

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

In the Matter of)
)
MARC SOBEL D/B/A)
AIRWAVE COMMUNICATIONS)
) FCC File No. 93F600
Request for Finder's Preference)
Against Specialized Mobile Radio System -)
Conventional Station WNYQ465 At)
Oat Mountain, California, Licensed to)
Lance Hardy Advertising)

To: Chief, Private Radio Bureau

**SUPPLEMENT TO
OPPOSITION TO PETITION FOR RECONSIDERATION**

Marc Sobel d/b/a Airwave Communications (Sobel), by his attorneys, hereby files his Supplement to Opposition to the Petition for Reconsideration filed in the above captioned matter by Gerard Pick. In support of his position, Sobel shows the following.

Earlier in the above captioned matter, Sobel had demonstrated that Harold Pick had lied about the date on which station WNYQ465 was constructed or placed in operation. Now, documentary evidence has come to light which demonstrates further that Harold Pick lied to the Commission, and that Gerard Pick not only lied, but also presented a falsified document to the Commission.

Attached to the petition for reconsideration filed by Gerard Pick in the above captioned matter was a purported invoice from D.W. Thomas Companies, Inc. (Thomas). The invoice

was attached as Exhibit 3 to Gerard Pick's petition. Sobel's friend, James A. Kay, Jr. (Kay), is engaged in state court litigation against Harold and Gerard Pick. By means of discovery in that litigation, Kay has obtained from Thomas true copies of all documents which Thomas had rendered to Computer Consultants and Systems, a name under which Gerard Pick is registered as doing business. Copies of those invoices are attached as Exhibit I hereto. Comparison of the documents which Thomas supplied to Kay with the document presented at Gerard Pick's Exhibit 3 demonstrate beyond reasonable doubt that Gerard Pick uttered a falsified document before the Commission in support of his petition for reconsideration.

Gerard Pick uttered before the Commission an invoice which clearly had been counterfeited by combining the top of a Thomas invoice dated January 1, 1993, with the bottom of a Thomas invoice which had actually been dated by Thomas on February 10, 1993. The true invoice for crystals cut to operate on 809/854.0875 shows that the order for those crystals had not even been entered with Thomas until February 3, 1993, which was two days after the terminal date for placing station WNYQ465 in operation. For the Commission's convenience, a copy of Gerard Pick's faked invoice is attached as Exhibit II hereto.

Exhibit I hereto includes a Thomas Sales Order dated February 5, 1993, stating that someone would call for the crystals which had been ordered. The Thomas Sales Order shows that Harold Pick called for crystals on February 9, 1993, and signed the Sales Order at that time.

In his statement filed with the Commission in the above captioned matter on June 23, 1993, Harold Pick stated under penalty of perjury that station "WNYQ465 was constructed in a timely manner and complies with Part 90 Rules 90.633(d)." Harold Pick's signing for the crystals necessary to operate station WNYQ465 on February 9, 1993, proves beyond any reasonable doubt that Harold Pick blatantly lied to the Commission when he stated that station WNYQ465 had been constructed in a timely manner. In view of this further evidence of Harold Pick's mendacity, the Commission has no reasonable alternative but to refer to the United States Department of Justice the matter of Harold Pick's lying to the Commission under penalty of perjury. The Commission also has no reasonable alternative to designating for hearing the question of whether Harold Pick and Gerard Pick's are qualified to be Commission licensees.

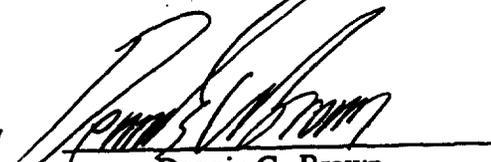
Sobel has demonstrated that Gerard Pick lied to the Commission and uttered a false document before the Commission. Sobel has further demonstrated that Harold Pick lied to the Commission under penalty of perjury. This matter began more than one year ago. Sobel deserves certainty of the award of the Finder's Preference to him. Gerard Pick and Harold Pick deserve the retribution which the law provides for perjurers and utterers of false documents. Nothing more remains but for Commission to act on Gerard Pick's petition for reconsideration and refer the matter to the Justice Department for its further action. Accordingly, Sobel respectfully requests immediate action by the Commission.

Conclusion

For all the foregoing reasons, Sobel respectfully requests that the Commission immediately dismiss or deny Gerard Pick's petition for reconsideration in the above captioned matter and that it take such other actions as the ends of justice appear to warrant.

Respectfully submitted,
MARC SOBEL D/B/A
AIRWAVE COMMUNICATIONS

By



Dennis C. Brown

Brown and Schwaninger
1835 K Street, N.W.
Suite 650
Washington, D.C. 20006
202/223-8837

Dated: October 20, 1994

EXHIBIT I

FREQUENCY MANAGEMENT DIVISION

The D.W. Thomas Companies, Inc.
 15002 BOLSA CHICA STREET
 HUNTINGTON BEACH, CA 92649
 (714) 892-3234

INVOICE

PAGE 1 OF 1

DATE	INVOICE

Please make checks payable to
 THE D.W. THOMAS COMPANIES, INC.

ACCOUNT NO.	ITEM	YOUR ORDER NUMBER	CONTRACT REFERENCE	SALES DIVISION	ESTIMATE DATE	YOUR ORDER NO.	SHIPPED VIA	TERMS
20175000				FREQUENCY	00/01/93	4695	WORLDWIDE	NET 30

SOLD TO

SHIP TO

COMPUTER CONSULTANTS & SYSTEMS
 P.O. BOX 3032

SAME
 COMPUTER CONSULTANTS & SYSTEMS
 350 MESA RD.

SANTA MONICA CA 90403

SANTA MONICA CA 90402

QUANTITY			ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
ORDERED	SHIPPED	CHECK ORDERED				
			TX 15000	015000		
			RX 15000	015000		
				2 EXP		
AMOUNT TOTAL			SALES TAX	EXPEDITE HANDLING	FREIGHT CHARGE	INSURANCE CHARGE
25.50				10.00		
ACCOUNTING COPY						INVOICE TOTAL
						35.50

4-6

4-7

FREQUENCY MANAGEMENT DIVISION

INVOICE

The D.W. Thomas Companies, Inc.
 15302 BOLSA CHICA STREET
 HUNTINGTON BEACH, CA 92649
 (714) 892-3234

PAGE 1 OF 1



Please make checks payable to
 THE D.W. THOMAS COMPANIES, INC.

ACCOUNT NO.	TERR.	YOUR ORDER NUMBER	CONTRACT REFERENCE	SALES DIVISION	ENTRY DATE	OUR ORDER NO.	SHIPPED VIA	STATUS
2175000	14	071		FREQUENCY	01/13/93	45533	UPS BROWN	NET 030

SOLD TO

COMPUTER CONSULTANTS & SYSTEMS
 P.O. BOX 3032

SANTA MONICA CA 90403

SHIP TO

COMPUTER CONSULTANTS & SYSTEMS
 350 MESA RD.

SANTA MONICA CA 90402

QUANTITY			ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT		
ORDERED	SHIPPED	BACK ORDERED						
3	3	0	TX 534-253-1	MOT KXN6330P10/50 154.5700	12.75	38.25		
3	3	0	RX 534-253-2	MOT KXN6331P10/50 154.5700	12.75	38.25		
			6 EXP. CRYSTALS @ 4.00					
ACCOUNTING COPY		AMOUNT TOTAL	SALES TAX*	EXPEDITE & HANDLING	FREIGHT CHARGE	INSURANCE CHARGE	C.O.D. CHARGE	INVOICE TOTAL
		76.50		24.00	2.08	0.23		102.81

AGENCY MANAGEMENT DIVISION
 7. Thomas Companies, Inc.
 7015A CHICA STREET
 LONGTON BEACH, CA 92649
 892-3234 1 (800) 800-9825

SALES ORDER
 PAGE 1 OF 1

ny
 DATE: 01/14/93 NUMBER: 45533

LD TO COMPUTER CONSULTANTS & SYSTEMS
 P.O. BOX 3032

SHIP TO COMPUTER CONSULTANTS & SYSTEMS
 350 MESA RD.

SANTA MONICA CA 90403

SANTA MONICA CA 90402

DATE REC'D 01/13/93	ACCOUNT NO. 2175000	SHIP TO 01	TERM. 14	ENTERED BY MG	SALES DIVISION FREQ MGMT	TERMS F.O.B. PLANT OO NET 30	BACK ORDER FROM INVOICE NO.	DATE	CONTRACT REF.	BOX NUMBERS
SCHED. SHIP DATE 01/20/93	CUSTOMER ORDER NO. 071	DATE SHIPPED 1/22/93	SHIP VIA B	SHIPPER NUMBER	UPS BROWN					

LINE NO.	QTY ORDERED	QTY B.O.	ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
1	3		TX 534-253-1	MOT KXN6330P10/50-154-5700	38	114
2	3		RX 534-253-2	MOT KXN6331P10/50-154-5700	38	114

5 DAY EXPEDITE

LINE NO.	NUMBER	SUB TOTAL						
								76.
								SALES TAX
								EXPEDITE HANDLING
								FREIGHT
								INSTALLATION
								INSURANCE
								COPY
								TOTAL

01/22/93
 OR 858-802 FIG CHG \$ 2.00
 FIG TO # 1003191 MT 1
 GROUND
 REF # 45533

ACCOUNTING COPY

SHIP BY
 CREDIT APPROVED

EXHIBIT II

FREQUENCY MANAGEMENT DIVISION

The D.W. Thomas Companies, Inc.
 16204 BOLSA CHICA STREET
 HUNTINGTON BEACH, CA 92649
 (714) 692-3734

INVOICE



PAGE 1 OF 1

DATE	INVOICE
01/26/93	16284

Please make checks payable to
 THE D.W. THOMAS COMPANIES, INC.

ACCOUNT NO.	YEAR	YOUR ORDER NUMBER	CONTRACT REFERENCE	SALES DIVISION	ENTRY DATE	OUR ORDER NO.	SHIPPED VIA	TERMS
2175000	14	071		FREQUENCY	01/13/93	45533	UPS BROWN	NET 30

SOLD TO

COMPUTER CONSULTANTS & SYSTEMS
 P.O. BOX 3032

SANTA MONICA CA 90403

SHIP TO

COMPUTER CONSULTANTS & SYSTEMS
 350 MESA RD.

SANTA MONICA CA 90402

QUANTITY			ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT		
ORDERED	SHIPPED	BACK ORDERED						
		0	TX 366-900	O.E. PL19A13699901-100-08	12.75	12.		
		0	RX 366-900	O.E. PL19A13699901-100-08	12.75	12.		
2 EXP. CRYSTALS @ 15.00								
ORIGINAL		AMOUNT TOTAL	SALES TAX	EXPEDITE & HANDLING	FREIGHT CHARGE	INSURANCE CHARGE	C.O.D. CHARGE	INVOICE TOTAL
		25.50		10.00				55.

AFFIDAVIT

I declare under penalty of perjury under the laws of the United States that the foregoing Supplement to Opposition to Petition for Reconsideration is true and correct.

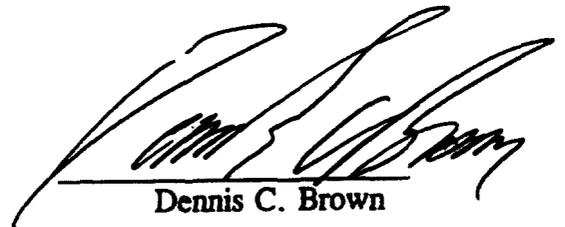
Executed on 10-19, 1994.

M. M. M. M.

CERTIFICATE OF SERVICE

I hereby certify that on this twentieth day of October, 1994, I served a copy of the foregoing Supplement to Opposition to Petition for Reconsideration on the following person by placing a copy in the United States Mail, first-class postage prepaid:

Gerard Pick
Lance Hardy Best Advertising
P.O. Box 3032
Santa Monica, California 90408



Dennis C. Brown

ATTACHMENT NO. 5

FEDERAL COMMUNICATIONS COMMISSION
FEE PROCESSING FORM

FOR
FCC
USE
ONLY

Please read instructions on back of this form before completing it. Section I MUST be completed. If you are applying for concurrent actions which require you to list more than one Fee Type Code, you must also complete Section II. This form must accompany all payments. Only one Fee Processing Form may be submitted per application or filing. Please type or print legibly. All required blocks must be completed or application/filing will be returned without action.

SECTION I

APPLICANT NAME (Last, first, middle initial)

United Corp of So. Cal. & James A. Kay, Jr.

MAILING ADDRESS (Line 1) (Maximum 85 characters - refer to Instruction (2) on reverse of form)

c/o Robert J. Keller, P.C.

MAILING ADDRESS (Line 2) (if required) (Maximum 85 characters)

4200 WISCONSIN AVE NW #106-233

CITY

WASHINGTON

STATE OR COUNTRY (if foreign address)

DC

ZIP CODE

20016-2143

CALL SIGN

OTHER FCC IDENTIFIER

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in FCC Fee Filing Guides. Enter in Column (B) the Fee Multiple, if applicable. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number entered in Column (B), if any.

(A)	(B)	(C)	FOR FCC USE ONLY
FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	
(1) C I Z		\$ 150.00	

SECTION II — To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

(A)	(B)	(C)	FOR FCC USE ONLY
FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	
(2)		\$	
(3)		\$	
(4)		\$	
(5)		\$	
ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (5), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.		TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING	FOR FCC USE ONLY
		\$ 300.00	

ROBERT J. KELLER, P.C.
2000 I STREET, N.W., SUITE 200
WASHINGTON, D. C. 20036

2186
18-154448

20 May 19 97

PAY TO THE ORDER OF Federal Communications Commission

\$ 300.00

Three Hundred and 00/100

DOLLARS

FRANKLIN

FRANKLIN

FOR #00 2186# -#054001547# 10112429#117

Robert Keller

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

In the matter of)
)
United Corporation of Southern California,)
)
And)
)
James A. Kay, Jr.,)
)
Complainants)
)
- versus -) File No. _____
)
Jim Doering d/b/a)
J. Doering Communications)
)
and)
)
Harold Pick d/b/a)
Communications Consultants Systems,)
)
Defendants)

To: Chief, Enforcement Division
Wireless Telecommunications Bureau

**FORMAL COMPLAINT, PETITION FOR DECLARATORY RULING,
AND INFORMAL REQUEST FOR COMMISSION ACTION**

United Corporation of Southern California ("United") and James A. Kay, Jr. ("Kay"), pursuant to Section 208 of the Communications Act of 1934, as amended, 47 U.S.C. § 208; Sections 1.711 and 1.720-1.735 of the FCC Rules and Regulations, 47 C.F.R. §§ 1.711 & 1.720-1.735; Section 5(d) of the Administrative Procedure Act, 5 U.S.C. § 554(e); Section 1.2 of the FCC Rules and Regulations, 47 C.F.R. § 1.2; and Section 1.41 of the FCC Rules and Regulations, 47 C.F.R. § 1.41; hereby commences this action against Jim Doering d/b/a Doering Communications, ("Doering") and Harold Pick d/b/a Communications Consultants Systems ("Pick")¹ in support whereof the following is respectfully shown:

¹ This complaint is being filed against both Doering and Pick because it is alleged that they have acted in concert, see 47 C.F.R. § 1.735(a), in that Pick was aware of, had a motive for, and may have participated in the wrongdoing alleged against Doering. The appropriate filing fee has been submitted as to both Defendants, and the original and six copies (three for each Defendant) of the complaint have been filed.

I. FORMAL COMPLAINT

A. Factual Allegations

1. Complainant United is a corporation, doing business under the name Hotline Cleaning Center and Maintenance Company, engaged in the sales and service of high pressure cleaning equipment and the performance of contract cleaning. Mr. Robert L. Springfield ("Springfield") is the sole shareholder of United. Springfield retired from full-time employment in September of 1995, turning day-to-day operations over to his son, but he retains his voting control and continues to oversee all major business decisions. United's business address and telephone number are:

United Corporation of Southern California
542 East Central Park
Anaheim, CA 92802
714-533-4906

2. Complainant Kay is an individual engaged in the land mobile radio business, including the operation of Specialized Mobile Radio Systems, in the Los Angeles, California, area. Complainant Kay is a commercial competitor of both Defendant Doering and Defendant Pick in the Los Angeles mobile radio business. Kay's full name, business mailing address, and business telephone number are:

James A. Kay, Jr.
P.O. Box 7890
Van Nuys, CA 91409-7890
818-997-7700

3. Defendant Doering is an individual, doing business under the name J. Doering Communications, engaged in the land mobile radio business, including the operation of Specialized Mobile Radio Systems, in the Los Angeles, California, area. Doering and Kay are commercial competitors in the Los Angeles mobile radio business. Complainant's full name, mailing address, and telephone number are:

James Doering
511 South Palm Avenue, Unit 2
Alhambra, CA 91803
818-308-0398

Defendant Doering is believed to be represented by the following legal counsel in this matter:

Lewis H. Goldman, Esq.
1850 M Street, N.W. - Suite 1080
Washington, D.C. 20036

4. Defendant Pick is an individual, doing business under various names, including Communications Consultants Systems, engaged in the land mobile radio business, including the operation of Specialized Mobile Radio Systems, in the Los Angeles, California, area. Pick and Kay are commercial competitors in the Los Angeles mobile radio business. Pick's full name, mailing address, and telephone number are:

Harold Pick
350 Mesa Drive
Santa Monica, CA 90402
310-454-9561

Complainants do not know whether Defendant Pick is represented by legal counsel in this matter.

5. In connection with its business operations, United uses, and has at various times in the past used, one or more mobile radios for dispatching and communications. To provide for these communications needs, United obtained an FCC authorization for Business Radio Service Station WNMT733, to operate a repeater on the frequency pair 808/853.0375 MHz at Santiago Peak in El Toro (Orange County) California. In November of 1993 the FCC renewed United's authorization for a new term expiring November 11, 1998. Exhibit No. 1 appended hereto is a true and accurate copy of United's authorization.

6. The Santiago Peak repeater was operated and maintained for United by Defendant Pick. At some point in mid-to-late 1995, but prior to September 16, 1995, Springfield entered into an oral agreement with Pick that provided for the assignment of the license from WNMT733 from United to Pick, subject to receipt of prior FCC approval, and for United to continue to receive repeater service through the facility from Pick at no charge.

7. Springfield is not involved in the land mobile radio industry and therefore does not have a sophisticated understanding of the FCC procedures and regulations applicable to these systems. Springfield understood, based on statements made to him by Pick, that it was necessary for United to assign its license to Pick in order to continue receiving repeater service. Springfield has only recently learned that there are several other options.

8. In reliance on statements made by Pick, Springfield signed an FCC Form 1046 with the understanding that it was to be used as part of an application for FCC consent to the assignment of the license from United to Pick. Springfield does not recall the exact date on which he signed the form, but it was definitely prior to September 16, 1995, the date on which Springfield was married and since which he has been retired from full-time employment. At the time Springfield signed the FCC Form 1046, it did not designate Jim Doering or J. Doering

Communications as the assignee. At that time Springfield did not know, had never met, and had never heard of Jim Doering or J. Doering Communications.

9. Springfield retired from active, full-time employment with United as of September 16, 1995, the date on which he got married. Mr. Springfield was out of the country on a honeymoon cruise from September 18, 1995 through September 22, 1995. During that time he was not asked to and he did not sign any documents relating to Station WNMT733.

10. Defendant Pick never filed an application with the FCC seeking assignment of the license for WNMT733 from United to Pick.

11. On March 21, 1997, through legal counsel, United advised Pick, in writing, that any undertaking to assign the authorization to Pick was expressly revoked because (a) more than 18 months had passed since Springfield's execution of FCC Form 1046, and (b) Pick had never filed the application with the FCC. Exhibit No. 2 appended hereto is a true and accurate copy of that notice. Pick has never responded to this written notification.

12. United has never authorized the assignment of the license for WNMT733 to any other person or entity.

13. On or about December 14, 1995, Defendant Doering caused to be filed with the Federal Communications Commission ("FCC") an application (hereinafter referred to as the "Assignment Application"), including FCC Forms 600 and 1046, seeking, among other things, FCC consent to the assignment of the license for Station WNMT733 from United to Doering. Exhibit No. 3 appended hereto is true and accurate copy of the Assignment Application.

14. Included in the Assignment Application is an FCC Form 1046 purporting to have been signed by Mr. Robert J. Springfield on September 19, 1995 and designating "Jim Doering d/b/a J. Doering Communications" as the assignee.

15. Springfield was out of the country on September 19, 1995. Springfield did not execute any FCC Form 1046 on September 19, 1995, or on any date after September 15, 1995. Springfield has never signed an FCC Form 1046 designating Jim Doering d/b/a J. Doering Communications, or any variation thereof, as the assignee.

16. Included in the Assignment Application is a document entitled, "Certificate of Construction," dated September 20, 1995, and bearing the name "Robert L. Springfield." The Certificate of Construction has the letters, characters, and words "By: Robert L. Springfield" typewritten beneath the signature line; the letters,

characters, and words "/s/ Robert L. Springfield" typewritten above the signature line, and the letters, characters, and words "Dated: September 20, 1995" typewritten to the right of the signature line.

17. Springfield did not sign the Certificate of Construction or any document resembling it on September 20, 1995, or at any other time. Springfield has never authorized anyone to represent or indicate that he had signed or would sign any such document.

18. The Certificate of Construction includes the statement, among others, that Station WNMT733 was fully constructed on November 18, 1988. The Springfield Certificate also includes the statement, among others, that the proposed assignor does not anticipate that the proposed assignee will make any substantial changes to the station except as set forth in the Assignment Application.

19. Springfield has never advised Doering or any other person of the construction completion date for Station WNMT733. Springfield has never made any statement to any person regarding his expectations about changes of station operations after assignment of the authorization to Doering. Springfield was never advised that Doering was seeking to take assignment of the authorization.

20. On or about September 20, 1995, Defendant Doering signed the Assignment Application at Item 42 of FCC Form 600 therein, thereby certifying that the information contained therein was true and accurate.

21. As of September 20, 1995, the date on or about which the Assignment Application was signed, Defendant Doering had never met Springfield and had no agreement or understanding with Springfield or United regarding assignment of the license for Station WNMT733.

22. As of December 15, 1995, the date on or about which the Assignment Application was submitted to the FCC, Defendant Doering had never met Springfield and had no agreement or understanding with Springfield or United regarding assignment of the license for Station WNMT733.

23. Defendant Doering has never had an agreement or understanding with Springfield or United regarding assignment of the license for Station WNMT733.

24. Defendant Doering caused the Assignment Application to be prepared, filed with the FCC, and prosecuted without the knowledge or consent of Springfield or United.

25. Defendant Doering knew or should have known that the Assignment Application contained false and misleading statements and included forged or altered documents.

34. During the period including September 1995 through December 1995, Defendant Pick was in Chapter 7 bankruptcy. On May 12, 1995, the United States Bankruptcy Court for the Central District of California, in Case No. LA93-38738LF, issued an order authorizing the Chapter 7 bankruptcy trustee to sell Pick's assets, including FCC radio authorizations. Exhibit No. 4 appended hereto is a true and accurate copy of that order.

35. Defendant Pick arranged for the license for Station WNMT733 to be assigned to Defendant Doering in order to avoid possible seizure and sale of the authorization by the bankruptcy trustee.

36. Defendant Doering knew or should have known that the arrangement to assign the authorization from United to Doering rather than to Pick was part of a scheme to shield assets from possible seizure and sale by the bankruptcy trustee.

37. Exhibit No. 5 appended hereto is a copy of the Declaration of Robert L. Springfield, the original of which was previously filed with the Wireless Telecommunications Bureau staff in Gettysburg, Pennsylvania. Springfield's declaration provides a sworn statement avering to most of the above factual allegations. As to any factual allegations above not addressed in Springfield's declaration and not subject to official notice, they are based on information and belief and are believed in good faith by Complainants to be true. ✓

38. Suit has not been filed in any court or other government agency on the basis of the same cause of action. This matter has been addressed to the staff of the Wireless Telecommunications Bureau in Gettysburg, PA, who have thus far refused to take any action on it.

B. Legal Conclusions

1. Part of the relief sought herein is the reinstatement to United of the license that was fraudulently assigned to Doering without United's knowledge or consent. As the rightful licensee of Station WNMT733 and the victim of a scheme to fraudulently assign the license, Complainant United clearly has standing as a party-in-interest in this matter.

2. Part of the relief sought herein is the imposition of regulatory sanctions against Defendants Doering and Pick, including the institution of license revocation proceedings and the denial of Defendants' pending applications. As a commercial competitor of both Doering and Pick in the Los Angeles mobile radio business, Kay has standing as a party-in-interest in this matter.²

² *FCC v. Sanders Brothers*, 309 U.S. 470 (1940).

3. The facts clearly demonstrate that the assignment of the authorization to Doering was accomplished by means of fraud on both United and the Commission. In similar circumstances, and on the basis of mere unsworn allegations and far less proof than shown here, the Commission has summarily reinstated an authorization to the previous holder.³ No less is required in this instance.⁴

4. The facts alleged above present a *prima facie* case that Defendants Doering and Pick have caused to be filed with the Commission a fraudulent assignment application containing false statement and forged documents. FCC applicants and licensees have a duty of candor which requires them to be "fully forthcoming as to all facts and information relevant" to such applications. *Swan Creek Communications v. FCC*, 39 F.3d 1217, 1222 (D.C. Cir. 1994). Relevant information is defined as "information that may be of decisional significance." *RKO General, Inc. v. FCC*, 670 F.2d 215, 229 (D.C. Cir. 1981), *cert. denied*, 456 U.S. 927 and 457 U.S. 1119 (1982). It is difficult to imagine a more decisionally significant piece of information than the fact that the proposed assignor has no knowledge of and did not consent to the assignment application before the Commission. Yet, Doering not only withheld this information from the Commission, he took affirmative steps to represent contrary information. There is also sufficient reason to believe that Pick had a motive for, was aware of, and may even have participated in this misrepresentation.

5. This case involves false statements of fact made with an intent to deceive. *Fox River Broadcasting, Inc.*, 93 FCC 2d 127, 129 (1983). The Commission "must demand candor from those who come before it and must refuse to tolerate deliberate misrepresentations." *Nick J. Chaconas*, 28 FCC 2d 231, 233 (1971), *citing FCC v. WOKO, Inc.*, 329 U.S. 223 (1946) and *WMOZ, Inc.*, 36 FCC 202 (1964), *aff'd* 3 FCC 2d 637 (1966). The Commission therefore can not and does not tolerate intentional misrepresentation, even of otherwise insignificant information. "The fact of concealment may be more significant than the facts concealed." *Id.*, 329 U.S.

³ See 12 October 1995 letter from William H. Kellett, Esq. to Shirely S. Fujimoto, Esq. in the Matter of AVCOM Co. (Station WNPA325), *citing Vidcom Marketing, Inc.*, 6 FCC Rcd 1945 (1991). A copy of Mr. Kellett's letter is appended hereto as Exhibit No. 6. In that case, on the basis of an unsworn and uncorroborated allegation that an authorization had been fraudulently assigned, and even though the allegation was contradicted by two separate sworn affidavits of persons directly involved in and with personal knowledge of the matter, the Commission nonetheless summarily, without hearing, and without even acknowledging, much less resolving, the disputed facts, reinstated the authorization to the previous holder. Certainly no less can be required in this case.

⁴ After consenting to the assignment of license to Doering, the Commission, on December 27, 1996, awarded a finder's preference to Mobile Relay Associates, Inc. ("MRA"). See *Compliance File No. 96F160*. Doering has sought reconsideration of that action and it remains pending before the Commission. Neither MRA nor the Commission served the finder's preference request on United, and United was therefore entirely unaware that it had been filed. In these circumstances, the finder's preference award should not prevent United from reclaiming its license.

at 237. More than any other type of violation, acts of intentional misrepresentation go to the core of the Commission's concerns about basic character qualifications. *See Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC2d 1179, 1204-1205 & 1210-11 (1985), *recon. denied*, 1 FCC Rcd 421 (1986), *modified*, 5 FCC Rcd 3252 (1990), *recon. granted in part*, 6 FCC Rcd 3448 (1991); *see also WPOM Radio Partners, Ltd.*, 6 FCC Rcd 1413 (1991).

6. A prima facie showing has been made raising substantial and serious question as to the qualifications of Defendants Doering and Pick to continue to be Commission licensees.

C. Requested Relief

1. In view of the foregoing, Complainant United respectfully requests the reinstatement to it of the authorization for Business Radio Service Station WNMT733.

2. In view of the foregoing, Complainant Kay respectfully requests:

- (a) that any pending applications filed by Defendants Doering or Pick be set for hearing, pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(e), on the issue of whether the applications should be denied on the grounds that the applicants lack basic character qualifications;
- (b) that any authorizations granted to Defendants Doering or Pick within the past 30 days be set aside, pursuant to Section 405 of the Communications Act of 1934, 47 U.S.C. § 405(a), and included in the hearing requested in item C.2(a), above;
- (c) the issuance and due service of an order to show cause, pursuant to Section 312(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 312(c), why all FCC licenses held by Defendants Doering or Pick should not be revoked pursuant to Section 309(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 312(a); and
- (d) the issuance and due service of a notice of apparent liability, pursuant to Section 503(b) of the Communications Act of 1934, as amended, for forfeitures in appropriate amounts to Defendants Doering and Pick.