

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

_____)
 In re Applications of)
)
 Howard B. Dolgoff)
)
 Mark and Renee Carter)
)
 For Construction Permit for a New)
 FM Station on Channel 292A in)
 Miramar Beach, Florida)
 _____)

MM Docket No. 93-178

File No. BPH-911223ME

File No. BPH-911224MD

RECEIVED

OCT 12 1993

To: Administrative Law Judge
John M. Frysiak

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

NOTICE OF REQUEST FOR LEAVE TO CROSS-EXAMINE

Pursuant to Order Prior to Prehearing Conference herein, released July 9, 1993, and Section 1.248(d)(4) of the Commission's Rules, 47 C.F.R. §1.248(d)(4), Mark and Renee Carter ("the Carters") hereby respectfully request to cross-examine Howard B. Dolgoff ("Dolgoff"), the competing applicant herein, and Michelle Dolgoff, his wife.

Our request to cross-examine Mr. Dolgoff is predicated on his proffered direct testimony exchanged herein on October 4, 1993 as Dolgoff Exhibit 1, for identification. In particular, Mr. Dolgoff would be examined with respect to the particulars, and the likelihood of implementation of, his alleged intent to divest his existing 100% ownership interest in Dolcom, Inc., licensee of WUXL(FM) in Tallahassee, Florida, and terminating his existing employment as General Manager of WUXL (FM), and further,

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to give up his and his wife's home in Tallahassee, Florida, and to move his permanent residence from Tallahassee to Miramar Beach.^{1/} He would be examined regarding the other employment or business pursuits (i.e., other than Dolcom, Inc. and WUXL(FM)) referred to at the bottom of page 3 of Dolgoff Exhibit 1 for identification. He would also be examined with respect to his claim to have been a "part-time" resident of Destin, Florida, based on what would appear to be week-ends or other vacation time spent away from the Dolgoffs' permanent home in Tallahassee. Further, he would be examined with respect to his broadcast experience, and the quality and nature thereof, including in particular whether and to what extent his experience can be considered managerial and the extent to which his record is tarnished because of his overall responsibility for, and possible actual involvement in, the repeated, egregious violations of the Commission's EEO rules resulting in the assessment of a forfeiture and a short-term renewal in Letter to Howard B. Dolgoff, 5 FCC Rcd 7695 (1990).

The foregoing demonstrates that there is a legitimate expectation that Dolgoff's direct testimony on the important

^{1/} In connection with Dolgoff's claimed intent to divest, it is noted that Dolgoff's purported commitment is deficient in that it fails to commit to divestiture at or by any specific time. See, Carta Corporation, 4 FCC Rcd 7973, 7976, 7984 (ALJ Chachkin 1989) (subsequent history omitted). In other respects his purported commitment is vague and general without the detail or specificity that would be a necessary part of any completely thought through plan. These factors indicate a need to test the reliability of Dolgoff's divestiture commitment against the Dolgoffs' established involvement in broadcasting at WUXL(FM) in Tallahassee, and their long time residence in Tallahassee.

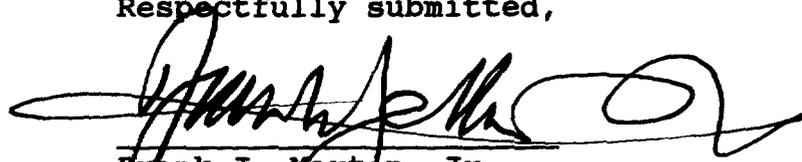
comparative factors of diversification, integration of ownership and management, local residence, and past broadcast experience, are subject to question and/or qualification in ways likely to have a substantial impact of possible decisional significance with respect to Dolgoff's comparative standing. See, Hara Broadcasting, Inc., 8 FCC Rcd 3178, 3179 (Rev. Bd. 1993). Accordingly, cross-examination of Dolgoff on all these matters should be allowed.

The instant notice and request to cross-examine Mrs. Dolgoff is predicated on Mr. Dolgoff's proffered hearsay testimony (Dolgoff Exhibit 1 for identification, at 3), that she too intends to resign her office and other positions with Dalcom, Inc., and WUML(FM). Presumably, it will also be argued that she too is willing and prepared to move away from Tallahassee and establish their residence at Miramar Beach. She will also have information respecting the alleged "part time" residence of the Dolgoffs' at Destin, Florida.

It is submitted that these matters also meet the test of the new rules regarding cross-examination.

Wherefore, it is respectfully requested that requested
cross-examination of Mr. and Mrs. Dolgoff be allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank J. Martin, Jr.", written over a horizontal line.

Frank J. Martin, Jr.
For Mark and Renee Carter

Sutherland, Asbill & Brennan
1275 Pennsylvania Avenue, N.W.
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October 12, 1993

CERTIFICATE OF SERVICE

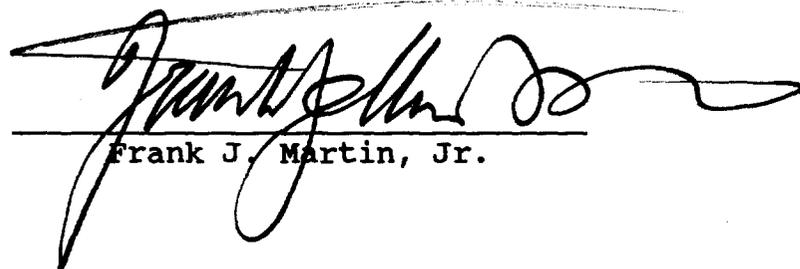
I hereby certify that on this Tuesday, the 12th of October, that a copy of the foregoing Notice of Request for Leave to Cross-Examine has been hand served upon the following:

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