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Dona A. Bradshaw

# FEDERAL COMMUNICATIONS COMMISSION

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In re Applications of: ) MM Docket No. 97-75  
)  
PUBLIC BROADCASTING FOUNDATION ) File No.: BPED-950210MB  
OF NORTHWEST OHIO )  
Channel 220 )  
Defiance, Ohio )  
)  
For Construction Permit for a )  
New Noncommercial Educational )  
FM Station )  
)  
MARANATHA CHRISTIAN ) File No.: BPED-950511IE  
FELLOWSHIP, INC. )  
Channel 220A )  
Howe, Indiana )  
)  
)  
For Modification of Facilities )  
of Station WQKO-FM )  
Howe, Indiana )

Volume: 1  
Pages: 1 through 10  
Place: Washington, D.C.  
Date: March 26, 1997

## HERITAGE REPORTING CORPORATION

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

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	)	
For Modification of Facilities	)	
of Station WQKO-FM	)	
Howe, Indiana	)	

Courtroom 2  
FCC Building  
2000 L Street, N.W.  
Washington, D.C.

Wednesday,  
March 26, 1997

The parties met, pursuant to notice of the Judge  
at 9:00 a.m.

BEFORE: HON. JOSEPH CHACHKIN  
Administrative Law Judge

APPEARANCES:

On Behalf of the Public Broadcasting Foundation  
of Northwest Ohio:

LAWRENCE M. MILLER, ESQ.  
Schwartz, Woods & Miller  
1350 Connecticut Avenue, N.W. #300  
Washington, D.C. 20036-1702  
(202) 833-1700

On Behalf of the FCC Chief Mass Media Bureau:

SUSAN FRIEDMAN, ESQ.  
JAMES W. SHOOK, ESQ.  
Federal Communications Commission  
2000 L Street, N.W.  
Washington, D.C. 20554  
(202) 418-2265

FEDERAL COMMUNICATIONS COMMISSION

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
None.					

Hearing Began: 9:00 a.m.

Hearing Ended: 9:09 a.m.

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P R O C E E D I N G S

9:00 a.m.

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JUDGE CHACHKIN: This proceeding concerns applications for construction permits for the noncommercial educational FM station filed by Public Broadcasting of Northwest Ohio and an application for modification of facilities for Station WQKO-FM filed by Maranatha Christian Fellowship. The case was set for hearing by federal -- by hearing designation order released February 27th, 1997.

By order released February -- actually, the hearing designation order was released February 24th, 1997. The case was assigned to me by order released February 27th, 1997. And then I issued an order prior to prehearing conference which was released March 7th, 1997 in which I set the intermediate procedure dates and directed counsel for the clients to meet to discuss certain matters.

But before we get to that, may I have the appearance of the parties on behalf of Public Broadcasting, I believe it's Commission is it, or what is it?

MR. MILLER: Your Honor, it's -- it's Foundation and we ask that footnote to the notice of appearance for correction. And for Public Broadcasting Foundation of Northwest Ohio, Lawrence M. Miller of Schwartz, Woods & Miller.

JUDGE CHACHKIN: And on behalf of Maranatha

1 Christian Fellowship, Inc.?

2 MR. MILLER: Your Honor, Maranatha's not here and  
3 I have been -- I've agreed to explain to you the current  
4 status of the proceeding if I may. We reached settlement at  
5 about 5:00 yesterday afternoon, a proposed settlement of the  
6 proceeding. Maranatha is not here.

7 The principal of Maranatha, Ron Hyre, H-Y-R-E,  
8 told me that they would not have anyone here today. Mr.  
9 Egli, E-G-L-I, whose name is in the application but who I  
10 was told yesterday by Pastor Hyre is no longer associated  
11 with the application, represented to me when we discussed  
12 settlement pursuant to your prehearing order last week that  
13 he had sent in a notice of appearance and a request for  
14 extension of all procedural dates for 30 days and had served  
15 me with that. I have not yet seen that. I don't know  
16 whether it's reached the Commission.

17 The reason for the extension was that they had not  
18 received orders timely. And I suspect that's true because  
19 all of the orders that have gone to my client have been sent  
20 to West Virginia and all of my client's mail and I  
21 understand all of Maranatha's mail has concerned a  
22 proceeding in West Virginia. I think we've gotten beyond  
23 though the point now of who would serve timely and the  
24 extensions if you will entertain a request for approval of  
25 settlement which we propose to file as soon as we can

1 document it.

2 JUDGE CHACHKIN: Who's representing here the FCC?

3 MS. FRIEDMAN: Susan Friedman.

4 MR. SHOOK: And James Shook. And, Your Honor, I  
5 can confirm a few of the things that Mr. Miller has said.  
6 In various conversations it's come to my attention that the  
7 orders for the West Virginia proceeding were by mistake sent  
8 to the people in Indiana and Ohio. And conversely, the  
9 Indiana/Ohio people received the West Virginia orders. So  
10 initially there was a lot of confusion as to what was going  
11 on.

12 I can also confirm that Mr. Egli was involved at  
13 least for some period of time because he sent to me what I'm  
14 sure he meant to be a notice of appearance. It wasn't in  
15 the proper form and no other entity was served. He was  
16 obviously very confused as a result of the telephone  
17 conversation we had as to what he was supposed to do. But I  
18 am glad to hear that contact was made and apparent  
19 settlement reached. So we can take it from there.

20 JUDGE CHACHKIN: So this notice of appearance,  
21 where is it right now?

22 MR. MILLER: I don't know, Your Honor. That's --  
23 now that I hear that Mr. Shook received something that was  
24 in the nature of a notice of appearance from him, I suspect  
25 that's what he was telling me about and didn't send. And I

1 assume he will have to file an appropriate notice of  
2 appearance if you give him leave to file late in order to  
3 participate, although he will be able to point out that he  
4 didn't receive any of the orders until several weeks after  
5 they were issued.

6 MR. SHOOK: Your Honor, we have a document that we  
7 can show you that would give you an idea of what it was that  
8 we received.

9 JUDGE CHACHKIN: Can I see that?

10 MR. SHOOK: The handwriting in the upper right is  
11 mine.

12 JUDGE CHACHKIN: Do you have any problems with  
13 this as a notice of appearance?

14 MR. SHOOK: Well, Your Honor, it is not in the  
15 proper form and the -- the main difficulty with it is that  
16 so far as I can tell, no one other than myself was served  
17 with any document.

18 JUDGE CHACHKIN: I'm assuming you're not going to  
19 object if he files --

20 MR. SHOOK: No, sir.

21 JUDGE CHACHKIN: -- a corrected notice of  
22 appearance?

23 MR. SHOOK: No, sir.

24 JUDGE CHACHKIN: Is someone going to contact him  
25 and tell him about what the proper procedure is?

1           MR. MILLER: Your Honor, I think if I don't  
2 prepare it, it's not going to come in. And I will -- I will  
3 -- I'll prepare something and send it to him.

4           JUDGE CHACHKIN: Go ahead. And since there's no  
5 objection, I will grant it if it comes in. And insofar as  
6 the procedural dates are concerned, the only date we're  
7 concerned about is the March 21st date. But of course, the  
8 next date is not until July 2nd. And in light of the fact  
9 that the parties apparently have reached a settlement, the  
10 March 21st date is moot as far as I can see. So there  
11 really is no need for a 30 day continuance. We'll just wait  
12 and see what's filed for the settlement, you know. The  
13 settlement is probably 30 days. It should not have any  
14 impact on the hearing dates.

15           MR. MILLER: Your Honor, that would be great. I  
16 leave the country today for a week. But when I get back, I  
17 can get the papers rolling. And that means I don't have to  
18 get somebody else in the office familiar with this. We can  
19 certainly do this well within 30 days and have all the  
20 documentation to you and the -- the amount of the settlement  
21 as well within an engineering bill that they've already  
22 submitted to us. So I don't think there will be any  
23 question from the Bureau concerning --

24           JUDGE CHACHKIN: It shouldn't have any impact --

25           MR. MILLER: -- reimbursement.

1 JUDGE CHACHKIN: -- on the current hearing dates.  
2 So there's no reason to change anything.

3 MR. MILLER: That's correct, sir.

4 MR. SHOOK: The only -- the only issue probably to  
5 be worked out is the possible republication situation. And  
6 we'll just have to, you know, take a closer look at that  
7 when it -- when the settlement agreement comes in.

8 JUDGE CHACHKIN: Oh, you mean there's a need to  
9 republish?

10 MR. SHOOK: Possibly, possibly. I wouldn't want  
11 to say definitely that there is. I just see that as a  
12 possibility.

13 MR. MILLER: I haven't looked at that yet, Your  
14 Honor. We just settled this last night, although I'm  
15 hopeful that there might not be a need to republish in view  
16 of the fact that they were not proposing the first  
17 transmission service for any community. They were proposing  
18 an increase in power for a station already serving the  
19 community. So I'm hopeful when we look at the cases we're  
20 within an exception. If not, we'll of course dutifully  
21 publish.

22 JUDGE CHACHKIN: All right. I assume there's  
23 nothing else to discuss this morning. So we'll be in recess  
24 until the scheduled date for hearing of August -- or July --  
25 what is it? -- August 12th unless of course the settlement

1 is concluded.

2 And I assume it will be long before that. Thank  
3 you.

4 (Whereupon, at 9:09 a.m. on Wednesday, March 26,  
5 1997, the hearing adjourned.)

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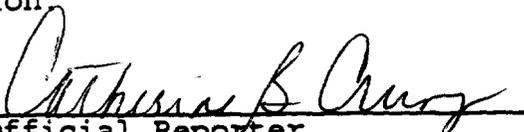
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**REPORTER'S CERTIFICATE**

FCC DOCKET NO.: 97-75  
CASE TITLE: Maranatha Christian & Public Broadcasting  
HEARING DATE: March 26, 1997  
LOCATION: Washington, D. C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

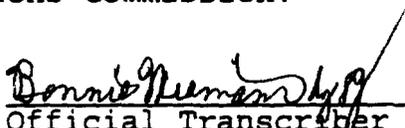
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Catherine B. Crump

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I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

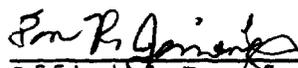
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Heritage Reporting Corporation  
Bonnie J. Niemann

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I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: April 3, 1997

  
\_\_\_\_\_  
Official Proofreader  
Heritage Reporting Corporation  
Don R. Jennings