

On November 18, 1994, Hollingsworth set aside the Commission's grant to Kay of renewal of three licenses. However, as released, the OSC did not designate Kay's renewal applications for hearing. Together with the applications which Hollingsworth threatened to dismiss, but which the Commission has not dismissed, the renewal applications are pending before the Commission. Accordingly, so that the Commission can reach a complete determination on the licensing of Kay in this proceeding, and so that the Commission avoids the necessity of later actions concerning the pending applications in the event that the Kay is found to be qualified to be a Commission licensee, the OSC should be revised to add an issue as to all of Kay's pending applications. In that way, the Administrative Law Judge can conveniently act in one statement to grant all of Kay's pending applications.

Attached to the OSC was an Appendix A, listing 164 call signs of Private Land Mobile Radio Services stations. For the following reasons, Kay respectfully requests that the Commission change or dismiss the OSC to delete all references to the licenses numbered 154 through 164.

James A. Kay, Jr. is an individual. Marc Sobel is a different individual. Kay does not do business in the name of Marc Sobel or use Sobel's name in any way. As shown by the affidavit of Marc Sobel attached as Exhibit II hereto, Kay has no interest in any of the licenses or stations held by Marc Sobel. Marc Sobel has no interest in any of the licenses or stations authorized to Kay or any business entity in which Kay holds an interest. Because Kay has no interest in any license or station in common with Marc Sobel and because Sobel was not named

named as a party to the instant proceeding, the Commission should either change the OSC to delete the reference to the stations identified as stations 154 through 164 in Appendix A, or should dismiss the OSC with respect to those stations.

Section 554(b)(3) of the Administrative Procedure Act, 5 U.S.C. §554(b)(3) provides that a person entitled to notice of an agency hearing shall be timely informed of "the matters of fact and law asserted." Because the OSC failed to provide Kay with lawful notice of the matters of fact and law asserted with respect to many of the issues designated for hearing, certain issues designated in the OSC should be deleted or changed.

At paragraph 10(a) of the OSC, the Commission designated an issue as to whether Kay had "violated Section 308(b) of the Act and/or Section 1.17 of the Commission's Rules, by failing to provide information requested in his responses to the Commission's inquiries". Section 308(b) of the Act is a grant of authority by Congress to the Commission. Section 308(b) does not impose any requirement or any prohibition on any person. Accordingly, Section 308(b) is not a statute which is capable of violation by an individual.

Similarly, Section 1.17 of the Commission's Rules is a statement of the Commission's authority. Section 1.17 of the Commission's Rules additionally provides that "no applicant, permittee or licensee shall in any response to Commission correspondence or inquiry or any application, pleading, report or any other written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction

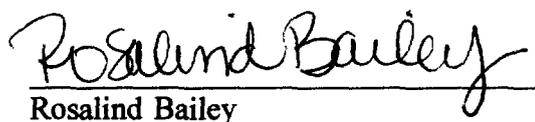
**CERTIFICATE OF SERVICE**

I, Rosalind Bailey, a secretary in the Enforcement Division, Wireless Telecommunications Bureau, certify that I have, on this 1st day of May 1997, sent by regular First Class United States mail, copies of the foregoing "Wireless Telecommunications Bureau's Reply to Opposition to Bureau's Motion to Enlarge Issues" to:

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