

FCC Received 6/11/97 @ 9:20 a.m.
Dona A. Bradshaw

FEDERAL COMMUNICATIONS COMMISSION

In Re Applications of:) MM DOCKET No.: 97-128
)
MARTIN W. HOFFMAN,)
Trustee-in-Bankruptcy for)
Astroline Communications)
Company, Limited Partnership)
)
For Renewal of License of) File No. BRCT-881202KF
Station WHCT-TV,)
Hartford, Connecticut)
)
and)
)
Shurberg Broadcasting of)
Hartford,)
)
for Construction Permit for a) File No. BPCT-831202KF
New Television Station to)
Operate on Channel 18,)
Hartford, Connecticut)

Volume: 1
Pages: 1 through 10
Place: Washington, D.C.
Date: June 2, 1997

HERITAGE REPORTING CORPORATION

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

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Courtroom 2
FCC Building
2000 L Street, N.W.
Washington, D.C. 20554

Monday,
June 2, 1997

The parties met, pursuant to the notice of the
Judge, at 9:01 a.m.

BEFORE: HON. JOHN M. FRYSIAK
Administrative Law Judge

APPEARANCES:

On behalf of Petitioner:

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APPEARANCES (Continued):

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On Behalf of Intervenor:

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On behalf of Respondent:

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P R O C E E D I N G S

[9:01 a.m.]

JUDGE FRYSIAK: Good morning, everyone.

ALL: Good morning, Your Honor.

JUDGE FRYSIAK: Are we okay here? All right.

This is a prehearing conference for docket number 96-128, Hartford, Connecticut. May we note your appearances?

MR. O'CONNELL: 97 I believe, sir. 97-128.

JUDGE FRYSIAK: Pardon?

MR. SHOOK: Your Honor had stated 96-128 and you had meant 97-128.

JUDGE FRYSIAK: All right. May we note your appearances for the record?

MR. O'CONNELL: Peter O'Connell; Reed, Smith, Shaw & McClay for Martin W. Hoffman, Trustee-in-Bankruptcy.

MR. COLE: Harry Cole; Bechtel & Cole, Chartered, on behalf of Shurberg Broadcasting in Hartford.

MR. SHOOK: James Shook and Catherine Withers on behalf of the Chief, Mass Media Bureau.

MR. TOPEL: Your Honor, if I might, I'd like to note my presence at the conference. My name is Howard Topel. I represent Two if by Sea Broadcasting which has filed a petition to intervene in these proceedings.

MS. SCHMELTZER: Your Honor, my name is Kathryn Schmeltzer. I represent Richard P. Ramirez and he has also

1 filed a petition for leave to intervene in this proceeding.

2 JUDGE FRYSIAK: All right. Thank you all. All I
3 have on the agenda today are procedural schedules. Anything
4 else for our consideration today?

5 MR. TOPEL: Your Honor, I'd just like to state for
6 the record that an informal understanding I had with counsel
7 for Mr. Hoffman. I intend to seek a number of documents
8 from Mr. Hoffman through the discovery process in the
9 Hartford bankruptcy proceeding. It's my understanding that
10 Mr. Hoffman has obtained or had access to a number of
11 documents which had been destroyed along the way.

12 And I asked Mr. O'Connell informally last week if
13 we could reach some understanding pursuant to which Mr.
14 Hoffman would not destroy any more documents in the course
15 of things until we have a chance to undertake discovery.
16 Mr. O'Connell has advised me this morning that that's
17 acceptable to Mr. Hoffman and on that basis I'm reasonably
18 comfortable.

19 I'm advised by my client that because of the
20 pendency of the bankruptcy proceeding if need be appropriate
21 to have some formal order from Your Honor just that they can
22 take back to the bankruptcy court and advise the bankruptcy
23 court that no further documents can or should be destroyed
24 pending the FCC proceeding.

25 I don't know enough about bankruptcy proceedings

1 to know whether that's true or false. And I defer to
2 Mr. O'Connell as to whether or not I'm wrong or right, but
3 in the event that it may require a formal order, I assume
4 Mr. O'Connell would not object to some standstill status quo
5 maintenance order for the time being.

6 MR. O'CONNELL: Your Honor, I might pick up on
7 that inquiry and just note for the record that when I
8 checked last week with the trustee, I was advised that it's
9 incorrect to characterize any actions that were taken as
10 destroying documents.

11 Apparently, there were some documents in the
12 possession of outside counsel that were abandoned in the
13 sense that the trustee did not take possession of them. And
14 the trustee is not well acquainted with the status of those
15 documents, but insofar as they have knowledge, they're
16 probably still available in counsel's possession.

17 As I mentioned to Mr. Cole this morning, we
18 certainly will stipulate that all documents in the
19 possession of the trustee will be retained in that status.
20 And to the extent any action confirming that is necessary,
21 we would happily go along with it.

22 JUDGE FRYSIAK: Yes, I don't think I have any
23 jurisdiction over the bankruptcy court.

24 MR. COLE: Oh, no. It would not be an order to
25 the bankruptcy court. It would just be an order to

1 Mr. Hoffman, the trustee as a party to this proceeding, that
2 in the event he needs to show the bankruptcy court that
3 there is a separate proceeding pursuant to -- before the
4 FCC, pursuant to which he is under some constraints. There
5 is evidence of it.

6 But again, I'm not, I'm not 100 percent certain
7 that is necessary and I'm just saying this as a protective
8 matter at this point.

9 MR. O'CONNELL: To your knowledge it's not
10 necessary, but if it become so we'll come back to Your
11 Honor.

12 JUDGE FRYSIAK: All right.

13 MR. COLE: Thank you.

14 JUDGE FRYSIAK: Okay. Anything else? I did take
15 note that there are some petitions to intervene, but the
16 pleading cycle has not run as yet. Judge Stermer's order
17 indicated that a hearing should be held September 15th. In
18 light of the number of parties here, perhaps we ought to
19 extend that, give you more time for discovery. I
20 contemplate that all discovery should be completed by
21 September 9. Any difficulty with that?

22 MR. O'CONNELL: No, sir.

23 MR. COLE: I don't contemplate any at this point,
24 Your Honor, but I'd like to reserve the right to advise you
25 of any delays in the process. But certainly, we intend to

1 pursue, proceed right away and get things going and
2 hopefully get things done.

3 JUDGE FRYSIAK: All right.

4 MR. SHOOK: That's also acceptable to us.

5 JUDGE FRYSIAK: Pardon?

6 MR. SHOOK: That's acceptable to us.

7 JUDGE FRYSIAK: I didn't hear you, I'm sorry,
8 Mr. Shook.

9 MR. SHOOK: I said that is acceptable to us,
10 September 9th.

11 JUDGE FRYSIAK: All right. If discovery is
12 completed on September 9th and I so order it, then exhibits
13 should be filed and must be filed September 23rd. That
14 would be your written direct cases. Now, notification of
15 witnesses for cross examination September 30th, the hearing
16 schedule here in Washington for October 14th --

17 MS. SCHMELTZER: Your Honor?

18 JUDGE FRYSIAK: Yes.

19 MS. SCHMELTZER: I realize I represent a
20 petitioner for leave to intervene and you haven't ruled on
21 that yet, but I have another hearing commencing on
22 October 14th here at the FCC before Judge Steinberg.

23 JUDGE FRYSIAK: We'll have to delay it a week
24 because I'm busy on October 7th. So that week is out for
25 me.

1 MS. SCHMELTZER: It's a case in which I represent
2 two of the material witnesses and I just don't know when
3 they're going to be scheduled to testify, but clearly it
4 could be any time that week. I also don't know how long
5 their testimony's going to take.

6 JUDGE FRYSIAK: So make it October 21.

7 MS. SCHMELTZER: That would be fine.

8 JUDGE FRYSIAK: Okay. Then to recap, discovery to
9 be completed on September 9, exhibits to be filed
10 September 23rd, notification of witnesses for cross
11 examination, September 30th and hearing October 21. I don't
12 have a calendar. I'm just wondering whether there are any
13 holidays in that period October 21. Does anybody have a
14 calendar?

15 THE CLERK: I have a calendar, but it doesn't show
16 holidays.

17 MS. WITHERS: There is a holiday in early October.

18 THE CLERK: That wouldn't be October 21.
19 October 13th or thereabouts.

20 JUDGE FRYSIAK: Well, that's true. Columbus is --

21 MR. TOPEL: United Nations Day is Friday,
22 October 24th. Otherwise, there are no holidays.

23 JUDGE FRYSIAK: Or religious holidays either?
24 That doesn't indicate that. All right. Is there anything
25 else for our consideration today? If not, then we stand

1 adjourned until the 21st of October.

2 ALL: Thank you, Your Honor.

3 (Whereupon, at 9:09 a.m. the hearing was
4 adjourned.)

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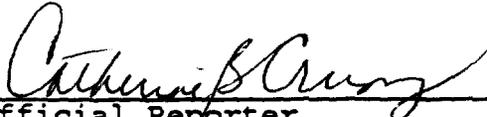
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FCC DOCKET NO.: 97-128
CASE TITLE: Martin W. Hoffman
HEARING DATE: June 2, 1997
LOCATION: Washington, D. C.

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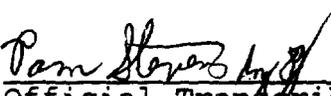


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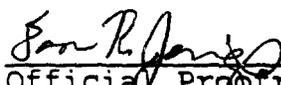


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