simultaneously with sound but whose essential utility is derived from other purposes. The Commission will address any requests for a purpose-based waiver on a case-by-case basis, and waivers will be available prospectively for manufacturers seeking certainty prior to the sale of a device.

(f) Submission and review of consumer eligibility to receive an accessible set-top box.

The Commission granted DIRECTV a waiver with respect to the set-top box models on which it is not able to implement audio functionality for emergency information, but conditioned such relief by requiring DIRECTV to provide, upon request and at no additional cost to customers who are blind or visually impaired, a set-top box model that is capable of providing aural emergency information. DIRECTV may require customers who are blind or visually impaired to submit reasonable documentation of disability to DIRECTV as a condition to providing the box at no additional cost.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–18091 Filed 8–22–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 23–267; DA 23–678; FR ID 165332]

Designating Applications To Renew Low Power Television Stations Licensed to Jennifer Juarez

AGENCY: Federal Communications Commission.

ACTION: Notice; Hearing Designation Order/Order to Show Cause

SUMMARY: In this document, the Media Bureau of the Federal Communications Commission commences a hearing proceeding to determine, among other things, if the named licensee, Jennifer Juarez, and Antonio Cesar Guel, former licensee through his ownership of Hispanic Christian Community Network, Inc. (HCCN): lacked candor and misrepresented material facts to the Commission; abused FCC processes by engaging in a sham assignment of stations that apparently allowed Guel's improper and continued control of them; possess the requisite character qualifications to be a Commission licensee and, as a result, whether the stations' renewal applications should be denied/dismissed and the stations cancelled or revoked, whether to impose forfeitures against the parties, and whether to issue an order directing Guel/HCCN to cease and desist from violating provisions of Commission rules and the Communications Act of 1934, as amended.

DATES: Each party to the proceeding (except for the Chief, Enforcement Bureau), in person or by counsel, shall file with the Commission, by August 31, 2023, a written appearance stating the party will appear on the date fixed for hearing and present evidence on the issues specified herein.

FOR FURTHER INFORMATION CONTACT: Dana E. Leavitt, Video Division, Media Bureau at (202) 418–1317 or *Dana.Leavitt@fcc.gov.* For additional information concerning the Paperwork Reduction Act (PRA) information collection requirements contained in this document, contact Cathy Williams at 202–418–2918, or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Bureau's HDO in MB Docket No. 23–267, DA 23–678, adopted and released on August 10, 2023. The full text of this document is available for download at *https://docs.fcc.gov/public/attachments/DA-23-678A1.pdf.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

Synopsis

Hearing Designation Order to Determine, Inter Alia, Whether HCCN and/or Antonio Cesar Guel are Real Parties in Interest in Pending Applications to Renew Authorizations for Low-Power Television Stations Licensed to Jennifer Juarez; Whether the Parties Engaged in a Sham Transaction to Allow HCCN/Guel Continued Control of the Stations and Abused Commission Processes; Whether the Parties Engaged in Misrepresentation and/or Lack of Candor Before the Commission; Whether the Parties Possess the Requisite Character Qualifications to be Licensees; and Whether Forfeitures Should be Imposed and a Cease and Desist Order Should be Issued Against HCCN and/or Guel

In this *Order to Show Cause Why A Cease and Desist Order Should Not Be Issued, Order to Show Cause Why an Order of Revocation Should Not Be Issued, Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture* (HDO), the Media Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) asks the ALJ to determine the character qualifications of the three designated entities, Hispanic Christian Community Network, Inc., Antonio Cesar Guel, and Jennifer Juarez and whether they possess the requisite character qualifications to hold broadcast licenses, whether to cancel or revoke 7 low power TV (LPTV) stations, and whether to issue a cease and desist order against HCCN and Antonio Cesar Guel to stop violating the Act and our rules. The HDO is the result of an investigation that began in 2018 to explore the extent to which Hispanic Christian Community Network, Inc. (HCCN), Antonio Cesar Guel (Guel), and Jennifer Juarez (Juarez) may have violated provisions of the Communications Act of 1934, as amended (the Act), and our rules pertaining to foreign ownership limits, unauthorized transfers of control/real-party-in-interest issues, and truthful statements made to the FCC. The HDO also provides notice of apparent liability against the entities for their respective violations and failures to disclose material information in their assignment application, and lack of candor and misrepresentation of material facts in responding to Bureau inquiries.

1. Background

The Parties: Jennifer Juarez, aka ''Jenifer'' Juarez, is the named licensee of the Stations. Juarez states she had no broadcast experience when she agreed in 2010 to acquire the stations from HCCN, which was 100% directly owned by Antonio Cesar Guel, her uncle. She avers that ''Antonio Cesar Guel helps us with keeping the stations on air. He provides programming from some of the churches or pastors that he knows and is also our representative with some advertising agencies.'' Juarez further avers she has no personnel but that Guel ''provides a lot of the technical assistance and advice I need'' and she receives ''a great deal of help from my uncle in getting help with contacts in the industry, contracts, programming, building the stations, moving the stations, etc.'' Juarez also states that she relies on and receives a great deal of help from her cousin Maria and some help from her cousin Ana (Antonio Guel's daughters), ''as they also are in the broadcast business. As a result, I have not really had to put much time into the stations.'' Juarez further avers she receives ''a great deal of help from my attorney and outside engineer,'' neither of whom she names.

Guel has been a broadcast licensee since 2005. He was the 100% owner of HCCN, which applied for and bought

and sold dozens of LPTV and LPFM construction permits and stations since 2005. In addition to purchasing stations, Guel has also served as a consultant to several other LPTV and LPFM licensees, particularly those involving Hispanic religious broadcasters. Guel and HCCN were defendants in at least two civil law suits involving the sale of broadcast construction permits and promising to build the stations but failing to do so. Those cases appear to have served as triggers for Guel's/HCCN's actions regarding the sale of the stations to Juarez.

For example, in the earlier case, *Unidad,* Guel, HCCN, et al., were alleged to have defrauded a church regarding the sale of broadcast stations. *See Unidad de Fe y Amor Corporation* v. *Iglesia Jesucristo Es Mi Refugio, Inc., Robert Gomez, HCCN, Inc., Antonio Cesar Guel,* No. C 08–4910 RS, 2009 WL 1813998 (N.D. Cal. June 25, 2009) (*Unidad*). The parties in that case ultimately settled the suit in 2009 and required Guel/HCCN, et al., to make monthly payments. In February 2010, however, the plaintiffs grew concerned that Guel/HCCN and the other defendants might default on payments, so the plaintiffs petitioned the court to enforce the settlement. This lawsuit appears to have spurred Guel/HCCN to sell LPTV stations to Juarez, because the very next month, Guel and Juarez executed an agreement for her to buy 17 stations from Guel/HCCN. Although Juarez claims that Guel told her he was struggling financially due to the economy and ''offered to sell us some television channels [sic] and also offered us financing [sic] the channels through his company,'' it is unclear how Guel would have financed Juarez's purchase of the stations if he were struggling financially.

The HCCN-Juarez Transaction: On March 12, 2010, Guel, as president of HCCN, and Juarez executed an asset purchase agreement (APA) whereby she agreed to pay HCCN $320,000 to purchase 16 of its LPTV stations (including the 7 at issue in the HDO) pursuant to a payment plan identified at Schedule 2.1. It was later discovered that Juarez apparently was a minor in March 2010. (Under Texas law, a minor is typically ineligible to enter into such a contract.)

On March 15, 2010, HCCN filed with the Commission an application to assign 16 of its LPTV stations to ''Jenifer'' Juarez (which is not the legal spelling of her first name). Guel/HCCN and Juarez (Parties) attached the APA to the assignment application (Application) as an exhibit.

The Application required each Party to certify to the FCC that ''the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations.'' It also cautioned them 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, title 47, section 312(a)(1)), and/or forfeiture (U.S. code, title 47, section 503).'' Guel's signature on the Application affirmatively represented that the Parties' agreements complied fully with FCC rules and policies; that the documents provided ''embody the complete and final understanding between'' the Parties; and that HCCN had provided copies of all agreements for the sale/transfer of the stations, except for Schedule 2.1, which he represented contained ''private financial information, and was properly redacted pursuant to Commission policy established in LUJ, Inc.'' Juarez made a similar certification.

The Parties further agreed to comply with any condition imposed on it by the FCC with respect to its consent to the transaction. Guel, as 100% stockholder and president of HCCN, was apparently represented by attorney Dan Alpert. It does not appear that Juarez was represented by counsel in this transaction.

The Commission consented to the assignment based on the Parties' certifications that the transaction complied with FCC rules and policies (Grant). This Grant informed the Parties, in relevant part, that consummation of their transaction ''shall be completed within 90 days from the date'' of the Grant (*i.e.,* no later than July 25, 2010) and that ''notice in letter form thereof shall promptly be furnished to the Commission by the seller or buyer showing the date the acts necessary to effect the transaction were completed.'' The Grant further informed the Parties that the FCC would consider the sale complete upon the filing of the notice, at which point Juarez could begin operating the stations as the licensee. As specified in the APA, the closing was scheduled to take place no later than June 25, 2010.

In granting the assignment, however, the FCC was unaware of several material facts that the Parties had failed to disclose. For example, Juarez certified she had ''sufficient net liquid assets [] on hand or are available from committed sources to consummate the transaction and operate the station(s) for three months.'' It is unclear how an apparent teenager with no broadcast experience could finance that purchase, and the Parties did not disclose that Guel purportedly was financing Juarez's purchase of all the stations on a payment plan described in Schedule 2.1 of the APA, which they withheld by characterizing it as private financial information that could be excluded from the Application pursuant to FCC precedent. (To this day, Guel/HCCN and Juarez have not produced a copy of Schedule 2.1, and it is not clear if such a document ever existed or if the claim in the Application about Schedule 2.1 was false.) In fact, this type of seller financing of a broadcast transaction is not ''private financial information,'' but rather was required to be included in the Application because it was directly relevant to the issue of whether the transaction complies with the Rules, particularly the Rule prohibiting a seller from having a reversionary interest in a broadcast station. The Parties also did not disclose the terms of an unwritten side agreement, whereby payments for the Stations would be made after ''consummating'' the sale, and Guel would hold the closing papers and not file the requisite consummation notice until some unspecified time after ''payments were made.''

The Parties did not file the requisite notice (or the requisite ownership report) within 30 days of purportedly consummating the transaction. They instead waited four years, when HCCN's counsel, Alpert, filed the notice on November 10, 2014, certifying that HCCN and Juarez had closed the sale on July 25, 2010, the deadline indicated in the Grant. The same counsel obtained an FCC Registration Number (FRN), required to conduct business with the FCC, for Juarez on December 1, 2014. In the spring of 2016, Juarez filed applications to renew the licenses of three of the captioned stations, two of which remain pending. In 2021, Juarez filed applications to renew the licenses of four of the captioned stations, and in 2022 she filed an application to renew the seventh station; these applications are likewise pending.

HCCN Continued Filing Applications Post-Consummation. If the Parties had in fact closed the sale in July 2010, as required by their agreement and specified in the Grant, Juarez should have assumed control of the stations on July 25, 2010, and the Parties should have notified the Commission no later than August 24, 2010, via the requisite consummation notice. Yet actions taken by HCCN between July 2010 and November 2014 suggest that HCCN, not Juarez, continued to control and operate

the stations. Specifically, HCCN continued to hold itself out to the public as the licensee of the stations by filing with the FCC scores of applications or reports between July 25, 2010 and November 10, 2014, to wit: two biennial ownership reports; one change-of-address notice; and over 30 applications affecting the stations purportedly assigned to Juarez in July 2010. For example:

- On April 1, 2013, HCCN filed a renewal application for WESL–LP, one of the stations Juarez was presumably operating. That application was signed by ''Cesar A. Guel,'' president of HCCN, and certified that HCCN complied with statutory limits on foreign ownership.
- On December 20, 2013, HCCN filed a biennial ownership report for 40 stations, including those purportedly sold to Juarez. This report certified that, as of October 1, 2013, Antonio Guel was no longer an officer or director of HCCN but retained 100% direct ownership of the voting and equity rights for HCCN's outstanding stock. Cesar certified that he was HCCN's sole officer and director and that Guel was a U.S. citizen. Cesar also certified that he and Guel were not related as parent/child. The Commission subsequently learned that Cesar Antonio Guel is the son of Antonio Cesar Guel.
- On April 1, 2014, HCCN filed applications to renew the licenses of stations KZAB–LP and KJTN–LP. Cesar signed the applications, certifying that HCCN complied with statutory foreign ownership limits. HCCN, however, did not timely withdraw or amend these applications that remained pending after the purported May 19, 2014 realization that Guel, as a non-U.S. citizen, could not hold a direct interest greater than 20% in a corporate FCC licensee such as HCCN.

Most notably, in August 2014, HCCN filed applications to transfer all of the stations purportedly sold to Juarez in 2010 to another entity; HCCN described the sale as a ''corporate reorganization to another corporation'' for which no consideration was being paid. Guel/HCCN planned to sell the stations to Hispanic Family Christian Network, Inc. (HFCN), a company that Guel founded in 2007. Guel at some later date apparently transferred ownership of HFCN to family members, including Juarez. Documents submitted to the FCC indicate that Maria C. Guel, HFCN's president, notified the Texas Secretary of State that Juarez had been named a director as of February 5, 2010, and would serve as HFCN's treasurer. Juarez's term as a member of HFCN's board of directors would run through May 5, 2013. Various documents filed with the FCC echo this, with HFCN reporting that Juarez held a one-third voting interest in HFCN in 2010 continuing through at least 2021.

In June and September 2014, the FCC received petitions objecting to the renewal and assignment of the stations that HCCN had purportedly sold to Juarez in 2010. The petitions were filed by Michael Couzens, an attorney who represented pastors a 2014 civil case in which Guel and HCCN were eventually adjudged to have defrauded the plaintiff pastors based on Guel/HCCN's and other defendants' false promises to sell and construct LPTV stations in California. *See Jose Gonzalez et al.* v. *Iglesia Jesucristo Es Mi Refugio, Inc., HCCN, and Antonio Cesar Guel,* No. BC 501688, Los Angeles County Superior Court) (default judgment issued Feb. 26, 2016). As a result of that litigation, petitioner Couzens learned that Guel was not a natural born citizen of the United States, had not become a naturalized U.S. citizen and, therefore, was not, at that time, a U.S. citizen. The petitioner shared that information with the FCC and argued that, as a non-U.S. citizen and 100% owner of HCCN, Guel had falsely certified compliance with statutory limits on foreign ownership in dozen of filings with the FCC and had no legal right to hold or assign the stations. After that disclosure to the FCC, Guel/HCCN filed the four-years' delinquent notice that the Parties had closed the sale of stations to Juarez on July 25, 2010. On the following day, November 11, 2014, HCCN filed for bankruptcy protection.

The Investigation. As a result of allegations raised in the petitions, coupled with HCCN's conflicting filings and the fact that the Parties hadn't filed a timely consummation notice, the Media Bureau issued a pre-hearing designation letter (1.88 Letter) advising Juarez that the Bureau needed to evaluate potential statutory and/or FCC rule violations. Accordingly, the Bureau instructed Juarez to provide a written response, under penalty of perjury, to nine inquiries and explain, inter alia, the delay in filing the consummation notice and why HCCN had continued filing applications if Juarez had assumed control of the stations in July 2010. It instructed her to provide evidence that she controlled the policies governing the Stations' programming, personnel, and finances. It also instructed Juarez to provide documentary evidence supporting her responses and an affidavit, signed under penalty of perjury, stating that since July 25, 2010, she had been ''the licensee and in control of the day-to-day operations of the stations in a manner that is consistent with Commission rules and precedent; each station has operated pursuant to the parameters authorized in its license; and at no time has any station been silent for a consecutive twelve month period. To the extent such statements cannot be provided, please provide a detailed explanation.''

The 1.88 Response. Juarez filed a timely response on April 23, 2018 (Response). To describe the closing and explain the delinquent consummation notice, Juarez avers that ''the Closing papers were first prepared in May 2010 and were signed July [sic] 2010. The understanding I had with HCCN was that it would hold onto the papers and that the consummation notice would be filed as soon as payments were made for the stations.'' Juarez neither provides the date in July 2010 she claims to have signed the closing papers, nor explains why the closing certificates she provided were signed but undated and had retained the blank space to indicate when in May 2010 the Parties had signed the certificates. To explain why the Parties created this arrangement, Juarez referred the Bureau to a declaration from Guel that she included in her Response. Therein, Guel avers that HCCN's assets were ''under attack'' due to a lawsuit against him and HCCN, which purportedly led to HCCN's bankruptcy. He also averred that, as a result of the lawsuit, ''it was realized for the first time'' in 2014 that he was unqualified to be an FCC licensee as he was not a U.S. citizen. Guel further avers that one of his last acts before filing for HCCN's bankruptcy was to complete the transactions to ensure that assignees such as Juarez became the ''officially recognized licensees at the FCC.'' Guel adds that he had entered ''verbal arrangements'' whereby the assignees such as Juarez ''could run the stations, but HCCN would remain officially the named licensee with the FCC until such time as the majority of the amounts owed was paid.''

In the Response, Juarez and Guel both disclose that they had an oral agreement to delay filing the consummation notice until Juarez paid for the stations, but she could operate them in the interim. The Parties had not revealed this arrangement in the Application or APA, despite their respective certifications that the APA embodied the parties full agreement and complied with FCC rules and the Act. Additionally, neither Guel nor Juarez provided details explaining exactly how Guel ''financed'' her purchase of the stations, which the Parties also had failed to disclose in the APA. Juarez did not provide any evidence of payments or terms of such

financing. Further, Juarez does not provide any contemporaneous evidence to support her claim that she controlled the stations' personnel, finances, or programming since July 25, 2010, and the evidence she did provide of her purported control of the stations since November 2014 does not sufficiently support her claim.

Juarez further averred she held no stations other than those she purportedly acquired from Guel/HCCN in 2010.

2. Applicable Statutes and Rules

License Renewal Standard. Juarez's applications to renew the stations are currently pending before the Commission. Section 309(k) of the Act provides that the FCC is to grant a license renewal application if it finds, with respect to that station, during the previous license term (a) the station has served the public interest, convenience, and necessity, (b) there have been no serious violations by the licensee of the Act or the Rules, and (c) there have been no other violations of the Act or Rules which, taken together, would constitute a pattern of abuse. If the Commission is unable to make such a determination, it may deny the renewal application or grant it on such terms and conditions as are appropriate, including a short-term renewal. Prior to denying a renewal application, the Commission must provide notice and opportunity for a hearing conducted in accordance with section 309(e) of the Act and consider whether any mitigating factors justify the imposition of lesser sanctions. Allegations of misrepresentation are material considerations in a license renewal review.

Character Qualifications. The character of an applicant is among those factors that the FCC considers in determining whether an applicant has the requisite qualifications to be a Commission licensee. Section 312(a)(2) of the Act provides that the FCC 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.'' Because the character of the applicant is among those factors the FCC considers in its review of applications to determine whether the applicant has the requisite qualifications to operate the station for which authority is sought, 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.

Misrepresentation and Lack of Candor. As court's have noted, ''applicants before the FCC are held to a high standard of candor and forthrightness.'' 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. Thus, ''applicants . . . have an affirmative duty to inform the Commission of the facts it needs in order to fulfill its statutory mandate.'' The FCC ''refuse[s] to tolerate deliberate misrepresentations'' and may also premise a finding of lack of candor on omissions, the core of which is ''a failure to be completely forthcoming in the provision of information which could illuminate a decisional matter.''

Misrepresentation is a false statement of fact made with intent to deceive the Commission and is proscribed by our Rules. Section 1.17(a)(1) of the 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. Similarly, lack of candor (a concealment, evasion, or other failure to be fully informative, accompanied by an intent to deceive the Commission) is within the scope of the rule. A necessary element of both misrepresentation and lack of candor is intent to deceive. Fraudulent intent can be found from ''the fact of misrepresentation coupled with proof that the party making it had knowledge of its falsity.'' Intent can also be found from motive or a logical desire to deceive. False statements knowingly made to the Commission can be a basis for revocation of a license or construction permit.

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.'' 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.

When reviewing FCC-related misconduct in the licensing context, the Commission evaluates whether the licensee 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 FCC policies. Indeed, the FCC'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.' '' Thus, misrepresentation would also demonstrate a lack of candor under the FCC's character qualifications policy. Because the FCC 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. The FCC 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.'' 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.'' Such violations also can be a basis for revocation of a license or construction permit.

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.'' Thus, under section 310(d) of the Act, the FCC prohibits *de facto,* as well as *de jure,* transfers of control of a station license, or any rights thereunder, without prior Commission consent.

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. The FCC, in particular, looks to whether the entity in question establishes the policies governing station programming, personnel, and finances, and has long 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. The FCC 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.

Act and Rule Violations by Non-licensees. With respect to HCCN and Guel (currently non-licensees), section 312(b) of the Act authorizes the FCC to order a person who ''has violated or failed to observe any of the provisions of this chapter,'' or ''has violated or failed to observe any rule or regulation of the Commission authorized by this chapter,'' to cease and desist from such activity. The process is laid out in section 312(c), which specifies that, prior to issuing such a cease and desist order, the Commission ''shall serve upon the licensee, permittee, or person involved an order to show cause why . . . a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters with respect to which the Commission is inquiring and shall call upon said . . . person to appear before the Commission.'' Courts have specifically rejected the argument that the FCC lacks authority to sanction non-licensees for violating the Act and Commission rules after notice and an opportunity for hearing, stating that ''such a result would make little sense. If a person who should have a license but did not obtain one were to start doing what only a licensee can do, why should the Commission not be able to issue a cease and desist order against that person?'' Moreover, the Act expressly authorizes the FCC to issue a monetary sanction ''against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge thereof'' where a non-licensee engages in activities for which a license, permit, certificate, or other authorization is required. Thus, although HCCN and Guel do not currently hold licenses, they nevertheless are subject to the Act by virtue of the fact that both satisfy the definition of a ''person'' and have apparently violated and/or failed to observe the requirements of section 301 of the Act. This is eminently sensible since, in the alternative, individuals could continue to violate FCC rules with impunity.

Real Party in Interest and Abuse of Process. Because the FCC must determine whether a potential licensee meets statutory requirements to hold and operate broadcast stations, parties who intend to assign authorizations are required to disclose the ''real party in interest'' purchasing the stations at issue and must certify that they have disclosed all material information requested in the application. The Commission has noted that the phrase ''real party in interest'' usually applies to parties to pending applications, while ''*de facto*'' control is normally applied to persons controlling existing authorizations. The concern in either context is whether an applicant is, or will be, controlled in a manner that differs from the proposal before, or approved by, the Commission. Thus, a real party in interest is an undisclosed applicant that ''has an ownership interest or is or will be in a position to actually or potentially control the operation of the station.'' Given the concealment from the FCC of a party controlling an applicant, real parties in interest are deemed to exercise *de facto* control over a station in a manner that, ''by its very nature, is a basic qualifying issue in which the element of deception is necessarily subsumed.''

Further, it is an abuse of Commission processes to attempt to achieve a result our licensing processes were not designed or intended to permit, or to attempt to subvert the underlying purpose of the licensing process. As the Commission has noted, ''both the potential for deception and the failure to submit material information can undermine the Commission's essential licensing functions.'' Thus, false certifications subvert our licensing process. Moreover, filing an application in the name of a surrogate is deceptive and denies the Commission and the public the opportunity to review the qualifications of the real party who will control and operate a station; it also constitutes an abuse of process. Classic abuse-of-process cases involving surrogate applicants include sisters who served as fronts for their brother to claim a preference once available to female-owned businesses, or deceased relatives whose names were used by licensees that had reached the limit on the number of authorizations that could be issued in their names.

Foreign Ownership Limitations. Section 310(b) of the Act limits foreign holdings of broadcast licenses. 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. Specifically, the statute states in relevant part:

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

3. Discussion

Guel avers he directly held 100% voting rights of HCCN until 2013. Guel was not a U.S. citizen during that time; he was—and apparently still is—a citizen of Mexico. There is nothing in the record to indicate that HCCN was owned by any other corporation. Thus, at the time of Guel's direct ownership of HCCN, the company was subject to section 310(b)(3) of the Act, which limits direct foreign ownership by non-U.S. citizens to no more than one-fifth of the capital stock. The FCC therefore could not have granted a broadcast license to HCCN consistent with the Act because of Guel's 100% direct stock ownership in HCCN. The record indicates that Guel, through HCCN, repeatedly falsely certified to the FCC his citizenship and/or HCCN's compliance with statutory limits on foreign ownership.

Guel, currently a non-licensee, does not appear to hold any broadcast licenses. Nevertheless, the record indicates that HCCN and/or Guel exercised, and may continue to exercise, improper *de facto* and unauthorized control over the stations, in apparent violation of statutory requirements. There are substantial and material questions of fact as to the duration and extent of such control, and whether it continues to the present. We also find that there are substantial and material questions of fact as to whether HCCN and Guel should be considered one and the same entity for purposes of this proceeding.

There also are substantial and material questions of fact as to whether the Parties lacked candor or misrepresented material facts in the assignment Application, when they each certified their agreement complied with FCC rules and embodied the Parties full agreement. There are substantial and material questions of fact as to whether the Parties consummated the sale of stations from HCCN to Juarez in 2010 or ever. There are substantial and material questions of fact as to when and whether Juarez assumed legal control of the stations.

Finally, there are material and substantial questions as to whether the Parties lacked candor or misrepresented facts in statements made in the Response filed with the Bureau in 2018. For example, Guel averred he only discovered in 2014 that his 100% ownership of HCCN precluded him/HCCN from holding broadcast licenses,

and that he had relied on advice of counsel in certifying HCCN's compliance with foreign ownership limits. Guel nowhere claims ignorance as to his actual citizenship, however, and his declaration offers no excuse for false certifications that he was a U.S. citizen. Moreover, licensees are responsible for the actions of their agents and shifting blame for a licensee's statutory violations does not exculpate the licensee. Indeed, the record indicates that as early as 2005, Guel had filed applications with the Commission to acquire a station in Yuma, Arizona, wherein Guel falsely represented HCCN's compliance with section 310(b)(3) of the Act, at a time when he stated he was not represented by counsel. It thus appears that Guel lacked candor and/or misrepresented facts in his declaration. As for Juarez, she averred in her Response that she controlled the stations since July 2010. But she provided no contemporaneous documents to support that statement, and the historical record indicates that Guel/HCCN controlled the stations until at least August 2014. She also averred that ''[t]here are no other stations owned or controlled by me.'' Multiple documents, filed over many years, contradict this, as her cousin Maria Guel repeatedly certified in public FCC filings and other official documents that Juarez has held, since 2010, a 33% attributable interest in HFCN.

Based on the totality of the record, there are substantial and material questions of fact as to: (1) whether Juarez abused Commission processes by filing a sham application to enable HCCN or Guel to continue operating and controlling the stations despite non-compliance with the foreign ownership limitations of section 310(b)(3), and by secretly agreeing to delay indefinitely filing the requisite consummation notice; (2) whether and when Juarez acquired control of and began operating the Stations consistent with the Act and/or the Rules and, based on that, whether Juarez engaged in an unauthorized transfer of control in violation of section 310 of the Act by either operating the stations without legitimate authority or by ceding control of the stations to HCCN; (3) whether Juarez lacked candor and/or misrepresented facts to the Commission, including in the Assignment Application and in her 1.88 Letter Response; and (4) whether Juarez has the qualifications to be and remain a licensee. As a result, we issue this Order to Show Cause Why an Order of Revocation Should Not Be Issued, Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture to determine whether (a) the licenses of the stations should be revoked; (b) whether the captioned applications for renewal of the licenses of the stations should be granted, dismissed or denied; and/or (c) whether a forfeiture order should be issued to Juarez.

With respect to HCCN and its former 100% direct stockholder Guel, there are substantial and material questions of fact as to whether HCCN and Guel should be considered one and the same entity for purposes of this proceeding. There are also substantial and material questions of fact as to whether HCCN and/or Guel have exercised and continue to exercise de facto control over the stations. Accordingly, we issue an Order to Show Cause Why a Cease and Desist Order Should Not be Issued, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture against HCCN and Guel to cease and desist from violating Commission Rules and the Act, including making willfully inaccurate, incomplete, evasive, false, or misleading statements before the Commission in violation of § 1.17 of FCC rules and engaging in unauthorized control and operation of broadcast stations in violation of section 301, 308, and 310 of the Act and to determine and whether a forfeiture should be issued to HCCN and Guel. Moreover, we find that there are substantial and material questions of fact as to whether HCCN and/or Guel: (1) have misrepresented material information to the Commission and lacked candor; (2) have abused Commission processes first by filing an assignment application that lacked bona fides while maintaining de facto control of the stations, and then by impermissibly and intentionally bifurcating ownership of the stations for years by not timely filing the requisite consummation notice; and (3) are fit to be Commission licensees in light of these apparent violations, abuses, and lack of candor and/or misrepresentation of facts to the Commission. Accordingly, we issue an Order to Show Cause Why a Cease and Desist Order Should Not be Issued, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture against HCCN and Guel to cease and desist from operating, controlling, managing, or providing any assistance to any stations; from preparing and/or filing applications or other documents regarding HCCN with the Commission; and, to the extent HCCN or Guel is allowed to assist any other licensee/permittee/applicant in any way with the operation or construction of any station, or to provide any assistance or input in any way in preparing or filing any application with the Commission, from doing so without also providing a copy of any order issued in this proceeding that finds he lacks the character to be a Commission licensee in any and all filings with the Commission in every matter in which he participates in any way.

4. Ordering Clauses

1. Accordingly, *it is ordered* that, pursuant to sections 308, 309(d), 309(e), 309(k), and 312(a)–(c) of the Act, 47 U.S.C. 308, 309(d), 309(e), 309(k), 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 Jennifer Juarez abused Commission processes by misrepresentation, concealment, or otherwise.

(b) To determine whether Jennifer Juarez abused Commission processes by entering into an undisclosed agreement to delay indefinitely the filing notice of the Parties' purported consummation.

(c) To determine when and whether Jennifer Juarez is and/or has been exercising affirmative control of KHDE-LD, KJTN-LP, KZAB-LP, KZTE-LD, KTEQ-LP, KRPO-LD, and WESL-LP.

(d) To determine whether Antonio Cesar Guel and Hispanic Christian Community Network, Inc. is (and/or has been, during the most recent license term) a real-party-in-interest to the captioned applications for Stations KHDE-LD, KJTN-LP, KZAB-LP, KZTE-LD, KTEQ-LP, KRPO-LD, and WESL-LP.

(e) To determine whether there has been a *de facto* transfer of control of KHDE-LD, KJTN-LP, KZAB-LP, KZTE-LD, KTEQ-LP, KRPO-LD, and WESL-LP to Antonio Cesar Guel or Hispanic Christian Community Network, Inc. in violation of section 310(d) of the Act, 47 U.S.C. 310(d) and §§ 73.1150(a), (b), and 73.3540 of the Commission's rules, 47 CFR 73.1150(a), (b), and 73.3540.

(f) To determine whether Jennifer Juarez engaged in misrepresentation and/or lack of candor in applications and communications with the Commission or otherwise violated §§ 1.17, 1.65, and 73.1015 of the Commission's rules involving KHDE–LD, KJTN–LP, KZAB–LP, KZTE–LD, KTEQ–LP, KRPO–LD, and WESL–LP.

(g) To determine, in light of the evidence adduced regarding issues (a)–(f) and (i)–(j), whether the captioned license renewal applications should be granted with such terms and conditions

as are appropriate, including renewal for a term less than the maximum otherwise permitted, or denied due to failure to satisfy the requirements of section 309(k)(1) of the Act, 47 U.S.C. 309(k)(1), and the licenses cancelled.

(h) To determine, in light of evidence adduced regarding the foregoing issues (a)–(f) and (i)–(j) whether Jennifer Juarez possesses the character qualifications to be or remain a Commission licensee and whether the licenses for KHDE–LD, KJTN–LP, KZAB–LP, KZTE–LD, KTEQ–LP, KRPO–LD, and WESL–LP should be revoked.

(i) To determine whether Antonio Cesar Guel and Hispanic Christian Community Network, Inc. should, for purposes of this proceeding, be considered one and the same entity.

(j) To determine whether Antonio Cesar Guel and/or Hispanic Christian Community Network, Inc. have exercised and continue to exercise *de facto* control over KHDE–LD, KJTN–LP, KZAB–LP, KZTE–LD, KTEQ–LP, KRPO–LD, and WESL–LP.

(k) To determine whether Antonio Cesar Guel and/or Hispanic Christian Community Network, Inc. have misrepresented material information to the Commission and/or lacked candor.

(l) To determine whether Antonio Cesar Guel and/or Hispanic Christian Community Network, Inc. have abused Commission processes first by filing an assignment application that lacked bona fides while maintaining *de facto* control of the KHDE–LD, KJTN–LP, KZAB–LP, KZTE–LD, KTEQ–LP, KRPO–LD, and WESL–L, and then by impermissibly and intentionally bifurcating ownership of KHDE–LD, KJTN–LP, KZAB–LP, KZTE–LD, KTEQ–LP, KRPO–LD, and WESL–LP for years by not timely filing the requisite consummation notice.

(m) To determine, in light of evidence adduced regarding issues (i), (k), and (l), whether Antonio Cesar Guel and/or Hispanic Christian Community Network, Inc. shall be ordered to cease and desist from violating Commission Rules and the Act, including making willfully inaccurate, incomplete, evasive, false, or misleading statements before the Commission in violation of § 1.17 of the Commission's rules, 47 CFR 1.17, and engaging in unauthorized control and operation of broadcast stations in violation of sections 301, 308, and 310 of the Act, 47 U.S.C. 301, 308, and 310.

(n) To determine, in light of evidence adduced regarding issues (i), (k), and (l), whether Antonio Cesar Guel and/or Hispanic Christian Community Network, Inc. shall be ordered to cease and desist from operating, controlling, managing or providing any assistance to any stations;

(o) To determine, in light of evidence adduced regarding issues (i), (k), and (l), whether Antonio Cesar Guel and/or Hispanic Christian Community Network, Inc. shall be ordered to cease and desist from preparing and/or filing applications or other documents regarding Hispanic Christian Community Network, Inc. with the Commission;

(p) To determine, in light of evidence adduced regarding issues (i), (k), and (l), whether Antonio Cesar Guel and/or Hispanic Christian Community Network, Inc., to the extent Antonio Cesar Guel or and/or Hispanic Christian Community Network, Inc. is allowed to assist any other licensee/permittee/applicant in any way with the operation or construction of any station, or to provide any assistance or input in any way in preparing or filing any application with the Commission, shall be ordered to cease and desist from doing so without also providing a copy of any order issued in this proceeding that finds Hispanic Christian Community Network, Inc. or Antonio Cesar Guel lacks the character to be a Commission licensee in any and all filings with the Commission in every matter in which he participates in any way.

(q) To determine, in light of evidence adduced regarding issues (i), (k), and (l), whether Antonio Cesar Guel and and/or Hispanic Christian Community Network, Inc. possesses the character qualifications to be Commission licensees.

1. *It is further ordered* that, pursuant to sections 312(b) and (c) of the Act, 47 U.S.C. 312 (b) and (c), and §§ 1.91 and 1.92 of the Commission's rules, 47 CFR 1.91, 1.92, Antonio Cesar Guel and Hispanic Christian Community Network, Inc. *are directed to show cause why they should not be ordered to cease and desist:*

(a) from violating Commission Rules and the Act, including making willfully inaccurate, incomplete, evasive, false, or misleading statements before the Commission in violation of § 1.17 of the Commission's rules, 47 CFR 1.17, and engaging in unauthorized control and operation of broadcast stations in violation of sections 301, 308, and 310 of the Act, 47 U.S.C. 301, 308, and 310;

(b) from operating, controlling, managing or providing any assistance to any stations;

(c) from preparing and/or filing applications or other documents regarding Hispanic Christian Community Network, Inc. with the Commission; and

(d) to the extent Antonio Cesar Guel or Hispanic Christian Community Network, Inc. is allowed to assist any other licensee/permittee/applicant in any way with the operation or construction of any station, or to provide any assistance or input in any way in preparing or filing any application with the Commission, from doing so without also providing a copy of any order issued in this proceeding that finds Antonio Cesar Guel or Hispanic Christian Community Network, Inc., lacks the character to be a Commission licensee in any and all filings with the Commission in every matter in which he participates in any way.

2. *It is further ordered* that, pursuant to section 312(c) of the Communications Act of 1934, as amended, 47 U.S.C. 312(c), and §§ 1.91(b) and (c) of the Commission's rules, 47 CFR 1.91(b) and (c), to avail themselves of the opportunity to be heard and to present evidence at a hearing in this proceeding, Antonio Cesar Guel and Hispanic Christian Community Network, Inc., in person or by an attorney, *shall file* with the Commission, within twenty (20) days of the mailing of this Order to Show Cause Why A Cease and Desist Order Should Not Be Issued, Order to Show Cause Why an Order of Revocation Should Not Be Issued, Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture, a written appearance stating that he will appear at the hearing and present evidence on the issues specified above at a hearing. If Antonio Cesar Guel or Hispanic Christian Community Network, Inc. waive their rights to a hearing pursuant to § 1.92(a)(1) or (a)(3) of the Rules, 47 CFR 1.92(a)(1) or (a)(3), they 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.

3. *It is further ordered* that, pursuant to §§ 1.91 and 1.92 of the Commission's rules, 47 CFR 1.91 and 1.92, that if Antonio Cesar Guel or Hispanic Christian Community Network, Inc. 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.

4. *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 Jennifer Juarez in an amount not to exceed the statutory limit for the willful and/or repeated violation of each rule section above, including §§ 1.17, 1.65, 73.1015, 73.1150, and 73.3540 of the Commission's rules, 47 CFR 1.17, 1.65, 73.1015, 73.1150, and 73.3540, and each statutory provision noted above, including sections 310(b) and (d) of the Act, 47 U.S.C. 310(b) and (d), for which the statute of limitations in section 503(b)(6) of the Act, 47 U.S.C. 503(b)(6), has not lapsed.

5. *It is further ordered* that, irrespective of the resolution of the foregoing issues, it shall be determined, pursuant to sections 503(b)(1) of the Act, 47 U.S.C. 503(b)(1), whether an *order of forfeiture* should be issued against Antonio Cesar Guel and/or Hispanic Christian Community Network, Inc. in an amount not to exceed the statutory limit for the willful and/or repeated violation of each rule section above, including § 1.17 of the Commission's rules, 47 CFR 1.17, and each statutory provision noted above, including sections 301 and 308 of the Act, 47 U.S.C. 301 and 308, for which the statute of limitations in section 503(b)(6) of the Act, 47 U.S.C. 503(b)(6), has not lapsed.

6. *It is further ordered* that, pursuant to sections 309(d) and 312(c) of the Act, 47 U.S.C. 309(d), 312(c), and §§ 1.91(c), and 1.221(c) of the Commission's rules, 47 CFR 1.91(c) and 1.221(c), to avail herself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Jennifer Juarez, in person or by an attorney, *shall file* with the Commission, within twenty (20) days of the mailing of this Order to Show Cause Why A Cease and Desist Order Should Not Be Issued, Order to Show Cause Why an Order of Revocation Should Not Be Issued, Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture, a written appearance stating that she will appear at the hearing and present evidence on the issues specified above.

7. *It is further ordered* that, pursuant to § 1.221(c) of the Commission's rules, 47 CFR 1.221(c), if Jennifer Juarez 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 an untimely written appearance, the captioned applications shall be dismissed with prejudice for failure to prosecute.

8. *It is further ordered*, pursuant to §§ 1.91 and 1.92 of the Commission's rules, 47 CFR 1.91 and 1.92, that if Jennifer Juarez 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 dismiss without prejudice, or 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. If Jennifer Juarez waives her right to a hearing pursuant to § 1.92(a)(1) or (a)(3), 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.

9. *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.

10. *It is further ordered* that, in accordance with 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* with respect to the issues (h), (i), and (k)–(q) of Paragraph 113, above, *shall be* upon the Commission's Enforcement Bureau.

11. *It is further ordered* 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 Jennifer Juarez as to issues (a)–(g) and (j) at Paragraph 113 above.

12. *It is further ordered* that, in accordance with 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 Commission as to issues (a)–(d) at Paragraph 114 above.

13. *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.

14. *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 § 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 § 73.3594 of the Commission's rules, 47 CFR 73.3594.

15. *It is further ordered* that copies of this Order to Show Cause Why A Cease and Desist Order Should Not Be Issued, Order to Show Cause Why an Order of Revocation Should Not Be Issued, Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture shall be sent via Certified Mail, Return Receipt Requested, and by regular first-class mail to:

Antonio Cesar Guel, 2605 Hyacinth Drive, Mesquite, TX 75181;

Hispanic Christian Community Network, Inc., 8500 N Stemmons Freeway, Suite 5050, Dallas, TX 75247;

Jennifer Juarez, 1138 N Tillery Avenue, Dallas, TX 75211; and

Dan J. Alpert, Esq., The Law Office of Dan J. Alpert, 2120 N. 21st Road, Arlington, VA 22201.

16. *It is further ordered* that the Secretary of the Commission shall cause to have this Order to Show Cause Why A Cease and Desist Order Should Not Be Issued, Order to Show Cause Why an Order of Revocation Should Not Be Issued, Hearing Designation Order, and Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture or a summary thereof published in the **Federal Register**.

Federal Communications Commission.

Thomas Horan

Chief of Staff, Media Bureau.

[FR Doc. 2023–18230 Filed 8–22–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1053; FR ID 164698]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as