

The following call signs are held in the name of
James A. Kay, Jr. (cont.):

	<u>Call Sign</u>	<u>Service</u>	<u>California Area</u>
119.	WNVW779	Commercial/ Conventional	Upland Corona Glendora Montrose Altadena
120.	WNWB268	Commercial/ Conventional	Montrose Corona Running Springs
121.	WNWB332	Commercial/ Conventional	Montrose Corona Running Springs
122.	WNWK982	Commercial/ Conventional	Montrose Corona Running Springs
123.	WNWN703	Commercial/ Conventional	Montrose Corona Running Springs
124.	WNWQ651	Commercial/ Conventional	Montrose Corona Running Springs
125.	WNXB280	Commercial/ Conventional	Altadena Montrose Upland
126.	WNXC713	Business	Van Nuys Northridge Montrose
127.	WNXG372	Commercial/ Conventional	Montrose Corona
128.	WNXQ353	Commercial/ Conventional	Corona Montrose
129.	WNXQ911	Commercial/ Conventional	Montrose Corona Running Springs
130.	WNXS450	Commercial/ Conventional	Montrose Corona

5942

The following call signs are held in the name of
James A. Kay, Jr. (cont. . .)

	<u>Call Sign</u>	<u>Service</u>	<u>California Area</u>
131.	WNXS753	Commercial/ Conventional	Corona Montrose Running Springs
132.	WNXW280	Commercial/ Conventional	Corona Upland
133.	WNXW327	Commercial/	Corona Running Springs Banning
134.	WNXW549	Commercial/ Conventional	Montrose Corona
135.	WNYQ437	Commercial/ Conventional	Corona
136.	WNYR747	Commercial/ Conventional	Montrose Corona
137.	WNZL447	Business	Montrose Northridge Van Nuys
138.	WNZY505	Commercial/ Conventional	Corona
139.	WNZZ731	Commercial/ Conventional	Corona Upland
140.	WPAP683	Commercial/ Conventional	Montrose Corona Banning
141.	WPAZ639	Commercial/ Conventional	Northridge
142.	WPBR746	Business	Sylmar
143.	WPBW517	Commercial/ Conventional	Northridge
144.	WPBX246	Business	Northridge Montrose Sylmar

The following call signs are held in the name of James A. Kay, Jr. (cont.):

	<u>Call Sign</u>	<u>Service</u>	<u>California Area</u>
145.	WPBX247	Business	Montrose Northridge
146.	WPBZ518	Commercial/ Conventional	Upland Corona Montrose
147.	WPEE253	Business	Acton Corona Montrose

The following call signs are held by Buddy Corp.:

	<u>Call Sign</u>	<u>Service</u>	<u>California Area</u>
148.	WNCW259	Business	Acton
149.	WNKV830	Business/ Trunked	Ventura
150.	WNXW487	Business/ Conventional	Running Springs Corona

The following call signs are held in the name of Oat Trunking Group, Inc.:

	<u>Call Sign</u>	<u>Service</u>	<u>California Area</u>
151.	WNLM440	Business/ Trunked	Van Nuys
152.	WNXM915	Business/ Conventional	Van Nuys

The following call sign is held in the name of Multiple M Enterprises, Inc.: Kay Jr., James A. LP:

	<u>Call Sign</u>	<u>Service</u>	<u>California Area</u>
153.	WYA205	Business/ Trunked	Gardena

5944

The following call signs are held in the name of Marc Sobel:

	<u>Call Sign</u>	<u>Service</u>	<u>California Area</u>
154.	KD53189	Business	Sepulveda
155.	KNBT299	Business/ Conventional	North Hills
156.	KRU576	Business/ Conventional	North Hills
157.	WIH718	Business/ Conventional	North Hills

The following call signs are held in the name of
Marc Sobel (cont.):

	<u>Call Sign</u>	<u>Service</u>	<u>California Area</u>
158.	WIJ516	Business	Sepulveda
159.	WIJ698	Business	Sepulveda
160.	WIJ716	Business	Sepulveda
161.	WIK548	Business	North Hills
162.	WIK833	Business	Sepulveda
163.	WIK834	Business	Sepulveda
164.	WIL516	Business	North Hills



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

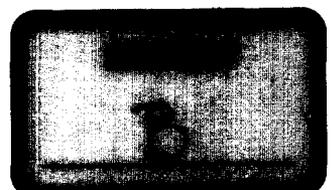
In the Matter of) WT DOCKET NO. 94-147
)
JAMES A. KAY, JR.)
)
Licensee of one hundred sixty four Part 90)
Licenses in the Los Angeles, California, Area)

To: Administrative Law Judge
Richard L. Sippel

WIRELESS TELECOMMUNICATIONS BUREAU'S
MOTION FOR LEAVE TO FILE SUPPLEMENT
AND
SUPPLEMENT TO MOTION FOR SUMMARY DECISION AND
ORDER REVOKING LICENSES

1. On December 4, 1995, the Wireless Telecommunications Bureau filed a Motion for Summary Decision and Order Revoking Licenses ("Motion"). The Bureau's Motion requested, among other things, that the Presiding Judge revoke the licenses of James A. Kay, Jr. ("Kay") and terminate this proceeding. Upon further review, the Bureau believes it is necessary and appropriate to *limit* the relief that it initially sought in its Motion. Wherefore, the Bureau respectfully requests leave to supplement its Motion to the extent indicated below.

2. Although there are 164 call signs identified in Appendix A of the Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing for Forfeiture, FCC 94-315 (released December 13, 1994), the Bureau wishes to clarify that its Motion seeks revocation at this time only of the licenses that are identified in Appendix A at



Nos. 1-152. These licenses are held either in Kay's name or in the names of entities ("Buddy Corp." and "Oat Trunking Group, Inc.") that Kay wholly owns and controls.¹ Therefore, in the event the Presiding Judge grants the Bureau's pending Motion and concludes that Kay is basically unqualified to be a Commission licensee, the Presiding Judge should revoke the licenses that are identified in Appendix A at Nos. 1-152.

3. The Bureau's Motion does not seek revocation at this time of the licenses identified in Appendix A at Nos. 153-164. These licenses are held in the names of entities ("Multiple M Enterprises, Inc.: Kay, Jr., James A. LP" and "Marc Sobel") in which the full nature and extent of Kay's involvement remains unclear.² Therefore, in the event the Presiding Judge grants the Bureau's pending Motion and concludes that Kay is basically unqualified to be a Commission licensee, this proceeding should not be immediately terminated because further proceedings will be necessary for the very limited purpose of determining whether the licenses identified in Appendix A at Nos. 153-164 are attributable to Kay and should also be revoked.³

¹ On March 10, 1995, Kay responded to the Bureau's First Set of Interrogatories. Therein, at pp. 3-4, Kay represented that he is the sole shareholder and sole director of Buddy Corp. and of Oat Trunking Group, Inc.

² On March 10, 1995, Kay responded to the Bureau's First Set of Interrogatories. Therein, at p. 5, Kay represented that Multiple M Enterprises, Inc.: Kay Jr., James A. LP is a limited partnership in which Kay is the limited partner and Multiple M Enterprises, Inc., of which Vida Knapp is President, is the general partner. At p. 16, Kay represented that Marc Sobel performs various technical services for Kay, and Kay manages stations which are authorized to Marc Sobel.

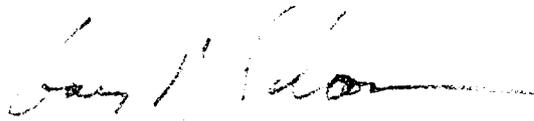
³ Because further proceedings will be required regardless of whether the Presiding Judge grants the Bureau's Motion, Multiple M Enterprises, Inc.: Kay, Jr., James A. LP and Marc Sobel should be made parties to this proceeding and afforded the opportunity to enter formal appearances.

4. Accordingly, the Bureau respectfully requests that the Presiding Judge accept this supplement to its pending Motion for Summary Decision and Order Revoking Licenses.⁴

Respectfully submitted,
Michele C. Farquhar
Chief, Wireless Telecommunications Bureau



W. Riley Hollingsworth
Deputy Associate Bureau Chief



William H. Kellett
Gary P. Schonman
Anne Marie Wypijewski
Attorneys

Federal Communications Commission
2025 M Street, N.W., Suite 7212
Washington, D.C. 20554
(202) 418-1430

February 23, 1996

⁴ On February 22, 1996, Kay filed a "Motion for Leave to File Reply to the Wireless Telecommunications Bureau's Consolidated Response" accompanied by a previously-filed reply pleading. Kay's motion should be denied. Kay acknowledges that by Order, FCC 96M-147 (released February 20, 1996), the Presiding Judge ordered the reply pleading to be stricken as unauthorized. Kay's request to again have the Presiding Judge consider the reply pleading is nothing more than a petition for reconsideration of the Presiding Judge's interlocutory ruling, which is specifically prohibited by § 1.106(a)(1) of the Commission's Rules. Furthermore, contrary to Kay's claim at n. 1 of his motion, § 1.294(c)(1) bestows no entitlement to reply to the Bureau's February 8, 1996, Consolidated Response. Section 1.294(c)(1) pertains to petitions to amend, modify, enlarge, or delete issues, and there are no such petitions pending in this proceeding. Additionally, notwithstanding Kay's arguments at ¶¶ 6-7 of his motion, Kay has had *substantial* opportunity to advance his positions concerning the Bureau's Motion, and Kay cannot legitimately claim that he would be prejudiced by being denied the opportunity to file an unauthorized pleading. Finally, the Bureau's filing of the instant supplement to its Motion -- which *narrows* the relief that was initially requested -- does not confer any rights upon Kay to *expand* the scope of his opposition to the Bureau's Motion.

CERTIFICATE OF SERVICE

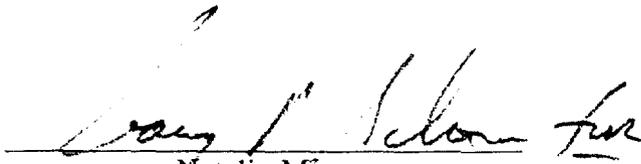
I, Natalie Moses, a secretary in the Complaints and Investigations Branch, Mass Media Bureau, certify that I have, on this 23rd day of February 1996, sent by regular First Class United States mail, copies of the foregoing "Wireless Telecommunications Bureau's Motion for Leave to File Supplement and Supplement to Motion for Summary Decision and Order Revoking Licenses" to:

Barry A. Friedman, Esq.
Thompson, Hine & Flory
1920 N Street, N.W., Suite 800
Washington, D.C. 20036
(Counsel for James A. Kay, Jr.)

Bruce Aitken, Esq.
Aitken, Irvin & Lewin
1709 N Street, N.W.
Washington, D.C. 20036
(Counsel for James A. Kay, Jr.)

Robert J. Keller, Esq.
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
(Counsel for Marc Sobel)

Vida Knapp, President
Multiple M Enterprises, Inc.
c/o Advanced Electronics
18220 South Broadway
Gardena, California 90248



Natalie Moss



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

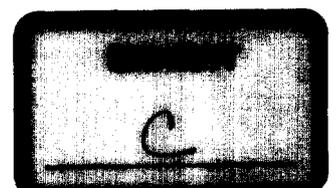
In the Matter of) WT DOCKET NO. 94-147
)
JAMES A. KAY, JR.)
)
Licensee of one hundred sixty four Part 90)
Licenses in the Los Angeles, California, Area)

To: Administrative Law Judge
Richard L. Sippel

WIRELESS TELECOMMUNICATIONS BUREAU'S
REQUEST FOR CERTIFICATION

1. The Wireless Telecommunications Bureau hereby respectfully requests the Presiding Judge to certify to the Commission for resolution, pursuant to § 0.341(c) of the Commission's Rules, the question as to whether the Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing for Forfeiture, FCC 94-315 (released December 13, 1994) ("Show Cause Order"), in this proceeding should be modified to the extent indicated below. In support whereof, the following is shown.

2. The Commission commenced this proceeding to determine whether James A. Kay, Jr. ("Kay") is basically qualified to remain a license, and, if not, whether his Part 90 licenses should be revoked. The Show Cause Order, at ¶ 1, stated that Kay holds 164 such Part 90 licenses and, at Appendix A, identified each of the specific call signs involved in this case. The call signs at Nos. 1-147 of Appendix A are identified as being held personally by Kay in



his own name. The remaining call signs in Appendix A, however, are identified as being held in the names of entities other than Kay. They are: Buddy Corp. (Nos. 148-150); Oat Trunking Group, Inc. ("Oat Trunking") (Nos. 151-152); Multiple M Enterprises, Inc.: Kay Jr., James A. LP ("Multiple-M") (No. 153); and Marc Sobel ("Sobel") (Nos. 154-164). These latter entities were included in Appendix A because, as explained in the Show Cause Order at ¶ 3, information available to the Commission indicated that Kay may have conducted business under a number of different names, including Buddy Corp., Oat Trunking, Multiple-M and Sobel. The Show Cause Order did not make these entities parties to this proceeding or specify issues concerning their compliance or qualifications.

3. On December 4, 1995, the Bureau filed a Motion for Summary Decision and Order Revoking Licenses ("Motion"). The Bureau's Motion requested, among other things, that the Presiding Judge conclude that Kay is basically unfit to be a licensee, revoke Kay's licenses, and terminate this proceeding. Subsequently, on February 23, 1996, the Bureau filed a Supplement to its Motion articulating exactly which of the licenses in Appendix A should be revoked. Specifically, the Bureau indicated that it is seeking revocation of the licenses identified at Nos. 1-152 of Appendix A because these licenses are held either in Kay's name or in the names of entities (Buddy Corp. and Oat Trunking) that Kay wholly owns and controls.¹ The Bureau further stated in its Supplement that it is not seeking revocation of the 12 remaining licenses identified at Nos. 153-164 of Appendix A because

¹ On March 10, 1995, Kay responded to the Bureau's First Set of Interrogatories. Therein, at pp. 3-4, Kay represented that he is the sole shareholder and sole director of Buddy Corp. and of Oat Trunking Group, Inc.

these licenses are held by entities (Multiple-M and Sobel) in which the full nature and extent of their relationship to Kay is unclear.² The Bureau took the additional position in its Supplement that, even in the event the Presiding Judge were to grant the Bureau's Motion, conclude that Kay is basically unqualified, and revoke the first 152 licenses in Appendix A, further, very limited, proceedings would nonetheless be warranted on the narrow question of whether the remaining 12 licenses in Appendix A are attributable to Kay and also should be revoked. Finally, the Bureau indicated in its Supplement that Multiple-M and Sobel should be made parties to this proceeding.³

4. Upon further reflection, the Bureau believes that the Show Cause Order should be modified to exclude from this proceeding the licenses that are held in the names of Multiple-M and Sobel because these licenses are outside the scope of this case as framed by the Commission. As noted above, the Show Cause Order did not make Multiple-M or Sobel parties to this proceeding or designate specific compliance-related or basic qualifying issues against them. Furthermore, the full nature and extent of the relationship that Multiple-M and

² In his March 10, 1995, response to the Bureau's First Set of Interrogatories, at p. 5, Kay represented that he is a limited partner in Multiple-M. At p. 16, Kay represented that Marc Sobel performs various technical services for Kay, and Kay manages stations which are authorized to Marc Sobel.

³ By letter, dated February 22, 1996, the Bureau alerted the Presiding Judge that it intended to file the Supplement to its Motion, and it respectfully requested the Presiding Judge to await receipt of the Supplement before rendering a decision on the Motion. It appears that the Presiding Judge may have inadvertently construed the Bureau's letter as requesting a deferral of action on the Motion for some longer period of time until after the conclusion of further proceedings. See Order, FCC 96M-26 (released March 1, 1996), at ¶ 1. The Bureau regrets any misunderstanding that its letter may have caused, and it takes this opportunity to clarify that it seeks a decision on its Motion, as supplemented, and consistent with the instant request for certification, at the earliest possible time.

Sobel may have with Kay is unknown, and, in the Bureau's opinion, should be explored, at least initially, in the context of a non-adjudicatory investigation. Under these circumstances and given the fact that the stated focus of this proceeding has always been, and remains, exclusively on determining whether Kay possesses the basic qualifications to remain a Commission licensee, the Bureau submits that the Presiding Judge should certify to the Commission the matter of modifying the Show Cause Order to delete the Multiple-M and Sobel licenses from the instant case. Certification is appropriate in this instance because neither the Presiding Judge nor the Bureau has the delegated authority to independently modify the Show Cause Order.

5. The Bureau submits that this course of action would serve the public interest because it would facilitate the orderly disposition of scores of licenses that Kay holds and controls, while simultaneously eliminating the ambiguity introduced into this case by the Show Cause Order concerning the status of the dozen licenses held collectively by Multiple-M and Sobel. Indeed, by certifying the matter discussed above to the Commission at this time, the Presiding Judge would remove from consideration in this proceeding the disposition of the licenses identified at Nos. 153-164 of Appendix A and permit the efficient and unfettered adjudication of all of the remaining licenses identified at Nos. 1-152 which are directly attributable to Kay.⁴

⁴ The removal of the Multiple-M and Sobel licenses from this proceeding eliminates any impediment to the immediate grant of the Bureau's pending Motion and the revocation of licenses held in Kay's name and the names of entities (Buddy Corp. and Oat Trunking) that Kay wholly owns and controls. Furthermore, the removal of the Multiple-M and Sobel licenses would eliminate the need for further proceedings, enlargement of issues, and addition of parties as to Multiple-M and Sobel, thus allowing for the early termination of this case and dramatically conserving very scarce Commission resources.

6. Accordingly, the Bureau requests the Presiding Judge to issue an order certifying to the Commission the question as to whether the Show Cause Order in this proceeding should be modified as indicated above.

Respectfully submitted,
Michele C. Farquhar
Chief, Wireless Telecommunications Bureau



W. Riley Hollingsworth
Deputy Associate Bureau Chief



William H. Kellett
Gary P. Schonman
Anne Marie Wypijewski
Attorneys

Federal Communications Commission
2025 M Street, N.W., Suite 7212
Washington, D.C. 20554
(202) 418-1430

March 6, 1996

CERTIFICATE OF SERVICE

I, Natalie Moses, a secretary in the Complaints and Investigations Branch, Mass Media Bureau, certify that I have, on this 6th day of March 1996, sent by regular First Class United States mail, copies of the foregoing "Wireless Telecommunications Bureau's Request for Certification" to:

Barry A. Friedman, Esq.
Thompson, Hine & Flory
1920 N Street, N.W., Suite 800
Washington, D.C. 20036
(Counsel for James A. Kay, Jr.)

Bruce Aitken, Esq.
Aitken, Irvin & Lewin
1709 N Street, N.W.
Washington, D.C. 20036
(Counsel for James A. Kay, Jr.)

Robert J. Keller, Esq.
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
(Counsel for Marc Sobel)

Vida Knapp, President
Multiple-M Enterprises, Inc.
c/o Advanced Electronics
18220 South Broadway
Gardena, California 90248
(General Partner of Multiple M Enterprises, Inc.: Kay,
Jr., James A. LP



Natalie Moss



~~WILLIAM DEABEG & ASSOCIATES 1800 Century Park, Century City - Los Angeles~~

Mr. Terry Fishel,
Chief, Land Mobile Branch
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA. 17326

9 December 1991

Dear Mr. Fishel:

This is an informal PETITION TO DISMISS OR DENY, or SET-ASIDE any license resulting from application number 557897-101 on 10/02/91 for the frequency of 854.4875MHz. Objections are based upon the following:

WNX5753
gr. 11-15-91

(1) Mr. James A. Kay has not shown true loading on any of his granted licenses to prove a need for this frequency nor does he have a right to gather licenses to prevent others from obtaining them. According to FCC rules an applicant must have other SMR systems loaded before additional frequencies may be granted. As you go through your records you will find that Mr. Kay does not have his SMR systems loaded to their capacities; therefore an issuance of an additional SMR License would be in violation of FCC Part 90 Rules.

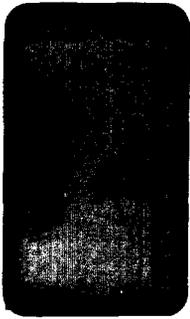
(2) Mr. Kay could be in violation of the Communications Act of 1934, Section Number 313A, if he is using additional channels.

(3) Mr. Kay can in no way justify requests for these frequencies because such would put him in violation of part 90 rules, numbers 90.623 (a) and (b). All his licenses and applications seem to be in need of thorough review.

(4) The following are examples of some let's say strange practices involving possible SMR paper loading by Mr. Kay:

The frequency of 854.3875 MHz/WNSK552 granted 4/1/91 to James A. Kay has bogus loading - the listed user, Coast Electric Co. Inc.-WNVY322 is NOT using nine mobiles; G.T. Equipment, Inc./WNVY323 is not using eight mobiles; Universal Protection Services Inc., DBA Home Security Sentinel Patrol/WNWB482 with twenty-two mobiles listed is not using this frequency. This is an especially good example of bogus loading by Home Security; they are not using any conventional systems; all their radios are trunked. When you research Home Security you will find that they have more than five frequencies which clearly

they do not even have these frequencies in the radios they use.



Mr. Terry Fisher, Chief, Land Mobile Branch/FCC - 12/09/91 - p.2

Our research shows that Coastal Concrete Care WNW 930 with sixteen mobiles listed is NOT constructed.

The frequency of 852.1875 is a further example of bogus loading because the system is not constructed and the four sites are not used.

Medi Express Medical Transportation is another example of bogus loading. The company-WNWB269 with twenty-two mobiles listed is not using the system because they use Mr. Kays trunked system on Mt. Lukens; they are also bogus-loaded on more than five systems which violates 90.623 (b).

Master Gate Corp.-WNWN332 with five mobiles listed is NOT constructed.

The frequency of 851.7125-WNWA837/Eveready Tire Co.Inc. is NOT constructed.

The system of WQ2838, one of Mr. Kay's with nineteen mobiles licensed, has not been constructed.

The system of James Kay, WNVL794/853.5625 with Daves Trans Services, Inc. [WNWL772] with twenty-two mobiles is not constructed.

The system WNVJ775/851.7625, Kane Communications, has not been constructed.

The system WNVJ774/852.8625, Appliance Masters, has not been constructed.

The SMR WNSC920/853.6875, American Home Security Inc., WNSC921 is not constructed.

The SMR on 854.1875 and 854.3875-WNSK552 is bogus and so is Consolidated Financial Holdings (another name for James A. Kay) with 37 mobiles which in no way could have that many mobiles in operation because it is doubtful that Mr. Kay has 37 people available to use them.

The other listings - WNUH921 with 34 mobiles, WNVY322 with 9 and WNVY323 with 8 - are NOT constructed.

I should very much appreciate it if you would take the steps necessary to right the wrongs done by Mr. Kay.

12/10/91

Sincerely -

ALL STATE* LEGAL 800-222-0610 EDS11 RECYCLED



THOMPSON
HINE & FLORY P.L.L.

Attorneys at Law

February 5, 1996

Gary P. Schonman, Esquire
Federal Communications Commission
2025 M Street, N.W.
Suite 7212
Washington, D.C. 20554

Re: James A. Kay, Jr., WT Docket No. 94-147

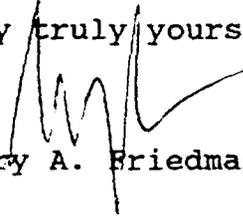
Dear Gary:

As you know, the Presiding Judge has not prohibited either party from conducting discussions with any potential witness in the above-referenced matter. In the course of our preparation for the hearing, we have assembled a list of possible witnesses. With one exception, we successfully located each potential witness.

Attachment 2 to the Bureau's Response to Kay's First Set of Interrogatories (filed on or about March 8, 1995) contained a letter, dated December 9, 1991, from William Drareg of William Drareg & Associates, with business address of 1800 Century Park, Century City, Los Angeles. A copy of Mr. Drareg's December 9, 1991 letter is attached hereto for your convenience. Despite great efforts, we have been unable to locate Mr. Drareg or his business organization. In a spirit of cooperation, we ask that if the Bureau has it, that the Bureau provide us with Mr. Drareg's current business and home addresses and telephone numbers.

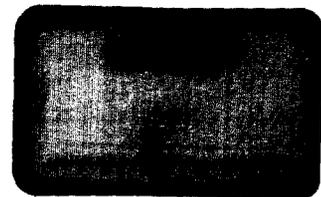
Your anticipated cooperation is greatly appreciated.

Very truly yours,


Barry A. Friedman

cc: James A. Kay, Jr.

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DECLARATION OF JAMES A. KAY, JR.

I, James A. Kay, Jr. declare that I am the Respondent in the above-entitled action. If called as a witness, I could competently testify to the facts contained herein. I make this declaration in response to the Bureau's latest Supplement to Motion for Summary Decision and Order Revoking Licenses, wherein it requested that all of my licenses except those supposedly in the name of Marc Sobel and in the name of Multiple M Enterprises, Inc. be revoked. This most recent pleading by the Bureau has muddled the waters to the point where a full, comprehensive explanation of the all the facts and circumstances leading up to the filing of the HDO is appropriate so that the Administrative Law Judge should have a full and complete record on which to rule.

In 1991, Harold Pick, a would-be competitor of mine, began an unceasing campaign of letters and complaints to the FCC Wireless Telecommunications Bureau, formerly Private Radio Bureau (Bureau), for the purpose of damaging my reputation. In addition, Mr. Pick engaged in a campaign of defamation against me with my customers, vendors, landlords, friends, other competitors, government agencies, Police Departments, and mutual acquaintances. I met with Pick in 1991 and told him to cease and desist his unlawful actions. He said he would do so, but in fact he did not. Throughout 1992, a running controversy continued with Pick. I would file applications for frequencies and Pick would file strike applications and strike protests. He was largely unsuccessful in his actions.

This history which follows is important, because it explains the genesis of the entire HDO. Also, informal pretrial discovery has revealed to me that all of the substantive complaints of wrongdoing alleged against me stem directly from complaints by Pick and his cohorts.

On July 24, 1992, at the Holiday Inn Crowne Plaza Hotel in Los Angeles, Pick arranged for a meeting with several of my competitors, the purpose of which was we believe, to enter into a civil conspiracy to attack my business interests in



every possible manner. See attached letter from Lewis Goldman, which documents the existence of this meeting. In August 1992, one of these individuals, Philip Gigliotti, sought to interfere with my agreement with Brown Ferris Industries (BFI) which had been made through a BFI employee named John Knight. This caused me severe difficulties at the Commission and the Commission ruled against me and later set aside one of my licenses. At the end of 1992, I instructed my attorneys to send a letter to Pick warning him not to defame me. Pick ignored the letter and continued his tortious conduct.

In April 1993, I completed a contract with Duke Pacific, Inc. through an employee named Greg Severson. To the best of my knowledge, Pick used the FCC database to identify Duke Pacific, Inc. as one of my customers. Pick subsequently called Severson and told him that I was a "thief, liar and murderer", all of which are untrue. As a result of Pick's allegations, Severson decided not to do business with either me or Pick, and decided to use cellular telephones instead. This loss of business, due directly to the breach of contract by Duke Pacific, cost me over \$15,000. After the Duke incident, in August 1993, I sued Pick for slander and a variety of other torts. We understand that Gerard Pick, Harold Pick's father, went so far as to scream at a process server that I was a "murderer"! Harold Pick then enlisted the aid of a close friend of his (Frank DeMarzo) to assist him in his campaign against me. In particular, we believe they used the technique of instructing and encouraging customers to file untrue and defamatory accusations with the Commission. Customers were instructed not to serve copies of these complaints on me. Pick and DeMarzo assisted in the preparation of numerous letters and complaints to the Commission.

We understand that in September 1993, less than one month after Pick was served with the lawsuit, Frank DeMarzo, using FCC database records supplied by Pick, called upon a company called Cal Western Termite who had a contract with me. On DeMarzo's advice, Cal Western got counsel, who then filed accusations

against me before the Commission and sought reinstatement of a canceled license. Despite having made allegations of fraud and unlawful business practices against me before the FCC, Cal Western never filed any action in state court or brought any complaints before local authorities - the proper venue for such allegations stemming from contractual matters. As a result of his actions on behalf of Pick at Cal Western, DeMarzo was added as a defendant to the lawsuit which I had already commenced against Pick.

In December 1993, we understand that DeMarzo and Pick also successfully solicited complaints to be made against me from Cornelia and Charles Dray dba Chino Hills Patrol, Eddie Cooper of the Fullerton School District, Gary VanDeist, President of VanDeist Brothers, Inc. To the best of my knowledge, Pick repeatedly bragged to these people that they "had the goods on me" and that the FCC would put me out of business with their help and cooperation.

Pick even called John Poat, who was my Sales Manager, to gloat in a telephone call laced with obscenities, saying that "James Kay is going to get his, and so are you", and said that we were both "going on trial for our lives". I thus believed that complaints had once again been filed against me by Pick, but I did not know any of the specifics. I frankly wondered what false charges Pick was fabricating this time. On January 16, 1994, I filed Freedom of Information Act Requests (FOIAs) to discover what complaints had been filed against me, so that I might properly respond to them. I then received a letter from the Commission, dated January 31, 1994, commonly called a "308(b) letter". This is the letter which has been attached to the Bureau's moving papers. I sent this letter to my lawyers, BROWN & SCHWANINGER, for a response. I subsequently received from the Bureau a denial of my FOIA request. I became alarmed in February of 1994 when competitors told me that copies of the Bureau's January 31, 1994 letter were being distributed amongst the radio community and to my customers. This led me to conclude that I was the victim of "selective leaking" by the Bureau.