

Wood Amongst Seven Honored by Virginia Communications Hall of Fame

The distinguished careers of seven Virginia media professionals will be honored this spring at the 2015 Virginia Communications Hall of Fame. The April 9 event is the 28th Hall of Fame Ceremony to honor significant achievements in the fields of Virginia media.

Francis Eugene Wood, author and General Manager of WFLO radio station in Farmville is one of this year's inductees.

The Virginia Communications Hall of Fame recognizes communication professionals with exceptional careers in advertising, journalism, public relations and other media fields. This newest class of inductees will bring the total number of this elite group to 158.

"The Hall of Fame is a signature event hosted by VCU," said Hong Cheng, Ph.D., director of the Richard T. Robertson School of Media and Culture. "We are proud to host this distinguished event and to honor the outstanding careers of those inducted into the Hall of Fame."

Other 2015 inductees include:

- ▶ Anne Adams, editor and publisher of *The Recorder*
- ▶ Pamela DiSalvo Lepley, vice president of



VCU's Division of University Relations

- ▶ Beth Macy, an author and Virginia journalist
- ▶ Cheryl E. Miller, anchor of the "CBS 6 News at Noon" and co-host of "Virginia This Morning" in Richmond
- ▶ Jeff Schapiro, a political columnist for the *Richmond Times-Dispatch*
- ▶ Diane Walker, anchor for both WWBT/NBC 12 and "Fox News at Ten" WRLH in Richmond. ■

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Upcoming

February 23-25, 2015

NAB State Leadership Conference
JW Marriott, Washington DC

April 16-17, 2015

Best of the Best Session #3
Omni Charlottesville, Charlottesville, VA

June 25-27, 2015

78th Annual Summer Convention
Hilton, Virginia Beach



SAIL AWAY
for the
78th Annual Summer Convention

JUNE 25-27 2015

Hilton Virginia Beach Oceanfront
Virginia Beach, Virginia

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VAB Station Awards Program

The Virginia Association of Broadcasters Station Awards Program is sponsored annually by the VAB to recognize outstanding achievement by Virginia radio and television broadcasters. This competition was established to encourage the highest standards of reporting, community service and production creativity. It brings the ultimate prize-peer recognition to members of the broadcast industry in Virginia. Download the full station awards brochure, with the rules & regulations, at www.vabonline.com. Entries will be due by Friday, April 10, 2015.

If you are planning on submitting an entry for the Outstanding Newscast category, please note it should have aired on your station during a regularly scheduled time period on Thursday, November 20, 2014, Monday, November 24, 2014, Tuesday, December 9, 2014, OR Thursday, December 11, 2014.

Should you have any questions or concerns, please call Christina Sandridge in the Association office at (434) 977-3716 or email christina.sandridge@easterassociates.com. ■



Sinclair Names George Kayes General Manager in Roanoke-Lynchburg, VA



Sinclair Broadcast Group, Inc. (Nasdaq: SBGI) announced that George Kayes has been promoted to General Manager of WSET-TV (ABC) in the Roanoke-Lynchburg, VA market. The announcement was made by Steve Marks, Co-Chief Operating Officer of Sinclair's television group.

In making the announcement, Mr. Marks said, "We are pleased to promote George to the General Manager position in Roanoke-Lynchburg. In his previous position as General Sales Manager, he was successful in increasing market share and building local relationships."

"I am excited to take the next step in my career with Sinclair and WSET," commented Mr. Kayes. "WSET is a leader in Lynchburg and Central Virginia with exceptional talent at all levels. I look forward to continue working with the team and further the tradition of serving our viewers, our communities and our business partners."

Mr. Kayes most recently and since 2006 served as General Sales Manager of WSET. From 2005 to 2006, he was the Local Sales Manager at WHAS (ABC) in Louisville, KY. From 2002 to 2005 he served as the National Sales Manager and then Local Sales Manager at Sinclair's WRLH (FOX) in Richmond, VA. Prior to that, he held Account Executive positions at WWBT (NBC) in Richmond, VA and WSAZ (NBC) in Huntington, WV. Mr. Kayes received a Bachelors degree in Business Administration - Management and Finance from Marshall University in Huntington, WV. ■

Make Plans to ‘Sail Away’ for the VAB 78th Annual Summer Convention



Come Aboard for the VAB's 78th Annual Summer Convention taking place June 25-27, 2015 at the Hilton Virginia Beach Oceanfront Hotel!

Registration forms as well as the convention agenda will be available soon! A block of rooms has been reserved for the nights of Wednesday, June 24, Thursday, June 25, Friday, June 26 and Saturday, June 27. In order to receive the convention rate of \$219 for a city view room/night or \$224 for a oceanview room/night, please call the Hilton Virginia Beach Oceanfront directly today at (757) 213-3455 or visit http://www.hilton.com/en/hi/groups/personalized/O/ORFVHHF-VAB-20150624/index.jhtml?WT.mc_id=POG.

Please note, there are a limited amount of rooms in the block for Wednesday, June 24 and Saturday, June 27. The number of rooms in the block for Thursday and Friday nights is significantly higher. If you try to reserve a room arriving on Wednesday, June 24 and are told the block is full, simply shift your arrival to the next day, which would be Thursday, June 25.



The VAB Room Block will be available until Monday, May 25, 2015 or until the group block is sold-out, whichever comes first.

Should you have any questions or concerns, please call Christina Sandridge at (434) 326-9815 or email christina.sandridge@easterassociates.com.

Don't be left adrift! ■



In this issue, the VAB takes a closer look at three members of this year's Best of the Best Leadership Program class.

Meet the VAB's Best of the Best



Tiffany Hickman

Where did you grow up/go to school?

I grew up in Kingsport, Tennessee. I received my Bachelor's & Master's Degrees from King University in Bristol, TN.

What was your first job in broadcasting?

I began my first job in broadcasting at the age of 19. I worked as receptionist for our company (Holston Valley Broadcasting) while I took college classes at night & on weekends. After a year, I then found a full time position in radio in the traffic department. I would move up the ranks over the years, going from traffic, to sales assistant, to promotions director, to sales management. Our company is unique as we have one office in Tennessee, and one in Virginia. I handle sales & promotions at the Tennessee station, and sales management of the Virginia stations. I travel between the stations spending about half my time at each.

What is your career goal?

To keep working hard, and shooting for the stars. I love what I do. I am so blessed to have a job I enjoy going to every day. I'm so lucky to have a company that allows me to be creative through the promotions side, and still meet people & help businesses succeed through sales, while at the same time coaching sales people to surpass even their own expectations. I think I'd like to be a GM one day, because I am interested in all elements of the station, and it would always guard against monotony.

What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

I look forward to the networking and also learning about other markets. I always love to collaborate. We are an independently owned company. It is nice to work with others in the same category to see what elements can be brought to the station/market. I am also excited about learning more about digital. That is something that I personally need to focus on to be more competitive, and I KNOW this fantastic group can help me! Something that our station has had a tremendous success with is NTR & event marketing. I would love to be able to work with others to help their stations increase their cash flow through those opportunities as well!

What do you like to do in your free time?

Free Time ... can you define that? HA! I am very active with my nieces & nephews and go to all of their ballgames, practices, etc. I also am very active in my church & small group. I enjoy reading & cooking. But one of my favorite things is napping...but those are few & far between! And perhaps the occasional Netflix series binge! My passion is travel. I have been blessed to visit Europe, the West Indies, and the Virgin Islands. I am always looking for a new stamp in my passport!

If you could have dinner with somebody from the past, present or future who would it be and why?

I guess it would be Malcolm Gladwell. I love his insight. He is an author that inspires me to be the best that I can be. I would like to know what makes him tick. And I would like to know more of how life has shaped him.



Chris Lagey

Where did you grow up/go to school?

I grew up all over the US. (No, not a Military family. My dad followed the Sociological research grants around the country. He taught me how to not be reluctant to talk with people just because they were different. Great skill

for this career!) Jr. High and High School at Rye, New York in Westchester County. If you remember "Please Don't Eat the Daisies" we were two towns up the Boston Post Road from there. Did my homework to Cousin Brucie and later to Allison Steele, the Night Bird.

What was your first job in broadcasting?

My first job in broadcasting was with KOOL 95.7 WVKL, an oldies station. I needed a good midlife crisis and moving from print production to straight commission media sales fit the bill. My wife said if I promised there would be light at the end of the tunnel (the first year in sale sucks--ask anyone) she would see it through with me. There was! Been a great career move.

What is your career goal?

My career goal is to help enough business owners get good results for their companies that my results will reflect the same. I'd also like to get to the finish line knowing I had helped some of the newcomers to the field stay encouraged and have a successful career.

What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

As a participant in the Best of the Best program, I am looking forward to building relationships with peers in the industry that I would not have met otherwise; setting my vision for my career growth to a higher level; and learning how to represent our industry better.

What do you like to do in your free time?

I love to teach God's Word both from an aspect of exegetical accuracy as well as how to practically apply it. I love to play music with friends and enjoy going on road trip adventures with my wife throughout Virginia. And getting to babysit the Grandboys (4 and 2) is a special joy. They love guitars too!

If you could have dinner with somebody from the past, present or future who would it be and why?

I think I'd enjoy dinner with Agabus--a first century believer who was not afraid to speak up with the truth--even when it was not popular with the VIP. (I named a guitar after him.)



Mark Kurtz

Where did you grow up/go to school?

I grew up in Corpus Christi, Texas and went to the University of Texas at Austin where I received a Bachelor of Journalism.

What was your first job in broadcasting?

My first job in broadcasting was a photographer for KZTV in Corpus Christi.

What is your career goal?

I've been a News Director in a small market and would like to take on that challenge in a larger market someday.

What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

I am looking forward to sharpening my management skills and learning how best to deal with different types of people. The more effective manager I am, the better I will be at helping my employees succeed.

What do you like to do in your free time?

I love spending time at the beach and traveling around Virginia.

If you could have dinner with somebody from the past, present or future who would it be and why?

My grandfather. I never got to meet him and I think it would give me great insight into my family and where I come from. ■



2015 General Assembly Session



The following pages highlight bills of interest being introduced during the 2015 regular session of the General Assembly.

HB 788 Virginia Freedom of Information Act; out-of-state requests for records.

Chief patron: LeMunyon

Summary as introduced: Virginia Freedom of Information Act; out-of-state requests for records. Sets out the process for public bodies to respond to record requests made by out-of-state requesters.

HB 1418 Criminal injuries compensation; confidentiality.

Chief patron: Ware

Summary as introduced: Criminal injuries compensation; confidentiality. Exempts records, papers, transcripts, opinions, and reports involving Criminal Injuries Compensation Fund claims from disclosure to anyone other than the agents or representatives of the Virginia Workers' Compensation Commission and the claimant or the claimant's representative. The exemption does not apply to the amount of the award and nonidentifying information concerning the claimant or victim. The measure also requires that hearings on such claims be closed. An exemption from disclosure of such materials and a requirement for closed hearings currently exist only when the claimant or victim is a juvenile.

HB 1618 Virginia Freedom of Information Act; open meeting exemption for certain public bodies.

Chief patron: Scott

Summary as introduced: Virginia Freedom of Information Act; open meeting exemption for certain public bodies. Creates an open meeting exemption for those meetings or portions of meetings of a Resource Management Plan Technical Review Committee, a Soil and Water Conservation District Board, a review committee of the Department of Conservation and Recreation, or the Virginia Soil and Water Conservation Board when such body discusses or considers records currently excluded from FOIA. The bill provides that this exemption shall not apply, however, to the discussion of records containing information that has been transformed into a statistical or aggregate form that does not allow identification of the individual who supplied, or are the subject of, particular information, or that has been certified for release by the individual that is the subject of the record.

HB 1633 Virginia Freedom of Information Act; record exemption for certain health records.

Chief patron: Gilbert

Summary as introduced: Virginia Freedom of Information Act; record exemption for certain health records. Clarifies that records of certain health care committees and entities, to the extent that they reveal information that may be withheld from discovery as privileged communications, are exempt from disclosure under FOIA.

HB 1722 Virginia Freedom of Information Act; exemptions for university presidents.

Chief patron: Ramadan

Summary as introduced: Virginia Freedom of Information Act; working papers and correspondence exemptions for university presidents. Eliminates the working paper and correspondence record exemption for the president or other chief executive officer of any public institution of higher education in Virginia.

HB 2223 Virginia Freedom of Information Act; willful and knowing violations of certain provisions, penalty.

Chief patron: Morris

Summary as introduced: Virginia Freedom of Information Act; willful and knowing violations a misdemeanor; penalty. Provides that in addition to the civil enforcement provisions of FOIA, any officer, employee, or member of a public body convicted of a willful and knowing violation of certain FOIA provisions is guilty of a Class 1 misdemeanor.

HB 2355 Electronic communication service or remote computing service; obtaining records, real-time data.

Chief patron: Loupassi

Summary as introduced: Real-time location data; search warrant. Provides that a search warrant for real-time location data shall only be issued if the judge or magistrate issuing the warrant is satisfied that probable cause has been established that the person whose real-time location data is sought is committing, has committed, or is about to commit a crime or that an arrest warrant exists for such person.

SB 893 Virginia Freedom of Information Act; working papers and correspondence exemptions.

Chief patron: Petersen

Summary as introduced: Virginia Freedom of Information Act; working papers and correspondence exemptions for university presidents. Eliminates the working paper and correspondence record exemption for the president or other chief executive officer of any public institution of higher education in Virginia.

SB 969 Virginia Freedom of Information Act (FOIA); exception to open meeting requirements.

Chief patron: Ruff

Summary as introduced: Virginia Freedom of Information Act (FOIA); exception to open meeting requirements. Clarifies that

the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, is not a meeting under FOIA. The bill contains a technical amendment.

SB 1109 Virginia Freedom of Information Act (FOIA); expands open meeting exemptions.

Chief patron: Stuart

Summary as introduced: Virginia Freedom of Information Act (FOIA); open meeting exemptions; discussions relating to cybersecurity. Expands the open meeting exemption for the discussion of plans to protect public safety as it relates to terrorism and security of governmental facilities to include the discussion of specific cybersecurity threats or vulnerabilities, including the discussion of related records excluded from FOIA, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program.

SB 1126 Resource management plans; consideration of certain records in closed meetings.

Chief patron: Hanger

Summary as introduced: Resource management plans; consideration of certain records in closed meetings. Adds to the list

continued on page 8

Watch for updates from the VAB in the coming weeks.

of purposes for which public bodies may hold closed meetings the purpose of discussing certain records that contain information collected pursuant to the creation of a resource management plan. The bill permits only specified review committees or boards to close their meetings, or portions of their meetings, when discussing the records. The bill does not remove the general bar against closed meetings when the records have been transformed into an aggregate form or when the person who is the subject of the regulations has consented to their release.

SB 1246 Parking and engine idling; certain cities and counties to prohibit.

Chief patron: Deeds

Summary as introduced: Local regulation of engine idling. Allows certain cities and counties to prohibit engine idling of certain stopped or parked motor vehicles.

HB 1646 Virginia Freedom of Information Act; proceeding for enforcement.

Chief patron: Pogge

Summary as introduced: Virginia Freedom of Information Act; proceeding for enforcement. Provides that in an enforcement action, if the court finds the public body violated certain meeting notice requirements, the court may invalidate any action of the public body taken at such meeting.

HB 2013 State Corporation Commission; disclosure of records related to administrative activities.

Chief patron: Surovell

Summary as introduced: State Corporation Commission; availability of records. Expands the scope of what constitutes administrative activities of the State Corporation Commission (SCC) to include matters relating to comments filed by the SCC or its staff with federal or state agencies or other governmental bodies that relate to federal or state policy proposals, rules, orders, or regulations. Such administrative activities do not include any such comments filed in a regu-

latory or legal proceeding docketed by the SCC. The SCC is required to make available for public inspection records related to its administrative activities.

HB 2017 Aircraft, certain; local regulation.

Chief patron: Surovell

Summary as introduced: Local regulation of certain aircraft. Provides that a locality may by ordinance regulate the use of privately owned, unmanned, autonomous aircraft within its boundaries. Such ordinance may place reasonable restrictions on the time, place, and manner of use of such aircraft.

SB 937 Aircraft, certain; local regulation.

Chief patron: Wexton

Summary as introduced: Local regulation of certain aircraft. Provides that a locality may by ordinance prohibit the use within its boundaries of privately owned, unmanned, autonomous aircraft weighing 55 pounds or less within its boundaries.

SB 1256 Localities; advertisement of legal notices on radio or television.

Chief patron: Smith

Summary as introduced: Advertisement of legal notices by localities. Allows localities required to advertise legal notices by publication in a newspaper of general circulation in the locality or posting on the locality's website to advertise such notices on radio or television in lieu of or in addition to such publication or posting. ■

How to Submit to the VAB Job Bank

Jobs that are printed in the newsletter are pulled directly from the online Job Bank. To include your listing:

- ▶ Go to **www.vabonline.com**. Login with your user name and password.
- ▶ Be sure to include your station ID or company name, information on how the applicant can apply and where to send the applications materials.

Position	Locations	Type	Department	Organization
Photojournalist	Roanoke, VA	Full Time	News	Media General
Morning Host-Digital Director	Winchester, VA	Full Time	On Air	Centennial Broadcasting II, LLC
Digital Content Producer	Norfolk/ Portsmouth/ Virginia Beach	Full Time	(Other)	WAVY-TV 10 Media General
On Air / Morning Show	Virginia Beach, VA	Full Time	On Air	Max Media of Hampton Roads, LLC
Receptionist	Arlington, VA	Part Time	Business / Admin	Salem Media of Virginia
General Assignment News Reporter	Norfolk/ Portsmouth/ Virginia Beach	Full Time	News	WAVY-TV 10 Media General
General Manager/GSM	Richmond, VA	Full Time	Sales	WWBT, Inc.
Evening Promotion Producer	Norfolk/Portsmouth/ Virginia Beach	Full Time	Promotion	WAVY-TV 10 Media General
Reporter	WCAV/ Charlottesville, VA	Full Time	News	Gray Television
Digital Account Executive	Roanoke, VA	Full Time	Sales	Media General
Chief Engineer	Roanoke, VA	Full Time	Engineering	Grant Broadcasting System II
Local Sales Assistant	Norfolk/Portsmouth/ Virginia Beach	Full Time	Sales	WAVY-TV 10 Media General
Producer/Co-Host	Roanoke, VA	Full Time	Production	Media General
Account Executive	Hampton Roads	Full Time	Sales	Tidewater Communications
Board Operator	Arlington, VA	Hourly	On Air	Salem Media of Virginia
News Talk Marketing Consultant	Arlington, VA	Full Time	Sales	Salem Media of Virginia
Social Media Marketing Consultant	Arlington, VA	Full Time	Sales	Salem Media of Virginia

To learn more about these jobs and to see new postings, please visit

www.vabonline.com/careers

HUMAN RESOURCES

John G. Kruchko is a Partner with the Labor & Employment Law Firm of FordHarrison, LLP in Tysons Corner, Virginia; Jacquelyn L. Thompson is also an associate in the firm's Washington, D.C. office. Frederick Warren, a partner in the firm's Atlanta office, prepared an original version of this article. For more information, please contact Mr. Kruchko or Ms. Thompson at (703) 734-0554 or by e-mail at jkruchko@fordharrison.com or jthompson@fordharrison.com. This article is published for general information purposes, and does not constitute legal advice.

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NLRB Opens Company Email Systems to Employees for Communications Protected by the National Labor Relations Act

Perhaps overlooked due to the announcement by the National Labor Relations Board ("NLRB" or the "Board") of its revised procedures for union elections, the NLRB issued a decision on December 11 that will have a far-reaching impact on employers' e-mail systems.

The Board's Decision

In *Purple Communications, Inc.*, 361 NLRB No. 126 (2014), the NLRB overturned *Register Guard*, 351 NLRB 1110 (2007), *enf'd in part*, *Guard Publishing v. NLRB*, 571 F.3d 53 (D.C. Cir. 2009). In *Register Guard*, the Board had held that employees have no statutory right to use their employers' email system for Section 7 purposes. Section 7 of the National Labor Relations Act ("NLRA" or the "Act") gives employees the right to form, join, or assist unions and to engage in other concerted activities for mutual aid and protection. Section 7 protects activities on behalf of a group of employees that could include criticism of a company's policies and procedures or its management, or other terms and conditions of employment, such as advocating for \$15 per hour.

In a sharply divided 3-2 decision, the majority held that *Register Guard* improperly elevated property rights of employers over employees' rights. The Board determined that emails in the workplace are a means for employees to communicate effectively with each other at work about union organization and other terms and conditions of employment.

The case arose in the aftermath of a union campaign. The Communication Workers of America ("CWA") lost a union election and filed election objections and an unfair labor practice charge challenging the company's

electronic communications policy. The policy stated in part that the company's computer and email system should be used for business purposes only. It also stated:

Employees are strictly prohibited from using the computer, internet, voicemail, and email system, and other Company equipment in connection with any of the following activities:

- *Engaging in activities on behalf of organizations or persons with no professional or business affiliation with the Company.*
- *Sending uninvited email of a personal nature.*

No employee had been disciplined under the policy. The basis of the CWA's challenge was that the policy was unlawful on its face. Relying on *Register Guard*, the administrative law judge ("ALJ") ruled in favor of the company on this issue.

Overruling the ALJ, the Board majority held: "we decide today that employee use of email for statutorily protected communications on nonworking time must presumptively be permitted by employers who have chosen to give employees access to their email systems."

The Board stated that its decision was "carefully limited." "First, it applies only to employees who have already been granted access to the employer's email system in the course of their work and does not require employers to provide such access. Second, an employer may justify a total ban on non-work use of email, including Section 7 use on nonworking time, by demonstrating that special circumstances make the ban necessary to maintain production or discipline. Absent justification for a total ban, the employer may apply uniform and consistently enforced controls over its email system to the extent such controls are necessary to maintain production

and discipline.” The decision did not address email access by nonemployees or any type of electronic communications systems other than email.

The Dissenting Votes

The two Republican members wrote dissents covering 43 pages stating why they consider the decision ill-considered, unworkable, and unlawful. Member Miscimarra argued that limiting use of an employer’s email system is not an unreasonable impediment to employees’ exercise of rights under the NLRA. He stated that given the nature and use of email systems in most workplaces it will make it very difficult, if not impossible, “to determine whether or what communications violate lawful restrictions against solicitation during working time.” Member Johnson warned that it is “extremely naive to believe that substantial amounts of work time, in the aggregate, will not now be spent on these communications – on a basis that is essentially unmonitorable by the employer.” Johnson also raised a First Amendment argument that “the Board now requires an employer to pay for its employees to freely insult its business practices, services, products, management, and other employees on its own email. All this is now a matter of presumptive right, as long as there is some marginal tie-in of the communications to group terms and conditions of employment.”

Issues Raised by the Decision

The majority opinion in Purple Communications raises many issues and provides insufficient guidance for employers.

- ▶ The Board stated that “it will be a rare case where special circumstances justify a total ban on nonwork email use by employees.” No examples of what could meet that high hurdle were provided.
- ▶ The decision permits employers to provide uniformly and consistently enforced controls over its email system “to the extent such controls are necessary to maintain production and discipline.” Again, the Board provided no guidance clarifying the issue.
- ▶ Employees now are permitted to use an employer’s email system on “nonworking” time. That would include before and after

hours, during breaks, and at lunchtime. Many employers have multiple shifts and different locations across time zones. It is likely that such emails will be at least be opened, if not responded to, during the receiving employees’ working time. If an employee responds to an email without stopping work, how will the Board view discipline of such employee?

- ▶ Employers have the right to monitor emails on their computer systems. However, the NLRA prohibits unlawful surveillance of Section 7 protected concerted activities. In lawfully monitoring emails, employers must ensure they do not specifically target union or other employee protected activity.
- ▶ It is unclear what effect the decision will have on employers’ non-solicitation and non-distribution policies. The Board said: “We do not find it appropriate to treat email communication as either solicitation or distribution per se.” Instead, it will depend on “content and context.” There inevitably will be line drawing, and employees may be coached by unions or lawyers regarding what to say in emails to avoid violation of a policy.

Takeaway for Employers

It is important to note that this decision applies to all employers, even non-union employers. Furthermore, a policy alone is sufficient for a violation of the NLRA. The decision likely will result in unfair labor practice charge litigation for years as the parameters of this new right are fleshed out. It is likely that the decision will be appealed to a federal court of appeals and perhaps to the Supreme Court. In the meantime, employers should review their email, social media, and electronic communications policies. Employers with a policy limiting use of emails to only business should review the policy based on this decision. If employees are provided access to emails at work, prohibiting employees’ use of emails during a union campaign will be an unfair labor practice, likely resulting in a favorable election outcome being overturned. ■

Article courtesy of John G. Kruchko and Jacquelyn L. Thompson of FordHarrison LLP.

If employees are provided access to emails at work, prohibiting employees’ use of emails during a union campaign will be an unfair labor practice, likely resulting in a favorable election outcome being overturned.



LEGALREVIEW

This legal review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

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New Year's Resolutions Your Station May Have Forgotten to Make

With January 2015 already in the rearview mirror, here are a few new year's resolutions that your station may have forgotten to make. (There may be others you should consider, too, like keeping the garage and kitchen uncluttered, volunteering regularly for a good cause, adopting an exercise regimen that involves more than merely walking from the car into the station studio ...)

Resolve to Use the VAB's ABIP! The VAB offers an FCC-approved Alternative Broadcast Inspection Program. Here's the upside: VAB's technical and engineering inspectors have been approved by the FCC to conduct inspections comparable to official FCC Field Office inspections. Upon receipt of the VAB certification of compliance, the FCC's Field Office will not conduct a *routine random inspection* of the station for a period of three years from the date of certification. For more information, visit <http://www.vabonline.com/resources/> and click on the "VAB Inspection and Audit Programs" menu choice.

Resolve to Be Prepared for the 2015 Political Season! 2015 is an election year in Virginia. The primary for general election races is scheduled for June 9, 2015, and the general election is scheduled for November 3. All seats in the Virginia General Assembly are up for election in 2015 (all 40 seats in the Virginia Senate and all 100 seats in the House of Delegates). In addition, a number of city and county posts are also up for election this year, including school boards, clerks of court, boards of supervisors, and others. Stations would be well-advised to review and revise their Political Disclosure Statements early in the year. And station staff should review and familiarize themselves with all political broadcasting requirements including reasonable access, equal opportunities, lowest unit charge, and, of course, record keeping.

Virginia Radio Stations: Resolve to Be Prepared for EEO Mid-Term Filings! June 1, 2015, marks the midway point of the license term for Virginia radio stations. By June 1, 2015, Virginia radio stations with more than 10

full-time employees will be required to file FCC Form 397 (Broadcast Mid-Term Report). The filing is optional for radio stations with 10 or fewer full-time employees.

TV Stations: Resolve to Be Aware of the Emergency Information Video Description Compliance Deadline! On May 26, 2015, the FCC's new rules requiring video description (also sometimes referred to as "audio description") of emergency information provided visually during non-newscast programming will become effective for television stations. In most cases, stations will need to acquire additional hardware and/or software to comply with the new rules. The new rules will require broadcasters who provide emergency information to viewers through visual-only means during non-news programming (for example, through an on-screen crawl) to video describe the information concurrently on a secondary audio stream (i.e., on a SAP channel). The VAB distributed a Legal Memorandum dated December 22, 2014, with more details about these requirements.

Resolve to Check the Accuracy and Completeness of All Station Licenses! Maintaining the main station license is usually first and foremost in everyone's mind. But what about that satellite uplink on the roof, the traffic camera, the ENG van, the STL, or the wireless mics? Does your station hold licenses for all of its gear? When was the last time you checked to see if all licensed parameters were updated and accurate? Do your licenses reflect the correct type of emissions (analog or digital)? Do your fixed links reflect accurate transmit and receive location data? In order to avoid unauthorized operation situations, resolve to have your Chief Engineer conduct a thorough review of all licenses and gear to ensure currency and accuracy. After all, in 2014 alone the FCC imposed tens of thousands of dollars in fines to broadcasters relating to BAS and microwave licensing disparities. ■

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