

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

In re) EB Docket No. 01-39
)
FAMILY BROADCASTING, INC.)
)
Order to Show Cause Why the Licenses for)
Stations WSTX(AM) and WSTX-FM,)
Christiansted, U.S. Virgin Islands,)
Should Not Be Revoked)

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JUN 23 2003

Federal Communications Commission
Office of the Secretary

To: Chief Administrative Law Judge
Richard L. Sippel

ENFORCEMENT BUREAU'S STATUS REPORT

1. The Enforcement Bureau ("Bureau"), pursuant to *Order*, FCC 03M-22, released June 18, 2003, hereby submits a Status Report. The Status Report will address the status and prospects for favorable action on pertinent pending assignment applications and explain why no new hearing dates should be set.

2. By *Order*, FCC 03M-09, released February 26, 2003, the instant proceeding was held in abeyance pending disposition of proposed applications to assign the licenses for Stations WSTX/WSTX-FM from Family Broadcasting, Inc. ("Family") to Caledonia Communications Corporation ("Caledonia") pursuant to the Commission's Minority Distress Sale Policy ("Distress Sale Policy"). Family and Caledonia filed their applications on March 4, 2003 (lead File No. BALH-20030304AAW). On April 14, 2003, Joseph Bahr filed an informal objection. On April 18, 2003, Robert Hoffman, a resident of St. Croix, filed a petition to deny. Both Mr. Bahr and Mr. Hoffman challenge the *bona fides* of the distress sale. In addition, Mr. Hoffman appears to argue that grant of the assignment of Station WSTX-FM would not be consistent with

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the Commission's multiple ownership rules. See 47 C.F.R. § 73.3555. Caledonia filed oppositions to the petition to deny and the informal objection on May 6 and 13, 2003, respectively.

3. On June 2, 2003, the Commission adopted a *Report and Order* in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317 and 00-224, revising the multiple ownership rules. That same day, the Media Bureau issued a *Public Notice*, DA 03-1877, which, *inter alia*, states the following with respect to the processing of broadcast license assignment applications:

Pending Applications. Applicants with long-form assignment or transfer of control applications (FCC Form 314 or 315) ... that are pending as of adoption of the *Order* ("Pending Applications") may amend those Applications by submitting new multiple ownership showings to demonstrate compliance with the ownership rules adopted in the *Order* or by submitting a request for waiver of the new rules.¹ Parties may file such amendments once notice has been published by the Commission in the *Federal Register* that OMB has approved the information collection requirements....

Pending Petitions and Objections. Petitions to deny and informal objections that were submitted to the Commission prior to the adoption date of the *Order* and that raise issues unrelated to competition against Pending Applications (as defined above) will be addressed with respect to those issues at the time we act on such Applications.

¹ The Commission may determine that the nature of the amendment warrants a new public notice for the Pending Application.

To date, the Commission has not yet released a final version of the revised multiple ownership rules.

4. It is by no means clear that the new multiple ownership rules will affect in any way the pending assignment applications. However, because the possibility exists, the Bureau

understands that the Media Bureau is not likely to resume processing the Family/Caledonia applications until the final version of the revised rules has been released and the Office of Management and Budget has issued approvals of the new application forms and instructions. Hence, it may be months before the issues raised by the informal objection and petition to deny are resolved.

5. Nevertheless, the Bureau submits that new hearing dates should not be set. As noted above, Family has invoked the Distress Sale Policy. That policy allows Family, prior to the commencement of a hearing, to sell its stations that are in jeopardy for no more than 75 percent of their fair market value to a minority-controlled entity. The Family/Caledonia applications propose to do just that. If the Media Bureau finds that the proposed transaction falls within the Distress Sale Policy and that the proposed assignments are otherwise consistent with the Commission's rules, it will grant them, obviating the need for a hearing. In light of this concrete possibility, it would be a waste of Commission resources to resume the hearing proceeding (*i.e.*, prepare for the hearing, take testimony, prepare proposed findings of fact and conclusions of law, issue an initial decision, etc.) as long as there is a reasonable prospect that the parties will

continue to prosecute their applications and the Media Bureau can grant them.

Respectfully submitted,

for 
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June 23, 2003

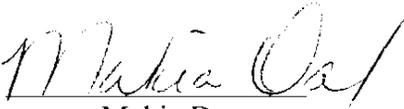
CERTIFICATE OF SERVICE

Makia Day, a staff assistant with the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 23rd day of June, 2003, sent by first class United States mail or by hand copies of the foregoing "Enforcement Bureau's Status Report" to:

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