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

In re Application of:)	MM DOCKET NO. <u>88-577</u> ,
)	
LIBERTY PRODUCTIONS,)	File No. BPH-870831MI
A LIMITED PARTNERSHIP)	
)	
For Construction Permit)	
for a New FM Broadcast)	
Station on Channel 243A)	
)	
Biltmore Forest,)	
North Carolina)	

To: The Commission

OPPOSITION TO JOINT REQUEST
FOR APPROVAL OF SETTLEMENT

Respectfully submitted,

YELVERTON LAW FIRM, P.L.L.C.

Stephen T. Yelverton, Esq.
Attorneys for Willsyr Communications
 Limited Partnership
601 Pennsylvania Ave, N.W., Suite 900
Washington, D.C. 20004
Tel: (202) 329-4200

November 29, 2000

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OPPOSITION TO JOINT REQUEST
FOR APPROVAL OF SETTLEMENT

Willsyr Communications, Limited Partnership ("Willsyr"), by its attorneys, pursuant to 47 CFR 1.4 (h), 1.294 (c)(4), 1.2108 (b), and 73.5006 (b), hereby submits its "Opposition to Joint Request for Approval of Settlement." On November 14, 2000, Liberty Productions, a Limited Partnership ("Liberty") and Biltmore Forest Broadcasting FM, Inc. ("BFBFM") filed a "Joint Request for Approval of Settlement." In opposition thereto, Willsyr submits the following comments.

Statement of the Facts

Liberty was the high bidder in the Biltmore Forest auction, held in September 1999, with a bid of over \$2 Million Dollars. BFBFM was the second highest bidder with a bid slightly under that amount. Orion Communications, Limited ("Orion") was the third highest bidder at some \$1 Million Dollars. Willsyr was the fourth highest bidder.

In the joint request, Liberty proposes that it withdraw its high bid and allow BFBFM to claim the Biltmore Forest license. BFBFM would pay Liberty its application, auction, and litigation expenses of some \$247,000, plus a \$75,000 consulting fee. However, BFBFM is willing to pay the FCC only \$643,500 for the license, rather than its actual bid of some \$2 Million Dollars. Liberty moreover requests that it not be liable for any default penalty for the difference between its high bid and BFBFM's actual payment to the FCC.

Willsyr's Comments

Willsyr has no objection to Liberty withdrawing its high bid, dismissing its application with prejudice, being reimbursed its expenses and paid a consulting fee, and the Commission waiving any default penalties against Liberty. However, Willsyr does object to BFBFM being allowed to obtain the Biltmore Forest license for over a Million Dollars less than its own bid price and for less than the bid price of the third highest bidder.

BFBFM's rationale for this extraordinary action is that Liberty was not a qualified bidder and thus its participation tainted the auction bidding process. However, if that is the case, then all the bidders, including Orion and Willsyr, were equally disadvantaged by Liberty's improper participation in the auction.

Substantial questions about Liberty's lack of bona fides were readily apparent to all the competing bidders prior to the auction. Because of these substantial questions that Liberty would ever be found qualified, Willsyr chose not to engage in a bidding war with Liberty, or in a three-way bidding war with Liberty and BFBFM.

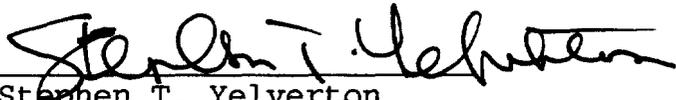
Accordingly, the only fair and appropriate resolution is for the Commission to conduct a new auction for Biltmore Forest, pursuant to 47 CFR 1.2109 (b), with participation limited to BFBFM, Orion, and Willsyr. 1/ The bidders could agree to pay the expenses of Liberty and the consulting fees in the settlement agreement, and otherwise honor the terms of that settlement, if the high bidder obtains a final grant of the Biltmore Forest license.

If the Commission determines not to conduct a new auction, BFBFM must be required to pay the price that it finally bid in the September 1999 auction, as required by 47 CFR 1.2109 (b). Moreover, as the tentative selectee, BFBFM's qualifications must be subject to full review and scrutiny.

WHEREFORE, in view of the foregoing, Willsyr opposes the joint request to the extent noted and further urges the Commission to direct that a new auction be conducted for Biltmore Forest. 2/

Respectfully submitted,

WILLSYR COMMUNICATIONS,
LIMITED PARTNERSHIP

By: 
Stephen T. Yelverton
Yelverton Law Firm, P.L.L.C.
601 Pennsylvania Ave., N.W.
Suite 900 South
Washington, D.C. 20004
Tel: 202-329-4200

November 29, 2000

1/ 2/ A new auction would presumably open a new window for all the applicant bidders to enter into a universal settlement prior to the filing of their short form 175.

CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney, do hereby certify that on this 29th day of November, 2000 I have caused to be hand-delivered or mailed, U.S. Mail, first-class, postage prepaid, a copy of the foregoing "Opposition to Joint Request for Approval of Settlement" to the following:

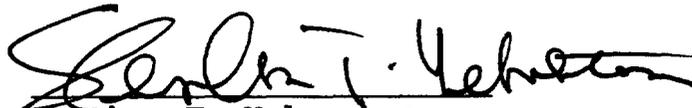
John I. Riffer, Esq.*
Associate General Counsel
Federal Communications Commission
Washington, D.C. 20554

James Shook, Esq.
Enforcement Bureau
Hearing Division
Federal Communications Commission
Washington, D.C. 20554

Timothy Brady, Esq.
P.O. Box 71309
Newman, GA 30271-1309

Donald J. Evans, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th St., 11th Fl.
Arlington, VA 22209

Lee Peltzman, Esq.
Shainis & Peltzman
1850 M St., N.W., Suite 209
Washington, D.C. 20036


Stephen T. Yelverton

* Hand Delivery