

Federal Communications Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 97M-155
71818

In the Matter of)	WT Docket No. 97-56
)	
MARC SOBEL)	
)	
Applicant for Certain Part 90 Authorizations)	
in the Los Angeles Area and Requestor Of)	
Certain Finder's Preferences)	
)	
MARC SOBEL and MARC SOBEL)	
d/b/a AIR WAVE COMMUNICATIONS)	
)	
Licensees of Certain Part 90 Stations in the)	
Los Angeles Area)	
)	

ORDER

Issued: September 10, 1997 ; Released: September 12, 1997

Under consideration is the Request for Leave to File Appeal, filed August 28, 1997, by Richard P. Ramirez ("Ramirez").

Ramirez seeks leave to appeal the Memorandum Opinion and Order ("MO&O"), FCC 97M-140 (released August 21, 1997) which denied the Petition for Emergency Relief and Stay of Proceedings filed by Ramirez.

Section 1.301(b) provides that a request for leave to appeal an interlocutory ruling shall contain a showing that the appeal presents a new or novel question of law or policy and that the ruling is such that error would be likely to require remand should the appeal be deferred and raised as an exception.

In denying the Petition for Emergency Relief and Stay of Proceeding ("Petition") filed by Ramirez, the MO&O noted the Petition was in effect a petition for reconsideration of a Hearing Designation Order which the Presiding Judge has no authority to grant (Section 1.106(a) of the Commission's Rules).

In denying the request for deletion of the specified misrepresentation issue, the MO&O ruled that the request was not timely filed and that good cause was not shown for the untimely filing as required by Section 1.229(b)(3) of the Commission's Rules. Additionally, the MO&O

Federal Communications Commission

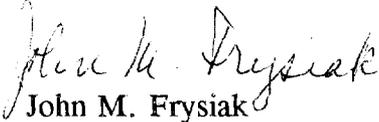
ruled that the request to delete the misrepresentation issue was not warranted because the Bankruptcy Court's and the Federal Appeals Court's decisions did not resolve the issue of whether Ramirez' ownership interest had dropped below 20 percent during the period 1984-1991.

Finally the MO&O ruled that in not according Hoffman (Trustee-in-Bankruptcy) Second Thursday relief the Commission's decision was not arbitrary and capricious but rather the Commission explained fully in the Hearing Designation Order its rationale.

The rulings do not present new or novel questions of fact. Additionally, it is noted that the Petition for Leave to Appeal does not allege that the rulings constitute error which is likely to require remand should the appeal be deferred and raised as an exception. The objections to the above stated rulings may be raised on review of the initial decision.

In light of the foregoing the Request for Leave to File Appeal, filed August 28, 1997, by Richard P. Ramirez IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION


John M. Frysiak
Administrative Law Judge