

ORIGINAL

FCC MAIL SECTION

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

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In re Applications of)
)
Robert B. Taylor)
Jupiter, Florida)
)
For Renewal of Station WTRU(FM))
)
Jupiter Broadcasting, Corp.)
Jupiter, Florida)
)
For a Construction Permit)

MM Docket No. 92-114
FCC File No. BRH-880926UJ
FCC File No. BPH-890103MD

To: Honorable Walter C. Miller
Administrative Law Judge

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JUN 30 1992

Federal Communications Commission
Office of the Secretary

AMENDED MOTION FOR PROTECTIVE ORDER

1. On June 26, 1992 Jupiter Broadcasting, Corp. ("JBC") filed a Motion for Protective Order with respect to the noticed depositions of Alan H. Potamkin, Charles Reid, Paul Levine and William Washington. JBC asks that this Amended Motion For Protective Order be substituted for the June 26 motion.

2. Pursuant to Rule. 1.313, JBC requests that a protective order issue prohibiting the taking of noticed depositions of Alan H. Potamkin, Charles Reid, Paul Levine and William Washington. As demonstrated below, the noticed depositions are unnecessary. They require the expenditure of considerable time and expense of the applicant and deponents. Given the limited nature of JBC's comparative case, the depositions appear to be aimed at either

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oppressing, embarrassing and annoying the deponents or seeking allegations to use in a motion to enlarge issues.

3. Robert Taylor's notice to depose Mr. Potamkin, Mr. Reid, Mr. Levine and Mr. Washington is for the purpose of examining the deponents "on any matters material and/or relevant to the issues specified in the Hearing Designation Order...". The only issue specified in the Hearing Designation Order, however, is the standard comparative issue. Under this issue, JBC has not sought a preference for any of the factors associated with integration of ownership into management. Accordingly the only matters relevant to JBC's qualifications that the deponents could be examined upon are their media interests and JBC's proposal to employ auxiliary power at its proposed station.

4. JBC submits that the ownership interests of the deponents in mass media are matters of public record. The deponent's media interests are subject to full discovery under the parties' Joint Document Request. This discovery should be more than sufficient since diversification of ownership of mass media is a factor of diminished significance in comparative renewal proceedings. See Formulation Of Policies And Rules Relating To Broadcast Renewal Applicants, 3 FCC Rcd. 5179, 5188-89 (1988). JBC's auxiliary power proposal is set out in the engineering section of its application and needs no further exploration.

5. It is possible that Robert Taylor intends to depose JBC's witnesses with respect to Robert Taylor's comparative qualifications under the renewal expectancy aspect of the standard

comparative issue.¹ If this is Robert Taylor's purpose, JBC submits that Mr. Taylor has access to the facts and circumstances concerning his station's performance. Mr. Taylor has no need to depose JBC's witnesses to obtain knowledge of facts relating to his own station's renewal expectancy.

6. JBC notes that both Alan Potamkin and Paul Levine are scheduled to be in Colorado at the time of their noticed depositions. Mr. Potamkin spends approximately four months per year in Colorado. Mr. Levine is also spending the summer in that state. If these witnesses are required to be deposed, JBC asks that their depositions be taken telephonically. It is oppressive to require witnesses to travel from Colorado to Florida just to be deposed concerning media interests.

7. As a final matter JBC asks that, if Mr. Potamkin is required give his deposition in Florida, his deposition be scheduled for August 3 or 4, 1992. Family obligations make July 29 a particularly inconvenient date for Mr. Potamkin to be away from Colorado.

8. In view of the foregoing, JBC asks that a protective order issue barring the noticed depositions of Alan Potamkin, Charles Reid, Paul Levine and William Washington. In the alternative, JBC asks that any deposition of these witnesses be limited to examination on their media interests and that the depositions of Alan Potamkin and Paul Levine be taken

¹The Notice of Depositions is phrased broadly enough to encompass this possibility.

telephonically.

Respectfully submitted,

A handwritten signature in cursive script, reading "Joseph N. Belisle". The signature is written in black ink and is positioned above a horizontal line.

Joseph N. Belisle
Counsel for
Jupiter Broadcasting, Corp.

June 29, 1992

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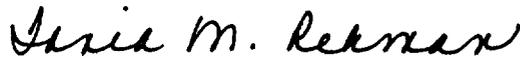
CERTIFICATE OF SERVICE

I, Tania M. Rehman, hereby certify that the attached Amended Motion For Protective Order submitted on behalf of Jupiter Broadcasting, Corp. was sent this 29th day of June, 1992 to the following persons by U.S. mail, first class postage prepaid:

Honorable Walter C. Miller
Administrative Law Judge
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