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

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In re Applications of) MM DOCKET NO. 97-128
)
 MARTIN W. HOFFMAN,)
)
 Trustee-in-Bankruptcy for Astroline) File No. BRCT-881201LG
)
 Communications Company Limited)
)
 Partnership)
)
 For Renewal of License of)
)
 Station WHCT-TV, Hartford, Connecticut))
)
 SHURBERG BROADCASTING OF HARTFORD) File No. BPCT-831202KF
)
)
 For Construction Permit for a New)
)
 Television Station to Operate on)
)
 Channel 18, Hartford, Connecticut)

TO: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

Movant Alan Shurberg hereby submits its opposition to the Petition for Reconsideration filed on December 8, 2000 on behalf of Richard Ramirez. On December 12, 2000, closing had in-fact occurred with respect to the transfer of the Channel 18 license to Entravision Communications Corporation. Entravision intends, on or about January 1, 2001, to broadcast programming completely in Spanish, adding new and diverse programming to the Hartford DMA, in a manner that was achieved absent any consideration by the Commission based on race or ethnicity, and completely compatible with strict scrutiny requirements set forth in Adarand v. Peña.

ARGUMENT

1. RAMIREZ LACKS REQUISITE STANDING TO APPEAL THE COMMISSION'S NOVEMBER 8, 2000 APPROVAL

The November 8, 2000 MO&O notes the terms of the Settlement Agreement, and gives Ramirez a clean bill of health with respect to his involvement with the Astroline proceedings. That point is where Ramirez' arguable legitimate interests in this proceeding end. Ramirez has not lived in the Hartford DMA in a dozen years. Ramirez is not a current resident of Connecticut and has not been for over a decade. Nor has Ramirez worked at WHCT in a dozen years. Ramirez is not a regular viewer of the station. WHCT has continually been in bankruptcy proceedings since 1988, and has been in Chapter 7 liquidation

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proceedings since 1991. At that time, Martin Hoffman was appointed trustee-in-bankruptcy of Astroline, possessing all the powers of stewardship of WHCT, subject to Commission and bankruptcy court oversight. 11 U.S.C. 704. Ramirez has no cognizable interest in whatever occurred before the Commission regarding WHCT, other than arguably clearing his own name and reputation before the Commission.

2 THE COMMISSION HAS EXPRESSLY APPROVED THE USE OF COMPARATIVE RENEWAL PROCEEDINGS AND THE USE OF SETTLEMENT TO RESOLVE THEM.

In August 1998, the Commission issued a First Report and Order, MM Docket 97-234, detailing what it would do with the few remaining comparative renewal proceedings before it. Resolution of Pending Comparative Renewal Proceedings. para. 209-214. It stated that it would resolve the pending applications through comparative proceedings; “[the Commission] has no choice here other than to use comparative hearings”. Order at para. 211. That Order is final. Ramirez’ suggestion that the Commission now auction the rights to Channel 18 runs contrary to the law and facts in this case. Any attempt by Ramirez to revive the Commission’s consideration of the matter, assuming, arguendo, he had standing to do so, is untimely.

Moreover, the Commission expressly stated that settlement of the few remaining comparative proceedings serves the public interest. “[The Commission] remain[s] willing where the circumstances afford assurance that the competing applications were not filed for speculative or other improper purpose, to waive the limitations on payments to dismissing applicants in comparative renewal proceedings. This will serve the public interest []”. Order at para. 214. See also EZ Communications, FCC Rcd 3307 (1997). This matter provides an additional reason to waive the limitations of 47 C.F.R. 73.3523, and with the Commission noting that “Other requests involving similar comparative renewal proceedings will be considered under this precedent”.

A petition for reconsideration is something other than a regurgitation of unsupported observations which the Commission has rejected. As even Ramirez acknowledges, “[T]he Commission erroneously concluded that Shurberg’s 1983 application was not filed for an abusive purpose, and that he has not regularly abused the Commission processes”. Ramirez Reconsideration at 4. See also Reconsideration n.3 “The Commission asserts that there is no evidence that Shurberg filed his application for abusive purposes”. Ramirez has not presented any basis for which the Commission should disturb its findings in its

November 8, 2000 MO&O. Ramirez' objections must fail.

3 IF THE COMMISSION'S NOVEMBER 8 APPROVAL IS REFINDED, CHANNEL 18 WILL GO PERMANENTLY DARK

The bankruptcy sale of the physical assets of WHCT were sold to Entravision pursuant to the irreversible sale provisions of 11 U.S.C. 363(m). At no time did Ramirez obtain a stay preventing that sale from occurring.

The absence of a stay renders a bankruptcy sale, once completed, moot. *In re Gucci*, 126 F.3d 380 (2d Cir. 1997). Assuming, arguendo, the Commission retained continued jurisdiction over the bankruptcy transfer of the WHCT license, such limited jurisdiction does not in any event have any application other than to the Channel 18 license itself. At the December 12, 2000 closing, Entravision irrevocably acquired possession in either ownership or lease to all of the facilities which have been used by Astroline to broadcast on Channel 18. This includes the rights to the transmitter, the antenna site and facilities, and other equipment and leases. Should the December 12, 2000 closing be in any revoked or altered, there would be no operation of Channel 18. The station would simply remain dark. There are no reversionary provisions in the Settlement Agreement that would allow the trustee-in-bankruptcy to turn back the clock to prior to December 12, 2000 and to resume broadcasting any signal or programming under any circumstances. The completion of the bankruptcy sale of the physical assets pursuant to 11 U.S.C. 363(m) limits the Commission from ever unscrambling the egg with respect to the practical considerations of operating a signal on Channel 18. Any alteration of the Settlement Agreement with respect to interests and rights of the individual parties would render the agreement a practical nullity to all, assuming, arguendo, the Commission were ever inclined to do so.

The public interest demands a final end to these twenty year old proceedings and allow the unfettered operation of the station by an unquestionably bona fide and legitimate broadcaster with an unblemished record of past performance to broadcast diverse programming completely in Spanish to the Hartford market.

CONCLUSION

For the reasons stated, the Ramirez Petition for Reconsideration should be summarily dismissed, or alternatively denied.

Respectfully submitted,



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December 19, 2000

CERTIFICATE OF SERVICE

I, Alan Shurberg, state that a copy of the foregoing "Motion for Extension of Time" was sent via first class mail on December 19, 2000 to the following:

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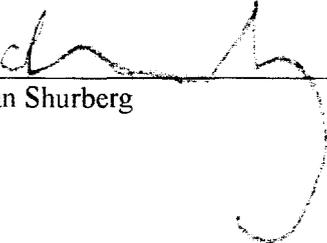
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Alan Shurberg

¹ Due to a winter snowstorm in Washington, Shurberg is filing the opposition pro se. However he continues to be represented by Jonathan Shurberg, Esq.