

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

In the Matter of)	
)	
97.5 Licensee TX, LLC)	MB Docket No. 26-19
Licensee)	FRN: 0026209908
)	
Luz Maria Rygaard)	
Transferor)	
)	
and)	
)	
Lorena Margarita Pérez Toscano)	
Transferee)	
)	
KBNA-FM, El Paso, Texas)	Facility ID No. 67066
KAMA(AM), El Paso, Texas)	Facility ID No. 36948
KQBU(AM), El Paso, Texas)	Facility ID No. 67065
)	
)	Application File Nos. 0000216454 et al.
)	

**HEARING DESIGNATION ORDER, ORDER TO SHOW CAUSE WHY AN ORDER OF
REVOCATION SHOULD NOT BE ISSUED, AND NOTICE OF OPPORTUNITY FOR
HEARING**

Adopted: January 23, 2026

Released: January 23, 2026

By the Acting Chief, Media Bureau:

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I. INTRODUCTION

1. In this *Hearing Designation Order, Order to Show Cause Why an Order of Revocation Should not be Issued, and Notice of Opportunity for Hearing*, we consider the above-captioned transfer applications (collectively, Transfer Application)¹ by which Luz Maria Rygaard (Transferor or Rygaard) seeks Commission consent to the transfer of control of 97.5 Licensee TX, LLC (97.5 Licensee or Licensee) to Lorena Margarita Pérez Toscano (Transferee or Toscano).²

2. After conducting a detailed review of the record in this proceeding, including information and materials provided by the Parties in response to letters of inquiry from the Media Bureau (Bureau), we find that substantial and material questions of fact exist regarding whether the Parties have engaged in an unauthorized transfer of control, as well as engaged in misrepresentations and/or lack of candor in their dealings with the Commission. Accordingly, based on the record before us, we are unable to find that grant of the Transfer Application would be consistent with the public interest, as required by sections 309(a), 309(e), and 310(d) of the Communications Act of 1934, as amended (the Act).³ The Transfer Application is being held in abeyance pending resolution of this proceeding.

3. With regard to Rygaard, the proposed Transferor and current owner of Licensee, and as discussed in more detail below, we find that substantial and material questions of fact exist regarding whether Rygaard: (1) exercises control of the Stations consistent with the Act and the Rules; (2) engaged in an unauthorized transfer of control in violation of section 310 of the Act;⁴ (3) engaged in misrepresentation and/or lack of candor before the Commission, including in the Transfer Application and in response to the Bureau's inquiries; and (4) given these apparent violations, has the qualifications to be and remain a Commission licensee.⁵

4. With regard to Toscano, the proposed Transferee, and as discussed in more detail below, we find that substantial and material questions of fact exist regarding whether Toscano: (1) exercises *de facto* control of the Stations; (2) participated in an unauthorized transfer of control in violation of section 310 of the Act;⁶ (3) engaged in misrepresentation and/or lack of candor before the Commission, including in the Transfer Application and in response to the Bureau's inquiries; and (4) given these apparent violations, has the qualifications to become a Commission licensee.

¹ Application of 97.5 Licensee TX, LLC for Transfer of Control, Application File Nos. 0000216454, *et al.* (filed Mar. 15, 2023; amended Oct. 29, 2024). As reflected in the caption above, 97.5 Licensee is the licensee of KBNA-FM, El Paso, Texas (Facility ID No. 67066); KAMA(AM), El Paso, Texas (Facility ID No. 36948); and KQBU(AM), El Paso, Texas (Facility ID No. 67065), which are referred to collectively hereinafter as the Stations.

² Rygaard, who is currently the sole shareholder of 97.5 Licensee, and Toscano, who seeks to acquire 100% of the capital stock of 97.5 Licensee, are referred to herein individually each as Party and collectively as Parties.

³ Under section 309(e) of the Act, “[i]f a substantial and material question of fact is presented or if the Commission for any reason is unable to find that grant of the application would be consistent [with the public interest, convenience, and necessity],” the application must be designated for hearing. 47 U.S.C. § 309(e). Further, section 310(d) of the Act requires that a station license may only be transferred or assigned upon a determination by the Commission that such assignment or transfer would serve the public interest, convenience, and necessity. 47 U.S.C. § 310(d).

⁴ *See, e.g.*, 47 U.S.C. §§ 310(b), 310(d).

⁵ Section 310(d) of the Act provides that no station license shall be transferred or assigned unless the Commission, on application, determines that the public interest, convenience, and necessity will be served thereby. 47 U.S.C. § 310(d). Additionally, section 312(a) holds that the Commission may revoke a station license for false statements knowingly made either in an application or in any statement of fact required pursuant to section 308 consistent with the guidance set forth in section 312(c). 47 U.S.C. §§ 312(a), (c).

⁶ *Id.*

5. We therefore find that a hearing is necessary and issue this *Hearing Designation Order, Order to Show Cause Why an Order of Revocation Should not be Issued, and Notice of Opportunity for Hearing* consistent with sections 309(e), 310(d), 312(a), and 312(c) of the Act to determine whether (a) the licenses of the Stations should be revoked; and (b) whether the captioned Transfer Applications should be granted, dismissed, or denied.⁷

II. BACKGROUND

6. This matter stems from a Bureau investigation into the above-captioned Transfer Application by which the Parties have sought Commission approval for the transfer of control of 97.5 Licensee and the broadcast licenses it holds (i.e., the Stations) from Rygaard to Toscano. Contemporaneously with the submission of the Transfer Application, the Parties also filed a related Petition for Declaratory Ruling (Petition) seeking Commission approval for 100% indirect foreign ownership of the Stations as Toscano is a Mexican citizen.⁸

A. Factual Background

1. The Stations.

7. The three Stations that are the subject of the Transfer Application, KBNA-FM, KAMA(AM), and KQBU(AM), are each licensed to El Paso, Texas, and compete in the El Paso radio market. According to the BIA Market Report provided by the Parties as part of the Transfer Application, the market contains a total of 36 commercial and noncommercial full-power radio stations including the Stations.⁹ Of those 36 total stations, 24 are licensed by the United States and 12 are licensed by Mexico to serve Ciudad Juarez, Mexico. The BIA Market Report further indicates that an entity named “Grupo Radio Centro” is the owner of four of the Mexican radio stations in the market.¹⁰

2. The Parties

8. *97.5 Licensee TX, LLC and Luz Maria Rygaard.* The Stations are currently licensed to 97.5 Licensee, a Texas limited liability company, whose sole member is 97.5 Holdings TX, Inc. (97.5 Holdings), a Texas corporation. 97.5 Holdings holds 100% of the equity and voting interest of the Licensee. In turn, Rygaard is the sole shareholder of 97.5 Holdings, owning 100% of the equity and voting interest of 97.5 Holdings, and hence has full *de jure* control of 97.5 Licensee. Rygaard is a U.S. citizen and has reported no other attributable interests in broadcast stations besides the Stations.¹¹

⁷ See 47 U.S.C. §§ 309(a), (e); 310(b), (d); 312(a), (c); 47 CFR §§ 1.17, 73.1015, and 73.3540. Actions taken as a result of this proceeding do not preclude the Commission from taking other actions stemming from the facts presented here.

⁸ See Transfer Application at Exh. *97.5 Licensee 310(b)(4) Pet. for Declaratory Ruling*. The Petition was placed on public notice on August 11, 2023, with comments due September 11, 2023, and replies due September 26, 2023. *97.5 Licensee TX, LLC Seeks Foreign Ownership Ruling Pursuant to Section 310(b)(4) of the Communications Act of 1934, as Amended*, MB Docket No. 23-275, Public Notice, 38 FCC Rcd 7363 (MB 2023). On April 26, 2024, the Department of Justice (DOJ) notified the Commission that the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector had no recommendation to the Commission and no objection to the Commission granting the Petition. At that time, DOJ also provided the Commission with information the Parties had submitted in response to DOJ’s questions related to the proposed foreign ownership. Letter from Christine M. Quinn, Attorney Advisor, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 23-275 (dated April 26, 2024).

⁹ Transfer Application at Exh. *Multiple Ownership Exhibit.pdf* (summarizing and providing market information from BIA Media Report).

¹⁰ *Id.*

¹¹ See, e.g., Transfer of Control Application, Application File No. 0000177516, granted Mar. 16, 2022 (approving Rygaard’s acquisition of control of the Stations); FCC Ownership Report, Application File No. 0000193208,

(continued....)

9. According to the Commission's records, Rygaard acquired ownership of 97.5 Holdings in May 2022.¹² Specifically, Rygaard acquired the stock of 97.5 Holdings from the company's two former shareholders, Grupo Radio Centro TX, LLC (Grupo Radio TX) and 97.5 Investment TX, LLC (97.5 Investment) for \$10,000 USD pursuant to a stock purchase agreement dated November 30, 2021.¹³ Following execution of that agreement, the parties filed an application with the Commission on December 20, 2021, seeking to transfer control of the Stations from Group Radio TX and 97.5 Investment to Rygaard (2021 Transfer Application).¹⁴ The 2021 Transfer Application made no mention of any outstanding debt owed by 97.5 Holdings, nor provided any loan agreements, debt instruments, or acknowledgement of indebtedness.¹⁵ The Commission approved that application on March 16, 2022, and the transaction was consummated on May 12, 2022.¹⁶

10. The Commission's records indicate that prior to Rygaard's acquisition, 97.5 Investment held 75% of the equity and voting interests of 97.5 Holdings, and that Grupo Radio TX held the remaining 25%.¹⁷ The majority shareholder, 97.5 Investment, was organized under the laws of Texas and was wholly owned by a U.S. citizen named Rafael Marquez Aguirre.¹⁸ The minority shareholder, Grupo Radio TX, was also organized under the laws of Texas, but was 100% owned by a Mexican corporation named Grupo Radio Centro SAB de CV (Grupo Radio Centro) that owns and operates radio stations in Mexico and the United States.¹⁹ In turn, Grupo Radio Centro was owned 36% by Francisco Aguirre Gomez, a Mexican citizen, and 32.9% by Controladora GRC, SA de CV, a Mexican corporation.²⁰

submitted June 10, 2022 (post-consummation ownership report filed by Licensee following Rygaard's acquisition of control); FCC Ownership Report, Application File No. 0000230999, submitted Dec. 13, 2023 (2023 biennial ownership report filed by Licensee).

¹² Transfer of Control Application, Application File No. 0000177516, granted Mar. 16, 2022 (*2021 Transfer Application*).

¹³ 2021 Transfer Application at Exh. *Stock Purchase Agreement - Rygaard.pdf*.

¹⁴ 2021 Transfer Application.

¹⁵ The November 30, 2021, stock purchase agreement provided with the 2021 Transfer Application notes in "Section 3.04 Company Accounting" that "[b]oth parties have reasonable knowledge of the company's accounting and economic situation to the date thereof, as well as of its assets, debts, obligations, and tax liabilities including a recognized debt for around 2.5 million dollars." 2021 Transfer Application at Exh. *Stock Purchase Agreement - Rygaard.pdf*.

¹⁶ Notice of Consummation, Application File No. 0000190647, submitted May 13, 2022 (notifying the Commission that the transaction was consummated on May 12, 2022).

¹⁷ FCC Ownership Report, Application File No. 0000099118, submitted Jan. 22, 2020.

¹⁸ FCC Ownership Report, Application File No. 0000099126, submitted Jan. 22, 2020; Application for Transfer of Control, File No. BALH-20161108AAW, granted Jan. 19, 2017.

¹⁹ FCC Ownership Report, Application File No. 0000099508, submitted Jan. 23, 2020; Application for Transfer of Control, File No. BALH-20161108AAW, granted Jan. 19, 2017; *see also* Wikipedia, Grupo Radio Centro, https://en.wikipedia.org/wiki/Grupo_Radio_Centro, (last visited Dec. 29, 2025); Dun & Bradstreet, Grupo Radio Centro, S.A.B. de C.V., https://www.dnb.com/business-directory/company-profiles/grupo_radio_centro_sab_de_cv.02093e5fed956797282a0679b310131e.html, (last visited Dec. 29, 2025); Reuters, Grupo Radio Centro SAB de CV, <https://www.reuters.com/markets/companies/RCENTROA.MX/> (last visited Dec. 29, 2025).

²⁰ FCC Ownership Report, Application File No. 0000102641, submitted Jan. 30, 2020; Application for Transfer of Control, File No. BALH-20161108AAW, granted Jan. 19, 2017. In turn, Controladora GRC, SA de CV, was owned 43.6% by FAG Radiodifusion, SA de CV, a Mexican corporation, and 14.3% by each of the following individuals, all Mexican citizens and siblings: Francisco Aguirre Gomez, Maria A. Aguirre Gomez, and Ana M. Aguirre Gomez. *See* FCC Ownership Report, Application File No. 0000102649, submitted Jan. 30, 2020; Application for Transfer of Control, File No. BALH-20161108AAW, granted Jan. 19, 2017.

11. *Lorena Margarita Pérez Toscano*. Toscano, a Mexican citizen, is the proposed Transferee seeking to acquire 100% of the outstanding stock of 97.5 Holdings. The pending Transfer Application states that she has “no other broadcast interests.”²¹ The Transfer Application indicates that Rebeca Elizabeth Pérez Toscano and Jaqueline Pérez Toscano, whom the Bureau subsequently determined are Toscano’s sisters,²² will be the Secretary and Treasurer of 97.5 Holdings, respectively.²³ Toscano and her sisters, along with her father, Trigio Javier Pérez de Anda, operate six radio stations in Ciudad Juarez, Mexico.²⁴ In addition, Toscano and Rygaard are cousins, as Mr. Pérez de Anda is both Toscano’s father and Rygaard’s uncle.²⁵

12. While Toscano now seeks to acquire the stock of 97.5 Holding and *de jure* control of the Stations pursuant to the Transfer Application, she already holds the right to collect a significant outstanding debt owed by 97.5 Holdings. Specifically, in November 2021—contemporaneously with when her cousin Rygaard entered into the agreement to acquire the stock of 97.5 Holdings—Toscano acquired the right to collect the repayment of a debt owed by 97.5 Holdings to Grupo Radio Centro in the amount of \$2,451,565.00 USD.²⁶ As detailed further below, this debt had originated as a capital investment made in the Stations in 2017 by Grupo Radio Centro when Grupo Radio Centro was the minority owner of 97.5 Holdings through its subsidiary, Grupo Radio TX.²⁷ Subsequently, pursuant to the November 2021 agreement, Grupo Radio Centro assigned the right to collect that debt to Toscano in exchange for \$1,987,500 USD immediately prior to agreeing to sell control of the Stations to Rygaard for \$10,000 USD.²⁸

3. The Transfer Application

13. On March 31, 2023, after owning the Stations for less than a year, Rygaard entered into a stock purchase agreement (Stock Purchase Agreement) to sell control of the Stations to Toscano.²⁹ The Transfer Application was filed with the Commission on June 9, 2023, and seeks Commission consent to the sale of Rygaard’s 100% interest in 97.5 Holdings to Toscano, in exchange for \$10,000 USD.³⁰ Following the proposed transaction, Toscano would be the sole shareholder of 97.5 Holdings with 100% of the voting and equity interests, and hence control of 97.5 Licensee and the Stations.³¹ The Transfer

²¹ Transfer Application at Exh. *Multiple Ownership Exhibit.pdf*.

²² Letter from Francisco R. Montero, Counsel for 97.5 Licensee TX, LLC, to Brendan Holland and Christopher Clark, Audio Division, FCC Media Bureau, Aug. 1, 2024 at Attach. A, response to Question 11 (*LOI Response*).

²³ Transfer Application at “Transferee Information, Parties to the Application.”

²⁴ LOI Response at Attach. A., response to Question 7, 8, 9, 11. In response to questions raised by the Bureau, the Parties stated that “Ms. Toscano’s family currently operates the following [six] stations in Ciudad Juarez, Mexico” and that Toscano, her sisters, and her father operate the stations together as stockholders of the license company. The six stations are: XHEM-FM, XHTO-FM, XHEPR-FM, KEJCC-AM, XEJ-AM, and XEPZ-AM. The BIA Market Report provided as part of the Transfer Application lists one of these stations, XHEPR-FM, as no longer considered part of the El Paso market, and another, XEPZ-AM, under the name Radiorama SA de CV. See Transfer Application at Exh. *Multiple Ownership Exhibit.pdf*.

²⁵ LOI Response at Attach. A., response to Question 15.

²⁶ LOI Response at Attach. A, response to Question 6; Exh. 6(b), Assignment of Debt Rights Agreement.

²⁷ LOI Response at Attach. A, response to Question 6; Exh. 6(b), Acknowledgement of Indebtedness Agreement.

²⁸ LOI Response at Attach. A, Exh. 6(b), Assignment of Debt Rights Agreement.

²⁹ See Transfer Application at Exh. *Stock Purchase Agreement LORENA margarita.pdf* (providing a copy of the Stock Purchase Agreement between Rygaard and Toscano dated March 31, 2023).

³⁰ *Id.*

³¹ Transfer Application at “Changes in Interest,” “Parties to the Application.”

Application also indicates that Toscano's sisters, Rebeca Elizabeth Pérez Toscano and Jaqueline Pérez Toscano, would be the Secretary and Treasurer, respectively, of 97.5 Holdings following consummation of the transaction.³²

14. The Stock Purchase Agreement, setting out the terms of the Parties' agreement, was included as an exhibit to the Transfer Application.³³ In addition to the \$10,000 USD in consideration for the stock of 97.5 Holdings, the Stock Purchase Agreement indicated that 97.5 Holdings was indebted to Toscano in the amount of \$2,451,565.00 USD.³⁴ No further explanation of the debt, its origin, or the terms of any loan agreement were included with the Transfer Application, nor were copies of a debt instrument or related agreements, if any, attached to the application. In addition to Rygaard (as "the Seller") and Toscano (as "the Buyer"), Mr. Pérez de Anda appears as a signatory to the Stock Purchase Agreement signing as "President" of "97.5 Investment TX LLC," which is listed on the signature page of the agreement as "Debtor."³⁵ The term "Debtor" is undefined in the agreement and neither "Debtor" nor "97.5 Investment TX LLC" appear elsewhere in the document. The Transfer Application made no mention of a time brokerage agreement or advertising sales agreement and gave no indication that the Stations were programmed by any party other than the Licensee.

15. In the Transfer Application, Toscano, as the Transferee, certified among other things that "the written agreements [. . .] submitted to the Commission embody the complete and final agreement for the sale or transfer of the station(s)," and that such agreements "comply fully with the Commission's rules and policies."³⁶ In addition, Rygaard and Toscano each certified that they had "answered each question in this application based on its review of the application instructions and worksheets" and that an affirmative certification on the application "constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets."³⁷ Each Party further certified that the statements made by each was "true, complete, correct, and made in good faith."³⁸ In addition to the Parties' certifications in the Transferor's and Transferee's respective sections of the application, the Licensee's portion of the Transfer Application was certified by "Rafael Marquez Aguirre, President," one of the prior owners of the Stations.³⁹

4. The Bureau's Investigation.

16. *Letter of Inquiry.* Upon review of the Transfer Application, it appeared to the Bureau that the Parties had potentially omitted relevant information, including any reference to a time brokerage agreement, and potentially relevant agreements. In order to properly understand and evaluate the pending

³² *Id.*

³³ See Transfer Application at Exh. *Stock Purchase Agreement LORENA margarita.pdf* (providing a copy of the Stock Purchase Agreement between Rygaard and Toscano dated March 31, 2023).

³⁴ The provision, which appears as part of the recitals at the beginning of the Stock Purchase Agreement states in its entirety: "**WHEREAS**, Company [97.5 Holdings] owes to the Buyer [Toscano] a debt for a total of **\$2,451,565.00 USD (Two million four hundred fifty one thousand five hundred sixty five dollars 00/100 US/CY.) ("Debt").**" Stock Purchase Agreement at 2, emphasis in original. Although the provision establishes the debt as a defined term (i.e., "Debt"), that term does not appear to be used again in the Stock Purchase Agreement.

³⁵ Transfer Application at Exh. *Stock Purchase Agreement LORENA margarita.pdf*.

³⁶ See Transfer Application at "Transferee Legal Certifications, Agreements for Sale."

³⁷ Transfer Application at "Transferee Certification, General Certification Statements;" "Transferor Certification, General Certification Statements."

³⁸ Transfer Application at "Transferee Certification, General Certification Statements;" and "Transferor Certification, General Certification Statements."

³⁹ Transfer Application at "Licensee/Permittee Certification."

Transfer Application and the related foreign ownership Petition, the Bureau sought additional information from the Parties by a Letter of Inquiry (LOI) dated July 3, 2024.⁴⁰

17. The LOI was directed to the Licensee and requested information about the current and former operation, ownership, and programming of the Stations, as well as about the involvement of various entities and individuals. The Licensee responded by letter dated August 1, 2024, (LOI Response) along with an affidavit executed by Rygaard.⁴¹ In the LOI Response, the Licensee indicated for the first time that another entity, Pro Radio LLC (Pro Radio), was programming the airtime and selling the advertising on the Stations.⁴² The Licensee asserted that Pro Radio began programming the Stations in November of 2021,⁴³ but elsewhere the LOI Response stated that Pro Radio was not formed under the laws of the State of Texas until August 2022.⁴⁴ The LOI Response further revealed that Pro Radio is, in fact, ultimately owned by the proposed Transferee, Toscano, and her two sisters, Rebeca Elizabeth Pérez Toscano and Jaqueline Pérez Toscano.⁴⁵ In addition, the LOI Response stated that in 2022, Rygaard herself became “an executive with Pro Radio,” indicating that she was an employee of the company programming the Stations at the same time she ostensibly owned the Stations.⁴⁶ The LOI Response stated that the programming arrangement was “unwritten” and asserted that the parties were not aware of the requirement that such agreements be reduced to writing and placed in the Stations’ public inspection files.⁴⁷ And despite the fact that the LOI had instructed the Licensee to reduce any such programming agreement to writing and provide it to the Bureau as part of its LOI Response,⁴⁸ the Licensee failed to do so.

18. The LOI Response also provided copies of two agreements related to the outstanding debt mentioned in the Stock Purchase Agreement. The first, entitled “Acknowledgement of Indebtedness Agreement” and dated November 26, 2021, documented funding from the Mexican radio company Grupo Radio Centro (which at the time was the indirect minority owner of the Stations) to 97.5 Holdings in the amount of \$2,451,565.00 USD.⁴⁹ Grupo Radio Centro apparently provided this funding for capital improvements to the Stations in March 2017.⁵⁰ According to the LOI Response, this debt was not documented with a loan agreement or promissory note at the time the funding was provided in 2017

⁴⁰ Letter of Inquiry from Albert Shuldiner, Chief Audio Division, FCC Media Bureau, to 97.5 Licensee TX, LLC c/o Francisco R. Montero, Counsel, Jul. 3, 2024.

⁴¹ LOI Response at Attach. A, Declaration of Luz Maria Rygaard.

⁴² LOI Response at Attach. A, response to Question 1.

⁴³ LOI Response at Attach. A, response to Question 1(b).

⁴⁴ LOI Response at Attach. A, response to Question 3. The LOI Response also stated that Cynthia Denise Johnson was the current Business Manager of Pro Radio and that she had held that position since 2018. LOI Response at Attach. A, response to Question 16. In response to the Bureau’s 1.88 Letter, discussed further below, the Parties subsequently stated that the information was incorrect and, that in fact, Ms. Johnson began her role as Business Manager of Pro Radio in November 2022. 1.88 Letter Response at Attach. A, response to Inquiry 1.

⁴⁵ LOI Response at Attach. A, response to Question 1 and 3. Specifically, the LOI Response stated that Pro Radio is 100% owned by Medios Unidos del Sureste, SA de C.V., a Mexican incorporated company that is owned by the Transferee and her sisters, Rebeca Elizabeth Pérez Toscano and Jaqueline Pérez Toscano.

⁴⁶ LOI Response at Attach. A, response to Question 14. 97.5 Licensee states that Rygaard is no longer affiliated with Pro Radio but does not indicate when the relationship ended. *Id.*

⁴⁷ LOI Response at Attach. A, response to Question 1(d).

⁴⁸ LOI at Attach., Question 1(c)-(d).

⁴⁹ LOI Response at Attach. A, Exh. 6(b), Acknowledgement of Indebtedness Agreement.

⁵⁰ *Id.*

because Grupo Radio Centro deemed it to be “an internal funding.”⁵¹ In 2021, and in anticipation of seeking Commission approval to sell Grupo Radio Centro’s interest in 97.5 Holdings to Rygaard, the parties apparently decided to treat the funding as a loan and to document 97.5 Holding’s obligation to repay the funding.⁵² The second document, dated November 5, 2021 and entitled “Assignment of Debt Rights Agreement,” assigned the right to collect that outstanding debt to Toscano.⁵³ By the Assignment of Debt Rights Agreement, Grupo Radio Centro assigned the exclusive right to collect the outstanding debt to Toscano in exchange for her payment of \$1,987,500 USD.⁵⁴ Oddly, the Assignment of Debt Rights Agreement predates the execution of the Acknowledgement of Indebtedness Agreement by three weeks, meaning that the parties sold the right to collect the debt to Toscano three weeks before documenting the debt with 97.5 Holdings.⁵⁵

19. While the LOI Response divulged that Mr. Pérez de Anda—Toscano’s father and Rygaard’s uncle—was formerly an officer of 97.5 Holdings, it does not indicate when he held that position.⁵⁶ Thus, it is unclear if he held that position at the time Grupo Radio Centro made its approximately \$2.5 million USD investment in the Stations in 2017 or when the debt was subsequently transferred to his daughter in 2021 while control of the Stations was sold to his niece.⁵⁷ The LOI Response also indicated that Toscano and her family own and operate six radio stations in Ciudad Juarez, Mexico across the border from the Stations in El Paso, Texas, as noted above.⁵⁸

20. Ultimately, the LOI Response raised more questions than it resolved. In addition to providing previously undisclosed information, the LOI Response appeared to contain numerous discrepancies, omissions, and contradictions in the information it provided. Furthermore, the sole declaration provided in support of the LOI Response was executed by Rygaard and stated that:

⁵¹ LOI Response at Attach. A, response to Question 6.

⁵² *Id.* As detailed above, Grupo Radio Centro was the 100% owner of Grupo Radio TX, which held a 25% minority interest in 97.5 Holdings. Rygaard acquired 97.5 Holdings in May 2022 for \$10,000 USD.

⁵³ LOI Response at Attach. A, Exh. 6(b), Assignment of Debt Rights Agreement.

⁵⁴ *Id.* The agreement also records that Toscano’s payment of consideration was to be made in three tranches, with \$400,000 being subject to a reconciliation with expenses or liabilities incurred by the Stations. Toscano’s father, Trigio Javier Pérez de Anda, served as her representative in the reconciliation of those funds, which appeared to be tied to the provision of operational services to the Stations by a company called Southern Radio, Inc.

⁵⁵ As noted above, although the Stock Purchase Agreement between Rygaard and Toscano makes passing reference to the debt owed by 97.5 Holdings to Toscano, the Parties did not include copies of either the Acknowledgement of Indebtedness Agreement or the Assignment of Debt Rights Agreement as part of the pending Transfer Application. Nor did the Parties provide any information about the debt, its origination, or the use of the funds by the Stations. The Stock Purchase Agreement states in passing that 97.5 Holdings owes Toscano “a debt of \$2,451,565.00 USD,” without further explanation or reference. *See supra* para. 14; Transfer Application at Exh. *Stock Purchase Agreement LORENA margarita.pdf*.

⁵⁶ LOI Response at Attach. A, response to Question 13.

⁵⁷ *Id.* While the LOI Response states “Trigio Javier Pérez de Anda was formerly an officer of 97.5 Holdings” and that he “no longer holds a position with [that company],” it does not indicate the dates that he served as an officer of that company. Further, Mr. Pérez de Anda’s involvement as an attributable interest holder in the Stations does not appear to have been reported to the Commission previously. Neither the assignment application by which 97.5 Holdings obtained control of the Station licenses in 2016, nor the subsequent ownership reports filed with the Commission reporting the ownership of 97.5 Holdings in either 2018 or 2020 list Mr. Pérez de Anda as an officer of that company. *See* Assignment Application, File No. BALH-20161108AAW, filed Nov. 08, 2016; Biennial Ownership Report, Application File No. 0000099120, filed Jan. 22, 2020; Biennial Ownership Report, Application File No. 0000047753, filed Mar. 2, 2018. The only individuals reported as attributable officers or directors of 97.5 Holdings in those filings were Cynthia Denise Johnson and Rafael Marquez Aguirre.

⁵⁸ *Supra* para. 11, note 24; *see also*, LOI Response at Attach. A, response to Question 7.

All of the information requested by this LOI that is in Licensee's possession, custody, control, or knowledge has been produced. Any and all Documents provided in its responses are true and accurate copies of the original documents. I declare under penalty of perjury that the foregoing is true and correct.⁵⁹

That statement, however, does not explicitly attest to the veracity of the information provided in the narrative responses. Accordingly, the Bureau thereafter sent the Licensee a subsequent letter, pursuant to section 1.88 of the Rules,⁶⁰ offering the Licensee and the Parties a further, and final, opportunity to respond.

21. *Section 1.88 Letter.* On October 9, 2024, the Bureau sent the section 1.88 letter (1.88 Letter) affording the Licensee, the Transferor, and the Transferee another opportunity to provide explanations regarding the questions raised by the Bureau's investigation.⁶¹ Among other things, the 1.88 Letter sought additional information regarding the failure to provide any documentation to support Pro Radio's programming of the Stations, sought to address discrepancies regarding information provided about that alleged agreement, inquired about Rygaard's employment by Pro Radio, and sought further information regarding the origination of the debt incurred by 97.5 Holdings, including information about the involvement of Toscano's father.⁶² Further, the 1.88 Letter sought an explanation and documentary evidence to support the assertion made in the LOI Response that Rygaard had maintained and exercised proper control over the Stations throughout her ownership and had not abdicated control to Pro Radio or Toscano.⁶³ In addition, the Bureau's 1.88 Letter also sought further information regarding discrepancies in the Transfer Application and in earlier ownership report filings made for the Stations, including that the Licensee's portion of the Transfer Application appeared to have been signed by a former owner of the Stations, Rafael Marquez Aguirre.⁶⁴ The 1.88 Letter was addressed collectively to the Licensee, Rygaard, and Toscano and sent to each individually, along with a courtesy copy to the single lawyer listed on the Transfer Application as representing the Transferor, Transferee, and the Licensee.⁶⁵ The 1.88 Letter requested both narrative responses and documentary evidence where appropriate to support the Parties' responses.⁶⁶ It also required that the responses be supported by affidavits from the appropriate Party, or by third parties if the Party did not have personal knowledge of particular facts.⁶⁷

22. The Parties responded collectively by letter dated November 8, 2024.⁶⁸ Among other things, the 1.88 Letter Response failed to provide any explanation as to why Pro Radio's programming of the Stations was not reduced to writing and provided to the Bureau as instructed in the LOI,⁶⁹ dismissed application filing errors and discrepancies in the LOI Response as typographical errors or oversights, and

⁵⁹ LOI Response at Attach. A, Declaration of Luz Maria Rygaard.

⁶⁰ 47 CFR § 1.88 (allowing licensee to file a written statement in response to a Commission inquiry to set forth its views regarding the matters under investigation in advance of a possible designation for hearing).

⁶¹ Section 1.88 Letter from Albert Shuldiner, Chief Audio Division, FCC Media Bureau, to 97.5 Licensee TX, LLC, et al., Oct. 9, 2024.

⁶² 1.88 Letter at 2-4, questions 1-2, 4.

⁶³ 1.88 Letter at 3, question 3.

⁶⁴ 1.88 Letter at 4-5, questions 5-6.

⁶⁵ 1.88 Letter at 1.

⁶⁶ 1.88 Letter at 2-6.

⁶⁷ 1.88 Letter at 5-6.

⁶⁸ Letter from Francisco R. Montero, Counsel for 97.5 Licensee TX, LLC, to Christopher Clark, Brendan Holland, and Albert Shuldiner, Audio Division, FCC Media Bureau, Nov. 8, 2024 (*1.88 Letter Response*).

⁶⁹ See LOI at Attach. A, Question 1(d).

provided no supporting documents regarding the negotiation and origination of the programming agreement, as the Bureau had requested. Also significant was the lack of documentation substantiating Rygaard's actual control over the policies and operation of the Stations and demonstrating her independence from her employment by Pro Radio. Ultimately, the 1.88 Letter Response reinforced the Bureau's view that an unauthorized transfer of control to Toscano, a foreign national, had already occurred. Moreover, the 1.88 Letter Response continued the pattern observed by the Bureau of misleading, incomplete, and incredible explanations by the Licensee and the Parties.

B. Applicable Legal Standards

23. *Unauthorized Transfer of Control.* Section 310(d) of the Act states that no "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 . . . to any person except upon application to the Commission and a Commission finding that the public interest, convenience, and necessity will be served thereby."⁷⁰ Thus, under section 310(d) of the Act, the Commission prohibits *de facto*, as well as *de jure*, transfers of control of a station license, or any rights thereunder, without prior Commission consent.⁷¹

24. In determining whether an entity has *de facto* control of a broadcast applicant or licensee, we have traditionally looked beyond legal title and financial interests to determine who holds operational control of the station.⁷² The Commission, in particular, looks to whether the entity in question establishes the policies governing station programming, personnel, and finances, and has held that a licensee may delegate day-to-day operations regarding those three areas without surrendering *de facto* control, so long as the licensee continues to set the policies governing those operations.⁷³ In addition, the Commission will consider other factors, such as whether someone other than the licensee holds themselves out to station staff and/or the public as one who controls station affairs.⁷⁴

25. *Foreign Ownership Limitations.* Section 310(b) of the Act limits foreign holdings of broadcast licenses.⁷⁵ The statute limits direct foreign ownership of broadcast licensees to 20%, while allowing for certain indirect holdings of such interests by foreign persons or entities.⁷⁶ Specifically, the statute states:

- No broadcast . . . station license shall be granted to or held by--
- (1) any alien or the representative of any alien;
 - (2) any corporation organized under the laws of any foreign government;
 - (3) any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a

⁷⁰ 47 U.S.C. § 310(d); *see also* 47 CFR § 73.3540 (requiring the Commission's prior consent before a voluntary assignment or transfer of control).

⁷¹ *See id.*

⁷² *See WHDH, Inc.*, 17 FCC 2d 856, 863, para. 15 (1969), *aff'd sub nom. Greater Boston Television Corp. v. FCC*, 444 F.2d 841 (D.C. Cir. 1970); *Paxson Mgmt. Corp. & Lowell W. Paxson (Transferors) & CIG Media LLC (Transferee)*, Memorandum Opinion and Order, 22 FCC Rcd 22224, 22234, para. 28 (2007) ("An unauthorized transfer of *de facto* control would violate Section 310(d) of the Act").

⁷³ *See, e.g., Radio Moultrie, Inc.*, Order to Show Cause and Notice of Opportunity for Hearing, 17 FCC Rcd 24304, 24306 (2002).

⁷⁴ *See WQRZ, Inc.*, Decision, 22 FCC 1254, 1332, para. 51 (1957).

⁷⁵ 47 U.S.C. § 310(b).

⁷⁶ *Id.*

foreign government or representative thereof or by any corporation organized under the laws of a foreign country;

(4) any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.⁷⁷

Unless the Commission finds that the public interest will be served by refusing to permit such foreign ownership, the section 310(b)(4) benchmarks permit a foreign individual, government, or entity to own or vote, directly or indirectly, more than 25% (and up to 100%) of the equity and voting interests of a U.S.-organized entity that holds a controlling interest in a broadcast licensee.⁷⁸ Any broadcast station applicant seeking to exceed the section 310(b)(4) benchmarks must file a petition for declaratory ruling pursuant to sections 1.5000-04 of the Commission's rules and obtain Commission approval before the foreign ownership (equity and voting) in the controlling U.S. parent entity exceeds 25%.⁷⁹

26. *Misrepresentation and Lack of Candor.* The Commission and the courts have emphasized that “applicants before the FCC are held to a high standard of candor and forthrightness.”⁸⁰ The Commission licenses tens of thousands of radio and television stations in the public interest, and therefore relies heavily on the completeness and accuracy of the submissions made to it.⁸¹ Full and clear disclosure of all material facts in every application—or response to a Commission request for information—is essential to the efficient administration of the Commission's licensing process, and the Commission's proper analysis of an application is critically dependent on the accuracy and completeness of information and data that only the applicant can provide.⁸² Thus, “applicants . . . have an affirmative duty to inform the Commission of the facts it needs in order to fulfill its statutory mandate.”⁸³

⁷⁷ *Id.*

⁷⁸ 47 U.S.C. § 310(b)(4).

⁷⁹ 47 CFR § 1.5000 *et seq.*

⁸⁰ *WHW Enterprises, Inc., v. FCC*, 753 F.2d 1132, 1139 (D.C. Cir. 1985) (*WHW*).

⁸¹ *Id.*, citing *RKO General, Inc. v. FCC*, 670 F.2d 215, 232 (D.C. Cir. 1981), *cert. denied*, 456 U.S. 927 (1982); see also *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order and Policy Statement, 102 FCC 2d 1179, 1209-10, para. 58 (1986), recon. granted in part and denied in part, Memorandum Opinion and Order, 1 FCC Rcd 421 (1986) (subsequent history omitted).

⁸² See *Sinclair Broadcast Group*, Order, 35 FCC Rcd 5877, 5878, para. 2 (2020) (“Section 1.65 of the Rules requires timely, full, and clear disclosure of all material facts in every application, which is essential to the efficient administration of the Commission's licensing process. Proper analysis of an application is critically dependent on the accuracy and completeness of information and data that only the applicant can provide.”); *Fox Television Stations, Inc.*, Memorandum Opinion and Order, 33 FCC Rcd 7221, 7238-39, para. 42 (2018) (“Full and clear disclosure of all material facts in every application is essential to the efficient administration of the Commission's licensing process, and proper analysis of an application is critically dependent on the accuracy and completeness of information and data that only the applicant can provide. Misrepresentation and lack of candor raise serious concerns as to the likelihood of a licensee's truthfulness.”).

⁸³ *WHW*, 753 F.2d at 1139; see also *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000) (stating the Commission “relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing”) (*Contemporary Media*).

27. Misrepresentation and lack of candor raise serious concerns as to the likelihood that the Commission can rely on an applicant, permittee, or licensee to be truthful.⁸⁴ Misrepresentation is a false statement of fact made with intent to deceive the Commission⁸⁵ and lack of candor is a concealment, evasion, or other failure to be fully informative, accompanied by an intent to deceive the Commission.⁸⁶ Both are proscribed by our Rules at section 1.17(a)(1), which provides that no person shall, in any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading.⁸⁷ A necessary and essential element of both misrepresentation and lack of candor is intent to deceive.⁸⁸ Fraudulent intent can be found from “the fact of misrepresentation coupled with proof that the party making it had knowledge of its falsity.”⁸⁹ Intent can also be found from motive or a logical desire to deceive.⁹⁰ Further, section 312(a)(1) of the Act provides false statements knowingly made to the Commission can be a basis for revocation of a license or construction permit.⁹¹

28. *Character Qualifications.* The character of an applicant is among those factors that the Commission considers in determining whether the applicant has the requisite qualifications to be a Commission licensee. Section 312(a)(2) of the Act provides that the Commission may revoke any license if “conditions com[e] to the attention of the Commission which would warrant it in refusing to grant a license or permit on the original application.”⁹² Because the character of the applicant is among those factors the Commission considers in its review of applications to determine whether the applicant has the

⁸⁴ *Character Policy Statement*, 102 FCC 2d at 1209-11, paras. 54-61. The fundamental importance of truthfulness and candor on the part of applicants and licensees in their dealings with the Commission is well established. See *FCC v. WOKO, Inc.*, 329 U.S. 223 (1946); *Nick J. Chaconas*, Decision, 28 FCC 2d 231 (1971); *Lebanon Valley Radio, Inc.*, Decision, 35 FCC 2d 243 (Rev. Bd 1972).

⁸⁵ *Fox River Broadcasting, Inc.*, Order, 93 FCC 2d 127, 129, para. 6 (1983) (*Fox River*); *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7435, para. 7 (2004) (*Discussion Radio*); see also *WHW*, 753 F.2d at 1139 (the Commission “refuse[s] to tolerate deliberate misrepresentations”).

⁸⁶ See *Fox River*, 93 FCC 2d at 129; *Discussion Radio*, 19 FCC Rcd at 7435; see also *WHW*, 753 F.2d at 1139 (the core of lack of candor is “a failure to be completely forthcoming in the provision of information which could illuminate a decisional matter”).

⁸⁷ See 47 CFR § 1.17(a)(1).

⁸⁸ See *Swan Creek Communications, Inc. v. FCC*, 39 F.3d 1217, 1222 (D.C. Cir. 1994); *Discussion Radio*, 19 FCC Rcd at 7435.

⁸⁹ *David Ortiz Radio Corp. v. FCC*, 941 F.2d 1253, 1260 (D.C. Cir. 1991) (quoting *Leflore Broadcasting Co. v. FCC*, 636 F.2d 454, 462 (D.C. Cir. 1980)); see also *Discussion Radio*, 19 FCC Rcd at 7435.

⁹⁰ See *Discussion Radio*, 19 FCC Rcd at 7435; *Black Television Workshop of Los Angeles, Inc.*, Decision, 8 FCC Rcd 4192, 4198, n.41 (1993) (citing *California Public Broadcasting Forum v. FCC*, 752 F.2d 670, 679 (D.C. Cir. 1985); *Joseph Bahr*, Memorandum Opinion and Order, 10 FCC Rcd 32, 33 (Rev. Bd. 1994); *Scott & Davis Enterprises, Inc.*, Decision, 88 FCC 2d 1090, 1100 (Rev. Bd. 1982)). Intent to deceive can also be inferred when the surrounding circumstances clearly show the existence of an intent to deceive. See *Commercial Radio Service, Inc.*, Order to Show Cause, 21 FCC Rcd 9983, 9986 (2006) (citing *American International Development, Inc.*, Memorandum Opinion and Order, 86 FCC 2d 808, 816, n.39 (1981), *aff’d sub nom. KXIV, Inc. v. FCC*, 704 F.2d 1294 (D.C. Cir. 1983)).

⁹¹ Section 312(a)(1) holds that the Commission may revoke a station license for false statements knowingly made either in an application or in any statement of fact required pursuant to section 308 consistent with the guidance set forth in section 312(c). 47 U.S.C. §§ 312(a)(1), (c).

⁹² 47 U.S.C. § 312(a)(2).

requisite qualifications to operate the station for which authority is sought,⁹³ a character defect that would warrant the Commission's refusal to grant a license in the original application would likewise support a Commission determination to revoke a license or permit.⁹⁴

29. When reviewing allegations of misconduct in the licensing context, the Commission evaluates whether the party will likely be forthright in future dealings with the Commission and will operate its station consistent with the requirements of the Act, the Rules, and Commission policies.⁹⁵ Indeed, the Commission's *Character Qualifications Policy Statement* acknowledges that, in assessing character qualifications in broadcasting matters, the relevant character traits the Commission is concerned with "are those of 'truthfulness' and 'reliability.'"⁹⁶ Because the Commission relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing, courts have recognized that an applicant who deliberately makes misrepresentations or lacks candor may engage in disqualifying conduct.⁹⁷ The Commission also has recognized that "any violations of the Communications Act, Commission rules or Commission policies can be said to have a potential bearing on character qualifications."⁹⁸ It therefore is appropriate to consider "any violation of any provision of the Act, or of our Rules or policies, as possibly predictive of future conduct and, thus, as possibly raising concerns over the licensee's future truthfulness and reliability."⁹⁹ Such violations also can be a basis for revocation of a license or construction permit.¹⁰⁰

III. DISCUSSION

30. Based on the record, we find there are substantial and material questions regarding whether Rygaard has maintained control of the Stations or has abdicated control to Pro Radio or Toscano, in violation of the Act and the Rules. Moreover, we find substantial and material questions that the Parties have engaged in misrepresentation and/or lack of candor before the Commission, including by failing to respond fully to the Bureau's inquiries, in violation of our rules and standards for Commission licensees. Accordingly, we find that there are substantial and material questions of fact regarding whether either Rygaard or Toscano has the requisite character qualifications to remain, or become, a Commission licensee, and we are further unable to find that grant of the Transfer Application would be consistent with the public interest, convenience, and necessity. Thus, a hearing is required, as discussed further below.

31. Consistent with the Commission's long-standing *Jefferson Radio* policy, the Bureau will suspend the processing of the Transfer Application and the related foreign ownership Petition pending the outcome of this hearing. Under *Jefferson Radio*, action on an assignment or transfer application generally will be deferred where there are unresolved questions regarding the licensee's basic character

⁹³ See *id.* § 308(b).

⁹⁴ *Id.* § 312(a)(2).

⁹⁵ See *Policy Regarding Character Qualifications In Broadcast Licensing Amendment of Rules of Broadcast Practice and Procedure Relating to Written Responses to Commission Inquiries and Making of Misrepresentations to the Commission by Permittees and Licensees*, Report, Order, and Policy Statement, 102 FCC 2d 1179, 1209, para. 55 (1986 *Character Policy Statement*), *recon. dismissed/denied*, 1 FCC Rcd 421 (1986).

⁹⁶ 1986 *Character Policy Statement* at 1209, para. 55.

⁹⁷ *Contemporary Media*, 214 F.3d at 193 (citing *Schoenbohm v. FCC*, 204 F.3d 243, 247 (D.C. Cir. 2000) (*Contemporary Media*)).

⁹⁸ 1986 *Character Policy Statement*, at 1209, para. 56.

⁹⁹ *Id.* at 1209-10, para. 57.

¹⁰⁰ 47 U.S.C. § 312(a)(1) (providing that the "Commission may revoke any station license or construction permit . . . for false statements knowingly made either in the application or in any statement of fact which may be required . . .").

qualifications, as there are here.¹⁰¹ This policy is based on the premise that a licensee may not have anything to assign or transfer unless and until the pending character qualifications questions have been resolved.¹⁰² The Commission has stated that this policy stems from its “concern that, where an evidentiary hearing has been designated on a renewal application or show cause order to determine disqualifying questions, permitting the suspected wrongdoer to evade a sanction by transferring his interest or assigning the license without hearing will diminish the deterrent effect which revocation and renewal proceedings should have on broadcast licensees.”¹⁰³ Absent the deterrent effect of this policy and the potential revocation of license a party could simply “sell out from under a potential disqualification.”¹⁰⁴

A. Unauthorized Transfer of Control to a Foreign Citizen

32. The record developed by the Bureau thus far appears to indicate there has been an unauthorized transfer of control. As described above,¹⁰⁵ section 310(d) of the Act¹⁰⁶ and section 73.3540 of the Commission’s rules¹⁰⁷ require that a licensee request, and the Commission authorize, any transfer of control of a broadcast station license. Ceding control of a station to anyone other than the authorized licensee of the station is a violation of those provisions. In determining whether an individual or entity has *de facto* control of a broadcast applicant or licensee, the Commission traditionally looks to whether the party in question establishes the policies governing station programming, personnel, and finances.¹⁰⁸

¹⁰¹ *Jefferson Radio Co., Inc. v. FCC*, 340 F.2d 781, 783 (D.C. Cir. 1964) (“It is the recognized policy of the Commission that assignment of broadcast authorizations will not be considered until the Commission has determined that the assignor has not forfeited the authorization.”) (*Jefferson Radio*); see also *RKO General, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 5057, 5060-61 (1988) (*RKO General*); *Peninsula Communications, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 23992, 23996 (1998). While the Commission has recognized limited exceptions to *Jefferson Radio*, namely, in cases involving an assignment by a seriously ill licensee or a licensee in bankruptcy, or an assignment to an eligible entity under the Commission’s distress sale policy, none of these exceptions is applicable in this case. *RKO General*, 3 FCC Rcd at 5061, para. 24 (*citations omitted*). Fundamentally, the exceptions to the *Jefferson Radio* policy involve circumstances in which the party whose qualifications are at issue is *leaving* the ranks of Commission licensees, whereas in the present case the basic qualifications of the proposed transferee seeking to become a licensee in the first instance are at the heart of the matter.

¹⁰² *Northland Television, Inc.*, 42 RR 2d 1107, 1110 (1978) (“The Commission has repeatedly held that a licensee or permittee has nothing to assign or transfer unless and until he has established his own qualifications, and assignment and transfer applications are dismissed as moot upon a finding that the selling party lacks such qualifications.”) (*Northland Television*).

¹⁰³ *Id.*; see also, *Harry O'Connor*, Memorandum Opinion and Order and Notice of Apparent Liability, 2 FCC 2d 45, 48, para. 8 (1965) (“The purpose underlying this policy is obvious: A licensee cannot act inconsistently with the Communications Act or the Commission’s rules and policies, and then, when a question is raised concerning such improper activity, transfer or assign the license to another; if he could, the only result of the wrongdoing would be a forced sale.”) We note moreover that in this case even the transfer of the Station licenses would not improve the situation as the Transferee here appears to be as culpable and unqualified to hold the licenses as the Transferor.

¹⁰⁴ See *Cellular System One of Tulsa, Inc.*, Memorandum Opinion and Order, 102 FCC 2d 86, 90, para. 7 (1985) (“To permit a licensee to sell out from under a potential disqualification would significantly impair the Commission’s ability to police and deter licensee misconduct.”) (citing *Pass Word, Inc.*, 76 FCC 2d 465, 516 (1980)).

¹⁰⁵ See *supra* paras. 23-19.

¹⁰⁶ See 47 U.S.C. § 310(d).

¹⁰⁷ See 47 CFR § 73.3540 (application for voluntary assignment or transfer of control).

¹⁰⁸ See, e.g., *Radio Moultrie, Inc.*, Order to Show Cause and Notice of Opportunity for Hearing, 17 FCC Rcd 24304, 24306, paras. 8-9 (2002); *Stereo Broadcasters, Inc.*, Decision, 87 F.C.C.2d 87, 92-93, paras. 15-16 (1981) (affirming (continued....))

33. The 1.88 Letter instructed Rygaard to document her control of the Stations. As set forth below, the limited evidence she provided, however, fails to substantiate that she established the policies governing the Stations' programming, personnel, and finances, and instead appears to indicate that she has abdicated control of the Stations. In addition to being unable to demonstrate continued control of the Stations, a number of other factors in this case suggest that an unauthorized transfer has occurred, including: (1) the fact that Pro Radio, a company owned by Toscano, had begun programming and operating the Stations in December 2022 pursuant to an unwritten agreement and contemporaneous with Toscano's acquisition of the right to collect the debt owed by 97.5 Holdings; (2) the fact that from December 2022 until January 2024 Rygaard was employed by Pro Radio, the company programming the Stations and owned by Toscano; (3) the fact that the 97.5 Holdings is heavily indebted to Toscano, who paid nearly \$2 million USD to acquire the right to collect that debt just prior to Rygaard's acquisition of 97.5 Holdings for a nominal amount; (4) the use of the same nominal purchase price between Rygaard and Toscano in the pending Transfer Application; (5) the undisclosed familial ties between the Transferor and Transferee; and (6) Toscano's undisclosed connections to the earlier ownership and operation of the Stations.

34. *Policies Regarding Programming, Personnel, and Finances.* In response to the Bureau's request in the 1.88 Letter that Rygaard substantiate that she has "maintained and exercised control over the programming, personnel, and finances of the Stations from the time of her acquisition of 97.5 Holdings in May 2022 through the present,"¹⁰⁹ Rygaard has provided scant evidence. In particular, Rygaard offers no evidence that any policies governing programming, personnel, and finances exist or have ever existed, let alone that she has controlled or would control such policies. The 1.88 Letter instructed that general assertions of control would not be sufficient and that Rygaard should "provide email, correspondence, documents, financial statements or similar documentation to show that she has exercised control over the Stations since acquiring them two years ago."¹¹⁰ In all, the evidence provided by Rygaard in response to the Bureau's 1.88 Letter totaled 20 pages of material, and comprises: (1) 11 one-page memos entitled "Programming meeting minutes," that seemingly document operational meetings related to the Stations held on 11 dates between September 2022 and July 2024; and (2) 9 undated one-page "Quarterly Reports" regarding the status of ongoing engineering work at the Stations.¹¹¹

35. First, with regard to programming, while Rygaard asserts that she oversees all programming activities, her response fails to substantiate how exactly she has exercised that oversight or if she has established the policies regarding the programming aired on the Stations. Despite asserting that "[a]ll programming activities are ultimately under her supervision,"¹¹² notably, Rygaard has not asserted that she has acquired, selected, contracted for, or produced any programming for the Stations, or engaged in the creation or oversight of programming policies. Instead, Rygaard claims that she maintains control of the programming on the Stations by supervising the individual who reviews the programming provided by the third-party programmer, Pro Radio.¹¹³ It is unclear if the individual she supervises is an employee of the Licensee or works for Pro Radio. The question of control of the programming is further confused by the fact Rygaard herself was an employee of Pro Radio for at least part of the time that it apparently

ALJ's conclusion that unauthorized transfer of control occurred where transferee participated in finances, programming and personnel, which were "major indices of control").

¹⁰⁹ 1.88 Letter at 3, question 3.

¹¹⁰ *Id.*

¹¹¹ 1.88 Letter Response at Attach. A, response to Inquiry 3 and Exhibit 3. The 1.88 Letter Response states that Rygaard reviews the quarterly reports and approves the work listed therein, while the most it claims with regard to the other documents is that they "are minutes from meetings attended by Ms. Rygaard."

¹¹² 1.88 Letter Response at Attach. A, response to Inquiry 3.

¹¹³ *Id.*

programmed the Stations.¹¹⁴ Other than a list of payments made by Pro Radio to 97.5 Holdings, the Parties provide no documentation regarding the Station's programming policies or substantiating Rygaard's control of the same. Combined with the fact that Pro Radio's programming of the Stations and sale of advertising time was never documented until the Parties were confronted with repeated questions from the Bureau, there appear to be substantial and material questions of fact as to whether Rygaard has surrendered control of the programming policies and decision-making.

36. Second, with respect to personnel, in response to the Bureau's inquiries, Rygaard provides the names of three individuals that she says "report directly" to her, but she fails to actually state who employs these individuals.¹¹⁵ Notably, she does not assert that they are employees of the Licensee, nor does she provide evidence of employment, including, for example, payroll information substantiating who pays these individuals. Further, Rygaard does not indicate whether she sets the policies concerning these individuals' employment, supervision, and dismissal, nor whether she has the authority to hire, promote, or fire these individuals or any other employees, or if she has ever done so. Indeed, based on the responses thus far, it does not appear that the Licensee *has* any employees. Fundamentally, the record does not show that Rygaard has maintained control of the policies regarding the employment, supervision, and dismissal of Station personnel.

37. Third, in the 1.88 Letter Response, Rygaard makes no reference whatsoever to control of the Stations' finances and provides no evidence that she is in control of the same. Moreover, the 1.88 Letter Response is conspicuously devoid of any financial documentation showing that the Licensee is involved in the operation of the Stations, such as lease payments made by the Licensee, employee payroll, payments for programming or station services, or financial documents of any kind. Rygaard does not provide any records reflecting that she or 97.5 Licensee paid any Station invoices, such as cancelled checks or bank records. She also fails to provide any documentation reflecting who pays any of the Stations' other costs and expenses, including, but not limited to, real estate and business taxes, telephone service, utilities, tower or broadcast equipment leases, insurance, and programming. Nor does she provide any documents related to revenue generated from her ownership of the Stations, or any tax obligations therefrom that would necessitate the filing of Federal or state tax returns. In fact, the only documents provided as part of the 1.88 Letter Response appear to be a record of payments from Pro Radio to 97.5 Holdings and a payroll report showing that that Pro Radio made payments to Cynthia Denise Johnson, the Business Manager of Pro Radio,¹¹⁶ about whom the Bureau inquired in the LOI and the 1.88 Letter.¹¹⁷ Based on the complete lack of evidence in response to multiple requests, there are substantial and material questions of fact as to who controls the Stations' financial obligations and payments.

38. *Circumstantial Evidence of Control.* While the record is severely lacking in any evidence to support the assertion that Rygaard has maintained control of the policies and decision-making related to programming, personnel, and finances of the Stations, it contains significant evidence suggesting that Pro Radio and/or Toscano has exercised *de facto* control of the Stations through Pro Radio's provision of 100% of the Stations' programming and employment of the ostensible station owner, among other things. Such evidence, combined with Rygaard's nominal purchase price of the Stations in 2021, which occurred

¹¹⁴ See, e.g., 1.88 Letter Response at Attach. A, response to Inquiry 2.

¹¹⁵ 1.88 Letter Response at Attach. A, response to Inquiry 3.

¹¹⁶ According to the 1.88 Letter Response, prior to becoming the Business Manager of Pro Radio in November 2022, Cynthia Denise Johnson was the Business Manager of Southern Radio, Inc., which programmed the Stations when the Mexican-owned company Grupo Radio Centro was involved. Ms. Johnson worked for Southern Radio, Inc. from 2010 to October 2022. 1.88 Letter Response at Attach. A, response to Inquiry 1 and Affidavit of Cythina Denise Johnson. In addition, Ms. Johnson appears on various ownership reports and Commission filings for the Stations over the years. See, e.g., FCC Ownership Report, Application File No. 0000099508, submitted Jan. 23, 2020 (listing Cynthia Denise Johnson as an attributable officer of Grupo Radio Centro TX, LLC).

¹¹⁷ 1.88 Letter Response at Attach. A, response to Inquiry 3, and Exhibit 1(b).

at the same time that Toscano acquired the right to collect the outstanding multi-million-dollar debt owed by 97.5 Holdings,¹¹⁸ leads us to find that substantial and material questions exist that require exploration at hearing as set forth below.

39. Pro Radio—a company ultimately owned by the Transferee and her sisters—has apparently been programming the Stations and selling the advertising time for several years with no written evidence that Rygaard implemented contractual arrangements to retain control of the Stations. In response to the Bureau’s repeated inquiries, the Parties finally revealed Pro Radio’s involvement¹¹⁹ and in November 2024 drafted an agreement that purported to cover the arrangement that it claims began in 2022.¹²⁰ Initially, however, the Parties stated that Pro Radio had been programming substantially all of the time on the Stations seven days a week since November 2021.¹²¹ Notably, that timing coincides with the execution of the Assignment of Debt Rights Agreement (assigning the right to collect 97.5 Holding’s outstanding \$2.5 million USD debt to Toscano) and the stock purchase agreement to transfer control of the Stations to Rygaard, but predates the Commission’s approval of Rygaard’s acquisition of the Stations, which did not come until May 2022.¹²² When the Bureau pointed out in its subsequent 1.88 Letter that the LOI Response seemed to indicate that Pro Radio was not even formed under the laws of Texas until August 11, 2022, the Parties revised their response to say that the programming agreement actually commenced after Rygaard’s acquisition and *not* in November 2021.¹²³ Calling the discrepancy “merely a typographical error,” the Parties revised their answer to claim that Pro Radio began programming the Stations in December 2022.¹²⁴ This change in position, when combined with the absence of any contemporaneous written agreement, suggests that the Parties were fabricating a story to obfuscate an unauthorized transfer of control.

40. Regardless of when the Parties claim the arrangement began, it is clear that no documentation of the programming agreement existed prior to the Bureau’s inquiries. The fact that Pro Radio, ultimately owned by the Transferee, was programming the Stations and selling all of the advertising time throughout most or all of the period that Rygaard has allegedly owned the Stations is of particular relevance to the operation and control of the Stations. That is particularly so when coupled with Rygaard’s lack of evidence demonstrating that she maintained and exercised control over the programming, personnel, and finances of the Stations.

41. Further obfuscating the assessment of the true ownership and control of the Stations is the fact that Rygaard has been identified as an officer of Pro Radio at the same time she was ostensibly the owner of the Stations. According to the Parties, from August 2022 until January 19, 2024, Rygaard was the Chief Financial Officer of Pro Radio and received compensation from the company of more than \$55,000 for providing “financial management and tax planning services for Pro Radio.”¹²⁵ In addition, although the Parties failed to include this information in responding to the Bureau’s inquiries, a search of corporate records with the Texas Secretary of State indicates that Rygaard also apparently serves as a

¹¹⁸ See *supra* para. 18.

¹¹⁹ LOI Response at Attach. A, response to Question (1).

¹²⁰ 1.88 Letter Response at Attach. A, response to Inquiry 1, and Exhibit 1(a).

¹²¹ LOI Response at Attach. A, response to Question (1).

¹²² See *supra* para. 18.

¹²³ 1.88 Letter Response at Attach. A, response to Inquiry 1 (“Identifying the programming agreement with Pro Radio as beginning in 2021 was merely a typographical error.”).

¹²⁴ *Id.* Assuming the veracity of the revised commencement date, the Parties notably provide no information regarding what programming the Stations carried from the time of Rygaard’s acquisition of the Stations in May 2022 until the alleged commencement of the Pro Radio programming in December 2022.

¹²⁵ LOI Response at Attach. A, response to Question 14; 1.88 Letter Response at Attach. A, p. 5, response to Inquiry 2.

director and the Treasurer of Pro Radio alongside Toscano and her sisters, who are also officers and directors.¹²⁶ Accordingly, this apparent conflation of operations between 97.5 Licensee and Pro Radio raises substantial and material questions of fact as to whether the Parties respected any separation between the Commission-approved Licensee, on the one hand, and an unapproved foreign individual, on the other.

42. In addition, the transfer of the right to collect a significant outstanding debt to Toscano contemporaneously with the sale of the Stations to Rygaard for a nominal amount in 2021 could indicate that Toscano has been involved in the operation of the Stations since at least that time. Copies of the Acknowledgement of Indebtedness Agreement and the Assignment of Debt were not provided to the Commission as part of the 2021 Transfer Application by which Rygaard obtained control of the Stations in 2021-2022, nor were they provided as part of the pending Transfer Application.¹²⁷ While the Parties provide some information regarding the origination of that debt and the transfer of the right to collect it in response to the Bureau's investigation, it is not clear whether 97.5 Holdings has made any payments to Toscano during Rygaard's ownership of the company, what the outstanding balance is on the loan, what security, if any, has been provided for the loan, and how exactly the funds were used by the Stations. In addition, although the 1.88 Letter Response speaks to the origin of the loan by Grupo Radio Centro and the prior owners of 97.5 Holdings, the sole affidavit provided in support of the information is from Rygaard, who is not party to, nor appears to have had any involvement with, the origination of the loan.¹²⁸ Accordingly, substantial and material questions of fact remain to be explored in a hearing regarding the loan, its origination and transfer to Toscano ahead of the sale of 97.5 Holdings to Rygaard, and the ongoing debt service, in order to determine whether the 2021-2022 transfer of control to Rygaard was a fiction and whether Toscano has been exercising control of the Stations.

¹²⁶ See Texas Secretary of State, Business Information for Pro Radio, LLC (Filing No. 0804682712) retrieved via LexisNexis Public Records search. This corporate business record lists Rygaard as a director and the registered agent of Pro Radio, at the same time that Toscano is reflected as the president and a director of the company. In addition, Elizabeth Pérez Toscano is reported as secretary and director, Jaqueline Pérez Toscano as vice president and director, and Denise Johnson as the corporate secretary of the company.

¹²⁷ The sole reference to the outstanding debt was contained in a brief provision of the stock purchase agreement between Rygaard and Grupo Radio TX and 97.5 Investment entitled "Company Accounting," which stated: "Both parties have reasonable knowledge of the company's accounting and economic situation to the date thereof, as well as of its assets, debts, obligations, and tax liabilities including a recognized debt for around 2.5 million dollars." 2021 Transfer Application at Exh. *Stock Purchase Agreement - Rygaard.pdf*.

¹²⁸ Notably, in responding to questions about the origination of the loan and the sale of the Stations to Rygaard, the 1.88 Letter Response indicates that the loan was made by Grupo Radio TX, a U.S. corporation; however, the loan documents make clear that it was actually the Mexican parent company, Grupo Radio Centro, that provided the funds to the Stations and sold the right to collect that debt to Toscano. Further, in briefly describing the negotiations in connection with the sale of 97.5 Holdings to Rygaard in 2021, the 1.88 Letter Response refers to the negotiations as being "between Ms. Rygaard and Grupo Radio TX." 1.88 Letter Response at Attach. A, response to Inquiry 4. No mention is made of the involvement of the majority owner at the time, U.S. citizen Rafael Marquez Aguirre who held 75% of the equity and voting interests of 97.5 Holdings. This potentially indicates that the Mexican-owned minority interest holder at that time, Grupo Radio Centro, was exercising actual control of the Stations in violation of the Commission's foreign ownership rules. As noted above, no declarations or attestations were provided by Mr. Pérez de Anda, Mr. Marquez Aguirre, Grupo Radio TX, Grupo Radio Centro, Pro Radio, or any party other than Rygaard in support of the responses to this line of inquiry, contrary to the Bureau's instructions in the 1.88 Letter. 1.88 Letter at 5-6 (stating "In addition to such general affidavit or declaration of the authorized officer of the Applicant described above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual rather than his or her own knowledge, and if multiple employees contribute to the response, the Applicant shall provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with 47 CFR § 1.16, and be substantially in the form set forth therein.").

43. Furthermore, while the 1.88 Letter Response states that neither Toscano nor her father Trigio Javier Pérez de Anda played a role in the sale of 97.5 Holdings to Rygaard in 2021-2022,¹²⁹ it appears that Mr. Pérez de Anda *did* have direct involvement with the contemporaneous transfer of the right to collect the outstanding debt to his daughter, Toscano, at the same time the Stations were being transferred to Rygaard. The Assignment of Debt Rights Agreement by which the creditor and former minority owner, Grupo Radio Centro, transferred the right to collect the outstanding debt to Toscano indicates that Mr. Pérez de Anda served as his daughter's representative in connection with an element of that agreement, indicating that he was directly involved in that transaction.¹³⁰ Additionally, the Parties acknowledge in the LOI Response that Mr. Pérez de Anda was an officer of 97.5 Holdings at some point, though it is unclear whether he held that position at the time Grupo Radio Centro made its \$2.5 million investment in the Stations in 2017 or when the right to collect the debt was transferred to his daughter in 2021.¹³¹ Notably, however, Mr. Pérez de Anda is also a party to the current Stock Purchase Agreement between Rygaard and Toscano, signing that document as President of "Debtor: 97.5 Investment TX, LLC."¹³² The familial connections and potential close involvement between the former minority owner (Grupo Radio Centro), Mr. Pérez de Anda, the current owner (Rygaard), and the proposed Transferee (Toscano), as well as between the Licensee and Pro Radio, further confuses the operation and control of the Stations and raises substantial and material questions of fact as to whether the Parties have engaged in an unauthorized transfer of control.

44. We therefore designate for hearing appropriate issues to confirm whether Rygaard has engaged in an unauthorized transfer of control of the Stations in violation of the Act and the Commission's Rules. Conversely, we also designate for hearing appropriate issues to confirm if Toscano intentionally exercised control of the Stations without prior Commission consent in violation of the Act and Rules, including those restricting the involvement of a foreign individual in the ownership and control of a broadcast license.

B. Misrepresentations and/or Lack of Candor

45. As set forth above, the Commission and the courts have recognized that "[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing."¹³³ As such, full and clear disclosure of all material facts in every application is essential to the efficient administration of our licensing process. The proper analysis of an application depends on the accuracy and completeness of information and data that only the applicant can provide. Ultimately, misrepresentation and lack of candor raise serious concerns as to the likelihood that the Commission can rely on an applicant, permittee, or licensee to be truthful.¹³⁴

¹²⁹ 1.88 Letter Response at Attach. A, response to Inquiry 4 (stating "Neither Ms. Toscano nor Trigio Javier Pérez de Anda played a role in" the sale of the stock of 97.5 Holdings between Rygaard and Grupo Radio).

¹³⁰ The agreement records that Toscano's payment of consideration made in exchange for the right to collect the outstanding debt was to be made in three tranches, with \$400,000 being subject to a reconciliation against expenses or liabilities incurred by the Stations. Toscano's father, Mr. Pérez de Anda, served as her representative with respect to the reconciliation of those funds. Specifically, the agreement states "[t]he parties agree on behalf of 'THE ASSIGNEE' [Toscano] to appoint Mr. Trigio Javier Pérez de Anda..." LOI Response at Attach. A, Assignment of Debt Rights Agreement.

¹³¹ LOI Response at Attach. A, response to Question 13.

¹³² Transfer Application at Exh. *Stock Purchase Agreement LORENA margarita.pdf*.

¹³³ *Contemporary Media Inc. v. FCC*, 214 F.3d at 193 (citation omitted).

¹³⁴ See 1986 Character Policy Statement, 102 FCC 2d at 1209-11. The fundamental importance of truthfulness and candor on the part of applicants and licensees in their dealings with the Commission is well established. See *FCC v. WOKO, Inc.*, 329 U.S. 223 (1946); *Nick J. Chaconas*, Decision, 28 FCC 2d 231 (1971); *Lebanon Valley Radio, Inc.*, Decision, 35 FCC 2d 243 (Rev. Bd. 1972).

46. Based on the record developed, it is clear that Rygaard and Toscano have not been fully forthcoming in either the Transfer Application or in the responses to the Bureau's investigation. Accordingly, we find there are substantial and material questions of fact as to whether the Parties have lacked candor and/or made misrepresentations to the Commission in violation of section 1.17(a)(1).

47. *Errors, Omissions, and Misrepresentations in the Transfer Application.* First and foremost, the Parties appear to have concealed the fact that Pro Radio, was actually programming the Stations and controlling the Stations' advertising sales.¹³⁵ In response to questions on the Transfer Application about agreements related to the sale of the Stations, Toscano certified "Yes," that the agreements in the Stations' public inspection files and submitted to the Commission—which did not include a joint sales agreement or a time brokerage agreement—embodied the complete and final agreement for the sale or transfer of the Stations, an attestation that no programming agreement existed at the time.¹³⁶ If, in fact, such an agreement existed at the time of the Transfer Application it should have been reduced to writing, placed in the Stations' public inspection files,¹³⁷ and provided as part of the Transfer Application.¹³⁸ The Parties did none of these things. Furthermore, in response to the multiple

¹³⁵ As discussed further below, while a written time brokerage agreement did not exist at the time of the Transfer Application, the Parties subsequently drafted and executed a programming agreement in November 2024, which they provided to the Bureau and appended to the Transfer Application. A copy was also uploaded to the Stations' public inspection files.

¹³⁶ Transfer Application at "Transferee Legal Certifications, Agreements for Sale."

¹³⁷ 47 CFR § 73.3526(e)(14) (instructing commercial radio stations to place every agreement or contract for time brokerage of the station in the public inspection file within 30 days of execution and to retain the agreement in the file for as long as the contract or agreement is in force).

¹³⁸ Several sections of the Transfer Application call for the relevant party—be it the Licensee, Transferor, or Transferee—to consider whether they have provided copies of all relevant agreements and exhibits related to the transaction, including any time brokerage agreement or joint sales agreement. For example, with respect to the programming or sale of advertising on the stations involved in the transfer of control, the instructions to the Licensee/Permittee portion of the Form 2100-Schedule 315 state that:

All applicants must submit to the Commission with this application and place in the online public inspection file of each subject station a complete and final copy of the unredacted contract for the transfer(s) of control of the authorizations that are the subject of this application, including all exhibits and attachments. [...]

This item asks applicants to certify that the agreements for transfer of control of the subject authorizations "comply fully with the Commission's rules and policies." In order to complete this certification, applicants must consider a broad range of issues. If the applicant also holds a time brokerage agreement (also known as a local marketing agreement) pursuant to which the Transferee will supply programming for the subject station(s) or any other station in the market, or a joint sales agreement pursuant to which the Transferee will sell commercial advertising time for the subject station(s) or any other station in the market, prior to FCC approval, then the applicant should review the Instructions for the Joint Sales/Time Brokerage Agreements sub-question, Multiple Ownership Question, in the Transferees Legal Certifications Section.

Similarly, the instructions to the Transferee's portion of the form state:

Agreements for Sale of Station. This question requires the Transferee to certify that the written agreement submitted with the application and contained in the licensee/permittee's public inspection file embodies the complete and final agreement between the parties and that the agreement complies fully with the Commission's rules and policies regarding station sales contracts. The Transferee must undertake an independent evaluation of the contract in order to make this certification. **The applicant should take particular care in answering this question if it has an attributable time brokerage or local marketing agreement, or an attributable joint sales agreement, for the stations subject to the application or for any other stations in the same market. Applicants who are required to demonstrate compliance with**

(continued....)

ownership question in the Transferee's portion of the Form 2100-Schedule 315 that inquires whether "the Transferee or any party to the application" holds "an attributable radio joint sales agreement or [...] time brokerage agreement with the station(s) subject to this application,"¹³⁹ Toscano certified that no such programming or advertising sales agreement existed.¹⁴⁰

48. In reality, as the parties subsequently admitted in response to the Bureau's questioning, Pro Radio was programming and selling all of the airtime on the Stations.¹⁴¹ Only when faced with persistent questions about the operation and control of the Stations did the Parties claim for the first time that a programming agreement existed, in an apparent attempt to avoid the perception that Rygaard had abdicated control of the Stations.¹⁴² As discussed further below in connection with the Parties' failure to respond fully to the Bureau's inquiries, the Parties were unable to provide any correspondence, evidence of negotiations, or other documentation to support that such an agreement actually existed prior to its creation in response to the Bureau's 1.88 Letter, despite the Bureau's explicit request for such evidence.¹⁴³

49. In addition to not disclosing Pro Radio's operation of the Stations, the Parties also failed to provide copies of the documents related to 97.5 Holding's outstanding indebtedness and the fact that the Transferee Toscano holds the exclusive right to collect the company's significant outstanding debt. As noted above, this debt was never originally documented when Grupo Radio provided the funds in 2017; rather, it was not until 2021, when "in anticipation of FCC approval to sell Grupo Radio Centro's interest in 97.5 Holdings, the debt was documented."¹⁴⁴ This multi-million-dollar debt appears to be a critical component of the instant transaction, and indeed of the transaction by which Rygaard allegedly obtained control of the Stations in 2021-2022. While the Stock Purchase Agreement between Rygaard and Toscano makes passing reference to the existence of an outstanding debt owed to Toscano,¹⁴⁵ copies of the Assignment of Debt Rights Agreement Acknowledgement of Indebtedness Agreement were not inventoried or provided as part of the Transfer Application. In withholding those documents, the Parties deprived the Bureau and reviewing parties of proper insight into the full agreements between the Parties, the business incentives of each, and the full consideration involved in the transaction. Withholding those

47 CFR § 73.3555(a) must file a copy of each such agreement for radio stations as an exhibit to the application.

Form 2100-Schedule 315, Instructions at "Licensee/Permittee Legal Certifications, Agreements for Transfer of Control of Station," "Transferee Legal Certifications, Agreements for Sale of Station," (available at: <https://www.fcc.gov/sites/default/files/2100-315-instructions.pdf>) (emphasis added).

¹³⁹ The instructions to the form expand on that particular legal certification, stating:

The Transferee must answer "Yes" or "No" as to whether the Transferee or any party to the application holds an attributable radio Joint Sales Agreement or radio or television Time Brokerage Agreement with the station(s) subject to this application, or with any other station in the same market as the station(s) that are the subject of this application. **If answering "Yes," the Transferee must upload an attachment including a copy(ies) of any such agreement(s).** See Note 2 to 47 CFR § 73.3555.

Form 2100-Schedule 315, Instructions at "Transferee Legal Certifications, Joint Sales/Time Brokerage Agreements," (available at: <https://www.fcc.gov/sites/default/files/2100-315-instructions.pdf>) (emphasis added).

¹⁴⁰ Transfer Application at "Transferee Legal Certifications, Multiple Ownership."

¹⁴¹ See *supra* para. 17; LOI Response at Attach. A, response to Question 1.

¹⁴² Notably, the Parties failed to provide any correspondence, documents, or other support for the negotiation and origination of the agreement and its terms as requested by the Bureau. See 1.88 Letter at 2, question 1.

¹⁴³ See 1.88 Letter at 2, question 1; see also *infra* paras. 60-64.

¹⁴⁴ See *supra* para. 18; LOI Response at Attach. A, response to Question 6.

¹⁴⁵ See *supra* para. 14, note 34.

documents also obfuscated Toscano's pre-existing involvement with the Stations, which, if combined with the provision of programming, likely would have resulted in an attributable interest in the Stations even prior to the Transfer Application.¹⁴⁶ And once again, by falsely attesting to compliance with the Commission's rules on the Transfer Application—in this case that the full and final agreements related to the sale or transfer of the Stations have been provided—the Parties appear to have misrepresented information to the Commission.

50. By failing to divulge Pro Radio's and Toscano's involvement with the operation of the Stations, the Parties appeared to have falsely represented to the Commission and the public that Rygaard was in full control of the Stations and that Toscano was an unaffiliated, arm's-length, third-party buyer. Ultimately, the apparent concealment of Pro Radio and Toscano's involvement raises a serious concern that information was intentionally withheld from the Commission in the application process, potentially to obscure the fact that an unauthorized transfer of control to a foreign citizen had occurred.

51. Compounding the questions regarding the completeness and accuracy of the Transfer Application and the value of the Parties' certifications is the fact that the Licensee's portion of the application appeared to have been certified by Rafael Marques Aguirre, a former owner of the Stations and an individual purportedly uninvolved with the instant transaction.¹⁴⁷ Thus, as initially filed, the Transfer Application did not contain a valid certification by the Licensee. In response to the Bureau's inquiries about the error, the Parties subsequently amended the pending Transfer Application to provide a certification by Rygaard as the "Sole Shareholder of 97.5 Holdings, TX Inc."¹⁴⁸ At the very least, the fact that Mr. Aguirre's name appeared in the Licensee's certification suggests that the Parties—and in particular Rygaard—failed to carefully review the Transfer Application prior to its submission, further undermining the veracity of the certifications made therein. And indeed, little explanation is provided for the error besides Rygaard's "assum[ption] that her name appeared in the signature block for both the Transferor and Licensee."¹⁴⁹

52. Ultimately, the Transfer Application required each Party to certify to the Commission that "all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith."¹⁵⁰ The form cautioned applicants further that "WILLFUL FALSE STATEMENTS . . . ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE,

¹⁴⁶ If, in fact, Toscano (through Pro Radio) was providing programming to the Stations, then she arguably held an unreported attributable interest in the Stations at the time of the Transfer Application. The Commission's equity debt plus rule (EDP) states that if an entity or individual holds an equity or debt interest that, in the aggregate, exceeds 33% of the total asset value of the licensee and also supplies over 15% of the weekly broadcast programming hours to the stations in which the interest is held, then that interest will be attributable under the Commission's ownership rules. 47 CFR 73.3555, note 2(i)(1). Given that Toscano's debt interest in the Stations (approximately \$2.5 million USD) exceeds the total asset value of the licensee (\$10,000 USD consideration in the current transaction), her interest is greater than 33% of the total asset value of the Stations, which, when combined with her provision of programming to the Stations, would appear to result in an attributable interest under the Commission's attribution rules. Such an interest does not appear to have been reported on ownership reports filed with the Commission previously.

¹⁴⁷ LOI Response at Attach. A, response to Question 4; 1.88 Letter Response at Attach. A, response to Inquiry 5.

¹⁴⁸ See Transfer Application at "Licensee/Permittee Certification," 1.88 Letter Response at Attach. A, response to Inquiry 5.

¹⁴⁹ 1.88 Letter Response at Attach. A, response to Inquiry 5. Despite the Bureau's direction that Rygaard provide a full accounting of the preparation and submission of the Transfer Application, including if, how, and when she reviewed the application, no such information was provided. See 1.88 Letter at 4, question 5.

¹⁵⁰ Transfer Application at "Transferor Certification," "Transferee Certification."

TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).”¹⁵¹ Rygaard signed the Transferor’s portion of the form affirmatively, representing that the Parties’ agreements “complied fully” with the Commission’s Rules and policies, that the documents provided “embody the complete and final understanding between” the Parties, and that copies of all agreements for the sale/transfer of the stations had been provided.¹⁵² Toscano made a similar certification as the Transferee.¹⁵³ In reality, however, the statements, exhibits, attachments, and documents were far from complete or compliant with the Commission’s Rules. Collectively, the failure to disclose Pro Radio’s operation of the Stations and the involvement of Toscano, the inaccurate certifications as to the completeness of the transaction materials, the omission of the loan documents, and the erroneous certification of the Licensee’s portion of the form raises substantial and material questions regarding whether the Parties have misrepresented information to the Commission and/or lacked candor in violation of section 1.17(a)(1) of our Rules.

53. *Errors in other contemporaneous Commission filings.* In addition to errors and omissions in the Transfer Application, ownership reports filed by the Licensee since Rygaard acquired control of the Stations in 2022 reflect a number of errors that appear to conflate information about the former, current, and proposed owners of the Stations, as described below. This provides further evidence of the Licensee’s failure to disclose material facts with its submissions, raising serious concerns about whether it has lacked candor and/or has misrepresented information to the Commission, as well as that an unauthorized transfer of control has occurred.

54. As the Bureau noted in its LOI, in ownership reports filed by the Licensee in 2022¹⁵⁴ and 2023,¹⁵⁵ 97.5 Licensee reported that Cynthia Denise Johnson was an officer of the Licensee. In response to the Bureau’s inquiries as to Ms. Johnson’s involvement with 97.5 Licensee, the Licensee stated that Ms. Johnson is in fact, *not* an officer of 97.5 Licensee, but rather is the “Business Manager for Pro Radio,” the programmer of the Stations ultimately owned by Toscano and her sisters.¹⁵⁶ The LOI Response stated that the inclusion of Ms. Johnson as an officer on the 97.5 Licensee ownership report was “a mistake with miscommunication due to a language barrier,” though who was involved in the miscommunication or how it occurred was not specified.¹⁵⁷ In addition, while the Licensee initially stated in the LOI Response that Ms. Johnson began her position with Pro Radio in 2018—several years before the company even existed—the Parties later revised that answer to state that Ms. Johnson “began her role as Business Manager of Pro Radio in November 2022.”¹⁵⁸ No explanation was given for the error, however, the Parties indicate that Ms. Johnson was also employed in a similar capacity by Grupo Radio TX, the former minority owner of the Stations.¹⁵⁹

¹⁵¹ *Id.*

¹⁵² Transfer Application at “Transferor Certification.”

¹⁵³ Transfer Application at “Transferee Certification.”

¹⁵⁴ FCC Ownership Report, Application File No. 0000193208, submitted June 10, 2022.

¹⁵⁵ FCC Ownership Report, Application File No. 0000230999, submitted Dec. 13, 2023.

¹⁵⁶ LOI Response at Attach. A, response to Question 16.

¹⁵⁷ *Id.*

¹⁵⁸ 1.88 Letter Response at Attach. A, response to Inquiry 1.

¹⁵⁹ The LOI Response states that “Ms. Johnson held the position of Vice President/Secretary for Grupo Radio TX LLC from May of 2016 until 2018.” LOI Response at Attach. A, response to Question 16. Additionally, the 1.88 Letter Response states that “[f]rom 2010 until October 2022, [Ms. Johnson] worked for Southern Radio, Inc. (‘Southern Radio’) and Grupo Radio Centro TX, LLC (‘Grupo Radio’).” 1.88 Letter Response at Attach. A, response to Inquiry 1 (emphasis added). Based on the 1.88 Letter Response, it appears that Southern Radio, Inc.

(continued....)

55. In addition to listing Ms. Johnson as an officer of the Licensee when in fact she was an officer of the company programming the Stations, there were other errors in the Licensee's ownership report filings. For example, during the pendency of the Transfer Application, the Licensee submitted a biennial ownership report indicating that Toscano—the proposed, and still as-yet unapproved, Transferee—owned 100% of the voting and equity interests of the Licensee's parent company, 97.5 Holdings.¹⁶⁰ In addition, the ownership report filed for the licensee level listed the former owner Rafael Marquez Aguirre as manager and Cynthia Denise Johnson as an officer.¹⁶¹ When confronted with the matter, the Licensee amended the ownership reports “to provide the correct, current ownership structure” by substituting Rygaard for Toscano.¹⁶² By way of explanation, the Licensee blamed an inexperienced attorney at the law firm it retains for FCC matters.¹⁶³ No information or documentation regarding who at the Licensee reviewed and approved the filing of the erroneous ownership reports was provided despite the Bureau's request for such information.¹⁶⁴

56. Like the omissions on the Transfer Application, the errors in these ownership filings not only raise questions as to the ownership and control of the Stations but also indicate that the Parties have failed to be complete, truthful, and forthcoming in their applications before the Commission. Ultimately, repeated misstatements on filings raise substantial and material questions of fact that the Parties were intentionally misleading the Commission. Alleged failure to carefully review forms, vague references to misunderstandings and language barriers, and poor legal work by an outside law firm are insufficient and unbelievable excuses for the numerous errors and omissions observed by the Bureau. Record evidence thus raises serious concerns that the Parties have consistently engaged in misrepresentation and/or lack of candor before the Commission with the result of misleading the Commission as to who actually controls the Stations. We therefore designate for hearing appropriate issues to confirm whether Rygaard and Toscano have failed to be truthful and accurate before the Commission in violation of section 1.17(a)(1) of the Rules.

C. The Parties' Responses to Bureau Inquiries

57. The Parties' responses to the Bureau's inquiries often lacked credible explanations and sufficient detail, and in many cases failed to fully respond to the Bureau's request for information. Accordingly, we also find that a hearing is necessary to confirm whether the Parties violated section 73.1015 of the Commission's Rules.¹⁶⁵

58. Consistent with the Commission's statutory authority to conduct investigations,¹⁶⁶ section 73.1015 of the Rules authorizes the Commission to require from a broadcast licensee written statements

previously programmed and sold the advertising time on the Stations while they were owned by Grupo Radio and 97.5 Investment/Rafael Marques Aguirre.

¹⁶⁰ FCC Ownership Report, Application File No. 0000231004, submitted Dec. 13, 2023.

¹⁶¹ FCC Ownership Report, Application File No. 0000230999, submitted Dec. 13, 2023. The former owner, Rafael Marquez Aguirre, also appeared as the certifying official, listed as “President” and allegedly attesting to the veracity of the information contained in that report.

¹⁶² LOI Response at Attach. A, response to Question 17.

¹⁶³ 1.88 Letter Response at Attach. A, response to Inquiry 6.

¹⁶⁴ 1.88 Letter at 4-5, question 6.

¹⁶⁵ See 47 CFR § 73.1015.

¹⁶⁶ It is well-established that the Commission has broad investigatory authority pursuant to its licensing function under sections 4(i), 4(j), and 403 of the Act, its Rules, and relevant precedent. See 47 U.S.C. § 154(i) (authorizing the Commission to “issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions”); 47 U.S.C. § 154(j) (stating “the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice”); 47 U.S.C. § 403 (granting the Commission

(continued....)

of fact relevant to any matter within its jurisdiction.¹⁶⁷ Specifically, section 73.1015 states: “The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission.”¹⁶⁸ It is important that licensees, as well as applicants and permittees, respond fully to Commission requests for information and in a timely manner, and the failure to do so impedes the Commission’s ability to carry out its responsibilities.¹⁶⁹

59. In compliance with this obligation, a broadcast licensee, permittee, or applicant must provide truthful and accurate statements to the Commission or its staff in any investigatory or adjudicatory matter within the Commission’s jurisdiction.¹⁷⁰ Further, statements of fact made in response to Commission inquiries are subject to section 1.17 of the Rules.¹⁷¹ Contrary to this obligation, the record developed thus far raises substantial and material questions of fact as to whether the Parties’ incomplete responses to the LOI and the 1.88 Letter were submitted in willful and repeated violation of section 73.1015 of the Rules, as set forth below.

60. *In Response to the LOIs.* The first question of the Bureau’s LOI asked the Parties whether any person other than the Licensee programmed time or sold advertising on the Stations, and, if so, to provide a copy of the agreement by which such third party provided programming or sold advertising for the Stations. The Bureau instructed that if such an agreement existed but had not previously been reduced to writing and placed in the Stations’ public inspection files, that it should be reduced to writing and provided to the Commission.¹⁷² The LOI instructed further that if such an agreement existed but had not previously been reduced to writing or provided, then the parties should explain why not.¹⁷³ In response, the Licensee admitted that beginning in November 2021 (later revised to December 2022) Pro Radio had programmed the Stations and sold the advertising time, but that there was no written agreement.¹⁷⁴ The Licensee claimed that it was unaware that section 73.3526(e)(14) of the Rules requires that programming agreements be documented and publicized.¹⁷⁵ But rather than reducing the agreement to writing and providing a copy to the Bureau, the Licensee instead offered that it could do

“full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter . . . relating to the enforcement of any of the provisions of this Act.”). Various decisions have confirmed the Commission’s authority to investigate potential rule violations and assess penalties against those that disregard Commission inquiries. *See, e.g., SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7599-7600, paras. 23-28 (2002) (ordering \$100,000 forfeiture for egregious and intentional failure to certify the response to a Bureau inquiry); *Fox Television Stations, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7074 (EB 2010) (proposing a \$25,000 forfeiture for failure to respond to a Bureau letter of inquiry) (Fox Television); *BigZoo.Com Corporation*, Forfeiture Order, 20 FCC Rcd 3954 (EB 2005) (ordering \$20,000 forfeiture for failure to respond to a letter of inquiry); *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7602 (EB 2008) (proposing \$11,000 forfeiture for failure to provide a complete response to a letter of inquiry).

¹⁶⁷ 47 CFR § 73.1015.

¹⁶⁸ *Id.*

¹⁶⁹ *See, e.g., Marion Education Exchange*, Hearing Designation Order, 37 FCC Rcd 2426, 2433-34, para. 21 (2022); *Fox Television*, 25 FCC Rcd at 7078, para. 10.

¹⁷⁰ *See* 47 CFR § 1.17.

¹⁷¹ 47 CFR § 73.1015.

¹⁷² LOI at Attach., Question 1.

¹⁷³ LOI at Attach., Question 1(c)- (d).

¹⁷⁴ LOI Response at Attach. A, response to Question 1.

¹⁷⁵ 47 CFR § 73.3526(e)(14).

so “upon Commission request.”¹⁷⁶ It was not until the Bureau repeated the instruction in its 1.88 Letter that the Parties complied by documenting the alleged arrangement and providing a copy.¹⁷⁷ Even then, however, the Parties failed to comply with the Bureau’s instruction that they provide documentation, such as correspondence, oral communications, or drafts, evidencing the negotiation of the terms and conditions of the programming agreement and substantiating that such an agreement in fact existed when Toscano first began controlling the Stations’ programming and advertising.

61. In addition, the Licensee ignored the LOI’s request for an explanation regarding who prepared and reviewed the inaccurate ownership reports filed with the Commission in 2023, as well as ignored the explicit question of whether Rygaard, whose name appears as the signatory to those forms, had actually reviewed the reports and authorized their submission.¹⁷⁸ The Licensee provided no explanation or response to those questions, merely stating that the “reports have been amended to provide the correct, current ownership structure.”¹⁷⁹ When asked again in the 1.88 Letter to explain who prepared and reviewed the ownership reports prior to submission,¹⁸⁰ the Licensee pointed to a “young, inexperienced attorney who is no longer employed” by the law firm retained to handle FCC matters for the company.¹⁸¹ And again, the response failed to provide any documentation, such as emails, correspondence, or conversations, substantiating that Rygaard had actually reviewed and authorized the filing of the ownership reports.

62. Overall, the LOI Response often avoided the Bureau’s request for complete details, full explanations, and supporting documentation, offering instead brief answers with the minimum of responsive information. Further, in response to the Bureau’s instruction that the Licensee’s submission be supported by affidavits or declarations made under penalty of perjury attesting, *inter alia*, to the truth and accuracy of the information provided, and, further, to provide separate affidavits or declarations for additional persons with personal knowledge if the information was beyond the Licensee’s own knowledge,¹⁸² the Licensee provided but a single affidavit from Rygaard stating, in its entirety:

All of the information requested by this LOI that is in Licensee’s possession, custody, control, or knowledge has been produced. Any and all Documents provided in its responses are true and accurate copies of the original documents.

I declare under penalty of perjury that the foregoing is true and correct.¹⁸³

Parsing the careful language of this brief declaration, it fails to even attest to the truth and accuracy of the information provided in the LOI Response.

63. *In Response to the 1.88 Letter.* In responding to the 1.88 Letter, the Parties continued their pattern of both correcting previous errors or inaccurate information from earlier filings and ignoring certain questions posed by the Bureau. For example, in response to the Bureau’s renewed call for an explanation concerning the origin of the alleged programming agreement and a description of the

¹⁷⁶ LOI Response at Attach. A, response to Question 1.

¹⁷⁷ 1.88 Letter Response at Attach A, Exh. 1(a).

¹⁷⁸ LOI at Attach., Question 17.

¹⁷⁹ LOI Response at Attach. A, response to Question 17.

¹⁸⁰ 1.88 Letter at 4-5, question 6.

¹⁸¹ 1.88 Letter Response at Attach A., response to Inquiry 6.

¹⁸² LOI at 5-6.

¹⁸³ LOI Response at Attach. A, Declaration of Luz Maria Rygaard.

negotiations between the Parties leading to that agreement,¹⁸⁴ there continued to be no answer.¹⁸⁵ Similarly, the Parties provided no documentation substantiating the inception of the programming agreement, nor any explanation why it was not reduced to writing and provided the first time the Bureau asked.

64. Further, although the Bureau requested documentation substantiating Rygaard's control over the Stations, even suggesting a variety of materials she could provide to demonstrate such control,¹⁸⁶ the 1.88 Letter Response was severely lacking in documentation. As discussed above, the lack of such evidence demonstrating Rygaard's retention of control raises substantial and material questions of fact as to whether an unauthorized transfer of control has occurred and whether Pro Radio or Toscano is in fact controlling the programming, personnel, and finances of the Stations.¹⁸⁷

65. And while in some instances the information provided is supported by affidavit from Rygaard, Toscano, or Cynthia Denise Johnson (an improvement over the Licensee's response to the LOI), there remain several places in the 1.88 Letter Response—such as the Bureau's questions regarding the origination of the debt between Toscano and the Licensee's parent company¹⁸⁸—where information is both lacking and unsupported by individuals with personal knowledge of the facts.

66. Furthermore, some assertions in the 1.88 Letter Response appear to conflict with other evidence in the record. For example, while the 1.88 Letter Response asserts that neither Toscano nor her father played a role in the sale of 97.5 Holdings to Rygaard in 2021-2022,¹⁸⁹ in fact it appears that Mr. Pérez de Anda was involved in those matters, particularly the debt owed by 97.5 Holdings.¹⁹⁰

67. Ultimately, just as with the Transfer Application, the Parties have a duty to be complete and forthcoming in their responses to the Commission's investigation.¹⁹¹ The Parties' responses to the Bureau's inquiries in this case, however, raise substantial and material questions of fact regarding whether Rygaard and Toscano have satisfied this basic requirement. Moreover, collectively, the Parties' filings suggest an indifference to the Commission's regulatory authority that is patently inconsistent with the responsibilities of a licensee. We designate for hearing appropriate issues to resolve substantial and

¹⁸⁴ 1.88 Letter at 2-3, question 1 (directing the Licensee to provide, among other things, a description of the negotiations between the parties that led to the agreement and "copies of all relevant emails and correspondence, as well as a detailed recitation of all conversations and agreements, oral or written, with dates indicated, between Rygaard, Toscano, Pro Radio, or others regarding the programming agreement and substantiating the inception of the agreement and its terms.").

¹⁸⁵ See 1.88 Letter Response at Attach A., response to Inquiry 1.

¹⁸⁶ 1.88 Letter at 3, question 3 ("General statements that Rygaard has maintained control will not be sufficient. Instead, Rygaard is instructed to provide emails, correspondence, documents, financial statements, or similar documentation to show that she has exercised control over the Stations since acquiring them over two years ago. As part of this showing, Rygaard should demonstrate how she maintained control over the programming, personnel, and finances of the Stations, including oversight of Pro Radio's programming and/or operation of the Stations, separate and apart from her role as an executive of Pro Radio.").

¹⁸⁷ See *supra* paras. 34-37, note 128.

¹⁸⁸ 1.88 Letter at 3-4, question 4.

¹⁸⁹ 1.88 Letter Response at Attach. A, response to Inquiry 4 (stating "[n]either Ms. Toscano nor Trigio Javier Pérez de Anda played a role in" the sale of 97.5 Holdings to Rygaard).

¹⁹⁰ See *supra* para. 43 and note 130. As discussed above, Mr. Pérez de Anda, served as his daughter's representative with respect to the reconciliation of funds paid pursuant to the Assignment of Debt Rights Agreement by which Toscano acquired the right to collect 97.5 Holdings' outstanding debt. Specifically, the agreement states "[t]he parties agree on behalf of 'THE ASSIGNEE' [Toscano] to appoint Mr. Trigio Javier Pérez de Anda...". LOI Response at Attach. A, Assignment of Debt Rights Agreement.

¹⁹¹ See 47 CFR § 73.1015.

material questions of fact as to whether 97.5 Licensee, Rygaard, and Toscano violated section 73.1015 by failing to respond fully and/or truthfully to the Bureau's requests for information, thereby further demonstrating a lack of candor and/or misrepresentations to the Commission.

D. There are Substantial and Material Questions of Fact Concerning the Parties' Qualifications to be a Commission Licensee

68. As discussed above, the character of an applicant is one of the essential factors that the Commission considers in determining whether an applicant has the requisite qualifications to be a Commission licensee.¹⁹² Because a defect in character would warrant the Commission's refusal to grant a license in the original application, it likewise would support a Commission determination to revoke a license or permit.¹⁹³ The same is true with regard to whether an existing licensee has displayed the behavior and truthfulness to remain a licensee.¹⁹⁴

69. The Commission has long recognized that, in assessing character qualifications in broadcasting matters, the relevant character traits the Commission is concerned with "are those of 'truthfulness' and 'reliability.'"¹⁹⁵ Misrepresentation and a lack of candor demonstrate a failure to be truthful under the Commission's character qualifications policy,¹⁹⁶ and parties that deliberately make misrepresentations or lack candor may engage in disqualifying conduct.¹⁹⁷ The Commission has also recognized that "any violations of the Communications Act, Commission rules or Commission policies can be said to have a potential bearing on character qualifications."¹⁹⁸ It therefore is appropriate to consider "any violation of any provision of the Act, or of our Rules or policies, as possibly predictive of future conduct and, thus, as possibly raising concerns over the licensee's future truthfulness and reliability."¹⁹⁹ Such violations also can be a basis for revocation of a license or construction permit.²⁰⁰

70. In light of the information discussed above, we find that the record raises substantial and material questions of fact as to Rygaard's character, in terms of whether she has the propensity to deal honestly with the Commission and to comply with the Act, the Rules, and Commission policies.²⁰¹ The

¹⁹² Section 308(b) of the Act identifies the character of an applicant to be among those factors that the Commission considers in determining whether an applicant has the requisite qualifications to be a Commission licensee. 47 U.S.C. § 308(b) ("All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station.").

¹⁹³ Section 312(a)(2) of the Act provides that the Commission may revoke any license if "conditions com[e] to the attention of the Commission which would warrant it in refusing to grant a license or permit on the original application." 47 U.S.C. § 312(a)(2); *see also*, *Roger Wahl*, Revocation Order, 38 FCC Rcd 3335 (EB 2023) (revoking broadcast station license pursuant to Section 312(a)(2) because of conditions that would warrant refusal to grant a license in the first place, namely the failure to satisfy the character requirement of section 308(b)).

¹⁹⁴ *Id.*

¹⁹⁵ *1986 Character Policy Statement*, 102 F.C.C.2d at 1209, para. 55.

¹⁹⁶ *See 1986 Character Policy Statement* at 1210-11, paras. 60-61; *1990 Character Policy Statement* at 3252, para. 10.

¹⁹⁷ *Contemporary Media*, 214 F.3d at 196 (citing *Schoenbohm*, 204 F.3d at 247) ("it is well recognized that the Commission may disqualify an applicant who deliberately makes misrepresentations or lacks candor in dealing with the agency.").

¹⁹⁸ *1986 Character Policy Statement*, 102 FCC 2d at 1209, para. 56.

¹⁹⁹ *Id.* at 1209-10, para. 57.

²⁰⁰ 47 U.S.C. § 312(a).

²⁰¹ *See 1986 Character Policy Statement*, 102 FCC 2d at 1211, para. 61.

integrity of Commission processes cannot be maintained without honest dealings by those appearing before it.²⁰² Acts of misrepresentation and lack of candor “not only violate[] the Commission’s Rules, [they] also raise[] immediate concerns over the licensee’s ability to be truthful in any future dealings with the Commission.”²⁰³ We thus view “misrepresentation and lack of candor in an applicant’s dealings with the Commission as serious breaches of trust”²⁰⁴ and can “treat even the most insignificant misrepresentation as disqualifying.”²⁰⁵ Given the seriousness of the possible misrepresentations and/or lack of candor in this case—which appear designed to mask the underlying abdication of control of the Stations to an unapproved foreign individual—the record raises serious concerns about whether Rygaard lacks the basic character qualifications to remain a Commission licensee. We therefore designate for hearing appropriate issues to determine whether Rygaard has the character qualifications to remain a Commission licensee and whether the Station licenses should be revoked. Further, as noted above, consistent with the Commission’s *Jefferson Radio* policy, if the hearing substantiates Rygaard’s lack of qualifications and the revocation of the Station licenses, the Transfer Application should be dismissed as there will no longer be any authorizations to transfer.²⁰⁶

71. While Rygaard’s lack of fitness to remain a Commission licensee and the subsequent revocation of the Station licenses that would follow would obviate the need for the Transfer Application, an identical question exists as to Toscano’s character qualifications. Based on the evidence established thus far, substantial and material questions exist as to whether Toscano has the propensity to deal honestly with the Commission and to comply with the Act and our Rules and policies should she become a Commission licensee. Additionally, given Toscano’s existing interests in Mexican radio stations, particularly those in the El Paso market adjacent to the U.S. border, it is feasible that she might seek to acquire licenses for U.S. broadcast stations beyond the Stations in this case. Therefore, the Commission should resolve these issues conclusively as to both Toscano and Rygaard, and we designate for hearing appropriate issues to determine whether Toscano, as well as Rygaard, has the character qualifications to become a Commission licensee independent of the status of the Transfer Application.

IV. CONCLUSION

72. As set forth above, the record before the Bureau reveals a substantial and material question of fact regarding whether there has been an unauthorized transfer of control to a foreign national and whether the Parties have repeatedly misrepresented material facts and/or lacked candor in both the Transfer Application and in responses to the Bureau’s investigation. Based on the record developed by the Bureau it would appear that Toscano essentially obtained control of Stations in 2021-2022 when she acquired the parent company’s outstanding debt and began programming the Stations and selling their advertising time through her company Pro Radio.

73. The facts of this case present a potential pattern of indifference to, and exploitation of, the Commission’s Rules that cannot be addressed with a forfeiture order, consent decree, or other lesser enforcement measure. Far from an inadvertent or unknowing transfer of control, this situation appears to be an intentional unauthorized transfer of control that masked the involvement of a market competitor and foreign national. While on occasion the Bureau has found it appropriate to settle minor cases involving an inadvertent or unknowing transfer of control, the facts and circumstances presented in this case differ significantly from those situations. For example, the facts of this case do not involve an involuntary transfer of control resulting from the death of a principal shareholder, nor a gradual change to a licensee’s

²⁰² *Id.* at 1188-89, para. 21.

²⁰³ *Id.* at 1121, para. 61.

²⁰⁴ *Id.*

²⁰⁵ *Id.* at 1120, para. 60.

²⁰⁶ *Jefferson Radio*, 340 F.2d at 783; *Northland Television*, 42 RR 2d at 1110.

corporate structure over time.²⁰⁷ Rather, the instant case appears to present an intentional transfer of control and an orchestrated attempt to skirt the law, particularly the statutory limitations on the ownership and control of broadcast licenses by foreign individuals or entities.

74. Moreover, the evidence before the Bureau does not involve a slight increase in the interest held by a previously-approved foreign individual, in violation of the foreign ownership rules.²⁰⁸ Instead, this case raises serious concerns about an unvetted, unapproved foreign national exerting control over multiple U.S. broadcast radio stations while using an American relative to hold the licenses. Further, there are questions about whether the foreign national repeatedly withheld and misrepresented information to the Commission in order to conceal her involvement. The record raises concerns about repeated instances of misrepresentation and lack of candor before the Commission that appear to be egregious, persistent, and non-trivial. Moreover, the Parties' behavior is not attenuated by time or distance from the Commission's processes, but rather involves conduct in connection with a pending Transfer Application and ensuing Bureau investigation.²⁰⁹ Thus, there are substantial material questions of fact about whether the Transferor lacks the character qualifications to remain a Commission licensee and, similarly, whether the Transferee lacks the character qualifications to become a Commission licensee.

75. Accordingly, based on the record before us we are unable to find that grant of the Transfer Application would be in the public interest. Therefore, we are designating this matter in accordance with sections 309(e), 310(d), and 312(a) of the Act so that the Administrative Law Judge can develop a more complete record to determine whether or not the Station licenses should be revoked, and to recommend whether the Transfer Application should be granted, denied, or dismissed. The Bureau seeks the Administrative Law Judge's finding that the egregious nature of the situation, the involvement of a non-U.S. citizen, and the repeated misstatements, incomplete information, and misrepresentations to the Commission, warrant revocation of the Station licenses and dismissal of the Transfer Application.

²⁰⁷ See, e.g., *One Media, Inc.*, Order, DA 25-68 (MB Feb. 13, 2025) (Order adopting a consent decree settling an unauthorized transfer of control following the death of a single majority shareholder); *MHR License LLC*, Order, 39 FCC Rcd 10472 (MB 2024) (Order adopting a consent decree settling transfers of control resulting from changes in corporate form and structure over time); *Riverside Communications, LLC*, 39 FCC Rcd 7415 (MB 2024) (Order adopting a consent decree settling transfer of control involving one member of LLC purchasing the other member's 50% interest without prior application to the Commission).

²⁰⁸ See, e.g., *Docomo Pacific, Inc.*, Order, 38 FCC Rcd 5718 (EB 2023) (Order adopting consent decree settling entity's acquisition of ownership interest exceeding the level of foreign ownership approved previously by the Commission); *America Movil, S.A.B. De C.V. Puerto Rico Telephone Company, Inc.*, Order, 31 FCC Rcd 6809 (EB 2016) (Order adopting consent decree settling individual's acquisition of ownership interest exceeding the level of foreign ownership approved previously by the Commission).

²⁰⁹ *Contra Auburn Network, Inc.*, Initial Decision, FCC 22D-01 (ALJ 2022) (Initial Decision, in a matter still pending before the Commission, finding that the felony conviction of the licensee's principal was not disqualifying, in part because the behavior was a decade earlier in a non-FCC context and it was not persuasively demonstrated that the licensee was likely to behave dishonestly with the Commission).

V. PROCEDURES FOR HEARING

76. *Restricted Proceeding.* This hearing proceeding is a “restricted” proceeding pursuant to section 1.1208 of the Rules and thus *ex parte* presentations to or from Commission decision-making personnel, including the presiding officer, their staff, and Bureau staff, are prohibited, except as otherwise provided in the Rules.²¹⁰

77. *Electronic Filing of Documents.* All pleadings in this proceeding, including written submissions such as letters, discovery requests, objections, and written responses thereto, excluding confidential and/or other protected material, must be filed in MB Docket No. 26-19 using ECFS.²¹¹ ECFS shall also act as the repository for records of actions taken in this proceeding, excluding confidential and/or other protected material, by the presiding officer and the Commission. Documents responsive to any party’s requests for production of documents should not be filed in ECFS. Such responsive documents shall be served directly on counsel for the party requesting the documents and produced either in hard copy or in electronic form (*e.g.*, hard drive, thumb drive) with files named in such a way as it is clear how the documents are organized.

78. *Case Caption.* The caption of any pleading filed in this proceeding, as well as all letters, documents, or other written submissions including discovery requests, objections, and responses thereto, shall indicate whether it is to be acted upon by the Commission or the presiding officer.²¹² The presiding officer shall be identified by name.

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

VI. ORDERING CLAUSES

80. Accordingly, IT IS ORDERED that, pursuant to sections 308, 309(d), 309(e), 310(b), 310(d), and 312(a)-(c) of the Act, 47 U.S.C. §§ 308, 309(d), 309(e), 310(b), 310(d), and 312(a)-(c), the above-captioned applications and licenses ARE DESIGNATED FOR HEARING before an FCC administrative law judge, at a time and location specified in a subsequent Order, upon the following issues:

- (a) To determine whether Luz Maria Rygaard is and/or has been exercising affirmative control of KBNA-FM, KAMA(AM), and KQBU(AM).
- (b) To determine whether there has been an unauthorized *de facto* transfer of control of KBNA-FM, KAMA(AM), and KQBU(AM) to Pro Radio LLC and/or Lorena Margarita Pérez Toscano in violation of sections 310(b) and 310(d) of the Act, 47 U.S.C. §§ 310(b), 310(d), and sections 1.5000 *et seq.* and 73.3540(a) of the Commission’s Rules, 47 CFR §§ 1.5000 *et seq.*, 73.3540(a).
- (c) To determine whether Luz Maria Rygaard engaged in misrepresentation and/or lack of candor in applications and communications with the Commission in violation of sections 1.17 and/or 73.1015 of the Commission’s Rules, 47 CFR §§ 1.17, 73.1015.
- (d) To determine, in light of evidence adduced regarding the foregoing issues (a) - (c) whether Luz Maria Rygaard possesses the character qualifications to be or remain a Commission licensee and whether the licenses for KBNA-FM, KAMA(AM), and KQBU(AM) should be revoked consistent with section 312(a)(1) of the Act, 47 U.S.C. § 312(a)(1).

²¹⁰ 47 CFR § 1.1208 (“Proceedings in which *ex parte* presentations are prohibited, referred to as ‘restricted’ proceedings, include, but are not limited to, all proceedings that have been designated for hearing . . .”); *see also* 47 CFR §§ 1.1202(b) (describing what constitutes an *ex parte* presentation), 1.1204 (exceptions).

²¹¹ 47 CFR § 1.51.

²¹² 47 CFR § 1.209.

- (e) To determine whether Lorena Margarita Pérez Toscano has exercised and continues to exercise *de facto* control over KBNA-FM, KAMA(AM), and KQBU(AM).
- (f) To determine whether Lorena Margarita Pérez Toscano engaged in misrepresentation and/or lack of candor in applications and communications with the Commission in violation of section 1.17 and/or 73.1015 of the Commission's Rules, 47 CFR §§ 1.17, 73.1015.
- (g) To determine, in light of evidence adduced regarding the foregoing issues (a), (b), (e), and (f), whether Lorena Margarita Pérez Toscano possesses the character qualifications to be a Commission licensee.
- (h) To determine, in light of evidence adduced regarding the foregoing issues whether the pending applications seeking Commission consent to the transfer of control of the licenses of KBNA-FM, KAMA(AM), and KQBU(AM) from Luz Maria Rygaard to Lorena Margarita Pérez Toscano should be granted, dismissed, or denied.

81. IT IS FURTHER ORDERED that, pursuant to sections 309(e) and 312(c) of the Act, 47 U.S.C. §§ 309(e), 312(c), and sections 1.91(c) and 1.221(c) of the Commission's Rules, 47 CFR §§ 1.91(c), 1.221(c), to avail themselves of the opportunity to be heard and to present evidence at a hearing in this proceeding, Luz Maria Rygaard and 97.5 Licensee TX, LLC, in person or by an attorney, SHALL FILE with the Commission, within twenty (20) days of the mailing of this *Hearing Designation Order, Order to Show Cause Why an Order of Revocation Should not be Issued, and Notice of Opportunity for Hearing*, a written appearance stating that they will appear at the hearing and present evidence on the issues specified above.

82. IT IS FURTHER ORDERED that if Luz Maria Rygaard waives her rights to a hearing pursuant to section 1.92(a)(1) or (a)(3) of the Rules, 47 CFR §§ 1.92(a)(1) or (a)(3), she may submit a timely written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause.²¹³

83. IT IS FURTHER ORDERED that, pursuant to sections 1.91 and 1.92 of the Commission's Rules, 47 CFR §§ 1.91 and 1.92, that if Luz Maria Rygaard fails to file a written appearance within the time specified above, or has not filed prior to the expiration of that time a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the right to a hearing shall be deemed waived. Where a hearing is waived, the Administrative Law Judge shall issue an order terminating the hearing proceeding and certifying the case to the Commission.

84. IT IS FURTHER ORDERED that, pursuant to section 1.221(c) of the Commission's rules, 47 CFR § 1.221(c), if Luz Maria Rygaard fails to file a written appearance within the time specified above, a petition to dismiss without prejudice, or a petition to accept for good cause shown an untimely written appearance, the captioned applications shall be dismissed with prejudice for failure to prosecute.

85. IT IS FURTHER ORDERED that, pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(e), to avail herself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Lorena Margarita Pérez Toscano, in person or by an attorney, SHALL FILE with the Commission, within twenty (20) days of the mailing of this *Hearing Designation Order, Order to Show Cause Why an Order of Revocation Should not be Issued, and Notice of Opportunity for Hearing*, a written appearance stating that he will appear at the hearing and present evidence on the issues specified above at a hearing.

86. IT IS FURTHER ORDERED that, pursuant to section 1.221(c) of the Commission's rules, 47 CFR § 1.221(c), if Lorena Margarita Pérez Toscano fails to file within the time specified above a written appearance, a petition to dismiss without prejudice, or a petition to accept for good cause shown

²¹³ The Commission will not accept such a statement if it is not submitted within the time period set out in 1.91(c), absent some well-justified explanation of why it was filed late.

an untimely written appearance, the captioned applications shall be dismissed with prejudice for failure to prosecute.

87. IT IS FURTHER ORDERED that the Chief, Enforcement Bureau, shall be made a party to this proceeding without the need to file a written appearance.

88. IT IS FURTHER ORDERED that, in accordance with section 312(d) of the Act, 47 U.S.C. § 312(d), and section 1.91(d) of the Commission's rules, 47 CFR § 1.91(d), the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues (a)-(g) of Paragraph 80 above, SHALL BE upon the Commission's Enforcement Bureau.

89. IT IS FURTHER ORDERED that, pursuant to section 309(e) of the Act, 47 U.S.C. § 309(e), and section 1.254 of the Commission's rules, 47 CFR § 1.254, the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF shall be upon Luz Maria Rygaard and Lorena Margarita Pérez Toscano as to issue (h) at Paragraph 80 above.

90. IT IS FURTHER ORDERED that a copy of each document filed in this proceeding subsequent to the date of adoption of this document SHALL BE SERVED on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations & Hearings Division of the Enforcement Bureau at (202) 418-1420. Such service copy SHALL BE ADDRESSED to the named counsel of record, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

91. IT IS FURTHER ORDERED that the parties to the captioned application shall, pursuant to section 311(a)(2) of the Act, 47 U.S.C § 311(a)(2), and section 73.3594 of the Commission's rules, 47 CFR § 73.3594, GIVE NOTICE of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the satisfaction of such requirements as mandated by section 73.3594 of the Commission's rules, 47 CFR § 73.3594.

92. IT IS FURTHER ORDERED that copies of this *Hearing Designation Order, Order to Show Cause Why an Order of Revocation Should not be Issued, and Notice of Opportunity for Hearing* shall be sent via Certified Mail, Return Receipt Requested, and by regular first-class mail to:

97.5 Licensee TX, LLC
2100 Trawood Drive
El Paso, TX 79935

Luz Maria Rygaard
1034 Sunflower Trail
Austin, TX 78745

Lorena Margarita Pérez Toscano
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93. IT IS FURTHER ORDERED that the Secretary of the Commission shall cause to have this *Hearing Designation Order, Order to Show Cause Why an Order of Revocation Should not be Issued, and Notice of Opportunity for Hearing* or a summary thereof published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief, Media Bureau