

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

ORIGINAL

FCC MAIL SECTION

FCC 93M-481

JUL 23 11 40 AM '93

In re Applications of)
)
GAF BROADCASTING COMPANY, INC.)
)
For Renewal of License)
of Station WNCN (FM))
New York, New York,)
)
CLASS ENTERTAINMENT AND)
COMMUNICATIONS, L.P.)
)
For Construction Permit for a New)
FM Station on 104.3 MHz)
at New York, New York)

MM DOCKET NO. 93-54 ✓
File No. BRH-910201WL

File No. BPH-910430ME

MEMORANDUM OPINION AND ORDER

Issued: July 16, 1993

Released: July 20, 1993

1. Under consideration are Notice Of Depositions filed June 3, 1993 by Class Entertainment and Communications, L.P. (Class), and Partial Opposition To Notice Of Depositions filed June 10, 1993 by GAF Broadcasting Company, Inc. (GAF).

2. Class seeks to depose a number of individuals. GAF has no objection to the deposition of Mario Mazza who is and was Director of Programming and Operations of WNCN during the relevant license term. GAF opposes the depositions of the four remaining individuals.

3. Class seeks to depose Matthew Field, the previous General Manager of WNCN, who is no longer an employee of GAF. His deposition will be allowed. While Class has not made a specific showing concerning the need for Field's deposition or for any of the other deponents, it appears that Field served as General Manager during the relevant license term. Thus, it may be presumed that the testimony sought is reasonably calculated to lead to the discovery of admissible evidence. However, as noted by GAF, since Field is no longer employed by GAF, GAF is not responsible for Field's attendance at deposition.

4. Class also seeks to depose Samuel J. Heyman, the Chairman and CEO of GAF and of its ultimate parent company, GAF Corporation. However, Class has not shown that Heyman had day-to-day involvement in the operations of WNCN during the relevant period. In the absence of any showing of the purported relevance of Heyman's testimony, his deposition will not be taken. Class also seeks to depose Randall D. Bongarten, who is currently the President of GAF and General Manager of WNCN. However, according to GAF, Bongarten was not associated with GAF or WNCN during the relevant license term. In the absence of any showing of the relevance of his testimony, Bongarten's deposition will not be taken. Similarly, Class has submitted no showing demonstrating a basis for deposing Warren Dean, a newsman at WNCN during the license term. As pointed out by GAF, Dean held no management position at the station and will not sponsor any of GAF's

out by GAF, Dean held no management position at the station and will not sponsor any of GAF's exhibits.

Accordingly, IT IS ORDERED, That the Partial Opposition To Notice Of Depositions filed June 10, 1993 by GAF Broadcasting Company, Inc. IS GRANTED to the extent indicated and otherwise DENIED, and the depositions of Samuel J. Heyman, Randall D. Bongarten and Warren Dean SHALL NOT BE TAKEN.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script that reads "Joseph Chachkin".

Joseph Chachkin
Administrative Law Judge