



Federal Communications Commission
Washington, D.C. 20554

February 2, 2022

In Reply Refer to:
1800B3-AR

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Christian Broadcasting of
Greenwood, Inc.
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Christian Broadcasting of
Greenwood, Inc.
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Re: **CHRISTIAN BROADCASTING OF
GREENWOOD, INC.**

WGRM-FM, Greenwood, MS
Facility ID No. 11889
Application File No. 0000105193

WGRM(AM), Greenwood, MS
Facility ID No. 68577
Application File No. 0000105190

Notification of License Cancellation

Dear Counsel:

This letter is to inform you that the licenses of Stations WGRM(FM), Greenwood, Mississippi, and WGRM(AM), Greenwood, Mississippi (Stations), licensed to Christian Broadcasting of Greenwood, Inc. (Licensee), have expired pursuant to section 312(g) of the Communications Act of 1934, as amended (Act).¹

¹ 47 U.S.C. § 312(g).

Licensee filed applications to renew the Stations' licenses on February 3, 2020.² Larry G. Fuss (Fuss) filed a Petition to Deny (Petition) both Renewal Applications on May 4, 2020.³ In the Petition, Fuss alleges that: 1) Licensee is not incorporated in the State of Mississippi;⁴ 2) although Licensee certified in the Renewal Applications that the Stations had not been silent for more than 30 days, both were in fact silent from at least April 15, 2015 until March 25, 2016;⁵ 3) both Stations had periods of extended silence, exceeding 12 months, which were not reported to the Commission and which resulted in the automatic expiration of the Stations' licenses pursuant to section 73.1740(c) of the Commission's rules (Rules) because the Stations were off air for more than one year;⁶ 4) the Stations currently operate sporadically and fail to meet the minimum operation requirements of section 73.1740 of the Rules;⁷ 5) Licensee has not complied with the online public file requirements under sections 73.3526 of the Rules, including the timely filing of issues and programs lists and ownership reports;⁸ 6) Licensee violated section 310(d) of the Act by engaging in a premature transfer of control of the Stations without Commission consent to Eternity Media Group, LLC (Eternity), an entity controlled by Donald Pugh Sr., because there are no CBG employees at the facility and there is no local marketing agreement in place with Pugh.⁹

Licensee did not file an Opposition to the pleadings. In order to evaluate the arguments raised, the Media Bureau (Bureau) issued a letter of inquiry to each Station on June 11, 2021 (collectively, LOIs),¹⁰ to investigate potential violations of sections 310(d) and 312(g) of the Act and 73.1740(c) of the Rules. Specifically, the LOI requested: 1) information concerning whether Licensee transferred control of the Stations to a third party without prior Commission consent; 2) information regarding whether Licensee transferred control of its assets, including the Station licenses; 3) confirmation that Licensee is an active business in good standing in Mississippi; 4) all documentation of the Stations' operational status since April 1, 2015; 5) documentation of the effective radiated power and antenna height above ground level since April 1, 2015; 6) leases, personnel records, (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station logs, including EAS logs, since April 1, 2015; 7) documentation related to reasons for requests for special temporary authorization on file with the Commission; 8) documentation of all invoices, bills, including utility bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Stations'

² Application File Nos. 0000105190 and 0000105193 (filed Feb. 3, 2020) (Renewal Applications). Licensee also requests waiver of: 1) 47 CFR § 73.3526 generally, for failure to maintain an online public inspection file; 2) 47 CFR § 73.3540 for failure to file a transfer of control application when the executor of the Licensee's estate changed; and 3) 47 CFR § 73.3615 for failure to file biennial ownership reports in 2013, 2015, and 2017.

³ Petition, Pleading File Nos. 0000113146 and 0000113148 (filed May 4, 2020).

⁴ Petition at n.1.

⁵ Petition at 1-2; *see also* File No. BLSTA-20150529ABE) (WGRM(AM) silent from April 15, 2015, to March 25, 2016) and File No. BLSTA-20150529ABD) (WGRM-FM silent from April 15, 2015, to March 25, 2016).

⁶ Petition at 1-2 (citing 47 CFR § 73.1740(c)); *see also* 47 U.S.C. § 312(g).

⁷ Petition at 2 (citing 47 CFR § 73.1740).

⁸ *Id.* at 2-3.

⁹ *Id.* at 3. On August 31, 2017, Licensee filed an application to assign the Station's license to Eternity Media Group, LLC, which the Bureau granted on December 19, 2018. File No. BAL-20170831AAE. However, no consummation notice was ever filed, and the subject Renewal Application was filed by Licensee, not Eternity.

¹⁰ *See Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, FCC, to Christian Broadcasting of Greenwood, Inc.,* (sent by electronic mail, Jun. 11, 2021, 15:54 EDT).

operation; and 9) photographs of the Stations' studio and transmission facilities with exact coordinates.¹¹ Pursuant to section 73.3568(a)(1) of the Rules, Licensee was required to respond in writing within thirty days of the date of each letter.

On July 9, 2021, Licensee requested, and Bureau staff granted, a two-week extension to respond to the LOI.¹² On July 16, 2021, Licensee submitted a written response and supporting documentation for both LOIs (LOI Response), which is signed by Dr. Katrina L. Chase, Licensee's president.¹³ Regarding the alleged unauthorized transfer of control, Licensee maintains that: 1) Licensee applied for and was granted authorization to assign the license to Eternity, however, Eternity was unable to fund the assignment and it remains unconsummated;¹⁴ 2) Licensee and Eternity have an ongoing business relationship where the parties entered into a contract to hire an engineer, Alan Kilgore,¹⁵ while Pugh acts as agent to provide programmer and engineering services for the Stations, provides site location, and is compensated for advertising and programming sales commissions;¹⁶ and 3) Licensee maintains oversight of all operations and has not given up control of the Stations.¹⁷ Licensee also notes that it is incorporated in Virginia, not Mississippi, and provides a certificate of good standing.¹⁸

Regarding the Stations' operational status, Licensee: 1) states that the Stations were silent under STA from April 2015 through March 2016, but resumed operations when Licensee retained an engineer, Bryan Covey, to return the stations to the air prior to one year of silence;¹⁹ 2) includes advertising sales logs from July 2017 through July 2021 and issues and programs lists from April 2016 through July 2021;²⁰ 3) provides the location, coordinates, ERP, and height above ground level for both Stations;²¹ 4) attaches declarations from two employees—Chester L. Benton and Barbara Turner—affirming their employment from 2016 and 2018 to the present, respectively, and an email indicating Licensee paid the Station's engineer, Alan Kilgore, \$1,000 on July 20, 2017;²² 5) states that the Stations have only ever gone silent under granted STA due to financial distress;²³ 6) submits payments for the Stations' expenses and payments received by the Station in 2020 and 2021;²⁴ and 7) provides photographs of the Stations'

¹¹ LOI at 4-5, Requests 1-9.

¹² See *Email from John C. Trent, Attorney, to Alexander T. Sanjenis, Attorney, Audio Division, MB, FCC* (Jul. 9, 2021, 13:53, EDT). Bureau staff granted the extension and gave Licensee until July 16, 2021 to submit a response.

¹³ The LOI Response is signed by Dr. Katrina L. Chase, President of CBG and the executrix of the sole CBG shareholder's estate (Bishop Willis).

¹⁴ LOI Response at 2 and Exhs. 1-2.

¹⁵ *Id.* at 2-3 and Exh. 3.

¹⁶ *Id.* at 3.

¹⁷ *Id.*

¹⁸ *Id.* at 3 and Exh. 4.

¹⁹ *Id.* at 3 and Exhs. 5 (requests for and approval of STA) and 6 (resumption notice and March 26, 2016, email from Bryan Covey indicating Stations had returned to air).

²⁰ *Id.*; Exhs. 7-8 (sales Logs from 7/2017-7/2021); and Exh. 9 (issues and programs lists from April 2016 through July 2021).

²¹ *Id.* at 4 and Exhs. 10-12.

²² *Id.* Exh. 13.

²³ *Id.* at 4 and Exh. 5.

²⁴ *Id.* Exh. 14.

site since 2016.²⁵ Licensee maintains that the Bureau should conclude its investigation into the Stations' operating statuses and determine that the evidence demonstrates that Licensee has maintained full control and continued operation of the Stations.²⁶

On July 30 2021, Fuss emailed Bureau staff a response to Licensee's LOI Response (Fuss Response). Fuss maintains that: 1) the advertising logs Licensee produced do not prove that the Stations were on the air;²⁷ 2) the Stations had more periods of silence than were reported to the Commission and the Stations were off air for longer than one year;²⁸ 3) Licensee did not produce any of the requested EAS logs from April 1, 2015, to the present;²⁹ 4) Licensee did not produce requested utility bills;³⁰ and 5) Licensee failed to produce any payroll or personnel records.

Section 312(g) of the Act provides that if a broadcast station fails to transmit broadcast signals with its authorized facilities for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license to promote equity and fairness.³¹ The licenses for the Stations expired pursuant to 312(g) because the Stations were silent for more than 12 months from April 15, 2015 to April 15, 2016. Even though the Stations claim they returned to the air on March 26, 2016, before the one year anniversary of silent operation, we have determined the LOI Response fails to provide any evidence to confirm the assertion that the Stations resumed operation prior to April 15, 2016.

As an initial matter, we find the LOI Response is incomplete because Licensee failed to provide the requested EAS logs, leases, utility bills, employee payroll records, or personnel records for any part of the roughly five year requested time period, for either station.³² Licensee offers no explanation why it was not able to provide these documents.

Moreover, the records Licensee submitted are inadequate because, other than issues and programs lists, Licensee was unable to provide any evidence of either Station's operation in 2016, including the period between March 26, 2016 and April 15, 2016. We find that the issues and programs lists are not reliable proof that the Stations' resumed operations after March 25, 2016. A number of the programs listed by Licensee omit specific dates, times, and duration at which they aired. These lists are not comprehensive and without additional evidence, are insufficient to demonstrate that the Stations operated. Moreover, the Station's online public inspection files contains issues and programs lists for periods when

²⁵ *Id.* Exh. 15.

²⁶ *Id.* at 5.

²⁷ Fuss Response at 1.

²⁸ *Id.* at 1-2.

²⁹ *Id.* at 2.

³⁰ *Id.*

³¹ 47 U.S.C. § 312(g); *see also Eagle Broad. Group, Ltd. v. FCC*, 563 F.3d 543, 545 (D.C. Cir. 2009).

³² *See Roy E. Henderson*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5223, 5224 n. 15 (listing these items as evidence the Bureau finds acceptable to support a finding that a station resumed operation) (MB 2018).

the Stations were silent with STA, specifically the second, third, and fourth quarters of 2015, and the first quarter of 2016.³³ We thus find the lists submitted by the Licensee are unreliable.

The email Licensee submits from Brian Covey to Dr. Katrina L. Chase, dated March 26, 2016, with the subject line “WGRM FM AND AM REUTRN [sic] TO AIR,” on its own, is insufficient to demonstrate that the Stations operated from March 26, 2016 to April 15, 2016.³⁴ Licensee has not provided any independent documents to corroborate Covey’s email, such as records of the Stations’ utility bills and employee records, documents which were in fact requested in the LOI. Absent corroborating documentation, we find the email unreliable and insufficient to rebut the claim that the Stations were off the air.

Further, the employee declarations Licensee provides, which were not made under penalty of perjury, do not confirm the Stations’ operational status or otherwise make any statement regarding operational status and, without corroborating documentation, are not reliable since employees of the Stations are not disinterested parties.³⁵ Lastly, the advertising payment records Licensee produced are incomplete as they show no payments that can be attributed to the Stations’ operations from April 2016-2017, and include only one payment from 2018-2019.

We find that the License has failed to provide any documentation that demonstrates that the Stations resumed operations before April 15, 2016. Therefore, the Commission’s public and internal databases HAVE BEEN MODIFIED to indicate that the broadcast licenses for the referenced Stations are EXPIRED, that the Stations’ licenses are CANCELLED as a matter of law, and that the Stations’ call signs are DELETED. In addition, the Stations’ license renewal applications (Application File Nos. 0000105193 and 0000105190) and the Petition to Deny the applications (Pleading File Nos. 0000113146 and 0000113148), ARE DISMISSED as moot.

Finally, we note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the Stations’ tower be maintained until the tower is dismantled. Accordingly, the owner of the tower where the referenced Stations’ transmitting antenna is located is required to maintain the tower in the manner prescribed by our rules and the terms of the cancelled license.³⁶

³³ The WGRM-FM OPIF is accessible at <https://publicfiles.fcc.gov/fm-profile/WGRM-FM/more-public-files>, and the WGRM(AM) OPIF is accessible at <https://publicfiles.fcc.gov/am-profile/WGRM/more-public-files>.

³⁴ LOI Response, Exh. 6. The email contains no text beyond a signature block.

³⁵ See, e.g., *Iglesia Jesucristo Es Mi Refugio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 25 FCC Rcd 16310, 16319, para. 25 (MB 2010) (petitioner’s engineering consultant’s hearsay statement, uncorroborated by independent documentation, should be given little weight because he was not a disinterested witness).

³⁶ See 47 U.S.C. §303(q); 47 CFR §§17.1 *et seq.* and 73.1213. See also *Streamlining the Commission’s Antenna Structure Clearance Procedure*, Report and Order, 11 FCC Rcd 4272, 4293 (1995) (tower owner bears primary responsibility for maintaining tower painting and/or lighting).

Please direct any questions concerning the content of this letter to Alexander T. Sanjenis, Attorney, phone (202-418-2779), or e-mail (Alexander.Sanjenis@fcc.gov).

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

cc: Mr. Larry Fuss (larry@larryfuss.com) and Alan F. Kilgore (kilgorebroadcast@gmail.com)