

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re Applications of)	
)	
MT. VERNON MISSIONARY)	File No. 0000167480
BAPTIST CHURCH)	Facility ID #768441
Noxapater, Mississippi)	
)	
NATIONAL ASSOCIATION FOR THE)	File No. 0000167681
PREVENTION OF STARVATION)	Facility ID #767097
Noxapater, Mississippi)	
)	
For Construction Permits for New)	
Noncommercial FM Stations)	
NCE MX Group 6)	
TO: The Secretary		
ATTN: Chief, Audio Division,		
Media Bureau		

JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT

Mt. Vernon Missionary Baptist Church (“Baptist”) and the National Association for the Prevention of Starvation (“NAPS”) pursuant to Section 73.3525 of the FCC’s Rules, hereby jointly request that the Commission approve the settlement agreement submitted herewith which is intended to resolve the conflict between their above-identified applications.

The Commission found these applications to be mutually and assigned them to MX Group 6.¹ One other application that was originally included in Group 6 has been separated from the group and is not needed for this agreement to result in a universal settlement.

Subject to the Commission's approval, the parties have agreed that NAPS will dismiss its application in exchange for (1) a call option to acquire the construction permit resulting from the Baptist application if an application for a license to cover has not been filed by the second anniversary of the grant of the permit, and (2) a right of first refusal to acquire the constructed station that would result from the Baptist application.

The elements of the declarations required by Section 73.3525(a) of the Commission's rules are incorporated into Section 7 of the settlement agreement, to which each party has subscribed under the penalty of perjury. There is no consideration given or promised aside from that described in the agreement, namely the grant of a call option and a right of first refusal by Baptist to NAPS, and NAPS' commitment to refrain from opposing the Baptist application.

Approval of the proposed settlement agreement would serve the public interest because it would conserve the resources of the Commission and of the

¹ See, Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the November 2021, Filing Window for Noncommercial Educational FM Stations, DA 21-1476 (MB, Nov. 29, 2021).

parties while allowing the Baptist application to become a singleton, which, when granted, could foster the sooner development of a new aural service for the Noxapater community.

The foregoing considered, the parties respectfully urge the Commission to approve the accompanying settlement agreement, to dismiss the NAPS application, to accept the Baptist application, and eventually, to grant the Baptist application.

Respectfully submitted,

MT. VERNON MISSIONARY
BAPTIST CHURCH

By: Reverend B. Allen
Name:
Its:

Mt. Vernon Baptist Missionary Church
200 Culberson Road
Noxapater, Mississippi
(662) 418-5193

NATIONAL ASSOCIATION FOR THE
PREVENTION OF STARVATION

By: /Donald E. Martin/
Donald E. Martin
Its Attorney

DONALD E. MARTIN, P.C.
P.O. Box 8433
Falls Church, Virginia 22041
(703) 642-2344

January 24, 2023

SETTLEMENT AGREEMENT

This Agreement (the “Agreement”) is entered into effective this 23rd day of January 2023, by and between the **National Association for the Prevention of Starvation** (“NAPS”) and Mt. Vernon Missionary Baptist Church (“Baptist”) that are applicants in **MX Group 6** resulting from the 2021 noncommercial FM filing window conducted by the Federal Communications Commission (“FCC”).

RECITALS

WHEREAS, NAPS has applied for a construction permit on Channel 203A at Noxapater, Mississippi (File No. 0000167681); and

WHEREAS, Baptist has applied for a construction permit on Channel 203A at Noxapater, Mississippi (File No. 0000167480); and

WHEREAS, the parties’ applications are mutually exclusive, cannot all be granted, and the public interest would be served by the elimination of mutual exclusivity between these applications; then

THEREFORE, to resolve the conflicts between their applications, in consideration of the mutual promises and covenants made herein, and intending to be legally bound, the parties agree as follows:

AGREEMENT

1. **DISMISSAL OF NAPS APPLICATION.** NAPS shall request the dismissal of its application within three business days of the date hereof, contingent upon the FCC’s approval of this Agreement and the grant of Baptist’s application.

2. **GRANT TO NAPS OF CALL OPTION.** Baptist hereby grants to NAPS an option to acquire the construction permit that will result from the grant of Baptist’s application if Baptist has not filed a license application by the second anniversary of the issue date of the construction permit. The option will remain in effect until exercised or until the construction permit expires regardless of who owns the permit at the time the option is exercised. NAPS shall exercise the option by providing written notice to Baptist by certified mail of its intent to exercise the

option and acquire the permit. Within ten days of such notice, the parties shall enter into a purchase agreement and promptly file an assignment application with the FCC. The purchase price shall be consistent with the FCC's rules and shall not exceed Baptist's reasonable and prudent expenses incurred to acquire the construction permit. Acquisition of the construction permit by NAPS shall be subject to FCC consent.

3. **GRANT TO NAPS OF RIGHT OF FIRST REFUSAL.** Baptist hereby grants to NAPS a right of first refusal to purchase the station that results from Baptist's application for a period of time commencing on the issue date of the original construction permit and continuing until the tenth (10th) anniversary of the issue date of Baptist's original license for the station. If Baptist receives a bona fide offer from a third party to purchase the station, before Baptist may accept such an offer, Baptist must first give written notice via certified mail to NAPS of such offer. Baptist shall have seven (7) calendar days from the receipt of such offer to provide NAPS with a copy of the bona fide offer (including verification that the third party is financially qualified by FCC standards to acquire the station) and give NAPS the opportunity to purchase the station on the same terms and conditions as set forth therein. NAPS shall have thirty (30) days in which to accept the offer. The parties shall enter into a purchase agreement and file an assignment application with the FCC within ten (10) days of NAPS' acceptance of the offer. If NAPS fails to accept the offer within the thirty-day (30) period following receipt of Baptist's notice, Baptist may proceed to sell to the bona fide third party in accordance with the terms of the offer. However, NAPS's right of first refusal shall be restored and shall continue in full force and effect if Baptist (a) has not filed an application with the FCC to assign the station to the bona fide third-party purchaser with the terms set for in the notice to NAPS within thirty (30) days of the expiration of NAPS' option period, or (b) has not consummated the sale to the bona fide third party purchaser within ten (10) days of the FCC's grant by a final order of the bona fide third-party assignment application. NAPS' right of first refusal shall not pertain to any transaction wherein Baptist assigns or transfers control of the station to an entity it controls, an entity that controls it, or an entity under common control. However, NAPS' right of first refusal as provided for herein shall apply to any assignee or transferee that acquires the station in such a transaction. In all events, NAPS' acquisition of the station shall be subject to FCC consent.

4. **NO OPPOSITION.** NAPS covenants that it will not oppose or hinder in any way, nor support any effort by any other party to oppose or hinder,

the Baptist application or any application for a minor modification to the resulting construction permit.

5. **COOPERATION AND BEST EFFORTS.** The parties agree to fully cooperate with each other and to use their best efforts in pursuing FCC approval of this Agreement including but not limited to, the prompt filing of amendments, or supplements to this Agreement or to the parties' Joint Request for Approval of Settlement, or amendment or reformation of this Agreement in order to satisfy any FCC concerns; *provided, however*, that any such actions would not harm a party's material interests and objectives hereunder.

6. **LEGAL SUFFICIENCY.** Each party represents and warrants to the other that it is legally qualified to enter into this Agreement and to undertake the duties and obligations set forth herein in a timely manner, and that its signatory is duly authorized to bind it hereunder.

7. **PUBLIC INTEREST CONSIDERATIONS.** Each party declares and affirms that it filed its application in good faith and without any intention of entering into a Settlement Agreement or receiving a payment or other consideration in connection therewith. All consideration for this settlement is identified in this Agreement. Neither the party represented by each respective signatory, nor any principal of such party, has received or been promised any consideration of any kind in connection with this Agreement except as stated herein. The parties submit that FCC approval of this settlement would be in the public interest. Resolving mutual exclusivity would conserve the resources of the FCC and of the parties and would foster a new noncommercial broadcast service to the Noxapater community. The declarations in this Section 7 are made under the penalty of perjury by each party's respective signatory below.

8. **NOTICES.** All notices to be given by the parties to each other shall be sent by first class United States Mail, postage prepaid, and by electronic mail, and shall be addressed as follows:

If to NAPS:

Torrey Price
National Association for the Prevention of Starvation
P.O. Box 100
Greensboro, Alabama 36744
torrey@napsglobal.org

with a copy (which shall not constitute notice) to:

Donald E. Martin, Esquire
Law Office of Donald E. Martin
P.O. Box 8433
Falls Church, Virginia 22041
dempc@prodigy.net

If to Baptist:

Rev. Joe B. Glass
Mt. Vernon Missionary Baptist Church
P.O. Box 371
Noxapater, Mississippi 39346

9. **SIGNATURES IN COUNTERPARTS.** This Agreement may be signed in duplicate copies and each such execution shall be effective as if the signatories were on the same signature pages. Copies of this Agreement that are transmitted via E-Mail or telecopier shall be treated as Counterparts.

10. **CONSTRUCTION AND VENUE.** Except where preempted by federal law, this Agreement shall be construed under the laws of the State of Mississippi without regard to the choice-of-law rules adopted by that jurisdiction. Any action initiated to resolve a dispute arising from this Agreement shall be brought in the state or federal courts having jurisdiction over Winston County, Mississippi.

11. **SPECIFIC PERFORMANCE.** The parties acknowledge that the authorizations that are the subject of this Agreement are unique and not readily available on the open market. Therefore, in the event of a default of this Agreement by Baptist, NAPS shall be entitled to the remedy of specific performance in addition to any other remedy to which it may be entitled in law or equity.

[SIGNATURE PAGE TO SETTLEMENT AGREEMENT]

IN WITNESS WHEREOF, intending to be legally bound, the authorized representatives of the parties do hereby execute this Agreement effective as of the date written above.

**NATIONAL ASSOCIATION FOR THE PREVENTION
OF STARVATION**

By: _____

Name:

Title:

MT. VERNON MISSIONARY BAPTIST CHURCH

By: _____

Name:

Title:

signatories were on the same signature pages. Copies of this Agreement that are transmitted via E-Mail or telecopier shall be treated as Counterparts.


10. **CONSTRUCTION AND VENUE.** Except where preempted by federal law, this Agreement shall be construed under the laws of the State of Mississippi without regard to the choice-of-law rules adopted by that jurisdiction. Any action initiated to resolve a dispute arising from this Agreement shall be brought in the state or federal courts having jurisdiction over Winston County, Mississippi.

11. **SPECIFIC PERFORMANCE.** The parties acknowledge that the authorizations that are the subject of this Agreement are unique and not readily available on the open market. Therefore, in the event of a default of this Agreement by Baptist, NAPS shall be entitled to the remedy of specific performance in addition to any other remedy to which it may be entitled in law or equity.

[SIGNATURE PAGE TO SETTLEMENT AGREEMENT]

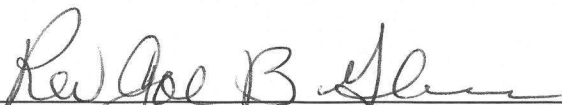
IN WITNESS WHEREOF, intending to be legally bound, the authorized representatives of the parties do hereby execute this Agreement effective as of the date written above.

**NATIONAL ASSOCIATION FOR THE PREVENTION
OF STARVATION**

By: _____

Name: Dr. Anthony Paul
Title: President and Founder, NAPS

MT. VERNON MISSIONARY BAPTIST CHURCH

By: _____

Name: Reverend Joe B. Glass
Title: Director