

**Character Issues**

During the last license renewal period, John Barger, the managing member of the applicant, Victoria RadioWorks, LLC (the "Applicant"), was referenced in a proceeding in which character issues were raised.<sup>1</sup> While Applicant does not believe that the specific character issues raised in that proceeding were resolved adversely, in the interest of full candor, Applicant is disclosing those allegations herein.

On January 13, 2016, the Chief of the Audio Division, Media Bureau, issued a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture*, DA 16-37 ("NAL")<sup>1</sup> against E-String Wireless, Ltd. ("E-String"), a broadcast licensee in which Mr. Barger holds an attributable limited partnership interest.<sup>2</sup>

In the *NAL*, the Bureau found that E-String apparently: (1) made a false certification regarding the construction of the modified facilities of an FM translator in contravention of Section 1.17 of the Commission's rules; and (2) operated the FM translator with unauthorized facilities in violation of Section 73.1745(a). The Bureau concluded that E-String was apparently liable for monetary forfeiture in the total amount of \$9,000.00 for apparent violations of the Commission's rules.<sup>3</sup> Furthermore, the Bureau ordered E-String and its attributable owners, including Mr. Barger, to submit a copy of the *NAL* with "every facility application – FCC Form 301, 302 (any version), 349, or 350 . . . for the next five years from the date of (the *NAL*)."<sup>3</sup>

In the *NAL*, the Bureau dismissed a Petition to Deny ("Petition") filed by Southwest Texas Telecom, LLC ("STT") against an application to assign the FM translator license to a third-party, and the Bureau dismissed STT's allegations.

The Bureau also found that the false certifications concerning the FM translator's facilities and operations did *not* involve misrepresentation or lack of candor because there was no evidence that E-String had "motive to deceive the Commission about the Translator's construction or operational status."<sup>4</sup>

The Commission granted the assignment application in connection with which the *NAL* was issued.<sup>5</sup> The forfeiture was paid promptly in full by E-String and to the best of Applicant's knowledge, the matter is closed.

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<sup>1</sup> Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 31 FCC Rcd. 133, 133, ¶ 1 (MB 2016) ("*NAL*").

<sup>2</sup> Mr. Barger is a limited partner of E-String, and was a limited partner at the time of E-String's apparent misconduct alleged in the *NAL*. See, e.g., LMS File No. 0000104535. As a result of Mr. Barger's limited partnership status, Mr. Barger was not and is not currently empowered to certify anything on behalf of E-String – nor has ever attempted to do so.

<sup>3</sup> *Id.* at 139-40, ¶ 18. That five-year period expired January 13, 2021.

<sup>4</sup> *Id.* at 137, ¶ 11.

<sup>5</sup> *Id.* at 140, ¶ 19.