike Castanon, Sole Member, OMI Oilfield
Investments, LLC

Date: 4/18/22