

Before the
Federal Communications Commission
Washington, D.C. 20554

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JUL 7 9 11 AM '92

MM Docket No. 92-6

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In re Applications of)
)
NORMANDY)
BROADCASTING CORP.)
)
For Renewal of License of)
Station WYLR(FM) (95.9 Mhz))
Glens Falls, New York)
)
and)
)
LAWRENCE N. BRANDT)
)
For a Construction Permit for)
a new FM Station on 95.9 Mhz)
at Glens Falls, New York)
)

File No. BRB-910129UR

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JUL - 7 1992

Federal Communications Commission
Office of the Secretary

File No. BPH-910430MB

To: Administrative Law Judge
Richard L. Sippel

REPLY TO BRANDT'S RESPONSE TO PROFFER OF EVIDENCE

- As to our Paragraph 4, Brandt has not clearly focused what is or isn't exculpatory. We seek to focus only on the "nonfindings" of the Review Board and the nonnegative findings of Administrative Law Judge Kuhlman (see Paragraph 3). Paragraphs 4, 7, and 8 will all be exculpatory. To exculpate oneself, one must refer to that what infers guilt. In his "definition" of "exculpatory", Brandt ignores the further definition e.g., "vindication". We argue that time pressures were in major part behind the innocent clerical mistakes of all 3 "charges". Arguments that thousands of pages of testimony, not one of which shows deliberacy, or the idea that a long career of intense community involvement might exculpate, vindicate or mitigate findings that themselves nowhere speak of intent or deliberacy are clearly in error. The patent ludicrousness of the Brandt argument that Normandy, unblemished since 1959, or its principal Lynch, since 1971, after long records of excellent broadcasting and outstanding community service are all of a sudden unfit to further serve their communities are obliterated by the facts presented already in this case and that we seek to present in our Proffer.
- As to "mitigating evidence" other than the fact that Normandy categorically denies any deliberate misrepresentations to the Federal Communications Commissions at any juncture in its career, the findings in Skidelsky, if true, are mitigated by an exceptionally clean career (Proffer, Paragraphs 2 & 5). Mr. Lynch's strong

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community integration (Proffer, Paragraph 3), a long commitment to service of God and Country (Paragraph 1), Normandy's ongoing honest efforts to learn and adhere to changing F.C.C. standards (Proffer, Paragraph 5 & 6), honest 3rd party evidence as to WYLR's actual service to its community (Proffer Paragraph 7), and, in light of 3 alleged errors in Skidelsky, evidence of hundreds of pages of unchallenged truth (Proffer, Paragraph 8).

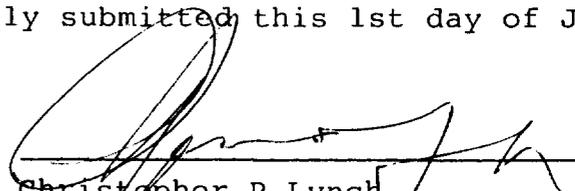
3. Brandt's attorney has made false and inflammatory statements in his motion that "Normandy has been found guilty of misrepresenting material facts to the Commission (Page 3) and has "...violated those standards." As Brandt himself revisits the Initial Decision in Skidelsky with questionable accuracy, it becomes evident that Judge Kuhlman's decision is a major asset in providing exculpatory and mitigating evidence. In his words, and we believe his intention, even if these acts were committed they, one by one, were errors and should not disqualify Normandy as a licensee. Far from finding deliberate acts against the Commission, Kuhlman states:

- A. (Regarding Site) "Normandy has not demonstrated it had reasonable assurance", "...has not established that it responded honestly." In light of a 71 year old gentleman, who was influenced against us, understandably forgetting a 3 year-old conversation, Normandy, indeed, had demonstration problems.
- B. (Threshold) Normandy's Threshold Showing may not have been a planned deception but the showing was done with so little care...(Paragraph 59) ...so little care, perhaps, might have been a misunderstanding of the enormous pressures in simultaneously running a radio station and a proceeding of this unexpected magnitude.
- C. (Contingent Ownership), which "would not, standing alone, disqualify Normandy" (Paragraph 62).

Outside of putting a strong, guilty until proven innocent burden on Normandy, this Decision finds no active intentional misrepresentations, and offers mitigation, if not outright exculpation on all 3 issues. As per our Proffer, Paragraph 8, it must be looked at to provide the mitigation envisioned by this Review Board and we believe, by Judge Kuhlman, himself.

Therefore, for the foregoing reasons, we respectfully ask that Normandy's Proffer of Evidence be accepted as filed.

Respectfully submitted this 1st day of July,


Christopher P Lynch
President and General Manager
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CERTIFICATE OF SERVICE

I, ROSE M. ANGELO, a secretary in the office of Normandy Broadcasting Corporation do hereby certify that a copy of the foregoing **REPLY TO BRANDT'S RESPONSE TO PROFFER OF EVIDENCE** has been sent via First-Class Mail prepaid this 1st day of July, 1992 to the following:

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