



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[EB Docket No. 18-239; DA 18-834]

Ministerios El Jordan Application for Modification for Station KEJM-LP, Carthage, Missouri

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (Commission) commences a hearing proceeding to determine ultimately whether Ministerios El Jordan is qualified to be and to remain a Commission licensee, and as a consequence whether its license should be revoked, and whether its pending application should be denied.

DATES: Petitions to intervene by parties desiring to participate as a party in the hearing, pursuant to 47 CFR 1.223, may be filed on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Pamela S. Kane, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission at (202) 418-2393.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing (*Order to Show Cause*), EB Docket No. 18-239; DA 18-834, adopted and released on October 11, 2018. The complete text of this document is also available for inspection and copying from 8 a.m. until 4:30 p.m., Monday through Thursday or from 8 a.m. until 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, Room CY-A257, 445 12th Street, SW, Washington, DC 20554. The complete text of this document is also available on the Internet at the Commission's website through its Electronic Document Management System (EDOCS) at http://hraunfoss.fcc.gov/edocs_public/. Alternative formats are available to persons with disabilities (Braille, large print, electronic files, audio format); to obtain, please send an e-mail to

fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Each document that is filed in this proceeding must display the docket number of this hearing, EB Docket No. 18-239, on the front page.

Synopsis

I. INTRODUCTION

1. In the *Order to Show Cause*, Hearing Designation Order, and Notice of Opportunity for Hearing, we commence a hearing proceeding before the Administrative Law Judge to determine whether Ministerios El Jordan (Jordan) is qualified to be and to remain a Commission licensee and, as a consequence thereof, whether its license should be revoked, and whether its pending application should be denied.

2. As discussed more fully below, based on the totality of the evidence, there are substantial and material questions of fact as to whether (i) Jordan repeatedly made misrepresentations to and/or lacked candor with the Commission in its submission of various applications in connection with Low Power FM Station (LPFM) KEJM-LP; (ii) aliens (non-United States citizens) owned or voted more than one-fifth of Jordan's capital stock in violation of section 310(b)(3) of the Communications Act of 1934, as amended (the Act);¹ (iii) Jordan failed to maintain the continuing accuracy and completeness of information furnished in its still pending captioned application for modification of Station KEJM-LP's technical facilities; and (iv) Jordan failed to respond to Commission requests for information.

3. We issue this *Order to Show Cause*, Hearing Designation Order, and Notice of Opportunity for Hearing pursuant to sections 309(e), 312(a)(1), 312(a)(2), 312(a)(4), and 312(c) of the Act,² and the delegated authority of the Enforcement Bureau (Bureau).³

¹ See 47 U.S.C. 310(b)(3).

² See *id.* at sections 309(e), 312(a)(1), 312(a)(2), 312(a)(4), 312(c).

³ See 47 CFR 0.111 and 0.311.

II. BACKGROUND

A. Ministerios El Jordan

4. Ministerios El Jordan (Jordan) is a non-profit organization that was first incorporated in Missouri in September 2009, and, as described in its first application with the Commission, desires to serve God, the nation, and the people of Carthage, Missouri, by providing educational family counseling, sermons, and Christian music through live and recorded religious programming.⁴ Jordan presently holds a Commission license for Station KEJM-LP in Carthage, Missouri.

5. Jordan first applied for a construction permit for a new LPFM station on October 25, 2013, by submitting Commission Form 318 (October 2013 Application).⁵ Section II, Question 3(a) of the Commission's Form 318 asks the applicant to identify, *inter alia*, "each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests" and their citizenship.⁶ In the October 2013 Application, Jordan responded to Section II, Question 3(a) by identifying as "board members" with an equal percentage of votes, the following five (5) individuals: Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua. In response to the citizenship inquiry in Section II, Question 3(a), Jordan answered "US" for each of these five individuals.⁷

6. On January 10, 2017, Jordan filed a minor modification application (January 2017 Modification).⁸ In the January 2017 Modification, Jordan notified the Commission that the transmitter site specified in the October 2013 Application was unavailable. The January 2017 Modification therefore specified new transmitter coordinates and stated that the station was ready to broadcast at the new

⁴ See Missouri Nonprofit Corporation Details for Charter No. N00994664 as of June 15, 2018 <https://bsd.sos.mo.gov/BusinessEntity/BusinessEntityDetail.aspx?page=beSearch&ID=2864628>; see also Articles of Incorporation of a Nonprofit Corporation for Charter No. N00994664 (filed Sept. 8, 2009) <https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIF=true&fileDocumentid=6437643&version=1>; File No. BNPL-20131025A CN, at Exh. 2 (filed Oct. 25, 2013) (October 2013 Application).

⁵ See October 2013 Application.

⁶ October 2013 Application at Section II, Question 3(a).

⁷ See *id.*

⁸ See File No. BMPL-20170110AAI (filed Jan. 10, 2017) (January 2017 Modification).

coordinates.⁹ In response to Section II, Question 3(a), Jordan again identified Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua as board members and again responded that each was a United States citizen.¹⁰

7. Jordan filed a modification application on November 20, 2017 (November 2017 Modification).¹¹ In the November 2017 Modification, Jordan notified the Commission that the studio location and mailing address had changed and requested certain engineering changes.¹² In the November 2017 Modification, Jordan similarly identified Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua in response to Section II, Question 3(a) and again responded that each was a United States citizen.¹³ This application is pending before the Commission's Media Bureau.

B. Enforcement Bureau Investigation

8. On January 24, 2017, the Commission received a complaint through its electronic Consumer Complaint Center asserting that four of the five board members that Jordan had identified in each of its Commission applications were not United States citizens.¹⁴ Specifically, associated with Commission licensee , asserted that Eliud Villatoro, Johana Villatoro, Timoteo Garcia, and Tomas Calgua were Guatemalan citizens and that Marlon Fuentes "became a US citizen just last year."¹⁵ The Commission referred the Complaint to the Bureau.

9. The Bureau uncovered additional information concerning the citizenship of at least two of the board members that Jordan had identified: Eliud Villatoro and Johana Villatoro. On January 4, 2017, the United States Court of Appeals for the Eighth Circuit affirmed an order issued by the Board of Immigration Appeals denying Eliud Villatoro's motion to reopen proceedings to remove him from the

⁹ *See id.* at Exh. 1.

¹⁰ *See id.* at Section II, Question 3(a).

¹¹ *See* File No. BPL-20171121AAB (filed Nov. 10, 2017) (November 2017 Modification).

¹² *See id.* at Exh. 1.

¹³ *See id.* at Section II, Question 3(a).

¹⁴ *See* Complaint No. 1415080 (filed Jan. 24, 2017) (Complaint).

¹⁵ *Id.*

United States.¹⁶ This decision referred to Mr. Villatoro as a citizen of Guatemala.¹⁷ In addition, father, informed Bureau staff that Mr. Villatoro's wife – Johana Villatoro – had been deported.¹⁸

10. The Bureau also located documents filed with the Missouri Secretary of State indicating that at the time Jordan filed its various applications with the Commission, its officers and board members were different than those Jordan had identified in its Commission filings. Jordan's 2012 Annual Registration Report indicates that, as of February 14, 2013, Jordan's officers were Eliud H. Villatoro O. (President), Edilma J. Villatoro (Vice-President), Edgar Poroj (Secretary), and Efrain Coquij (Treasurer) and that its board of directors were Genaro Cifuentes, Doris Paxtor, and Edy Fuentes.¹⁹ Jordan's 2016 Annual Registration Report indicates that, as of August 25, 2016, its board of directors were comprised of Ruth Cifuentes, Samuel Hernandez, and Eddy Fuentes.²⁰ Jordan's 2017-2018 Biennial Registration Report indicates that, as of October 5, 2017, its Vice-President was Edilma J. Reyes and its Treasurer was Tony Shadden.²¹ It also indicates that its board of directors were Ruth Cifuentes, Samuel Hernandez, and Dixi Villatoro.²² Other than Eliud Villatoro, Jordan never identified any of these various officers or board

¹⁶ See *Villatoro-Ochoa v. Lynch*, 844 F.3d 993 (8th Cir. 2017) (*Villatoro-Ochoa*). We note that, in this Eighth Circuit decision, Mr. Villatoro's first name appears as "Eliud" rather than as "Eliud." However, there is little doubt that it refers to the same individual as identified in Jordan's Commission filings. The caption of the decision, for example, identifies the petitioner as "Eliud Harodi Villatoro-Ochoa." *Id.* During the Bureau's investigation, it uncovered documents filed with the Missouri Secretary of State which identified Jordan's president as "Eliud H. Villatoro O." See 2012 Annual Registration Report, Charter No. N00994664 (filed Feb. 14, 2013) <https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=9744099&version=1>. Additionally, the Eighth Circuit decision acknowledges that it refers to a pastor from Guatemala. See *Villatoro-Ochoa*, 844 F.3d at 994. The website for Jordan states that its founder, Eliud Villatoro, had been a pastor in Guatemala. <https://ministerioseljordan.weebly.com/historia.html>.

¹⁷ See *Villatoro-Ochoa*, 844 F.3d at 994.

¹⁸ See Declaration [sic] of , dated Aug. 6, 2017; see also website for Jordan identifying Johana Villatoro as the wife of Eliud Villatoro. <https://ministerioseljordan.weebly.com/historia.html>.

¹⁹ See 2012 Annual Registration Report, Charter No. N00994664 (filed Feb. 14, 2013) <https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=9744099&version=1>.

²⁰ See 2016 Annual Registration Report, Charter No. N00994664 (filed Aug. 25, 2016) <https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=12289036&version=5>.

²¹ See 2017-2018 Biennial Registration Report, Charter No. N00994664 (filed Oct. 5, 2017) <https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=13206145&version=5>.

²² See *id.*

of director members on any of the applications it filed with the Commission between October 2013 and November 2017.

11. On November 14, 2017, the Bureau directed a letter of inquiry (LOI) to Jordan seeking, among other things, the name and citizenship of each of Jordan's officers and board members from October 1, 2013, to the present, and putting Jordan on notice of the Bureau's concerns that Jordan may have violated section 310(b) of the Act and misrepresented information to the Commission concerning its board of directors.²³ Six days later, Jordan filed its November 2017 Modification, identifying a different mailing address than had previously been on file with the Commission. On December 6, 2017, the Bureau issued a second LOI to Jordan at the new mailing address, enclosing the November 14, 2017 LOI, and requiring a response within seven calendar days.²⁴ Although Bureau staff had preliminary conversations with Jordan's counsel after the LOIs were issued, Jordan did not respond to either LOI.

III. DISCUSSION

12. Pursuant to section 309(e) of the Act, the Commission is required to designate an application for evidentiary hearing if a substantial and material question of fact is presented regarding whether grant of the application would serve the public interest, convenience, and necessity.²⁵ 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.²⁶ Section 312(a)(2) of the Act provides that the Commission may revoke any license if "conditions com[e] to the attention of the

²³ See Letter of Inquiry from Matthew L. Conaty, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau to Mr. Eliud Villatoro, President, Ministerios el Jordan (Nov. 14, 2017) (on file in EB-IHD-17-00024261).

²⁴ See Letter of Inquiry from Matthew L. Conaty, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau to Mr. Eliud Villatoro, President, Ministerios el Jordan (Dec. 6, 2017) (on file in EB-IHD-17-00024261).

²⁵ See 47 U.S.C. 309(e).

²⁶ See, e.g., *Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Rules of Broadcast Practice and Procedure Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Permittees and Licensees*, Report, Order and Policy Statement, 102 FCC 2d 1179 (1986), *recons. denied*, 1 FCC Rcd 421 (1986), *appeal dismissed sub nom., National Ass'n for Better Broadcasting v. FCC*, No. 86-1179 (D.C. Cir. 1987) (*1986 Character Policy Statement*); *Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Part 1, the Rules of Broadcast Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Permittees and Licensees*, Policy Statement and Order, 5 FCC Rcd 3252 (1990), *recons. on other grounds*, 6 FCC Rcd 3448 (1991), *modified on other grounds*, 7 FCC Rcd 6564 (1992).

Commission which would warrant it in refusing to grant a license or permit on the original application.”²⁷ Because the character of the applicant is among those factors that the Commission considers in its review of applications to determine whether the applicant has the requisite qualifications to operate the station for which authority is sought,²⁸ any character defect that would warrant the Commission’s refusal to grant a license or permit in the original application would likewise warrant the Commission’s determination to revoke a license or permit.

13. *Misrepresentation/Lack of Candor and Section 1.17.* The Commission and the courts have recognized that “[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing.”²⁹ In considering an applicant’s character, one of the Commission’s primary purposes is to ensure that licensees will be truthful in their future dealings with the Commission. 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 that the Commission can rely on an applicant, permittee, or licensee to be truthful.³⁰

14. Section 1.17(a)(1) of the Commission’s rules (Rules) states 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.³¹ We note that a misrepresentation is a false statement of fact

²⁷ 47 U.S.C. 312(a)(2).

²⁸ See 47 U.S.C. 308(b).

²⁹ *Contemporary Media Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000) (citation omitted).

³⁰ 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).

³¹ See 47 CFR 1.17(a)(1).

made with the intent to deceive the Commission.³² Lack of candor is a concealment, evasion, or other failure to be fully informative, accompanied by an intent to deceive the Commission.³³ A necessary and essential element of both misrepresentation and lack of candor is intent to deceive.³⁴ Fraudulent intent can be found from “the fact of misrepresentation coupled with proof that the party making it had knowledge of its falsity.”³⁵ Intent can also be found from motive or logical desire to deceive.³⁶

15. Section 1.17(a)(2) of the Rules further requires that no person may provide, in any written statement of fact, “material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”³⁷ Thus, even absent an intent to deceive, a false statement may constitute an actionable violation of § 1.17 of the Rules if provided without a reasonable basis for believing that the material factual information it contains is correct and not misleading.³⁸

16. In the instant case, Jordan represented to the Commission in each of its applications that its “officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other

³² See *Fox River Broadcasting, Inc.*, Order, 93 FCC 2d 127, 129 (1983) (*Fox River*); *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7435 (2004) (*Discussion Radio*).

³³ See *Fox River*, 93 FCC 2d at 129; *Discussion Radio*, 19 FCC Rcd at 7435.

³⁴ See *Trinity Broadcasting of Florida, Inc.*, Initial Decision, 10 FCC Rcd 12020, 12063 (1995), *subsequent history omitted*; *Discussion Radio*, 19 FCC Rcd at 7435.

³⁵ *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.

³⁶ 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)).

³⁷ 47 CFR 1.17(a)(2).

³⁸ See *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4017, para. 4 (2003) (stating that the revision to § 1.17 is intended to “prohibit incorrect statements or omissions that are the result of negligence, as well as an intent to deceive”), *recons. denied*, Memorandum Opinion and Order, 19 FCC Rcd 5790, *further recons. denied*, Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004).

persons and entities with attributable interests” were the following five people, each of whom held a 20 percent voting interest: Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua.³⁹ As discussed above, records from the Missouri Secretary of State suggest that, at the time Jordan filed its various applications with the Commission, only Eliud Villatoro held any sort of positional interest with Jordan.

17. According to Jordan’s Missouri 2012 Annual Registration Report, as of February 14, 2013, Jordan’s officers were Eliud Villatoro (President), Edilma J. Villatoro (Vice-President), Edgar Poroj (Secretary), and Efrain Coquij (Treasurer) and its board of directors were Genaro Cifuentes, Doris Paxtor, and Edy Fuentes.⁴⁰ Of these individuals, the only one Jordan disclosed to the Commission in its October 2013 Application was Eliud Villatoro, whom it described only as a board member.⁴¹ In addition, according to Jordan’s Missouri 2016 Annual Registration Report, as of August 25, 2016, Jordan’s officers were Eliud Villatoro (President), Edilma J. Villatoro (Vice-President), Edgar Poroj (Secretary), and Efrain Coquij (Treasurer) and that its board of directors were comprised of Ruth Cifuentes, Samuel Hernandez, and Edy Fuentes.⁴² Here again, the only one of these individuals whom Jordan disclosed to the Commission in its January 2017 Modification was Eliud Villatoro and again only as a board member.⁴³ Similarly, Jordan’s Missouri 2017-2018 Biennial Registration Report suggests that, as of October 5, 2017, a little more than a month before Jordan filed its November 2017 Modification, its officers were Eliud Villatoro (President), Edilma J. Reyes (Vice-President), Edgar Poroj (Secretary), and Tony Shadden (Treasurer) and that its board of directors were Ruth Cifuentes, Samuel Hernandez, and Dixi Villatoro.⁴⁴

³⁹ October 2013 Application at Section II, Question 3(a); *see also* January 2017 Modification at Section II, Question 3(a); and November 2017 Modification at Section II, Question 3(a).

⁴⁰ *See* 2012 Annual Registration Report, Charter No. N00994664 (filed Feb. 14, 2013) <https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIF=true&fileDocumentid=9744099&version=1>.

⁴¹ *See* October 2013 Application at Section II, Question 3(a).

⁴² *See* 2016 Annual Registration Report, Charter No. N00994664 (filed Aug. 25, 2016) <https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIF=true&fileDocumentid=12289036&version=5>.

⁴³ *See* January 2017 Modification at Section II, Question 3(a).

⁴⁴ *See* 2017-2018 Biennial Registration Report, Charter No. N00994664 (filed Oct. 5, 2017)

Nevertheless, in its November 2017 Modification, Jordan disclosed only Eliud Villatoro and again only as a board member.⁴⁵ Thus, the information before the Commission raises a substantial and material question of fact as to whether Jordan misrepresented the identification of its “officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests” in its various Commission applications.

18. In addition, in its various applications with the Commission, Jordan asserted that each of the five board members it identified in response to Section II, Question 3(a) – Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua – were United States citizens.⁴⁶ The Eighth Circuit’s January 2017 decision in *Villatoro-Ochoa v. Lynch*, affirmed an order by the Board of Immigration Appeals denying Eliud Villatoro’s motion to reopen proceedings to remove him from the United States to Guatemala and refers to him as a citizen of Guatemala.⁴⁷ The complaint that the Commission received from in January 2017 asserted that Eliud Villatoro, Johana Villatoro, Timoteo Garcia, and Tomas Calgua were Guatemalan citizens and that Marlon Fuentes only became a United States citizen in 2016.⁴⁸ In addition, the declaration provided by asserted that Johana Villatoro had been deported.⁴⁹ Collectively, this information raises substantial and material questions of fact as to whether any of these individuals were United States citizens when Jordan filed its applications. Thus, the information before the Commission raises a substantial and material question of fact as to whether Jordan misrepresented the citizenship of its “officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests” in its Commission filings.

<https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=13206145&version=5>.

⁴⁵ See November 2017 Modification at Section II, Question 3(a).

⁴⁶ See October 2013 Application at Section II, Question 3(a); January 2017 Modification at Section II, Question 3(a); and November 2017 Modification at Section II, Question 3(a).

⁴⁷ See *Villatoro-Ochoa v. Lynch*, 844 F.3d 993 (8th Cir. 2017).

⁴⁸ See *supra* n.14.

⁴⁹ See Declaration [sic] of , dated Aug. 6, 2017.

19. We therefore designate for hearing appropriate issues to determine whether Jordan misrepresented and/or lacked candor in its dealings with the Commission either with an intent to deceive and/or in willful and repeated violation of Section 1.17 of the Rules.

20. *Violation of Alien Ownership Limitations.* Section 310(b)(3) of the Act prohibits non-stock, noncommercial incorporated entities with alien ownership or voting percentage greater than 20 percent from obtaining or controlling a broadcast license.⁵⁰ The Commission will dismiss applications that do not comply with the statutory citizenship requirements of section 310 of the Act⁵¹ and designate for hearing permittees or licensees who seek or obtain a Commission license based on false statements of citizenship.⁵²

21. As discussed above, in each of its Commission filings, Jordan identified five (5) “board members” with an equal percentage of votes, each of whom Jordan identified as United States citizens.⁵³ As also set forth above, there are substantial and material questions of fact as to whether these five (5) individuals were Jordan’s “officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests” at the time it filed its various applications with the Commission.⁵⁴ If indeed they were, then as discussed above, there is a substantial and material question of fact concerning the citizenship of each of these five (5) individuals.⁵⁵ In light of Jordan’s certification that each of these individuals held 20 percent of the voting interest, the information before the Commission raises a substantial and material question of fact as to whether Jordan is/was owned or controlled by non-United States citizens in excess of the statutory limitations allowed by section

⁵⁰ See 47 U.S.C. 310(b)(3).

⁵¹ See, e.g., *Caribbean Festival Ass’n, Inc.*, Letter, 22 FCC Rcd 19238, 19239-19241 (MB 2007) (affirming dismissal of application for new LPFM station because alien ownership exceeded the 20 percent benchmark imposed by the statutory limit in 47 U.S.C. 310(b)(3)).

⁵² See, e.g., *Pan Pacific Television, Inc. (Transferor), and Silver King Broadcasting of Northern California, Inc. (Transferee)*, Memorandum Opinion and Order and Hearing Designation Order, 3 FCC Rcd 6629 (1988) (designating a broadcasting construction permit for hearing to determine whether the permittee had made misrepresentations concerning its alien ownership and thus whether the permittee was owned or controlled by aliens in violation of section 310(b) of the Communications Act).

⁵³ See *supra* at 6, para. 16.

⁵⁴ See *supra* at 6-7, paras. 16-17.

⁵⁵ See *supra* at 7, para. 18.

310(b)(3) of the Act.

22. We therefore designate for hearing appropriate issues to determine whether Jordan is/was owned or controlled by non-United States citizens in excess of the one-fifth allowed by section 310(b)(3) of the Act.

23. *Failure to Maintain Completeness and Accuracy of Pending Applications.* Under § 1.65 of the Rules, an applicant is responsible for the continuing accuracy and completeness of the information furnished in a pending application or in Commission proceedings involving a pending application.⁵⁶ Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant must, as promptly as possible and in any event within 30 days, amend its application so as to furnish the additional or correct information.⁵⁷ For the purposes of § 1.65, an application is “pending” before the Commission from the time it is accepted for filing until a Commission grant (or denial) is no longer subject to reconsideration by the Commission or review by any court.⁵⁸

24. In the instant case, Jordan’s November 2017 Modification remains pending.⁵⁹ Thus, Jordan has been under a continuing obligation to ensure the accuracy of this application and to amend it as appropriate. Even after receiving the Bureau’s LOIs, and being put on notice that there may be an issue with the individuals whom it identified in its Commission filings, Jordan did not amend its pending application. Accordingly, we designate for hearing an appropriate issue to determine whether Jordan willfully and/or repeatedly violated § 1.65 of the Rules.

25. *Failure to Respond to Commission Inquiries.* Section 73.1015 of the Rules, in relevant part, provides the Commission, or its representatives, with the authority to “require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should

⁵⁶ See 47 CFR 1.65.

⁵⁷ See *id.*

⁵⁸ See *id.*

⁵⁹ See File No. BPL-20171121AAB.

be granted or denied, or to a determination whether a license should be revoked.”⁶⁰

26. In the instant case, the Bureau sent Jordan two LOIs requesting information concerning the identification and citizenship of Jordan’s officers and board of directors.⁶¹ These LOIs notified Jordan, *inter alia*, that the Bureau was concerned that Jordan may have violated the alien ownership limitation set forth in section 310(b) of the Act and/or misrepresented information to the Commission in violation of § 1.17 of the Rules.⁶² Such information is, at a minimum, relevant to whether Jordan’s pending application should be granted or denied. Jordan failed to respond to either of the Bureau’s LOIs.

27. We therefore designate for hearing an appropriate issue to determine whether Jordan violated § 73.1015 of the Rules.

IV. ORDERING CLAUSES

28. Accordingly, IT IS ORDERED, pursuant to sections 309(e), 312(a)(1), 312(a)(2), 312(a)(4), and 312(c) of the Act, 47 U.S.C. 309(e), 312(a)(1), 312(a)(2), 312(a)(4), 312(c), that Ministerios El Jordan SHALL SHOW CAUSE why the authorization for which it is the licensee should not be revoked, and that the above-captioned application filed by Ministerios El Jordan is DESIGNATED FOR HEARING in a consolidated proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues:

- (a) To determine whether Ministerios El Jordan engaged in misrepresentation and/or lack of candor in its applications with the Commission.
- (b) To determine whether Ministerios El Jordan is/was owned or controlled by non-United States citizens in excess of the one-fifth allowed by section 310(b)(3) of the Act.
- (c) To determine whether Ministerios El Jordan failed to amend its pending application, in willful and/or repeated violation of § 1.65 of the Commission’s rules.

⁶⁰ 47 CFR 73.1015.

⁶¹ *See supra* at 4, para. 11.

⁶² *See id.*

- (d) To determine whether Ministerios El Jordan failed to respond to Commission inquiries in willful and/or repeated violation of § 73.1015 of the Commission's rules.
- (e) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Ministerios El Jordan is qualified to be and remain a Commission licensee.
- (f) To determine, in light of the foregoing issues, whether the authorization for which Ministerios El Jordan is the licensee should be revoked.
- (g) To determine, in light of the foregoing issues, whether the captioned application filed by or on behalf of Ministerios El Jordan should be granted.

29. IT IS FURTHER ORDERED that, in addition to the resolution of the foregoing issues, it shall be determined, pursuant to section 503(b)(1) of the Act, 47 U.S.C. 503(b)(1), whether an ORDER OF FORFEITURE should be issued against Ministerios El Jordan in an amount not to exceed the statutory limit for the willful and/or repeated violation of each Commission rule section above for which the statute of limitations in section 503(b)(6) of the Act, 47 U.S.C. 503(b)(6), has not lapsed.

30. IT IS FURTHER ORDERED that, pursuant to section 312(c) of the Act and §§ 1.91(c) and 1.221(c) of the Commission's rules, 47 U.S.C. 312(c) and 47 CFR 1.91(c), 1.221(c), to avail itself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Ministerios El Jordan, in person or by an attorney, SHALL FILE with the Commission, within 20 calendar days of the release of this Order, a written appearance stating that it will appear at the hearing and present evidence on the issues specified above.

31. IT IS FURTHER ORDERED that, pursuant to §§ 1.91 and 1.92 of the Commission's rules, 47 CFR 1.91 and 1.92, if Ministerios El Jordan fails to file a timely appearance, its right to a hearing shall be deemed to be waived. If a hearing is waived under §§ 1.92(a)(1) or (3) of the Commission's rules, Ministerios El Jordan may, within 20 calendar days of the release of this Order, submit a written, signed statement denying or seeking to mitigate or justify the circumstances or conduct described herein. In the event the right to a hearing is waived, the Chief Administrative Law Judge (or presiding officer if one has been designated) shall, at the earliest practicable date, issue an order reciting

the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. In addition, pursuant to § 1.221 of the Commission's rules, 47 CFR § 1.221, if any applicant to the captioned application fails to file, within 20 calendar days of the release of this Order, a written appearance, a petition to dismiss without prejudice, or a petition to accept for good cause shown an untimely written appearance, the captioned application shall be dismissed with prejudice for failure to prosecute.

32. 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.

33. IT IS FURTHER ORDERED that, pursuant to section 312(d) of the Act, 47 U.S.C. 312(d), and § 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 shall be upon the Enforcement Bureau as to the issues at paragraph 28(a) – (f) above, and that, pursuant to section 309(e) of the Act, 47 U.S.C. 309(e), and § 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 Ministerios El Jordan as to the issue at paragraph 28(g), above.

34. 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, 445 12th Street, S.W., Washington, DC 20554.

35. IT IS FURTHER ORDERED that copies of this document shall be sent via Certified Mail - Return Receipt Requested to the following:

Mr. Eliud Villatoro

Ministerios El Jordan

1721 South Baker Boulevard

Carthage, MO 64836-3004

Steven Hays, Esq.

622 South Main Street

Joplin, MO 64801

Aaron Scott

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14117 W. Travis Lane

Malakoff, TX 75148-3570

36. IT IS FURTHER ORDERED that a copy of this document, or a summary thereof, shall be published in the **Federal Register**.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey Gee,
Chief, Investigations & Hearings Division,
Enforcement Bureau.

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