

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

In re Applications of)	Facility ID Nos. 2485, 28974
Apple City Broadcasting Company, Inc.)	NAL/Account No. MB-202341410023
)	
for Consent to Transfer of Control)	
)	FRN: 0009367756
from Mary Alice Teague Brown (Deceased))	Application File No. 0000213659
(Transferor) to Roger Lee Brown (Transferee))	
)	
and)	
)	
from Sara McClain Keever (Deceased))	FRN: 0009367756
(Transferor) to the Estate of Sara McClain Keever)	Application File No. 0000213661
(Transferee))	

ORDER

Adopted: September 25, 2023

Released: September 25, 2023

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 Apple City Broadcasting Company, Inc. (Apple City or Licensee), licensee of stations WACB(AM), Taylorsville, North Carolina, and WTLK(AM), Taylorsville, North Carolina (collectively, the Stations). The Consent Decree resolves issues arising from the Bureau's review of the captioned applications for Commission consent to transfer control of Apple City.¹

2. The Consent Decree concludes the Bureau's investigation of Apple City's compliance with section 310 of the Communications Act of 1934, as amended (the Act), and sections 73.3540 and 73.3541 of the Commission's rules (Rules).² The Bureau staff finds that Apple City failed to file applications for involuntary transfer of control within 30 days of the deaths of three of its shareholders: William Norris Keever, Mary Alice Teague Brown, and Sara McClain Keever.³ The staff also finds that, following the death of Sara McClain Keever, Linda B. McClain assumed control of Apple City without obtaining prior Commission approval for the non pro forma transfer of control.⁴ Pursuant to the terms of the Consent Decree, Apple City stipulates that it violated section 310(d) of the Act and sections 73.3540 and 73.3541 of the Rules. Apple City submits financial documentation to the Bureau, including federal tax returns for the years 2019-2022 and recent bank statements, to support a reduction of the Consent

¹ See Application File No. 0000213659 (filed Apr. 10, 2023) (Brown Transfer Application); Application File No. 0000213661 (filed Apr. 10, 2023) (Keever Transfer Application) (collectively, Transfer Applications). See also *Broadcast Applications*, Public Notice, Report No. PN-1-230413-01 (MB Apr. 13, 2023); *Broadcast Applications*, Public Notice, Report No. PN-1-230412-01 (MB Apr. 12, 2023).

² See 47 U.S.C. § 310(d); 47 CFR §§ 73.3540, 73.3541.

³ 47 CFR § 73.3541. William N. Keever died on December 25, 2020; Mary Alice Teague Brown died on February 18, 2021; and Sara McClain Keever died on February 27, 2022. Apple City filed the Transfer Applications more than two years after William N. Keever and Mary Alice Brown passed away and more than one year after Sara McClain Keever passed away. See Transfer Applications, Attach., Revised Global Exhibit.

⁴ 47 CFR § 73.3540.

Decree's civil penalty based upon Apple City's inability to pay. The \$1,000 civil penalty set forth in the Consent Decree reflects consideration of Apple City's documented inability to pay.

3. The Consent Decree requires, among other things, that Apple City make a one thousand dollar (\$1,000) 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 Transfer Applications.

5. Based on the record before us, we conclude that nothing in the record creates a substantial and material question of fact as to whether Apple City 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,⁵ and by the authority delegated by sections 0.61 and 0.283 of the Rules,⁶ 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 First Class and Certified Mail, Return Receipt Requested, to Tim Nelson, Esq., Brooks Pierce, et al., 150 Fayetteville Street, Suite 1700, Raleigh, North Carolina 27601, counsel for Apple City Broadcasting Company, Inc.

9. IT IS FURTHER ORDERED that pursuant to section 73.3526(e)(10) of the Rules, a copy of this Order and Consent Decree and as otherwise required all related investigatory materials SHALL BE RETAINED in the above-captioned Station's online public inspection file until grant of the next license renewal application.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁵ 47 U.S.C. § 4(i).

⁶ 47 CFR §§ 0.61, 0.283.

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(Transferor) to Roger Lee Brown (Transferee))	
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from Sara McClain Kever (Deceased))	FRN: 0009367756
(Transferor) to the Estate of Sara McClain Kever)	Application File No. 0000213661
(Transferee))	

CONSENT DECREE

I. INTRODUCTION

1. This Consent Decree is entered into by and between the Media Bureau (Bureau) of the Federal Communications Commission and Apple City Broadcasting Company, Inc. (Apple City or Licensee), licensee of stations WACB(AM), Taylorsville, North Carolina, and WTLK(AM), Taylorsville, North Carolina (collectively, the Stations). The Consent Decree terminates the Bureau's investigations concerning Apple City's compliance with section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), and sections 73.3540 and 73.3541 of the FCC's rules, 47 CFR §§ 73.3540, 73.3541.

II. DEFINITIONS

2. For 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 the order of the Bureau adopting this Consent Decree;
 - (c) "Apple City" means Apple City Broadcasting Company, Inc.;
 - (d) "Brown Transfer Application" means the FCC Form 2100, Schedule 316 application filed on April 10, 2023, for consent to transfer of control, Application File No. 0000213659;
 - (e) "Bureau" means the Media Bureau of the Federal Communications Commission;
 - (f) "Civil Penalty" means the payment Apple City has agreed to pay to the United States Treasury;
 - (g) "Commission" or "FCC" means the Federal Communications Commission and all of its bureaus and offices;
 - (h) "Covered Employees" means all employees, agents, contractors, volunteers, and interns of the Licensee, who are responsible for performing, supervising, overseeing, or managing activities related to activities that trigger or may trigger

the requirements set forth in section 310(d) of the Act and the Transfer of Control Rules;

- (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 Transfer Applications, as detailed herein;
- (k) “Involuntary Transfer of Control Rule” means 47 CFR § 73.3541;
- (l) “Keever Transfer Application” means the FCC Form 2100, Schedule 316 application filed on April 10, 2023, for consent to transfer of control, Application File No. 0000213661;
- (m) “Licensee” means Apple City Broadcasting Company, Inc.;
- (n) “Licenses” refers to the license authorizations for stations WACB(AM), Taylorsville, North Carolina (Facility ID No. 2485) and WTLK(AM), Taylorsville, North Carolina (Facility ID No. 28974);
- (o) “Parties” means Apple City and the Bureau;
- (p) “Rules” means the FCC’s rules, found in Title 47 of the Code of Federal Regulations;
- (q) “Stations” means WACB(AM), Taylorsville, North Carolina (Facility ID No. 2485) and WTLK(AM), Taylorsville, North Carolina (Facility ID No. 28974);
- (r) “Transfer Applications” means the Brown Transfer Application and the Keever Transfer Application;
- (s) “Transfer of Control Rules” means sections 73.3540 and 73.3541 of the FCC’s rules, 47 CFR §§ 73.3540, 73.3541;
- (t) “Violations” means the violations of section 310(d) of the Act, 47 U.S.C. § 310(d), and sections 73.3540 and 73.3541 of the FCC’s rules, 47 CFR §§ 73.3540, 73.3541; and
- (u) “Voluntary Transfer of Control Rule” means 47 CFR § 73.3540.

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.¹

4. The Involuntary Transfer of Control Rule stipulates that:

The FCC shall be notified in writing promptly of the death or legal disability of an individual permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee.

¹ 47 U.S.C. § 310(d).

Within 30 days after the occurrence of such death or legal disability, an application on [FCC Form 2100, Schedule 316] shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved.²

5. In addition, the Voluntary Transfer of Control Rule states that “[p]rior consent of the FCC must be obtained for a voluntary assignment or transfer of control.”³ The rule requires that an “[a]pplication for consent to the transfer of control of a corporation holding a construction permit or license must be filed on [FCC Form 2100, Schedule 315]” where the transaction involves the transfer of a controlling interest from one individual to another.⁴

6. At the time of Apple City’s formation in June 1993, there were four shareholders: Roger Lee Brown (45.0% voting), Mary Alice Teague Brown (Mary Alice Brown) (5.0% voting), William Norris Keever (45.0% voting), and Sara McClain Keever (5.0% voting).⁵ Roger L. Brown and Mary Alice Brown were married, as were William N. Keever and Sara M. Keever.⁶ The Browns and Keevers operated Apple City for decades and their voting interests remained unchanged until December 25, 2020, when William N. Keever passed away.⁷ Following William N. Keever’s death, Sara M. Keever acquired the voting stock he held in Apple City at the time of his death, increasing her total voting interest from 5% to 50% and giving her negative control of Apple City.⁸ On February 18, 2021, Mary Alice Brown passed away, and following her death, Roger L. Brown acquired the voting stock she held in Apple City at the time of her death, increasing his total voting interest from 45% to 50% and giving him negative control of Apple City.⁹ Roughly one year later, on February 27, 2022, Sara M. Keever passed away, and upon her death, her controlling (50.0% voting) interest passed to her estate and then to her niece, Lisa B. McClain.¹⁰ Apple City should have filed involuntary transfer of control applications within 30 days of

² 47 CFR § 73.3541.

³ 47 CFR § 73.3540(a).

⁴ 47 CFR § 73.3540(d). The test for whether the interest to be transferred is “controlling” or “substantial” has generally been (a) whether 50 percent or more of the voting stock is being transferred, and (b) whether as a result of the transaction 50 percent or more of the outstanding voting stock will be held by persons whose qualifications to be Commission licensees have not previously been approved of or “passed upon.” *Barnes Enterprises, Inc.*, 55 FCC 2d 721 (1975); *Clay Broadcasters, Inc.*, 21 RR 2d 442 (1971). Generally, any transfer which involves the movement of 50 percent or more of a licensee’s voting stock, whether to persons passed upon or not, has required the filing of a long form application. As an exception to this general requirement, the Commission has allowed a short form to be used when the transaction involves a stock transfer whereby an existing stockholder with negative (50 percent) control assumes positive control by acquiring all of the remaining voting stock. *Barnes Enterprises, Inc.*, 55 FCC 2d at 725, n.4.

⁵ See Application File No. 0000078466 (July 2019 Biennial Ownership Report indicating that Apple City was owned by four shareholders: Roger L. Brown, Mary Alice Teague. Brown, William N. Keever, and Sara McClain Keever).

⁶ See Application File No. 0000213659, Attach., Revised Global Exhibit (filed Apr. 10, 2023) (Brown Transfer Application); Application File No. 0000213661, Attach. Revised Global Exhibit (filed Apr. 10, 2023) (Keever Transfer Application) (collectively, Transfer Applications).

⁷ Transfer Applications, Attach., Revised Global Exhibit.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* We note that Lisa B. McClain is the authorized representative of the Sara McClain Keever Estate. See Keever Transfer Application, Attach., Letters Testamentary, Estate of Sara McClain Keever.

William N. Keever, Mary Alice Brown and Sara M. Keever's deaths, but did not do so.¹¹ In addition, following the death of Sara M. Keever, Linda B. McClain assumed control of Apple City without obtaining prior Commission approval for the non pro forma transfer of control.¹²

7. The Parties acknowledge that any proceedings that might result from the Violations involving the Transfer Applications would be time-consuming and require a substantial expenditure of public and private resources. In order to conserve such resources, resolve the matters, and promote compliance with the Rules, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

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.** Apple City 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. Apple City 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, Apple City agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the Violations or the existence of this Consent Decree in any action against Apple City, provided that it satisfies all of its obligations under this Consent Decree. In the event that Apple City 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.

12. **Admission of Liability.** Apple City stipulates that the actions described in Paragraph 6 violated section 310(d) of the Act and sections 73.3540 and 73.3541 of the Rules.

13. **Civil Penalty.** Apple City agrees to make the Civil Penalty payment to the United States Treasury in the amount of one thousand dollars (\$1,000), within thirty (30) calendar days of the Effective Date. Apple City 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 1996.¹³

14. **Payment.** Apple City shall send electronic notification of payment to Christopher Clark at Christopher.Clark@fcc.gov on the date payment is made. Payment of the civil penalty must be made

¹¹ 47 CFR § 73.3541.

¹² 47 CFR § 73.3540. It is well-settled that "control" as used in the Act and the Voluntary Transfer of Control Rule encompasses all forms of control, actual or legal, direct or indirect, negative or affirmative, and that passage of *de facto* as well as *de jure* control requires the prior consent of the Commission. See, e.g., *Stereo Broadcasters, Inc.*, 55 FCC 2d 819, 821 (1975) (citing *WWIZ, Inc.*, 36 FCC 561 (1964)), modified, 59 FCC 2d 1002 (1976).

¹³ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),¹⁴ 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:¹⁵

- 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).¹⁶ 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.

15. **Qualifications; Agreement to Grant.** The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether Apple City possesses the basic qualifications, including those relating to character, to continue to hold a Commission license or authorization. Accordingly, the Bureau agrees to grant the Transfer Applications, after the Effective Date, provided that the following conditions have been met: 1) the Civil Penalty payment, referenced in paragraph 13 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 Transfer Applications.

16. **Waivers.** Apple City agrees to waive any and all rights it may have to seek

¹⁴ Payments made using CORES do not require the submission of an FCC Form 159.

¹⁵ 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.

¹⁶ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

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 Apple City will waive any statutory right to a *trial de novo*. Apple City 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.

17. **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.

18. **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.

19. **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 Apple City does not expressly consent), such provision will be superseded by such Rule or Order.

20. **Successors and Assigns.** Apple City agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

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


22. **Modifications.** This Consent Decree cannot be modified or amended without the advance written consent of all Parties.

23. **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.

24. **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.

25. **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
Chief, Audio Division

Date: 9/25/2023

APPLE CITY BROADCASTING COMPANY, INC.

By: _____
Roger L. Brown
Executor, Estate of Mary Alice Brown

Date: _____


25. **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
Chief, Audio Division

Date: _____

APPLE CITY BROADCASTING COMPANY, INC.

By:  _____
Roger L. Brown
Executor, Estate of Mary Alice Brown

Date: 09/14/2023