FCC MAIL SECTION

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

AUG 8 11 40 AM '03

In the Matter of	)	EB DOCKET NO. 00-156
	)	
Ronald Brasher Licensee of Private Land Mobile Stations WPLQ202, KCG967, WPLD495, WPKH771, WPKI739, WPKI733, WPKI707, WIL990, WPLQ475, WPLY658, WPKY903, WPKY901, WPLZ533, WPKI762, and WPDU262 Dallas/Fort Worth, Texas	)	
	)	
Patricia Brasher Licensee of Private Land Mobile Stations WPJI362, WPKY900, and WPLD570 Dallas/Fort Worth, Texas	)	
	)	
David Brasher Licensee of Private Land Mobile Stations WPBU651, and WPJR757 Dallas/Fort Worth, Texas	)	
	)	
D. L. Brasher Licensee of Private Land Mobile Station WPJR750 Dallas/Fort Worth, Texas	)	
	)	
O. C. Brasher Licensee of Private Land Mobile Station WPJR761 Dallas/Fort Worth, Texas	)	
	)	
Metroplex Two-Way Radio Service Licensee of Private Land Mobile Stations WPHS735, WPKP673, WPKM797, WPLZ841, and WPJR754 Dallas/Fort Worth, Texas	)	
	)	
DLB Enterprises, Inc. Licensee of Private Land Mobile Stations WPKM796, WPKL830, WPJY510, WPLU490, WPBH830, WPKP667, WPLY713, WPMH354, WPMH477, and WPKY978, Dallas/Fort Worth, Texas WNAH223 Cleora, Oklahoma	)	
	)	
DLB Enterprises, Inc., Applicant for Conventional Industrial/Business Private Land Mobile Licenses Dallas, Texas	)	File Nos. AO17774, AO20241 and AO19157

Applicant for Conventional Industrial/Business Private Land Mobile Licenses Crowley, Texas	)	File No. AO18555
Applicant for Trunked Industrial/Business Private Land Mobile Licenses Crowley, Texas	)	File No. AO20755
Applicant for Assignment of Private Land Mobile Stations from Ronald Brasher (WPKI707, WPKI739, WPKI733, and WPLQ475), D. L. Brasher (WPJR750), David Brasher (WPJR757), Metroplex Two-Way Radio Service (WPJR754), O. C. Brasher (WPJR761) Dallas, Texas	)	File No. D113240
Applicant for Assignment of Private Land Mobile Stations from Ronald Brasher (WPKI707, WPKI739, WPKI733, and WPLQ475), Norma Sumpter (WPJR739), D. L. Brasher (WPJR750), David Brasher (WPJR757), Jim Sumpter (WPJR725), Jennifer Hill (WPJR740), Metroplex Two-Way Radio Service (WPJR754), O C. Brasher (WPJR761), Melissa Sumpter (WPJS437) Dallas, Texas	)	File No. D113240
Applicant for Assignment of Private Land Mobile Station	)	File No. D113242
Applicant for Modification of Private Land Mobile Stations WPKM796, and WPKL830, and Assignment of Private Land Mobile Stations WPKI733, WPLQ475, WPKI707, and WPKI739 from Ronald Brasher and Assignment of Private Land Mobile Station WPKM797 from Metroplex Dallas, Texas	)	File No. D113241

Appearances

Michael L. Higgs, Jr., Esq., Robert H. Schwaninger, Jr., Esq., and Mark W. Romney, Esq., on behalf of Ronald D. Brasher, Patricia A. Brasher, and DLB Enterprises, Inc. d/b/a Metroplex Two-Way; *Ronnie D. Wilson, Esq., and K. Lawson Pedigo, Esq.*, on behalf of David and Diane Brasher; *Judy Lancaster, Esq., and William Knowles-Kellett, Esq.*, on behalf of the Chief, Enforcement Bureau, Federal Communications Commission; *John J. McVeigh, Esq.*, on behalf of witnesses Jim Sumpter, Norma Sumpter, Melissa Sumpter Ellington, and Jennifer Sumpter Hill; and *Jason M. Kerben, Esq.*, on behalf of witness Dawn D. Ross.

INITIAL DECISION OF ADMINISTRATIVE LAW JUDGE ARTHUR I. STEINBERG

Adopted: August 5, 2003 Released: August 8, 2003

I. PRELIMINARY STATEMENT

1. By *Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing*, 15 FCC Rcd 16,326 (2000) ("*HDO* "), the Commission designated for hearing the Private Land Mobile Station licenses of Ronald Brasher, Patricia Brasher, David Brasher, D. L. Brasher, Carolyn S Lutz, O. C Brasher, Jim Sumpter, Norma Sumpter, Melissa Sumpter, Jennifer Hill, Metroplex Two-Way Radio Service, and DLB Enterprises, Inc.[1] Also designated for hearing were several applications of DLB Enterprises, Inc. (a) for new Private Land Mobile licenses, (b) for the assignment of the existing Private Land Mobile licenses of Jennifer Hill, Ronald Brasher, Norma Sumpter, D. L. Brasher, David Brasher, Jim Sumpter, Metroplex Two-Way Radio Service, O. C. Brasher, and Melissa Sumpter, and (c) for the modification of two Private Land Mobile stations. The following issues were specified (*HDO* at para. 11):

(a) To determine whether any of the above-captioned licensees made misrepresentations to, and/or lacked candor before, the Commission in applications and/or responses to Commission inquiries;

(b) To determine whether any of the above-captioned licensees were undisclosed real-parties-in-interest or willfully and/or repeatedly violated § 310(d) of the Communications Act of 1934, as amended, by engaging in unauthorized transfers of control involving their respective stations;

(c) To determine whether any of the captioned parties abused the Commission's processes in connection with the filing of applications on behalf of O. C. Brasher, Ruth I. Bearden, Jim Sumpter, Norma Sumpter, Melissa Sumpter or Jennifer Hill;

(d) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the above-captioned licensees are basically qualified to be and/or remain Commission licensees;

(e) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether any or all of the above-captioned licenses should be revoked; [and]

(f) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether any or all of the above-captioned applications should be granted.

[1] Because there were several "Brashers" and "Sumpters" involved in this proceeding, those individuals were referred to throughout the hearing by their first names (*See* Tr. 30-31.) In a similar manner, Ronald Brasher will be referred to herein as "Ronald," Patricia Brasher as "Patricia," David (also known as D. L.) Brasher as "David," Thelma Diane Brasher as "Diane," O. C. Brasher as "O. C.," Jim Sumpter as "Jim," Norma Sumpter as "Norma," Melissa Sumpter (Ellington) as "Melissa," and Jennifer (Sumpter) Hill as "Jennifer." In some instances, however, the full names of these individuals will be used, and Jim, Norma, Melissa, and Jennifer may be referred to collectively as "the Sumpters." In addition, DLB Enterprises, Inc. d/b/a Metroplex Two-Way will be referred to herein as "Metroplex" and, on occasion, as "DLB," and Ruth I. Bearden will be referred to herein as "Bearden" or "Ruth "

2. The *HDO* stated that, irrespective of the resolution of the specified issues, it shall be determined, pursuant to Section 503(b)(3)(A) of the Communications Act of 1934, as amended ("Act"), whether an Order of Forfeiture, in an amount not to exceed $82,500, shall be issued against any or each of the parties for having willfully and/or repeatedly violated Section 310(d) of the Act. (*HDO* at para. 12.) In addition, pursuant to Section 312(d) of the Act and Section 1.91(d) of the Commission's Rules, the *HDO* assigned to the Enforcement Bureau ("Bureau") the burden of proceeding with the introduction of evidence and the burden of proof on Issues (a) through (e). Pursuant to Section 309(e) of the Act and Section 1.254 of the Rules, the burden of proceeding with the introduction of evidence and the burden of proof on Issue (f) was assigned to the applicants. (*Id.* at para. 15.)

3. As noted above, the Private Land Mobile Station licenses of Jim, Norma, Melissa, Jennifer, and Lutz were designated for hearing, as well as applications for the assignment of the licenses of Jim, Norma, Jennifer, and Melissa to Metroplex. Shortly after the release of the *HDO*, Jim, Norma, Melissa, Jennifer, and Lutz waived their rights to a hearing, requested that they be severed from this proceeding, and asked that their licenses be revoked or cancelled. By *Memorandum Opinion and Order*, FCC 00M-58, released October 26, 2000, their requests were granted, those individuals were severed from this proceeding, and their names were removed from the caption of this case. In addition, the hearing as it related to those individuals was terminated, and this matter was certified to the Commission. In *Carolyn S Lutz*, 16 FCC Rcd 16,675 (Enf. Bur. 2001), the Chief of the Enforcement Bureau, pursuant to delegated authority, cancelled the licenses for Private Land Mobile Stations held in the names of Jim, Norma, Melissa, Jennifer, and Lutz, and terminated this proceeding with respect to those licenses. By *Memorandum Opinion and Order*, FCC 02M-72, released August 2, 2002, the assignment applications of Jim, Norma, Jennifer, and Melissa were formally dismissed, at the request of the Bureau, and those applications were deleted from the caption of this proceeding.

4. A prehearing conference was held on October 23, 2000. The hearing was held in Washington, D. C., from February 26 to March 9, 2001. The record was closed at the conclusion of the March 9, 2001, hearing session. (Tr. 2457-58; *Order*, FCC 01M-06, released March 15, 2001.) Proposed findings of fact and conclusions of law ("PFCs") were filed by the Bureau and by Ronald, Patricia, and Metroplex on September 14, 2001. PFCs were filed by David and Diane on September 19, 2001. Amended PFCs were filed by Ronald, Patricia, and Metroplex on October 1, 2001,[2] and by David and Diane on January 17, 2002.[3] Reply findings were filed by all the parties on November 7, 2001.

II. FINDINGS OF FACT

5. It must be noted at the outset that many of the facts contained in the Findings of Fact are relevant to more than one issue. An attempt has been made to place those facts in their most appropriate and logical context and to avoid, as much as possible, unnecessary repetition. As a result, facts which have been cited or summarized in the Conclusions of Law, *infra*, may have been drawn from portions of the Findings of Fact which related to different issues.

[2] A motion to correct the amended PFCs of Ronald, Patricia, and Metroplex was granted by *Order*, FCC 01M-61, released November 16, 2001.

[3] David and Diane's amended PFCs were dated October 3, 2001. However, due to mail problems following the events of September 11, 2001, they were not received by the Commission's Office of the Secretary until January 17, 2002

A. Background

6 In 1982 (Tr. 752), Patricia Brasher was working for a two-way radio company in Texas when she began looking into the possibility of starting a two-way radio business with her husband, Ronald Brasher (Tr. 50). Patricia and two technicians with whom she worked wanted to know if the two-way radio business would be a good business, if they could do it. Patricia and Ronald asked Patricia's brother-in-law, Jim Sumpter, a Certified Public Accountant, to analyze a company which potentially wanted to sell. Jim analyzed the company and his advice to Patricia and Ronald was to start their own company. (Tr. 50-51, 85.) Jim advised Patricia to form a corporation for liability sake. (Tr. 1739-40.) After receiving Jim's advice, Patricia formed Metroplex with Jim's help. (Tr. 752.) Patricia "went and got the d/b/a name and the tax, all that type of stuff . . . [herself]." (Tr. 752.)

7. Patricia and her husband, Ronald, own Metroplex. Patricia owns 60 percent of the stock of Metroplex and Ronald owns the remaining 40 percent. (Tr. 48, 753-54.) Patricia serves as its president. (Tr. 751-52.) Ronald is a vice president and has been working for Metroplex since 1984. (Tr. 56-57, 1557.) David Brasher is Patricia and Ronald's son. David and his wife, Diane, are also officers of Metroplex. (Tr 52, 907-08, 1535, 1539.) David has been a vice president of Metroplex since the company's inception and an employee since April 1997. (Tr. 52-53, 906-08, 941.) Diane has been Metroplex's corporate secretary since the company's inception and has been an employee since April 1984. (Tr. 1538-39.) Collectively, Patricia, Ronald, David, and Diane make all major decisions for Metroplex, but Patricia testified that she has the final say. (Tr. 77-79, 771, 973, 1550.) Patricia stated that as long as she and Ronald were shareholders, they will have a hand in operating the business. (Tr. 770.) David testified that Ronald, as a shareholder, had every right to participate in the decision making (Tr. 973.)

8. Patricia had the primary responsibility for the office staff. (Tr. 168, 775-77, 1557.) Prior to November 2000, Ronald supervised the sales manager. The service manager reported to Ronald and Patricia and supervised the service staff. (Tr. 166-68.) Patricia had the final authority over the hiring of the sales and service persons, including the sales and service managers. (Tr. 775-76.) The final decision with regard to firing Metroplex employees was made by Patricia. (Tr. 165-66.) Ronald had primary responsibility for overseeing Metroplex's compliance with FCC regulations. (Tr. 942, 1557.) At the time of the hearing, David and Diane managed Metroplex's day-to-day operations. (Tr. 970, 1564.)

9. When Metroplex started business in 1982, Jim became the accountant for the company. (Tr. 84-85, 1739.) As Metroplex's accountant, Jim assisted Patricia in putting together Metroplex's accounting procedures. (Tr. 1870-71.) In addition, Jim did monthly compilations, bookkeeping type work, and filed the quarterly payroll reports and the year-end income tax returns. (Tr. 1739.) Jim gave advice on the hiring and firing of personnel only if it concerned "the employment rates." Jim explained that if Metroplex was going to terminate an employee for cause, it needed to make sure that everything was documented so that Metroplex's unemployment taxes would not go up. (Tr. 1740-41.) Jim also gave tax advice on the timing of large asset purchases. (Tr. 1741.) Jim billed Metroplex a flat rate monthly, and billed by time with respect to income tax returns. (Tr. 1740.)

10. Metroplex provides a two-way radio service which sells access to repeaters. (Tr. 61, 763-64.) In this connection, Metroplex sells, leases, installs, removes, services, and repairs mobile radio and data equipment. (Tr. 61, 63, 763.) Approximately 60 to 70 percent of Metroplex's business is attributable to its repeater access customers. (Tr. 624-25, 909-10.)

11 Metroplex employs 15 or 16 people. (Tr. 60.) Its gross revenue for the year 2000 was estimated to be $2 to $2.4 million. (Tr 64, 909.) In addition to operating its own stations, Metroplex has operated and "manage[d]" a number of stations that are licensed to others. (EB Ex 17, pp. 2-3.) The stations owned and/or managed by Metroplex included the following:

Call Sign	Licensee
WPLK797	Metroplex Two-Way Radio Service
WPJR754	Metroplex Two-Way Radio Service
WPKM796	DLB Enterprises, Inc.
WPKL830	DLB Enterprises, Inc.
WPJY510	DLB Enterprises, Inc.
WPLU490	DLB Enterprises, Inc.
WPJI362	Patricia A. Brasher
WPJR761	O. C. Brasher
WPKI739	Ronald D. Brasher
WPKI733	Ronald D. Brasher
WPKI707	Ronald D. Brasher
WIL990	Ronald D. Brasher
WPLQ475	Ronald D. Brasher
WPJR750	D. L. Brasher
WPJR757	David L. Brasher
WPJR763	Carolyn S. Lutz
WPJR740	Jennifer Hill
WPJS437	Melissa Sumpter
WPJR725	Jim Sumpter
WPJR739	Norma Sumpter

(*Id.* at 3; EB Ex. 4.)

12. Metroplex operates several stations, each of which is comprised of a repeater and related equipment. (Tr. 127-31.) Repeaters are used to increase the range of mobile radios. Metroplex's repeaters cover a radius of approximately 40 miles. Mobiles within this range are able to talk with each other by sending a radio signal through the repeater. (Tr. 764-67.) Metroplex's customers are primarily business and industrial companies (Tr. 153), which pay monthly fees per mobile radio to use this service (Tr. 886-87, 1272). Repeater customers also purchase radios and require service for their radios. (Tr. 1152.)

13. Metroplex personnel refer to 480 to 512 MHz stations as "T-band." (Tr. 647-48.) Metroplex operates 15 to 18 "T-band" channels serving 1,000 to 1,200 mobiles. (Tr. 616.) Metroplex offers T-band repeater service from three sites in Texas: Dallas, Fort Worth, and Allen. (Tr. 582-85, 887.) T-band customers pay a monthly fee of approximately $12 to $15 per mobile for their primary site, usually Dallas, and a small additional fee of approximately $2 to $3 to use either or both of the other sites. (Tr. 67-69, 153, 886-87.) In addition, Metroplex serves approximately 1,300 to 1,400 mobiles on its 900 MHz system and approximately 70 to 80 mobiles on its 800 MHz system (Tr. 576, 616-17.)

B. Real Party-in-Interest/Unauthorized Transfer of Control/Abuse of Process Issues (Issues b and c)

14. In the first part of 1995, two cement-hauling or concrete companies approached Ronald about using Metroplex to provide service for 600 to 800 mobile units. (Tr. 97-104, 105-06, 113,

576, 578-79, 1016-17.) To serve such potential customers, Ronald knew that Metroplex needed new T-band frequencies in place in 1996 to allow for private conversations. Ronald also knew that nothing in the 450, 800, or 900 MHz bands would work or was available. (Tr. 103-04.) Patricia and David also agreed that Metroplex needed more spectrum. (Tr. 778-79, 1016.) Consequently, Ronald sought additional T-band channels to enable Metroplex to provide the service. (Tr. 97-104, 105-06, 779)

15. Ronald was told by Scott Fennell of the Personal Communications Industry Association, Ltd. ("PCIA"), the frequency coordinator, that pursuant to PCIA and FCC rulings, Metroplex, Ronald, and Patricia could only apply for one T-band license in each of their names. (Tr. 290-91, 585.) John Black of Spectrum License Consultants, Inc., confirmed what Fennell had told Ronald. (Tr. 285-87, 290-91, 586, 1635-36.) Black understood PCIA policy to be parallel to Section 90.313(c) of the Commission's Rules, which stated, in pertinent part: "A licensee will be required to show that an assigned frequency pair is at full capacity before it may be assigned a second or additional frequency pair." (Tr. 1640-45, 1646.) Patricia also understood that a limit existed with respect to the number of licenses that any one entity could obtain at the same time. (Tr. 779-80.)

16. According to Ronald, Black advised him that Metroplex could obtain multiple T-band channels by using different names on the applications and then combining the licenses into one system. Ronald stated that Black told him that this was done throughout the industry. (Tr. 586.)[4] Ronald researched this matter and discovered that four companies had apparently structured their T-band systems in this manner. (Tr. 586-88.) Ronald testified that he did not believe the use of other person's names on applications for T-band licenses was illegal or was in violation of any Commission rule. Ronald thought it was permitted based on his research into the other companies (Tr. 588-89)

17. Ronald authorized Black to research frequencies in the T-band range. (Tr. 104.) Black gave Ronald a report showing what frequencies were already licensed. From that, Ronald derived a list of frequencies that he thought were available and gave the list to Black to check. (Tr. 108-10, 115, 571-73, 1647.) When they found several channels available for exclusive assignment in the relevant geographic area, Ronald faxed a list of names and addresses to Black and asked him to prepare applications for T-band licenses in those names. (Tr. 108-09, 116, 432-33, 1625-29, 1633-34, 1647-48; EB Ex. 19, p. 000229; EB Ex. 66.) Included in the list of names faxed to Black were: David L. Brasher, Norma Sumpter, D. L. Brasher, Jim Sumpter, Ruth I. Bearden, Carolyn Sue Lutz, O. C Brasher, Melissa Sumpter, and Jennifer Hill. (EB Ex. 19, p. 000229; EB Ex. 66, pp. 1-2; Tr. 432-33, 1624-25, 1627, 1633-34, 1647.) Ronald chose the sites for the potential licenses because Metroplex needed the coverage that those sites would provide in order to satisfy the needs of the cement hauling or concrete companies. (Tr. 111-13, 117, 1626-27.)

18. Black prepared the applications and returned them to Ronald. (Tr. 412-13.) After the applications were signed, they were submitted to PCIA to be coordinated. (Tr. 184-86, 426, 1661-62.) Among other things, the frequency coordinator certified that the applications requested available frequencies, and were complete and in compliance with the Commission's rules. (Tr. 2256, 2266.) PCIA then forwarded the applications to the Commission. (Tr. 2266; EB Ex. 35, pp. 3-8; EB Ex. 41, pp. 3-8; EB Ex. 49, pp. 2-7; EB Ex. 54, pp. 2-7.) Black wrote the PCIA Control Numbers assigned to each application on the list of names and addresses Ronald had faxed to him. (EB Ex. 66, pp. 4-5; Tr. 1626.) The Control Numbers reflected that all of the applications were

[4] Black did not recall this conversation. He testified that it "could have" taken place, "but I don't know that it did " (Tr 1691.)

submitted to PCIA on the same day, specifically, the 176th day of 1996. (EB Ex. 66, pp. 4-5; Tr. 2262-63)

19 As noted above, the list of names faxed to Black by Ronald included the following: O. C. Brasher, Ruth I. Bearden, Jim Sumpter, Norma Sumpter, Jennifer Hill, Melissa Sumpter, Carolyn Sue Lutz, David L. Brasher, and D. L. Brasher. (EB Ex. 19, p. 000229; EB Ex. 66, pp. 1-2; Tr. 432-33, 1624-25, 1627, 1633-34, 1647.) O. C. (Oscar Colquitt) Brasher was the name of Ronald's deceased father. (EB Ex. 19, p. 000002; EB Ex. 21, pp. 1-2; EB Ex. 37, p. 6; Tr. 95-96.) Ruth I. Bearden was the maiden name of Ronald's deceased mother. (EB Ex. 21, pp. 1, 3; EB Ex. 37, p. 6; Tr. 95, 172-73.) Norma Sumpter is Patricia's sister. (EB Ex. 19, p. 000002; Tr. 51, 94.) Jim Sumpter is Norma's husband and Metroplex's former accountant. (EB Ex. 19, p. 000002; EB Ex. 37, pp. 5-6; Tr. 51, 94, 1738-39.) Jennifer (Sumpter) Hill and Melissa Sumpter (Ellington) are Norma and Jim's daughters. They are also Patricia and Ronald's nieces. (EB Ex. 19, p. 000002; EB Ex. 37, p. 1; EB Ex. 52, pp. 1, 4; EB Ex. 55, p. 5; Tr. 94-95, 1986.) Carolyn Sue Lutz is another sister of Patricia (and Norma), and was the office manager at Metroplex. (EB Ex. 19, p. 000002; Tr. 95, 1133, 1137.) David L. Brasher, also known as D. L. Brasher, is Patricia and Ronald's son. (EB Ex 19, p 000002; Tr. 94.)

20. O. C. Brasher. O. C. died on August 17, 1995. His Certificate of Death contained the signature of Ronald as the "Informant." (EB Ex. 6.) On June 17, 1996, Ronald signed the name "OC Brasher" to an Application for Mobile Radio Service Authorization (FCC Form 600). (EB Ex. 3, pp. 3-4; Tr. 280-81.) The application form contained the following language immediately below the signature and date blocks.

> WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U. S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U. S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U. S. Code, Title 47, Section 503).

(EB Ex. 3, p. 4; capitalization in original.) Patricia wrote and signed the check that accompanied the application. (EB Ex. 3, p. 2; Tr. 784-85.) The funds came from the "Brasher" checking account.[5] The check was dated June 18, 1996. (EB Ex 3, p. 2.) The name "OC Brasher" was written in the memo portion of the check. (EB Ex. 3, p. 2.) At the time these actions were taken, Ronald and Patricia, as well as David, knew that O. C. was dead. (Tr. 345, 804, 874-75, 951.)

21. Ronald testified that he filed the 1996 application in O. C.'s name because it was O. C.'s desire and intent when he was alive to have a station. (Tr. 604.) In this regard, Ronald stated that O. C. had signed a different FCC Form 600, dated June 29, 1995, which was never filed with the Commission because, according to Ronald, it had been mishandled by PCIA. (EB Ex. 68; Tr. 337-43, 345-46.) Both Ronald and Patricia considered O. C.'s 1996 application to be a part of his estate. (Tr. 602-04, 874.)

22. The Commission granted the O. C. Brasher application on September 25, 1996, resulting in the issuance of the license for Station WPJR761. (RB/PB Ex. 3; Tr. 281.) Ronald undertook the responsibility of constructing the station facilities using radio equipment owned or leased by Metroplex. (EB Ex. 17, p. 2.) Ronald and Patricia purchased the necessary repeater and

[5] The "Brasher" checking account was a personal account which Ronald and Patricia used to pay the expenses related to the purchase of repeaters The repeaters were leased to Metroplex and the rental payments were deposited into the "Brasher" account. (Tr. 1751, 1915-17.) Tower lease fees and FCC licensing fees were also paid from the "Brasher" account. (Tr 1575.)

controller. The repeater cost approximately $7,000 to $10,000 and the controller cost about $2,000. (Tr. 127-28, 136-37, 643) Metroplex paid for the installation of the equipment, which was performed by Metroplex personnel. (Tr. 127, 130-31.) Ronald and Patricia paid the site rental of about $375 per month plus the cost of electricity (Tr. 135-36) Neither O. C. nor his estate paid the construction or operating costs of his station. O. C. did not participate in any way in the operations of his station, nor did he direct the operations of his station. (EB Exs. 24 and 25, Requests and Responses 35, 36, 37, 38.)

23. On November 17, 1997, the Commission sent a FCC Form 800A to O. C. asking whether Station WPJR761 had been constructed. Ronald completed and returned the form, and reported that, as of April 26, 1997, 90 mobiles were in operation on 484.0125 MHz. On December 9, 1997, Ronald signed the document "O C Brasher EST. R. D Brasher." (RB/PB Ex. 3; Tr. 220, 614-15.) Ronald testified that he intended "EST." to mean "estate." (Tr. 655.) However, Ronald did not intend this to be official notice to the Commission that O. C. was deceased. (Tr 654-55.)

24. In 1998, Ronald prepared and filed an Assignment of Authorization (FCC Form 1046) seeking to assign Station WPJR761 from O. C. Brasher to Metroplex. The application contained a signature which purported to be that of "O. C Brasher," and contained the handwritten date "1-26-98." (EB Ex. 20, p. 10; EB Ex. 21, p. 24.) Gail Bolsover, a Forensic Document Analyst employed by the U. S. Postal Inspection Service, testified in this proceeding as an expert witness. (Tr. 2299; EB Ex. 74.) Bolsover was of the opinion that it was "highly probable" that Ronald wrote the signature and date which appeared on this document. (EB Ex. 75, p. 1 (Q-2); EB Ex. 76, p. 1 (Q-2); Judge's Ex. 5, p. 2 (Q-2); Tr. 2303-04.)[6]

25. On March 29, 1999, Ronald signed the name "O. C. Brasher" to a Radio System Management and Marketing Agreement ("Management Agreement" or "Agreement").[7] Patricia signed the agreement on behalf of Metroplex. (EB Ex. 5, p. 11; Tr. 354-56.) The Management Agreement stated that it memorialized an agreement which "was verbally entered into between the Parties." The Agreement provided, among other things, that Metroplex shall be the exclusive marketing agent for the sale of services to be provided by O. C.'s station; that Metroplex shall be the exclusive managing agent for the construction, operation, and maintenance of the station; that Metroplex shall lease to O. C. all the equipment necessary to operate the station; that Metroplex shall be responsible for the total compensation of all of the station's employees, agents, and independent contractors; that the revenues produced from the operation of the station shall be deposited into a bank account which shall be administered by Metroplex "for the benefit of the parties"; and that the profits of the station, if any, shall be paid to O. C. on a quarterly basis. (EB Ex. 5, pp. 2-7.) The Agreement further provided that O. C. could not cancel or assign his license to a third party unless Metroplex was given a right of first refusal to match the purchase offer. (*Id.* at 9.) The Agreement specified that the following address was to be used for the purpose of making written notifications to the Licensee:

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[6] Bolsover testified that when she positively identified someone as having written something, she stated in her reports that the individual had been "identified." However, when she examined a good, clear photocopy of a document and positively "identified" the writer, she stated in her reports that it was "highly probable" that the individual did the writing She explained that she "back[ed] off some because [she was] looking at a photocopy" and not the original (Tr. 2299-2300.) In the relevant portion of her report in this case, she stated: "The qualified conclusion [*i e*, 'highly probable'] is necessitated by the submission of machine copies of the questioned exhibits " (EB Ex. 75, p. 1 (Q-2).)

[7] There were a number of Radio System Management and Marketing Agreements involved in this proceeding. Each will be referred to herein as a "Management Agreement."

Brasher O. C. [*sic*]
224 Molina Dr.
Sunnyvale, Texas 75182

(*Id.* at 10.) This address was Ronald's home address, and O. C. lived there from about 1990 until the time of his death in August 1995. (Tr. 46, 354.)

26 The Management Agreement also contained the following provisions:

> [II.] (C) All service contracts shall be subject to Licensee's [*i.e.*, O. C.'s] review and Licensee shall have the authority, in its sole discretion, to reject any contract so presented, . . . [EB Ex. 5, p. 3.]
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> . . . .
>
> [II.] (F) . . . Licensee shall provide ultimate supervision of the operations of the Station, including, without limitation, supervising the selection of equipment for the provision of service, supervising the transmission of radio signals from the Station to assure compliance with the Rules of the Federal Communications Commission, determining the location of the Station, cooperating in the negotiation of customer service contracts for the mutual benefit of the parties, and assisting with all financial and accounting responsibilities arising out of the operation of the Station and the business arising therefrom. [*Id.*]
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> . . . .
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> [III.] (B) . . . Licensee shall have the exclusive authority to accept or reject the type and model of transmission equipment to be supplied by Agent [*i.e.*, Metroplex] to Licensee hereunder, . . . [*Id* at 4.]
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> . . . .
>
> [VI.] (D) . . . In the event that the Station is operated at a loss, such losses shall be deemed a loan from Agent to Licensee, which loan shall be repaid by future revenues derived from operation of the Station at such time as the profits allow. [*Id.* at 7.]
>
> [VII.] Supervision By Licensee. Licensee shall retain ultimate supervision and control of the operation of the Station. Licensee shall have unlimited access to all transmitting facilities of the Station, shall be able to enter the transmitting facilities and discontinue any and all transmissions which are not in compliance with the FCC Rules and shall be able to direct any control point operator employed by Agent to discontinue any and all transmissions which are not in compliance with FCC Rules. Licensee shall have the right [after notice] to locate the Station transmitting facilities at any place of Licensee's choosing, . . . [*Id.*]
>
> [VIII.] Indemnification By Licensee. Licensee hereby agrees to comply with all FCC requirements for the continued licensing of the Station, . . . Licensee will indemnify Agent for all losses arising out of Licensee's failure to comply with FCC licensing requirements which might cause either a limitation or cessation of the revenue derived or reasonably expected by Agent. . . . [*Id.*]

27. Ronald testified that he signed O. C.'s name to the Management Agreement pursuant to a power of attorney given to him by his father. (Tr. 348, 601-02.) Specifically, on January 16, 1992, O. C. Brasher executed a "Durable Power of Attorney for Financial Matters" naming Ronald as his "agent and attorney-in-fact." The power of attorney authorized Ronald, among other things, to manage O. C.'s financial affairs, become a signatory on accounts in financial institutions, dispose of and acquire property, pay debts and demands, execute legal agreements, participate in business activities, and pay taxes. (RB/PB Ex. 2, pp. 4-11.)

28. The power of attorney provided that it could be revoked "by my executing and delivering to my Agent the revocation form incorporated at the end of this document." (RB/PB Ex. 2, p. 9.) The last page of the power of attorney contained the following "Revocation Provision" which was executed by O. C. on January 16, 1992:

REVOCATION PROVISION

I, Oscar Colquitt Brasher, revoke all authority of my Agent as of 1:42 o'clock p .m. on January 16 1992 .

[Signed] Oscar Colquitt Brasher
Oscar Colquitt Brasher

(*Id.* at 11; underlining in original.)[8] Ronald testified that he saw his father sign the Revocation Provision. (Tr. 606.) Ronald also testified that he believed that signing the Revocation Provision did not revoke the power of attorney. Ronald stated that he did not understand "what that event meant," and he could not explain why O. C. would have executed and revoked the power of attorney on the same day. (Tr. 606-08.) Ronald further testified that he did not know what happened with respect to a power of attorney when the grantor died. (Tr 332.)

29. The Sumpters. As discussed above, Jim Sumpter is a self-employed Certified Public Accountant. Metroplex was one of his clients from 1982 through 1997. Jim provided bookkeeping and accounting services for Metroplex and gave tax advice. (Tr. 1738-39.) Norma Sumpter, Jim's wife, worked in Jim's office for 15 to 20 years and did secretarial and bookkeeping work. (Tr. 1987.) Her duties also included the reconciliation of Metroplex's bank accounts and the compilation of various account information, *e g* , expenses, payroll, and sales taxes. (Tr. 2106-11.) Jennifer (Sumpter) Hill, Jim and Norma's daughter, worked in Jim's office from 1987 until August 1994, while she was a student. (Tr. 1046, 2112-13.) Jennifer married Heath Hill on October 7, 1995, and changed her last name to Hill. (Tr. 1120; EB Ex. 56.) Melissa Sumpter (Ellington), Jim and Norma's younger daughter, worked in Jim's office during some Christmas-time school breaks. (Tr. 1312-13, 2112.)

30. As discussed above, in 1996, Ronald requested that Black prepare applications for new mobile radio licenses (FCC Form 600s) in the names of the four Sumpters, and Black did so. (Tr. 116-18, 1647, 1686; EB Ex. 35, pp. 3-8; EB Ex. 41, pp. 3-8; EB Ex. 49, pp. 2-7; EB Ex. 54, pp. 2-7; EB Ex. 66, pp. 1-2.) Black never spoke to any of the Sumpters during the preparation of these applications. (Tr. 1649.)

31. The applications filed in the names of the Sumpters contained what purported to be the signatures of "Jim Sumpter" (EB Ex 35, p. 4), "Norma Sumpter" (EB Ex. 41, p. 4), "Melissa Sumpter" (EB Ex. 49, p. 3), and "Jennifer Hill" (EB Ex. 54, p. 3). However, neither Jim nor Norma nor Melissa nor Jennifer signed the applications that Black had prepared in their names. (Tr. 1942-

[8] The time ("1.42"), the "p" in p.m., and the date were handwritten in the spaces provided, as was the signature of "Oscar Colquitt Brasher." (RB/PB Ex 2, p 11.)

43; EB Ex. 37, p. 3 (Jim); Tr. 2011-12, 2029; EB Ex. 45, p. 3 (Norma); Tr. 1318-19, 1321; EB Ex. 52, p. 3 (Melissa), Tr. 1050, 1076-77; EB Ex. 55, p. 4 (Jennifer).) In addition, none of the Sumpters knew that these applications had been filed in their names, and none gave his or her permission to anyone to file these applications with the Commission. (EB Ex. 34, pp. 5, 14, 15, 18; Tr. 2012, 2101-02.)

32. Gail Bolsover, the Forensic Document Analyst who testified as an expert witness in this proceeding, was of the opinion that the signatures which appeared on the applications of the Sumpters were not the genuine signatures of Jim, Norma, Melissa, and Jennifer. (Tr. 2345-46, 2363-64.) Bolsover was also of the opinion that the signatures and the dates appearing on the applications of Norma, Melissa, and Jennifer were written by one writer. However, Bolsover was not able to identify that writer. (EB Ex 75, p. 2 (Q-5, Q-6, Q-7); EB Ex 76, p. 1 (Q-5, Q-6, Q-7); Judge's Ex. 5, p. 2 (Q-5, Q-6, Q-7); Tr. 2304, 2321, 2346) Bolsover "identified" Ronald as the writer of the date in the date box, but not the signature, on Jim's application. (EB Ex. 75, p. 1 (Q-4); EB Ex. 76, p. 1 (Q-4); Judge's Ex. 5, p. 2 (Q-4); Tr. 2319.)

33 According to Ronald and Patricia, Jim and Norma knew well in advance that Metroplex had a big project coming up because they were always notified of large purchases and the future of Metroplex's business. Ronald and Patricia testified that, in early 1996, Patricia spoke with Norma and asked her if she and Jim would be interested in obtaining radio licenses. (Tr. 399-400, 809, 817-18.) Patricia stated that she explained her understanding that she and Ronald could not get any more licenses and they needed additional licenses for the planned expansion. (Tr. 809, 814.) Ronald testified that Norma told Patricia that she and Jim would be interested in the licenses, and that Norma would "cover it with Jim." (Tr. 401.) Subsequently, Ronald and Patricia stated, Patricia also asked Norma if Melissa and Jennifer would be interested in obtaining licenses, and Norma told Patricia that Melissa and Jennifer would be interested, but that she (Norma) would have to talk to Jennifer about it because she was not there. (Tr. 401, 408-09, 809-10.)

34. Ronald testified that, about a week after Patricia's initial conversation with Norma, he and Norma also discussed Norma's obtaining a radio license, and that Norma indicated that she would like to do so. (Tr. 402-03, 407.) Ronald stated that, during this conversation, Norma mentioned that obtaining a license would give them a chance to repay the debt that they had incurred on Metroplex's 800 and 900 MHz systems and the mobile equipment that Metroplex had furnished them and which they had used for free. Ronald testified that Norma indicated that they wanted to clear that debt and clear the air on their back radio bills. (Tr. 403-07.)

35. Patricia testified that she, Ronald, Norma, and/or Jim had at least eight or ten conversations regarding the Sumpters applying for licenses. (Tr. 813.) Patricia stated that the conversations took place over the course of approximately four to six months because she and Ronald were in the process of trying to figure out how they could get the spectrum they needed for the big customer. (Tr. 811-12.) According to Patricia, the conversations took place in either Jim's office or at Patricia and Ronald's home. (Tr. 810.) Patricia and Ronald had more conversations with Norma than with Jim, because Jim would be busy, but Norma relayed the conversations to Jim. (Tr. 815.)

36. Patricia also testified that she called Jennifer on the telephone and personally asked her if it would be all right to apply for a license in her name. Patricia stated that Jennifer said, "[Y]es, go ahead." Patricia stated that she talked to Norma about Melissa, because Melissa was in college, and that Norma talked to Melissa to see if she had any objections. Patricia testified that these conversations did not involve any description of the details or terms of the arrangement. (Tr. 816.)

37. Ronald testified that after he received from Black the prepared applications in the names of the Sumpters, Patricia contacted Norma, told her that the applications were ready to be reviewed and signed, and asked her when she and Ronald could take them over. (Tr. 413-14.) Ronald stated that, on or about June 10, 11, or 12, 1996, he and Patricia went to Jim's office to take over a package containing the Sumpters' applications – one each for Jim, Norma, Melissa, and Jennifer – and to conduct some other Metroplex accounting business. (Tr. 414-16, 418-19, 818; EB Ex. 22, p 6.)

38. According to Ronald, when he and Patricia arrived at Jim's office, Norma was working in the reception area. Ronald stated that he and Patricia opened up the package and showed Norma where the applications were supposed to be signed. (Tr. 417.) Ronald and Patricia testified that Norma took the applications into Jim's office and showed them to Jim while they waited in the reception area (Tr. 417, 819.) Patricia stated that she did not hear the conversation between Norma and Jim, but she saw that Norma was showing the applications to Jim, and she assumed that Norma was showing Jim where they needed to be signed. (Tr. 819.)

39. Ronald and Patricia testified that, after a few minutes, they were waved into Jim's office and they went over to a conference table where they conducted their other Metroplex business. (Tr 418-19, 819.) The applications remained on Jim's desk. (Tr. 419.) Ronald did not recall either he or Patricia discussing the applications with Jim at that time (Tr. 419, 420-21), and Ronald did not see Jim sign his application (Tr. 418) Ronald and Patricia stated that when they finished their Metroplex business discussions, Norma, Patricia, and Ronald went outside. Ronald and Patricia testified that Norma told them that she and Jim would be seeing Melissa and Jennifer on Wednesday or Sunday, and that the girls would sign their applications at that time. (Tr. 419, 821; EB Ex. 22, p. 6.) Ronald estimated that he and Patricia spent 20 to 30 minutes at Jim's office that day. (Tr 420.)

40. In a July 30, 1999, affidavit filed with the Commission on August 3, 1999, Ronald stated that the purpose of this meeting was for Ronald "to offer an opportunity to [the Sumpters] to become licensees." Ronald also stated that, during this meeting, he explained to Jim and Norma that they were under no obligation to sign the applications, that their participation was entirely voluntary, and that the applications would result in radio licenses "that would allow the Sumpters to receive benefits from the station[s] including free radios and free radio service, just as the Sumpter family received from a previous license for . . . station WPCF910 granted to Norma [in 1993]." Ronald further stated that "Jim and Norma's applications were not signed at this initial meeting because Ronald wanted to provide to the Sumpters ample time to review the applications and decide if they wanted to hold a Commission license." (EB Ex. 22, p. 6.)

41. Ronald testified that on June 17, or 18, 1996, he was told by Patricia that Norma called to tell her that the applications were ready. (Tr. 421.) Ronald and Patricia stated that they went to Jim's office and picked up the applications from Norma. (Tr 421-22, 424, 822; EB Ex. 22, p. 7.) Ronald and Patricia testified that Ronald thumbed through the applications to verify that they were all signed. (Tr. 421-22, 822; EB Ex. 22, p. 7.) Ronald stated that he then put the applications into a package and either mailed or sent them by Federal Express to the frequency coordinator. (Tr. 422-23, 426; EB Ex. 22, p. 7.) Patricia wrote and signed the checks that accompanied the four applications. The funds came from the "Brasher" checking account. Each check was dated June 18, 1996. The names "Jim Sumpter," "Norma Sumpter," "Melissa Sumpter," and "Jennifer Hill" were written in the memo portions of the checks. (EB Exs. 28 and 29, Requests and Responses 61, 76, 91, 105; EB Ex. 35, p. 2; EB Ex. 41, p. 2; EB Ex. 49, p. 1; EB Ex. 54, p. 1.)

42. The Commission granted the applications and issued licenses to Jim (WPJR725), Norma (WPJR739), and Jennifer (WPJR740), on September 25, 1996 (EB Ex. 37, p. 33; EB Ex. 45, p. 14; EB Ex. 55, p. 18), and to Melissa (WPJS437) on October 2, 1996 (EB Ex. 52, p. 14). Jim, Jennifer, and Melissa did not recall receiving the 1996 licenses in the mail. (Tr. 1114-15, 1321, 1760-61.) Norma had never seen her license prior to her November 2000 deposition in this proceeding. (Tr. 2005, 2026-27.) Jennifer first saw her license in March or April 1999. (Tr. 1052-53.) Patricia, however, testified that Norma and Jennifer called to inform her that Jim, Norma, and Jennifer had received their licenses. (Tr. 827-28.)

43. Jim and Norma had been receiving Commission-related mail at their home and at Jim's office for several years. This mail resulted from applications Norma previously signed in 1990 and 1992 at the request of Ronald and Patricia. Norma forwarded all of this mail to Ronald pursuant to his direction. (EB Ex. 42; EB Ex. 43; Tr. 1844-46, 1953-56, 1988, 1992, 2013-15, 2077-79, 2117, 2124-25, 2127-28, 2132.) All Commission-related mail Jim, Norma, and Jennifer received with respect to the 1996 applications was also passed on or forwarded to Ronald and Patricia. (Tr. 1053-54, 1056, 1084-86, 1844-45, 1953-54, 2079.) It was Jim's practice to forward all such mail to Ronald unopened. (Tr. 1845, 1953-54.) For a period of time, including 1996, Norma also forwarded FCC-related mail to Ronald without opening it. (Tr. 2078-79, 2125.) Although both Melissa and Jennifer had signed applications in the early 1990s, only Norma had been issued any licenses. (EB Ex. 42, p. 4; EB Ex. 43, p. 5; EB Ex. 44, p. 1; EB Ex. 52, p. 1; EB Ex. 55, p. 1; Tr. 1058-59, 1071, 1315, 2092.)

44. After grant of the 1996 applications, Ronald undertook the responsibility of constructing the station facilities using radio equipment owned or leased by Metroplex. (EB Ex. 17, p. 2.) Ronald and Patricia purchased the necessary repeaters and controllers. (Tr. 127-28, 136-37, 643, 872.) Each repeater cost approximately $7,000 to $10,000 and each controller cost about $2,000. The station licensed to Jennifer did not require a controller. (Tr. 128-29.) Metroplex paid for the installation of the equipment, which was performed by Metroplex personnel. (Tr. 127, 130-31.) Ronald and Patricia paid the site rental of about $375 per month plus the cost of electricity. (Tr. 135-36, 872.) Neither Jim, Norma, Melissa, nor Jennifer paid the construction or operating costs of his or her station. (EB Exs. 24 and 25, Requests and Responses 67, 68, 82, 83, 96, 97, 111, 122.)

45. The stations were constructed in a blockhouse underneath a tall antenna. (Tr. 134-35, 452.) The blockhouse was surrounded by a chain link fence that was secured with a combination lock. (Tr. 166, 452.) Ronald did not know the combination to this lock and did not know if the Sumpters knew the combination. (Tr. 452.) The Sumpters did not know where their stations were located. (Tr. 1064, 1344-45, 1784, 2099-2100.)

46. The Sumpters did not agree to pay, or in fact pay, for any of the costs related to their stations, nor did Ronald discuss such payments with them. (Tr. 292, 446-47, 817, 1065-66, 1348, 1789, 2101, 2103.) According to Patricia, it was understood and assumed by everyone that Metroplex would bear all of the costs associated with the stations. (Tr. 817.)

47. Metroplex personnel solicited the customers which used the stations, and serviced and billed those customers. (EB Ex. 17, p. 6; Tr. 871-72.) All of the revenue received from the operation of the stations was deposited into the Metroplex account. (Tr. 155, 169-70.) Metroplex made no cash payments to the Sumpters for the use of their licenses. (Tr. 170, 456, 1345, 1791, 2102.)

48. None of the Sumpters had any involvement in the management or operation of the stations licensed to them. (EB Ex. 37, p 4, EB Ex. 45, p. 3; EB Ex. 52, p. 3; EB Ex. 55, p. 4; Tr. 1067-68.) None of the Sumpters received any revenue from, or paid any expenses relating to, the operation of their stations. (EB Ex 37, pp. 4-5, EB Ex. 45, p 4, EB Ex. 52, p. 4; EB Ex. 55, p. 5; Tr. 1065, 1345)

49. Metroplex did not break down its revenues and expenses by station, and none of the Sumpters had ever been given a breakdown of the revenue and expenses of his or her particular station. (Tr. 155-56, 451, 991-992, 1577-79.) Although Jim received documents each month from Metroplex while he was its accountant, he testified that the profits and losses of the Sumpters' stations could not be determined from the records provided to him. (Tr. 161, 451, 1910.) Jim stated that, while he was Metroplex's accountant, he only knew about the aggregate revenue from Metroplex's repeater business, but had no knowledge regarding the repeater revenue by site location. (Tr 1788-90.) Jim did not receive any information regarding Metroplex's repeater revenue since resigning as its accountant at the end of 1997 (Tr. 161-62, 1739, 1790-91.) Jim also testified that he did not know whether the station licensed in his name was profitable. (Tr. 1788.) Norma testified that she did not receive sufficient information from Metroplex from which she could determine the amount of gross revenue of any particular station, or the specific operating expenses and revenue of the station licensed in her name. (Tr. 2111-12.)

50. Diane Brasher, the individual who currently keeps Metroplex's financial books and records (Tr. 1572-73), testified that Metroplex did not break down its revenues by station, that its accounting system was not set up in such a way as to enable her to determine the revenue of any particular station, and that she would not be able to make such a determination (Tr. 1577-78). Steven Hill, Metroplex's current Certified Public Accountant (Tr. 1445-46), testified that he had never seen "the source documents" from which he could make a determination of the revenues attributable to a specific station (Tr. 1514). David Brasher stated that there was never any breakdown of revenue by station, that none of the Sumpters had access to any revenue records which may have been related to their stations since Jim withdrew as Metroplex's accountant, that no information concerning the expenses of any particular station was provided to the licensee of that station, and that no records at all were currently being provided to the Sumpters. (Tr. 987-88, 992.)

51. As noted above, the Sumpters were not aware that the 1996 licenses had been issued in their names. (EB Ex. 34, pp. 13, 14, 18; Tr. 1320, 2029.) They did not learn about the 1996 licenses until November 1997 when they received copies of a Petition for Order to Show Cause, filed with the Commission on November 17, 1997, by Net Wave Communications, Inc. ("Net Wave"). (EB Ex. 1; EB Ex. 37, pp. 1-3; EB Ex. 45, pp. 1-2; EB Ex. 52, p. 1; EB Ex. 55, pp. 2-3; Tr 1322, 1436, 1765, 1845, 2029, 2099.)

52. In its Petition, Net Wave alleged, among other things, that Metroplex knowingly made false statements in applications for T-band licenses with respect to the real party-in-interest in the applications, and that Metroplex concealed the family or other interrelationships among the applicants. (EB Ex. 1, p. 2.) Net Wave specifically directed the Commission's attention to the following licensees: Ronald Brasher, Patricia Brasher, David L. Brasher, D. L. Brasher,[9] O. C. Brasher, DLB Enterprises, Inc., Metroplex Two-Way Radio, Norma Sumpter, Melissa Sumpter, Jim Sumpter, Ruth I. Bearden, Carolyn S. Lutz, and Jennifer Hill. (*Id.* at 3.) Net Wave further accused "Metroplex, Mr. and Mrs. Brasher and their many foot soldiers having many names [of] playing the familiar but illegal paper licensing game with the FCC, a racket which dates back to the mid-1970s . . ." (*Id.* at 6.) Net Wave also accused Metroplex of engaging "in a giant but blatantly illegal plan

[9] Net Wave presumed that D. L. Brasher was Diane Brasher. (EB Ex. 1, p. 3.)

to paper load scarce and valuable [T-]band frequencies by misrepresenting to the Commission and the [Wireless Telecommunications] Bureau the identity of the real parties in interest to those applications and the purpose for which those channels were to be used . . ." (*Id.*) Net Wave sought the issuance of an order to show cause why the licenses in question should not be revoked "for grossly misleading and deliberate misidentification of the real party in interest to the applications for those facilities . . . so as to paperload [*sic*] and hoard frequencies . . ." (*Id* at 7.)

53. On November 25, 1997, an Opposition to the Net Wave Petition was filed with the Commission by counsel on behalf of: "Metroplex Two-Way Radio Service; DLB Enterprises, Inc.; Ronald D. Brasher; Patricia A. Brasher; O. C Brasher; D. L. Brasher; Jim Sumpter; Melissa Sumpter; Norma Sumpter; Jennifer Hill; Carolyn S. Lutz; and Ruth I. Bearden." (EB Ex. 2, pp. 1, 6.) Appended to the Opposition was the declaration of Ronald stating that the facts contained in that pleading were "true and correct." (*Id.* at 7)

54 The Sumpters stated that they did not authorize the filing of the Opposition on their behalf. (EB Ex. 34, p. 6; Tr 1323, 2058.) On November 23, 1997, Ronald faxed to Jim copies of a draft opposition and a November 21, 1997, fax sent to Ronald by his attorney asking Ronald to review the draft and comment on it. (EB Ex. 37, pp. 14-19.) Jim read the draft, but not line-by-line; he did not study it Although Jim did not understand what he was reading, he did not ask Ronald any questions. Ronald told Jim not to worry about the Net Wave Petition, that he (Ronald) and his attorneys would take care of it. (Tr. 1850-51, 1853.) Jim did not care how it was taken care of and, if the draft opposition would do so, he (Jim) was just as happy to have Ronald file it. (Tr. 1853-54.) Jim also testified that he was not asked for his approval of the draft and that he did not give such approval. (EB Ex. 34, p. 6; Tr. 1933, 1935.) Norma stated that she had no conversations with either Ronald or Patricia with regard to the filing of anything in response to the Net Wave Petition. (Tr. 2058.) Jennifer first learned about the Opposition from the attorney retained by the Sumpters to represent them in this matter. (EB Ex. 55, p. 3.) Melissa first saw the Opposition during the week prior to the hearing in this proceeding. (Tr. 1323.)

55. In his November 27, 1997, fax to Ronald concerning the draft opposition, his attorney stated.

> I should explain the tone of the draft Opposition. As I told you by telephone, Net Wave's lawyer is an unusual person. The sarcastic tone of the draft pleading is intended to do two things. First, it is intended to ridicule the Net Wave pleading before the FCC. Second, it is intended to inflame Net Wave's lawyer and cause him to file a wild, irrational reply pleading. It's been my experience that he is likely to do that when I ridicule his work. The overall intent is to keep the FCC from taking the matter seriously. [EB Ex. 37, p. 14.]

56. The Opposition denied that there had been any violation of any statute, Commission rule, or precedent. (EB Ex 2, p. 2.) The following statements, among others, were contained in the Opposition:

> There are family relationships among the Brashers and Sumpters, but nothing prevents each of them from holding one or more licenses for private carrier or commercial mobile radio service stations. Persons having a family relationship will not presumed to be [*sic*] the same real party in interest, [citations omitted], and Net Wave presented nothing to support its suggestion that the [*sic*] each of the Operators is not a separate real party in interest.

> All of the Operators [*sic*] stations are managed by Ronald D. Brasher. Each of the Operators retains control of its own station(s). . . . [N]one of the applicants was under any obligation to inform the Commission concerning the relationships among one another, and it should be beyond the obvious that none of the Operators made any effort to conceal their relationships from the Commission. . . . [*Id.* at 3-4.]

57. After his receipt of the Net Wave Petition in November 1997, Jim immediately contacted Ronald. (Tr. 1763; EB Ex. 39, pp. 1-2.) On November 29, 1997, Jim wrote separate letters to Ronald and Patricia on behalf of each of the Sumpters indicating that they knew nothing about the 1996 licenses issued in their names, stating that they did not sign any documents relating thereto, and requesting that their names be removed from the "channel[s]" licensed to them. (EB Ex. 39; EB Ex. 47; EB Ex. 53, EB Ex. 56; Tr. 1097-99, 1327, 1771, 1965, 2051-54.) Norma and Melissa signed the letters Jim prepared. (Tr. 1371, 1382, 2051.) Jennifer reviewed the letter prepared by Jim and copied or changed it to reflect her situation. (Tr. 1098-99.)

58. In November 1997, after Jennifer received a copy of the Net Wave Petition, she called Patricia "for reassurance." Patricia put Ronald on the telephone, and Jennifer told him that she did not remember signing any license application in her married name. Ronald told Jennifer that "once [she] had signed one application, then he could use [her] name again and again." He assured Jennifer that everything was under control and that she had done nothing wrong. (EB Ex. 55, p. 2; Tr 1059.)

59. In response to the Sumpters' requests, Ronald brought four FCC Form 800A letters to Jim's office for each of the Sumpters to sign. Jim and Norma filled in the information required by the forms but Ronald told them what information to write. Jim and Norma then signed their forms, dated them December 16, 1997, and gave them back to Ronald Since neither Jennifer nor Melissa was at Jim's office, Ronald left their forms with Jim and Norma to be signed by their daughters at a later time. Afterwards, Jim and Norma decided that they did not want Jennifer and Melissa to sign the Form 800As that Ronald had left for them, and they advised their daughters not to sign them. (Tr. 1771-72, 2058-64, 2234-35; EB Ex. 34, p. 9; EB Ex. 37, pp. 2-3; EB Ex. 38; EB Ex. 46.) Ronald did not explain to Jim and Norma that they had to sign both a Form 800A and a Form 1046 before their stations could be transferred. (Tr. 1979, 2234.) Both Melissa and Jennifer had received in the mail a Form 800A directly from the Commission. Melissa did not respond to her Form 800A and Jennifer threw hers into the trash. (EB Ex. 52, p 1; EB Ex. 55, p. 2; Tr. 1081-83, 1325-26.)

60. On December 20, 1997, Jim and Norma sent separate letters to Ronald and Patricia in which they again requested that the licenses issued to them (Jim and Norma) be transferred out of their names. Jim and Norma also acknowledged signing the Form 800As, and stated that all of the information requested in those forms was furnished by Ronald. The two letters were written by Jim. (EB Ex. 40, EB Ex. 48; Tr. 1772-73, 2066-68.) Ronald testified that he did not receive either of these letters. (Tr. 436, 461-63.)

61. In January 1998, Ronald provided FCC Form 1046s to the Sumpters for their signatures. These forms provided for the transfer of the Sumpters' licenses to Metroplex. Each of the Sumpters signed his or her Form 1046 on January 28, 1998, and returned it to Ronald. (EB Ex. 20, pp. 16-19; EB Ex. 37, pp. 3, 30; EB Ex. 45, pp. 2, 10; EB Ex. 52, pp. 2, 10; EB Ex. 55, pp. 3, 14; Tr 438-41, 1063, 1092, 1327-28, 1401-02, 1783-84, 2071-74.)

62. In April 1998, Melissa and Jennifer received separate letters from the Commission dated March 31, 1998. Each letter stated that the Commission had granted the addressee a license but that the license had been cancelled because the station had not been constructed within the

required time period. Neither Melissa nor Jennifer responded to the Commission's letter, and Jennifer did not discuss the letter with either Ronald or Patricia. (EB Ex. 52, pp. 1, 12; EB Ex. 55, pp. 3, 16; Tr. 1062, 1329-30.)

63. In July 1998 (EB Ex. 37, p. 3), Ronald called Jim and told him that if Jennifer and Melissa did not sign their Form 800As they would be in "big trouble" (Tr. 1964-65). As a result of that call, Jim assumed that Ronald had lied to him and that Ronald had not filed with the Commission the Form 1046s which all four Sumpters had previously signed. (Tr. 1964-65, 1972-74.) Consequently, Jim sought and retained legal counsel regarding this matter. (EB Ex. 37, p. 3; EB Ex. 45, p. 2; EB Ex. 55, p. 3.)

64. Carolyn S. Lutz. Another of Patricia's sisters, Carolyn S. Lutz, also known as "Sue," worked for Metroplex on two occasions. From 1986 to May 1995, Lutz worked as a secretary-receptionist, and from 1996 to September 2000, Lutz worked as office manager. Her duties during both periods of employment were basically the same. (Tr. 1132-33.) Lutz waited on customers, answered the phones, handled the invoicing, billing, and receivables, handled customer service, handled all of the monthly reports which were made after the monthly statements to the accountant went out, and did secretarial work for the management staff, the sales staff, and the service manager. (Tr. 1135-36.) Lutz also signed Metroplex checks if neither Patricia nor Diane was available, but she only signed a check after she received permission to do so. (Tr. 1136, 1576.)

65. In 1996, after Lutz returned to work for Metroplex, Ronald asked her to apply for a license and to sign a license application. (Tr. 1162.) Ronald told Lutz that she would never have to do anything with regard to the license and that he needed a name under which an application could be filed. Ronald also told Lutz that she would not have to pay any of the bills, buy any of the equipment, spend any money, or do anything else to have the license. (Tr. 1191-92, 1201-02, 1215, 1217.)

66. As a favor to Ronald (Tr. 1194), Lutz agreed to apply and she signed an application (FCC Form 600) which she dated "6-18-96" (EB Ex. 57, pp. 2-7; Tr. 1162-63, 1165). Patricia wrote and signed the check that accompanied the application. The funds came from the "Brasher" checking account. The name "Carolyn Sue Lutz" was written by Patricia in the memo portion of the check. (EB Ex. 57, p. 1; Tr. 797-99.) The Commission granted the Lutz application on September 25, 1996, resulting in the issuance of the license for Station WPJR763. (EB Ex. 58; Tr. 1170-71.) Upon receipt of her license, Lutz gave it to Ronald, "as he instructed [her] to do." (Tr. 1171.)

67. After the grant of the Lutz application, Ronald undertook the responsibility of constructing the station facilities using radio equipment owned or leased by Metroplex. (EB Ex. 17, p. 2; Tr. 510.) Ronald and Patricia owned the repeater used in the operation of the Lutz station and leased this repeater to Metroplex. (Tr. 510.) Metroplex paid for, and its personnel installed, the equipment used by the Lutz station. (Tr. 512-13.) The costs which resulted from the operation of this station were paid by Ronald and Patricia, and/or by Metroplex. (Tr. 510.) Ronald and Patricia paid the site rental of about $375 per month plus the cost of electricity. (Tr. 135-36, 512.) Lutz did not pay the construction or operating costs of her station. (EB Exs. 24 and 25, Requests and Responses 123, 124.)

68. The monies that came in as a result of the operation of the Lutz station were received by Metroplex (Tr. 510), not by Lutz (Tr. 514). Lutz stated that she had no reason to expect to make money from this station because "[i]t wasn't [hers.] . . . It was Ron Brasher's." (Tr. 1169.) Lutz was never required to pay the costs associated with the installation of the equipment used for her

station. (Tr. 513.) Lutz was never asked to pay any of the expenses related to the station, nor did she assume any financial risk in connection with her license. (EB Ex. 63, p. 3; Tr. 1191-92, 1201-02, 1215, 1217.) Lutz was never required to pay any money at all with respect to her license. (Tr. 513.)

69. Lutz did not have any involvement with or exercise any supervision or control over the operation of the station licensed to her. Lutz did not have unlimited access to the transmitting facility of the station, which was located in Allen, Texas. (Tr. 1193.) Lutz did not participate in the operation of her station beyond performing her regular duties as an employee of Metroplex. (EB Ex. 63, pp. 2-4; Tr. 1202, 1214-18.) Even though she handled the receivables for Metroplex as a part of her job, she was unaware of the revenue and expenses associated with the operation of her specific station (or any other specific station) and did not know how to compute such figures. (Tr. 1138-40, 1269, 1275-79.)

70. In late 1998 or early 1999, Ronald asked Lutz to sign a Management Agreement with Metroplex, authorizing it to manage the station licensed to Lutz. (Tr. 1188-89; EB Ex. 62.) The Management Agreement that Lutz was asked to sign was identical in all material respects to the Metroplex-O. C. Brasher Management Agreement discussed (and quoted) above. (*Compare* EB Ex. 62 *with* EB Ex. 5.) Lutz refused to sign the agreement. (Tr. 1189.) She did not think she needed a Management Agreement because, as far as she was concerned, she did not own the station, it was Ronald's. Lutz testified: "He didn't need permission from me to manage his own station so why did I need a management agreement with him?" (Tr. 1190.) When Ronald asked her why she did not want to sign the agreement, Lutz told him that the proposed Management Agreement made her "responsible for things that [she] had no business being responsible for." (Tr. 1190, 1261.) Ronald told Lutz that he really needed a management agreement with her and asked her to make him a counteroffer. (Tr. 1194, 1261.) Lutz then prepared a different management agreement that gave her, among other things, certain amounts of money and extra vacation time. Lutz's draft also made Metroplex, rather than Lutz, responsible for everything having to do with the license. (Tr. 1194-97, 1263; RB/PB Ex. 1.) Lutz testified that she did not want to sign an agreement with Ronald so she produced a document (*i.e.*, her counteroffer) which contained terms which she knew and hoped Ronald would not or could not agree to. (Tr. 1264.) Lutz gave her draft to Ronald but he never got back to her with regard to her counteroffer. (Tr. 1198.)

71. After the Net Wave Petition was filed, Lutz asked that the license be taken out of her name. (Tr. 1173.) The Petition was the first time she heard about any problem with her license and it scared her. Lutz "knew that [she] had done something illegal," and she believed that she could lose the license, be fined, be sued, or could go to jail. (Tr. 1239.) On January 26, 1998, Lutz signed an application (FCC Form 1046) consenting to the assignment of her station to Metroplex. (EB Ex. 61; Tr. 1172-73, 1176.) She did not receive any compensation in exchange for the assignment. (Tr. 1177.)

72. Sometime in 1997, Lutz had a single radio-phone installed in her car. Patricia authorized the installation so that Metroplex personnel, including Patricia, could reach Lutz when she (Lutz) was running errands. (Tr. 1158-60, 1162, 1177.) Metroplex asked Lutz to turn in her phone a few days after she resigned her employment in September 2000. (Tr. 514, 1132-33.)

C. Misrepresentation/Lack of Candor Issue (Issue a)

73. Ruth I. Bearden. Ruth I. Bearden was the maiden name of Ronald's deceased mother. (EB Ex. 21, pp. 1, 3; EB Ex. 37, p. 6; Tr. 95, 172-73.) Bearden died on April 22, 1991. (EB Ex. 12.) On June 20, 1990, the Commission issued a license for Station KCG967 to Ruth I. Bearden,

B & B Delivery Services. (EB Ex 13, p. 2) On October 18, 1994, three and one-half years after her death, an Assignment of Authorization (FCC Form 1046) seeking to assign Station KCG967 from Bearden to Ronald was signed with the name "Ruth I Bearden." (EB Ex. 13, p. 5.) Ronald testified that it looked like he signed Bearden's name but he was not sure. (Tr. 221-22.)[10] The application was prepared by John Black on behalf of Ronald. At the time he prepared this application, Black did not know that Bearden was dead. (Tr. 1717-18.) The application was coordinated by the frequency coordinator and then filed with the Commission on February 1, 1995. (EB Ex 13, p. 9; Tr. 1725-27.)

74. On June 18, 1996, Ronald signed "Ruth I. Bearden" to an Application for Mobile Radio Service Authorization (FCC Form 600) which was filed with the Commission on July 16, 1996. (EB Ex. 9, pp. 3-4; Tr. 171-72.) The application form contained the following language immediately below the signature and date blocks:

> WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U. S Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U. S. Code, Title 47, Section 503).

(EB Ex. 3, p. 4; capitalization in original.) Patricia signed the check for the fee which accompanied this application. The funds came from the "Brasher" checking account. The check was dated June 18, 1996. In the memo portion of the check, Patricia wrote the name "Ruth I. Bearden." (EB Ex. 9, p. 2; Tr. 785-86.) At the time this application was filed, both Ronald and Patricia knew that Bearden was dead. (Tr. 172, 874.)

75. November 9, 1998, Letter of Inquiry. On November 9, 1998, the Chief, Compliance and Litigation Branch, Enforcement and Consumer Information Division, Wireless Telecommunications Bureau ("WTB") sent a letter of inquiry to counsel for Metroplex. (EB Ex. 16.) By letter dated December 4, 1998 (filed on December 7, 1998), Ronald responded to the WTB's letter of inquiry. (EB Ex. 17.) Nowhere in his letter did Ronald disclose the fact that O. C. Brasher and Bearden were dead (*id.*), although the response listed O. C. as a "Licensee" of one of the "Managed Stations" (*id.* at 3).

76. In his response, Ronald made the following statements, among others:

> [Answer 1.] There is no written agreement concerning management of the stations. Reducing the oral agreements to writing, the following terms apply: Brasher undertook the responsibility of constructing the station facilities in a timely manner, using radio equipment owned or leased by DLB. Each licensee was to be, and was, informed of the date of construction and placing in operation so that the licensee could file a timely report with the Commission. DLB made mobile equipment and installation available for each of the licensees of the Managed Stations. Each licensee is permitted to use the entire 470-512 MHz band commonly managed system, without limit. Each licensee retained its right to sell, transfer, remove from management, or cancel its license at any time. [EB Ex. 17, pp. 2-3.]
>
> . . . .

[10] *Compare* the "Ruth I. Bearden" signature on EB Ex. 13, p. 5, *with* the "Ruth I Bearden" signature on EB Ex. 9, p. 4, which Ronald acknowledged that he wrote (Tr. 171).

> Answer 1(c): Ron Brasher makes reports available of station operations, including customer loading, preventative maintenance performed, air time usage by month and by day, customer additions and deletions, and revenues and expenses for each station. Most of the licensees do review these reports and give directions to Ron Brasher for improvement or for correction of problems. Ron Brasher is obligated to follow the directions of each licensee. Ron Brasher does not have authority to take a station off the air or change equipment type without the approval of that station's licensee. [*Id.* at 4.]
>
> . . . .
>
> Answer 1(e): Ron Brasher receives neither revenue nor directly profits from the Managed Stations. None of the licensees of the Managed Stations makes any payments to Ron Brasher in connection with the Managed Stations, nor does Ron Brasher make any payments to the licensees of the Managed Stations. All revenue from operation of the stations is received from customers by DLB. [*Id.*]
>
> . . .
>
> Answer 2(d): Each applicant and licensee was responsible for reviewing and signing its own application in connection with the Managed Stations. [*Id.* at 5.]

77. March 4, 1999, Letters of Inquiry. On March 4, 1999, the WTB sent a second letter of inquiry to Metroplex's counsel. (EB Ex. 18.) By letter dated April 5, 1999 (filed on April 6, 1999), counsel for Metroplex responded to the second letter of inquiry. (EB Ex. 19.) Appended to the response was Ronald's "Verification" wherein he stated that he "hereby swear[s] that the facts and statements contained in the . . . Response . . . are true and correct to the best of my knowledge and belief." (*Id* at 000630.)

78. In the response, Ronald was described as the "Son of O. C. Brasher," Patricia was described as the "Daughter-in law of O. C. Brasher," David was described as the "Grandson of O. C. Brasher," and Diane was described as the "Granddaughter-in-law (by marriage) of O. C. Brasher." (EB Ex 19, p. 000002.) Nowhere in the response, however, was it disclosed that O. C. was deceased. (EB Ex. 19)

79. In describing the criteria which were used to select the people Ronald approached in his attempt to seek others who might obtain licenses for stations that could be managed, the response stated:

> [4.] (b.) . . . [E]ach prospective licensee must have been willing to agree to participate fully in the operation of the facilities, including without limitation, a willingness to accept risk of failure of any enterprise arising out of the operation of a business based on obtaining the requisite license and construction of the licensed facilities. Therefore, the criteria for the creation of an ongoing relationship to manage facilities was: (i) the person must have been known to [Ronald]; (ii) the person must be able to fulfill the duties of a Commission licensee; (iii) the person must have been willing to fulfill the duties of a Commission licensee; (iv) the person must have been willing to participate in the funding of the construction of the facilities; (v) the person must have been willing to participate in the funding of the costs of operation; (vi) the person must have been willing to accept the risk of failure of any business arising out of operation of the facilities; and (vii) the person must have been willing to actively participate in sales of

service and equipment to be provided to customers of the subject station. Persons who did not evidence either the ability or the willingness to perform each of these tasks were not allowed to participate in any managed station agreement. [EB Ex. 19, pp. 000003-04.]

80. The following statements, among others, were also made in the April 1999 response:

> [5.] [a.] The Sumpters:
> Ronald and Patricia Brasher met with Jim and Norma Sumpter, and suggested that each of the Sumpters, including their daughters Jennifer and Melissa, were eligible to obtain licenses for radio spectrum in the 470-512 MHz band for stations which could be managed by DLB. The Sumpters were informed of the duties that their participation would require and the potential benefits of ownership which might be obtained if the facilities were successful in producing profitable services to the marketplace, including the provision to licensees of communications services. The Sumpters accepted the offer and assisted DLB in the business plans by providing financial advice in the formation of the management relationship between the parties. . . . [EB Ex. 19, p. 000004.]
>
> Carolyn S. Lutz:
> [Ronald] approached Ms. Lutz and provided to her an opportunity to become a Commission licensee for operation of a 470-512 MHz band radio facility. . . . Additionally, Ms. Lutz would be entitled to all benefits of operation as a Commission licensee, including that portion of all profits, opportunities, gain from possible future sale, etc. that would arise out of operation of the facilities. [*Id.* at 000005.]
>
> . . . .
>
> [6.] [With the exception of the Sumpters, a]ll other licensees participating in management agreements with DLB have provided substantial direction and supervision regarding the operation of the subject facilities. . . . [T]he Sumpters did not actively participate in the supervision of the facilities other than, presumably, reviewing all materials sent by DLB on a regular basis. [*Id.*]
>
> . . . .
>
> [10.] (a.) . . . As noted within the . . . management agreements, if the amount of revenues derived from operation of the facilities did not result in adequate revenues to pay for operation, such amounts would be lent to Licensees until such time as adequate revenues were produced. The Commission may note, however, that if no such revenues became available prior to the termination or expiration of the agreement between the parties, such loans would be subject to repayment by each Licensee. [*Id.* at 000010.]

81 Norma testified that the duties of a Commission licensee were not explained to her. She also testified that she was not told that she would have had to be willing to fulfill those duties; that she was not told that she would have had to be willing to participate in the funding of the construction of her station; that she was not told that she would have had to be willing to participate in the funding of the cost of operation of her station; that she was not told that she would have had to be willing to accept the risk of failure of any business arising out of the operation of her station; and that she was not told that she would have had to be willing to actively participate in the sales of

service and equipment to be provided to customers of her station (Tr. 2102-04, 2105.) Norma further testified that she was not told that if the expenses of her station were greater then the revenues, the difference would be considered a loan to be repaid by the licensee at a later time. (Tr. 2105-06.)

82. Similarly, Melissa testified that, in 1995-96, she did not know what the requirements were for becoming a Commission licensee, and she was not willing to fulfill the duties of a Commission licensee at that time. Melissa also testified that no one asked her if she was willing to fund the construction of her station, and she was not willing to do so; that no one asked her if she was willing to take the risks involved in the funding or operation of her station, and she was not willing to do so; that no one told her that she had any control over the operation of her station; that no one told her she had any input into the policy or personnel decisions relating to her station; and that no one told her that she would receive anything if she got a license in her name. (Tr. 1348-50.)

83. Jennifer testified that she did not help find customers for Metroplex, and that she had never agreed to help in this regard. She also testified that she did not participate in the operation of her station, and did not risk any money, purchase any insurance, take out any loans or sign for any loans relating to her station. (Tr. 1068.) Jim stated that he did not supervise anyone operating a station pursuant to his license (Tr. 1787), that he did not risk any money with respect thereto, and that he did not agree to lend anyone money to construct or operate his station (Tr. 1789).

84. Lutz testified that, before she applied for her station in 1996, she did not particularly understand what the duties and responsibilities of a Commission licensee were, that no one explained them to her, and that no one asked her if she would be able to fulfill those duties and responsibilities. Lutz also testified that no one asked her if she would be willing to participate fully in the operation of her facilities; that no one asked her if she would be willing to accept the risk of failure resulting from the operation of her station; that no one asked her if she would be willing to participate in the funding of the construction of her station; and that no one asked her if she would be willing to participate in the funding of the costs of the operation of her station. (Tr. 1166, 1214-15.) To the extent that Lutz participated in the sales of service and equipment provided to the customers of her station, she testified that such participation was done as a part of her regular duties as an employee of Metroplex, and that such participation was not specifically associated with her station. (Tr. 1215-16.) Lutz further testified that she was "absolutely not" told that if the amount of revenue derived from the operation of her station was not enough to pay for the costs of running that station, the difference would be loaned to her. Lutz stated: "Nothing was ever said in the way of lending money or paying back money. The only monies that were mentioned in regards to this were this will never cost you any money to have this station." (Tr. 1217.)

85. At the hearing, Ronald could not remember if he asked Jim, Norma, Melissa, or Jennifer if they would be willing to participate in the funding of the construction of their facilities. Ronald did not remember asking them if they would be willing to fund the cost of operation of their stations. Ronald testified that he told Jim, Norma, and Lutz that they would be given the opportunity to sell equipment on their systems, but that this was not a condition for making them applicants. Ronald stated that he had no conversations with Melissa or Jennifer regarding the criteria outlined in paragraph 4b of the April 1999 response (quoted above). (Tr. 292-94.) Patricia testified that she and Ronald did not discuss with the Sumpters the funding of the stations because it was understood that Metroplex would pay for the equipment as well as everything else. (Tr. 816-17.)

86. Ronald testified at the hearing that, even though O. C. was then dead, he (O. C.) was included in the statement in paragraph 6 of the response that "[a]ll other licensees participating in

management agreements . . . have provided substantial direction and supervision regarding the operation of the subject facilities." (Tr. 330.) Ronald explained that his decisions would be considered as O. C.'s decisions (Tr. 330), and that he (Ronald) would be "directing myself" to do things (Tr 331). Ronald testified that O. C. had given him a power of attorney, and that O. C. gave him directions "[t]hrough the power of attorney " (Tr. 332.)

87. Attached to Metroplex's April 1999, response were a number of Management Agreements. (EB Ex. 19, pp. 000458, 000472, 000486, 000500, 000514, 000528, 000542, 000556, 000570, 000585.) Each of these Agreements was identical in all material respects to the Metroplex-O. C. Brasher Agreement discussed (and quoted) above. (*Compare* EB Ex. 5 *with* EB Ex. 19, pp. 000458 *et seq.*) A copy of what purported to be the Metroplex-O. C. Brasher Agreement was included in the response. (EB Ex. 19, p. 000500.) However, due to an error in collating the attachments to the response, some of the pages of the O. C. Agreement, including the notification and signature pages, were omitted. In their place, the corresponding pages from an Agreement between Metroplex and David Brasher appeared. (EB Ex. 19, pp. 000509-10; Tr. 353-56.) Ronald testified that it was his intention to include in Metroplex's response the correct pages from the O. C. Agreement, including the page on which he (Ronald) signed O. C.'s name. (Tr. 355-56.)

88. On March 4, 1999, the WTB also sent a letter of inquiry to counsel for Jim Sumpter. Among other things, the letter asked Jim to "[d]escribe any marital, consanguine, business, and/or legal . . relationship" between Jim, Ronald and/or Metroplex. (EB Ex. 36, p. 2.) In a Declaration dated April 9, 1999, Jim outlined his "relationships" with Metroplex, Ronald, Patricia, O. C., David, Lutz, and Bearden. With regard to O. C., Jim stated: "O. C. Brasher (deceased) – Ronald Brasher's late father." With regard to Bearden, Jim stated: "Ruth I. Bearden (deceased) – Ronald Brasher's late mother." (EB Ex. 37, pp. 5-6.)

89. <u>"Client Copies" of the Sumpters' Applications.</u> As discussed earlier, John Black prepared the applications for new mobile radio licenses (FCC Form 600s) in the names of the four Sumpters. (Tr. 116-18, 1647, 1686; EB Ex. 35, pp. 3-8; EB Ex. 41, pp. 3-8; EB Ex. 49, pp. 2-7; EB Ex. 54, pp. 2-7; EB Ex. 66, pp. 1-2.) Black also prepared what were called in this proceeding "client copies" of the applications of Jim, Norma, Melissa, and Jennifer. These were duplicate copies of each application which were rubber-stamped by Black with the words "CLIENT'S COPY" on their first pages. (Tr. 415; EB Ex. 19, pp. 000198, 000206, 000214, 000222; EB Ex. 22, pp. 11, 18, 25, 33; capitalization in originals.) Ronald received each of the client copies from Black at the same time as he received the prepared application. (Tr. 412-13, 415.)

90. Ronald testified that, on June 10, 11, or 12, 1996, when he and Patricia went to Jim's office with the original Sumpter applications, he also brought with him the client copies of those applications. (Tr. 415-16; EB 22, p. 6.) Ronald stated that, when he and Patricia left Jim's office that day, the four applications, as well as the four client copies, were left with Jim and Norma to be signed at a later time. (Tr. 419-20.)

91. According to Ronald and Patricia, on June 17, or 18, 1996, they returned to Jim's office to pick up the applications and the client copies. (Tr. 421-22, 424, 822; EB Ex. 22, p. 7.) Ronald and Patricia stated that Ronald thumbed through the documents and noticed that the client copies were not signed. (Tr. 422, 822-23; EB Ex. 22, p. 7.) Ronald testified that he told Norma that he needed the client copies signed, and Norma told him that she would be over to Ronald and Patricia's house the next Saturday to see Patricia. (Tr. 422, 426, 823-24.) Ronald stated that he left the client copies with Norma. (Tr. 426.)

92. On August 3, 1999, counsel for Ronald filed with the Commission a letter discussing the execution of the Sumpters' applications and the client copies. (EB Ex. 22.) Attached to the letter was the July 30, 1999, affidavit of Ronald wherein he stated, *inter alia*:

> It is Ronald's policy that applicants for radio service authorization should keep originally executed duplicate applications [*i.e.*, client copies] for their files.
>
> On the morning of Saturday, June, 22, 1996, Norma, Melissa and Jennifer visited Ronald and Patricia at the Brasher's residence . . . in Sunnyvale, Texas . . . This visit was not planned for the purpose of executing their client copies, rather it was customary for the Sumpter women to visit with Patricia on Saturdays for shopping, conversation, or other social activities.
>
> When Ronald raised the issue of the Sumpters forgetting to sign their client copies of the Form 600 applications, Norma, Melissa and Jennifer each, without hesitation, volunteered to sign their client copies and did so in the presence of Ronald and Patricia.
>
> Ronald took the three signed client copies of the Form 600 applications and made photocopies of the documents for Ronald's records, then returned the originally signed client copies to Norma, Melissa and Jennifer respectively. . . .
>
> As Jim Sumpter was not present at this meeting, the unsigned client copy of his application was also photocopied, and the original unsigned client copy was returned to Norma, Melissa and Jennifer. . . . Ronald did suggest to Norma that Jim Sumpter should execute his copy so that he would have a conformed copy of the application for his files.

(*Id.* at 7-8.) In counsel's letter, it was argued that the signed client copies showed that Norma "ratifi[ed] . . . her intent to be a Commission applicant," that Melissa "ratif[ied] her participation in the earlier application," and that Jennifer "did, indeed, execute documents employing her married name." (*Id* at 3.) Photocopies of the photocopies that Ronald stated he made were attached to his affidavit as exhibits. (*Id.* at 11-31, 33-39.) Photocopies of the photocopies had been previously attached to Metroplex's April 5, 1999, response to the WTB's March 4, 1999, letters of inquiry. (EB Ex. 19, pp. 000198, 000206, 000214, 000222.) All of these second-generation photocopies were of poor quality (Tr. 2327, 2363), which Patricia attributed to the worn out copier she and Ronald had at their home (Tr. 825).

93. Ronald testified at the hearing that, on June 22, 1996, at his house (Tr. 428, 430), he saw Norma sign and date the client copy of her application (Tr. 428-29). Ronald stated that he also saw Jennifer and Melissa sign the client copies of their applications. Ronald believed that Norma dated Jennifer's client copy, and that either Norma or Melissa dated Melissa's client copy. (Tr. 431-32.) Similarly, Patricia testified at the hearing that Norma, Jennifer, and Melissa came over to her house one Saturday to go shopping and they sat down at her breakfast room table and signed their client copies in her presence. (Tr. 825.)

94. Norma testified that she did not write either her signature or the date on the client copy of her application. (Tr. 2030-31.) Nor did she write the date on the client copies of Melissa's or Jennifer's applications. (Tr. 2090, 2093.) Norma stated, "[W]e never went over there and signed these documents." (Tr. 2091.) Melissa testified that, although it looked like her signature on the client copy of her application, it was not, in fact, her signature. (Tr. 1333.) She knew this, she testified, because she did not sign the client copy (*id.*), and she saw that document for the first time

when her attorney showed it to her in 1999 (Tr. 1338). Melissa further stated that her signature "could easily" have been "[l]ifted, rewritten, [or] copied over" from another document that she signed. (Tr. 1333) Melissa did not recall going to Ronald and Patricia's house on June 22, 1996 (*id.*), and stated that she had never signed anything at their house (Tr. 1337). Jennifer also testified that, although it looked like her signature on the client copy of her application, she did not believe that she signed it. (Tr. 1069-70, 1073) Jennifer did not remember going to Ronald and Patricia's house to go shopping and then signing her client copy. (Tr. 1069, 1073.)

95. Jim and Norma testified that Norma could not have signed the client copy of her application on June 22, 1996, because they were out of town from Friday, June 21 to Sunday, June 23, 1996. (Tr. 1797, 2037.) Specifically, Jim and Norma testified that were in Junction, Texas, approximately 325 miles (6 to 7 hours) away from their home in Mesquite, Texas, during that period of time (Tr. 1797-99, 1801, 1943-44; EB Ex. 70, p. 1.) Jim and Norma stated that they were checking on Jim's ill elderly aunt who lived in Junction at that time. (Tr. 1798, 2038, 2048.) Norma testified that, since 1991, Jim had never gone to Junction to visit his aunt without Norma accompanying him. (Tr. 2048.)

96. In support of their testimony, Jim and Norma relied on Jim's appointment book, which showed that he was out of the office on Friday afternoon, June 21. (EB Ex. 70, p. 5; Tr. 1800-01, 2040-41.) Credit card receipts showed that Jim and Norma ate lunch at a restaurant in Mesquite before they left on Friday, June 21, and purchased gasoline in Junction on Sunday, June 23, before they left for home. (EB Ex. 70, pp. 12-13; Tr. 1805-06, 2039, 2044-46.) Jim and Norma's check register showed that Jim made a contribution by check to his church on Wednesday, June 19, and Jim and Norma testified that the contribution would have been made on Sunday if they had been in town. (EB Ex 70, p. 7; Tr. 1802-03, 2041-43.) Telephone records showed that Jim made a call from his office to his aunt in Junction the morning of June 21 to let her know that he and Norma were coming that day. (EB Ex. 70, p. 11; Tr. 1804, 2043-44.) Jim made another call to his aunt on Sunday afternoon, June 23, to let her know that he and Norma had arrived back home safely. (EB Ex. 70, p. 14; Tr. 1806.)

97. As noted earlier, Gail Bolsover, a Forensic Document Analyst, testified as an expert witness. Bolsover examined photocopies of the signature pages of the client copies of the applications of Norma, Melissa, and Jennifer. The pages she examined had been included as attachments to Metroplex's April 1999 response to the WTB's March 1999 letter of inquiry. (Judge's Ex. 4, p. 1 (Q-11, Q-12, Q-13); EB Ex. 19, pp. 000200, 000208, 000216.) Although Bolsover was of the opinion that Norma, Melissa, and Jennifer "probably wrote" the signatures which appeared on the photocopies (Judge's Ex. 3, p. 1 (Q-11, Q-12, Q-13); Tr. 2326-27, 2235),[11] she testified that she could not tell whether those signatures were original to the documents on which they purportedly appeared (Tr. 2362-63). Bolsover characterized the quality of the particular photocopies she examined as "poor," and stated that she normally would not be able to tell on a photocopy of such quality whether a signature was original to the document. (Tr. 2327, 2362-63.)

98. Bolsover also testified that, based on the poor quality of the photocopies, she could not tell if any of the signatures was traced, cut and pasted, or placed on the documents by means other than having been originally written on the pages. (Tr. 2363.) In this regard, Bolsover stated that she compared the genuine signatures of Melissa and Jennifer which appeared on two specific known documents (K-8-38 and K-7-17), with the signatures of Melissa and Jennifer which

[11] Bolsover defined "probably wrote" as "there is enough evidence to suggest the likelihood that they did [write something]." (Tr. 2300.) In the relevant portion of her report in this case, she stated. "The qualified conclusions (i.e., probably wrote) are necessitated by the submission of machine copies of the questioned exhibits " (Judge's Ex. 3, p. 2 (Q-11, Q-12, Q-13).)

appeared on the photocopied client copies of their applications (Q-11 and Q-12). From her comparison, Bolsover concluded that those two specific genuine signatures had not been "placed (*i.e.*, cut and pasted)" on the photocopied client copies she examined. (Judge's Ex. 3, p. 2 (Q-11, Q-12, K-8-38, K-7-17), Tr. 2335-36, 2339-40, 2341-42.) When asked whether there was any evidence that the signatures on the client copies were traced from other signatures, Bolsover answered: "The photocopies were so poor – there was nothing there to suggest that, but, again, the photocopies were so poor, I really couldn't see." (Tr. 2335.) She also testified: "I said I can't tell whether they were traced. . . . Well, I was looking at very poor photocopies and any evidence of that [*i.e.*, tracing] may be masked in the photocopying. I don't know." (Tr. 2349.)

99. With respect to the dates "6-22-96" which were handwritten on Jennifer's and Norma's client copies, Bolsover testified that they were "machine copies of a single handwritten entry." (Judge's Ex. 3, p. 2 (Q-11, Q-13).) Bolsover explained:

> A: It means that the date, 6/22/96 was written on something, either one of those documents, and then photocopied or in some way placed onto the other. Or it may have been written on a third document all together [*sic*] and placed on both of those documents. I can't say. But it is the same handwritten entry.
>
> . . . .
>
> Q· So it's your opinion that those are the same machine generated copy?
>
> A· The date portion of that is the same. They can be superimposed one on top of the other, they are a single handwritten entry.
>
> . .
>
> Q: Is it not possible in your opinion that one person wrote both dates on different documents?
>
> A: No. [Tr. 2343-44.]
>
> . . .
>
> Q: How would identical dates be put on different pages?
>
> A. Cut and paste, transparency. Some way one was photocopied onto the other.
>
> Q: They couldn't have been both written on there and be identical. Is that correct?
>
> A: Not as identical as they are. No. They are identical. [Tr. 2361.]

100. <u>September 9, 1999, Letters of Inquiry.</u> On September 9, 1999, the WTB sent four separate letters of inquiry to counsel for Metroplex directing Ronald, Patricia, David, and Diane to provide certain information. These letters concentrated on the applications of O. C. Brasher and Ruth Bearden. (EB Ex. 23, EB Ex. 27; EB Ex. 30; EB Ex. 33.) Among the questions which were asked in each letter of inquiry were the following:

3. State whether O. C Brasher, licensee of Station WPJR761, is deceased and, if so, the date that he passed away or, if not deceased, his current mailing address and telephone number.

. . . .

7. State whether Ruth I. Bearden, licensee of Station WPJR762, is deceased and, if so, the date that she passed away or, if not deceased, her current mailing address and telephone number.

(EB Ex 23, pp. 1-2; EB Ex. 27, pp. 1-2; EB Ex. 30, pp. 1-2; EB Ex. 33, pp. 1-2.)

101. By separate letters dated October 13, 1999 (filed on October 14, 1999), counsel provided Ronald's, Patricia's, David's, and Diane's responses. (EB Ex. 21, pp. 4, 9, 18, 23.) Appended to each response was the notarized affidavit of the respective respondent, which stated: "Further affiant sayeth not[.]" (*Id.* at 7, 13, 21, 26.) Each response reported that O. C. passed away on August 17, 1995, and that Bearden passed away on April 12, 1991. (*Id.* at 5, 10, 19, 24-25.) Copies of the death certificates of O. C. and Bearden were attached to Ronald's response. (*Id.* at 47, 59.) By separate letters dated October 13, 1999 (filed on October 14, 1999), Metroplex "inform[ed] the Commission that O. C. Brasher is deceased . . ." (*id* at 2), and that "Ruth I. Bearden is deceased . ." (*id.* at 3).

102. In describing the assistance Ronald provided in the preparation and filing of a 1998 application for the assignment of O. C.'s authorization, the response stated:

> On September 25, 1996, the Commission issued a license for station WPJR761 in the name of O. C. Brasher. By this time, O. C. Brasher had passed away, and his son, Ronald D. Brasher was named the executer [*sic*] for the Estate of O. C. Brasher. In his capacity as Executor of the Estate, Ronald Brasher attempted to preserve the license as an asset of the estate. Therefore, Ronald Brasher prepared and submitted an application to assign the license out of the name of the deceased and into the name of one of the heirs to the O. C. Brasher estate. [EB Ex. 21, p. 24.]

103. During the hearing, Ronald testified that O. C. left a will, and that Ronald had possession of the original. Ronald did not file the will with the probate court, and O. C.'s property had not been distributed to his heirs. Ronald also testified that he did not know whether there had been a probate court order appointing him as the executor of O. C.'s estate. (Tr. 332-34.)

104 In describing the assistance Ronald provided in the preparation and filing of a 1996 application in the name of Ruth I. Bearden, the response stated:

> The intent of [the Bearden] application was to create a license in the name of a corporation for which Ruth I. Bearden was formally the principal. Due to an error in the preparation of the application at issue and the similarities that exist between the names of Ronald Brasher's late mother and this entity, the license was applied for in the name of the individual instead of the corporate entity that was the intended recipient of the license. Immediately upon learning of the error in the name of the entity applying for the license, Ronald Brasher contacted the frequency coordinator in an attempt to cancel the application here at issue. . . . Subsequent to this request to halt the processing of this application, the license was issued. Ronald Brasher immediately

> contacted the Commission by telephone, requesting that the license for station WPJR761 [*sic*] be cancelled [EB Ex. 21, p. 25.]

105. With regard to the 1996 application bearing the name of Ruth I. Bearden, Ronald testified at the hearing that Ed Bearden, who was one of Ruth's brothers (and Ronald's uncle), specifically asked Ronald to apply for a license in Ruth's name. Ed Bearden was going to use the license for his sand and gravel hauling business. Ronald stated that he could not have applied for a license in Ed Bearden's name because Ed had been convicted of a felony in the 1930s and, for that reason, could not have gotten a license in his own name. Consequently, Ronald applied for the license for Ed Bearden in Ruth Bearden's name. (Tr. 196-98.)

106. Ronald further testified that he tried to stop the processing of the Ruth Bearden application because Ed Bearden told him that the business for which the license was sought no longer existed. (Tr. 201-02.) Ronald called PCIA and was told to send a letter. By letter to PCIA dated July 30, 1996, which he both mailed and faxed, Ronald requested that the application be cancelled. (EB Ex. 14, pp. 1-2, Tr. 202-04.)

107. Ronald testified that he never received the Bearden license for Station WPJR762, which was issued by the Commission on September 26, 1996. Ronald also stated that he did not recognize a March 31, 1998, letter from the Commission to Bearden which automatically cancelled her license because Bearden had not informed the Commission that her station had been constructed in a timely manner. Both the license and the letter were addressed to Ronald's home. (EB Ex. 10, pp. 1-2; Tr. 181-82, 209.) Ronald never constructed the station authorized under call sign WPJR762. (Tr. 137-38.)

108. John Black testified that, in early April 1998, he received from Ronald facsimile copies of the Bearden license and the Commission's cancellation letter. (Tr. 1666, 1669.) A handwritten notation at the top of the license stated:

> To John Black From R Brasher
> Please apply for
> this freq at this location under
> DLB

(EB Ex. 10, p. 1.) Both Ronald and Black identified the handwriting as being Ronald's. (Tr. 176-77, 1666.)

109. Impact of the Loss of Licenses. Ronald testified that the provision of service to repeater access customers on Metroplex's 800 MHz, 900 MHz, and T-band systems constituted "60-plus" percent of Metroplex's business. (Tr. 624-25.) If Metroplex lost that percentage of its business, it would be "[e]xtremely doubtful" that the company would be able to stay in business. (Tr. 626.) Ronald stated that, even if the company went out of business, it would still incur continuing costs, such as tower rental, of about $120,000 per year for a period of three to five years. (*Id.*) Ronald further testified that the impact on him and Patricia of the loss of their business would be "[d]evastating. . . . Complete ruin. I'm sure we'll be liable for everything all the way down the line. It would probably take away everything except our home." (Tr. 628-29.)[12]

[12] This testimony was initially taken on an offer of proof basis. (Tr 626.) However, this ruling was later changed and the testimony was received for all purposes. (Tr 629-32.)

III. CONCLUSIONS OF LAW

110. This proceeding was designated for hearing to determine whether Ronald Brasher, Patricia Brasher, David Brasher, and/or Metroplex made misrepresentations to or lacked candor with the Commission (Issue a), to determine whether Ronald, Patricia, David, and/or Metroplex were undisclosed real parties-in-interest in the applications of others and/or violated Section 310(d) of the Act by engaging in unauthorized transfers of control (Issue b), and to determine whether Ronald, Patricia, David, and/or Metroplex abused the Commission's processes in connection with the filing of certain applications in the names of others (Issue c). In light of the outcome of these issues, it must ultimately be determined whether Ronald, Patricia, David, and/or Metroplex are basically qualified to be or remain Commission licensees (Issue d), whether any of their licenses should be revoked (Issue e), and whether any of their pending applications should be granted (Issue f). The findings establish, and it is concluded, that Ronald and Patricia misrepresented facts to the Commission, that Ronald, Patricia, and Metroplex were the real parties-in-interest in applications filed in the names of others, that they abused the Commission's processes in this regard, and that they violated Section 310(d) of the Act. Accordingly, it is ultimately concluded that Ronald, Patricia, and Metroplex lack the requisite qualifications to be or to remain Commission licensees, that their existing licenses should be revoked, and that their pending applications should be denied. Inasmuch as there was no evidence linking David Brasher to any of this misconduct, it is also ultimately concluded that he is basically qualified to remain a Commission licensee and his licenses should not be revoked.[13]

A. Issue (a): Misrepresentation/Lack of Candor

111. The findings of fact establish, and it is concluded, that Ronald Brasher made multiple misrepresentations of fact to, and concealed material information from, the Commission in applications he filed with the Commission in the names of others, in an Opposition pleading, and in his and Metroplex's responses to several WTB letters of inquiry. The findings also establish, and it is concluded, that, in some instances, Patricia Brasher was complicit in the misrepresentations made by Ronald Moreover, the findings establish that both Ronald and Patricia misrepresented significant and critical facts in the testimony they gave in this proceeding, and that falsified and fabricated documents were submitted to the Commission in support of their case. These derelictions are disqualifying.

112. It is uncontroverted that, in 1996, Ronald filed with the Commission an application in the name of his father, O. C. Brasher. Ronald signed O. C.'s name on the application form. Immediately below the O. C. signature was a warning (in capital letters) that willful false statements made on the form were punishable by both criminal and civil sanctions. In 1996, Ronald also filed an application in the maiden name of his mother, Ruth I. Bearden. Ronald signed Bearden's name on the application form. Appearing immediately below the Bearden signature was the identical warning statement. O C. died 10 months before Ronald filed the application bearing his name, and Bearden died more than five years prior to the filing of the application bearing her name. Patricia wrote and signed checks for the filing fees which accompanied these applications, and wrote the names of O. C. and Bearden in the memo portions of the checks. At the time these applications were filed and the checks written, both Ronald and Patricia knew that O. C. and Bearden were dead.

113. By filing these applications in the names of his deceased father and mother, and by signing their names on the application forms, Ronald falsely represented to the Commission that

[13] No issue was designated to inquire specifically into the conduct and qualifications of Diane Brasher However, in fairness to her, it must be concluded that there was no evidence connecting Diane to the misconduct disclosed in this proceeding.

those two individuals signed their own applications and that both were, indeed, alive. Ronald thus misrepresented to the Commission one of the most basic attributes of an individual applicant, namely, that he or she was a living person. Ronald also misrepresented the names of the actual applicants. Significantly, Ronald made these misrepresentations in spite of the explicit, strong, and prominent warning, which appeared immediately below the signature and date block on each application, that willful false statements made on those forms were punishable by criminal and civil penalties. By his conduct, Ronald displayed a cavalier attitude toward both the truth and the integrity of the Commission's application process. Patricia, in signing the checks which accompanied the applications, was complicit in the misrepresentations since she knew the applications were going to be filed, knew that O. C. and Bearden were deceased, and knew that they were not the true applicants.

114. The findings establish that Ronald and Patricia had a very strong motive for filing these applications and making these misrepresentations. In early 1995, Ronald had been approached by two cement-hauling or concrete companies about using Metroplex to provide service for 600 to 800 new mobile units. Ronald and Patricia knew that they needed a large number of new T-band frequencies in place in 1996 to accommodate those companies. They also knew that they could only apply for one T-band license in each of their own names and in the name of Metroplex. They therefore had to find a number of different names under which they could file a sufficient number of applications to acquire enough spectrum to service their new customers. Consequently, Ronald and Patricia used the names of Ronald's deceased father and mother on applications for T-band licenses In this connection, it is noted that when Ronald asked Lutz to apply for a license, he told her that he needed a name under which an application could be filed. Further, Ronald told Jennifer Hill in a telephone conversation that "once [she] had signed one application, . . . he could use [her] name again and again." The record reflects that O. C. signed an application in 1995 and that Bearden apparently signed an application prior to June 1990.

115. Ronald claimed that he filed the 1996 application in O. C.'s name because it was O C.'s desire when he was alive to have one of these stations, and that Ronald and Patricia considered this application to have been part of O. C.'s estate Even assuming, *arguendo*, that something not yet in existence at the time of O. C.'s death could be part of his estate, the short answer to these assertions is that they are irrelevant. The simple fact is that Ronald signed his deceased father's name to an application and therefore represented to the Commission that O. C. was alive, that O. C. himself signed the application, and that O. C. would be the actual licensee of the station for which he applied. These representations were manifestly false.

116. The 1996 O. C. Brasher application was not the only instance in which Ronald signed O. C.'s name after his death. In January 1998, Ronald signed O. C.'s name to an assignment application which was filed with the Commission. By this action, Ronald again misrepresented that O. C. was the individual who actually signed the application and that O. C. was alive. Ronald also signed O. C.'s name to a Management Agreement in March 1999. Although the signature page of this Agreement was not submitted to the Commission because of a collating error, Ronald testified that he intended to include the O. C. Management Agreement, including the signature page, with an April 5, 1999, response to a WTB letter of inquiry. This testimony constitutes an admission by Ronald that he planned to submit to the Commission yet another document bearing a false O. C. signature, thereby implying that O. C. was alive and that he actually signed the document. However, Ronald's intended deception failed only because of a collating error. In addition, since Patricia signed the O. C Management Agreement on behalf of Metroplex knowing at the time that O. C. was deceased and believing that the Agreement was going to be submitted to the Commission, she participated in the planned deception.

117. Ronald testified that he signed O. C.'s name on the Management Agreement pursuant to a power of attorney given to him by his father in January 1992. However, the record reveals that the power of attorney was revoked on the very day it was executed, and that Ronald saw his father sign the Revocation Provision. Ronald's testimony that the Revocation Provision did not revoke the power of attorney, as well as his testimony that he did not understand what the revocation meant, must be rejected as inherently unbelievable.

118. The 1996 Ruth I. Bearden application was not the only instance in which Ronald signed Bearden's name after her death. On October 18, 1994, three and one-half years after she died, Ronald signed Bearden's name to an assignment application. He therefore misrepresented to the Commission that Bearden actually signed the application herself and that Bearden was a living person.

119. The record establishes, and it is concluded, that Ronald, Patricia, and Metroplex concealed from the Commission for a period of nearly two years – from November 1997 to October 1999 – the fact that O. C. Brasher and Ruth I. Bearden were deceased. Further, the disclosure of their deaths came only after Jim Sumpter had reported to the Commission that O. C. and Bearden were dead, and only after the WTB had specifically asked Ronald and Patricia to state whether O. C. and Bearden were deceased. In other words, the disclosure came because Ronald, Patricia, and Metroplex could no longer hide the deaths from the Commission, and under circumstances in which they had no choice but to disclose them.

120. In November 1997, Net Wave filed a Petition for Order to Show Cause with the Commission. Net Wave alleged that Metroplex made false statements in applications for T-band licenses with regard to the real parties-in-interest, and that Metroplex concealed the family and other interrelationships among the applicants. Net Wave specifically mentioned the applications, among others, of O C. Brasher and Ruth I. Bearden. A response was filed on November 27, 1997, on behalf of Metroplex, O. C. Brasher, and Ruth I. Bearden, *inter alia*. Nowhere in the response was it disclosed that O. C. and Bearden were deceased.

121. On November 9, 1998, the WTB sent a letter of inquiry to counsel for Metroplex. By letter dated December 4, 1998, Ronald responded to the letter of inquiry. Although O. C. was listed as a "Licensee" of one of Metroplex's "Managed Stations," nowhere was it disclosed that he was dead. Similarly, on March 4, 1999, the WTB sent a second letter of inquiry to counsel for Metroplex. By letter dated April 5, 1999, counsel for Metroplex responded over the affidavit of Ronald. Although Ronald was described as the "Son of O. C. Brasher," Patricia was described as the "Daughter-in law of O. C. Brasher," David was described as the "Grandson of O. C. Brasher," and Diane was described as the "Granddaughter-in-law (by marriage) of O. C. Brasher," nowhere was it disclosed that O. C. was deceased.

122. On September 9, 1999, the WTB sent letters of inquiry to counsel for Metroplex directing that Ronald and Patricia respond to certain questions. Ronald and Patricia were specifically asked whether O. C. and Bearden were deceased. By letters dated October 13, 1999, Ronald and Patricia reported for the first time that O. C. and Bearden had passed away. Copies of their death certificates were attached to Ronald's response. By separate letters also dated October 13, 1999, Metroplex informed the Commission for the first time that O. C. and Bearden were deceased. However, and significantly, in between the filing of Metroplex's April 5 and October 13, 1999, responses, the Commission had been informed in a written submission made by Jim Sumpter that O. C. and Bearden were deceased. Given these circumstances Ronald, Patricia, and Metroplex could hardly have continued their deception.

123. It must be concluded that Ronald, Patricia, and Metroplex had an ample motive to conceal the deaths of O. C and Bearden from the Commission until they could no longer avoid doing so. The Net Wave Petition had raised serious concerns regarding all of the T-band applications filed by Metroplex *et al.* in 1996. Among those questions were real party-in-interest allegations and accusations of concealment. Had the deaths of O. C. and Bearden been immediately revealed in Metroplex's Opposition, as they should have, the disclosure would have given substantial credence and support to Net Wave's allegations. Since the "overall intent [of the Opposition was] to keep the FCC from taking the matter seriously," full disclosure would have risked the very thing that Ronald, Patricia, and Metroplex were attempting to avert, namely, that serious attention would be given to Net Wave's charges. Thus the deaths of O. C. and Bearden were concealed.

124. In their PFCs, Ronald, Patricia, and Metroplex contended that Ronald did report O. C.'s death to the Commission. In support, they relied on a FCC Form 800A that the Commission sent to O. C. asking whether Station WPJR761 had been constructed Ronald completed this form and, on December 9, 1997, signed the document "O. C Brasher EST. R. D Brasher." Ronald testified that he intended "EST." to mean "estate." However, the record evidence establishes that Ronald did not intend the submission of this form to be notice to the Commission that O. C. was deceased. He testified:

> Q: Is it your testimony that by submitting this particular form to the FCC that constituted notice for all time to the FCC that Ronald [*sic*] Brasher was deceased?
>
> ALJ: O. C.
>
> Q: O. C. Brasher was deceased? Sorry. . . .
>
> A: . . . Does this constitute that this is official notice from there on out?
>
> Q: Is that your testimony, that you intended this to be official notice to the FCC that O. C Brasher was deceased?
>
> A: No. [Tr. 654-55.][14]

125. The findings establish, and it is concluded, that Ronald and Metroplex made many other misrepresentations in responses they gave to several WTB letters of inquiry. On September 9, 1999, the WTB sent letters of inquiry to counsel for Metroplex directing Ronald and Patricia to answer certain questions. Ronald responded by letter dated October 13, 1999, which was submitted over his affidavit. In his response, Ronald claimed that the intent of the 1996 Bearden application was to create a license in the name of a corporation for which Bearden was formerly the principal. Ronald also stated in the response that "[d]ue to an error in the preparation of the application . . . and the similarities that exist between the names of Ronald Brasher's late mother and this entity, the license was applied for in the name of the individual instead of the corporate entity that was the intended recipient of the license." This explanation was false. The evidence establishes that the name of the applicant on the 1996 application, "Ruth I. Bearden," was indeed the name of "the intended recipient of the license." This was demonstrated by the list of applicants that Ronald faxed to John Black, the individual who prepared the Bearden application. This list contained the name

[14] Based upon the observation of Ronald's demeanor and tone of voice when he gave this testimony, the Presiding Judge concludes that Ronald fully understood that he was being asked whether, by submitting this form, he intended to notify the Commission that O. C was deceased, and that he answered, "No."

"Ruth I. Bearden." It did not contain the name of a corporation with a name similar to that of Bearden. There was therefore no "error in the preparation of the application," as Ronald represented in his response On the contrary, Black prepared the application precisely as Ronald had directed.

126. In his October 13, 1999, response Ronald also stated that he attempted to cancel the 1996 Ruth Bearden application "upon learning of the error in the name of the entity applying for the license." However, this statement conflicts with Ronald's hearing testimony. There, Ronald testified that the 1996 Ruth Bearden application was filed at the request of his uncle (Ruth's brother), Ed Bearden, who planned to use the license in his sand and gravel business. Ronald testified that he attempted to stop the processing of Ruth's application because Ed Bearden told him that the business for which the license was sought no longer existed. No explanation was offered for this conflict in Ronald's statements, and it must therefore be concluded that Ronald misrepresented facts in either his response to the letter of inquiry, or in his hearing testimony, or in both instances

127. Moreover, even assuming, *arguendo*, that Ronald's testimony concerning Ed Bearden was true, such testimony establishes beyond question Ronald's willingness and propensity to mislead and deceive the Commission with regard to the true identity of the applicant. Specifically, Ronald's testimony was, in effect, an admission that he caused to be prepared and filed an application in the name of one individual that he (Ronald) knew was actually going to be used by someone else.

128. Ronald's October 13, 1999, response also contained an extremely misleading statement. In describing the assistance he provided in the preparation and filing of a 1998 application for the assignment of O. C.'s authorization, Ronald stated: "On September 25, 1996, the Commission issued a license for station WPJR761 in the name of O. C. Brasher. *By this time*, O. C. Brasher had passed away, . . ." (Italics added.) The clear implication of the phrase "[b]y this time," was that that O. C. died between the date his application was filed and the date of issuance of his license. This was not true, however, since O. C. died 10 months before the filing of his application. While not rising to the level of an outright misrepresentation, this misleading statement illustrates Ronald's inclination to be less than fully candid.

129. On March 4, 1999, the WTB sent a letter of inquiry to Metroplex's counsel. By letter dated April 5, 1999, Metroplex responded. Appended to the response was Ronald's "Verification" wherein he swore that the "facts and statements" contained in the response were "true and correct." The response presented a detailed list of the criteria which were used to select individuals who would be permitted to obtain licenses for stations that Metroplex would manage. Among these criteria were the following: the person must have been willing to participate fully in the operation of the facilities; the person must have been willing and able to fulfill the duties of Commission licensee; the person must have been willing to participate in the funding of the construction and operation of the facilities; the person must have been willing to accept the risk of failure; and the person must have been willing to participate in the sales of service and equipment to be used on the station. The response stated that "[p]ersons who did not evidence either the ability or the willingness to perform *each of these tasks* were not allowed to participate in any managed station agreement." (Italics added.)

130. The findings establish, and it is concluded, that this portion of the response, which was verified by Ronald, was an almost total fabrication with respect to O. C., Bearden, the Sumpters, and Lutz. Obviously, O. C. and Bearden could not have satisfied these criteria and performed each of the specified tasks because they were dead. Further, the duties of a Commission

licensee were not explained to Norma Sumpter, and she was not told that she would have had to be willing to fulfill those duties. Nor was Norma told that she would have had to be willing to participate in the funding of the construction of her station, to participate in the funding of the cost of operation of her station, to accept the risk of failure, and to actively participate in the sales of service and equipment.

131. Similarly, Melissa Sumpter did not know what the requirements were for becoming a Commission licensee and, in any event, was not willing to fulfill those duties. No one asked Melissa if she was willing to fund the construction of her station, and she was not willing to do so. No one asked her if she was willing to take the risks involved in the funding or operation of her station, and she was not willing to do so. Jennifer Hill did not help find customers for Metroplex, and she had never agreed to help. She did not risk any money, purchase any insurance, take out any loans, or sign for any loans relating to her station. Jim Sumpter did not risk any money with respect his station, and he did not agree to lend anyone money to construct or operate his station.

132. Before she applied for her station in 1996, Lutz did not particularly understand what the duties and responsibilities of a Commission licensee were, no one explained them to her, and no one asked her if she would be able to fulfill those duties and responsibilities. Likewise, no one asked Lutz if she would be willing to participate fully in the operation of her facilities, to accept the risk of failure, to participate in the funding of the construction of her station, and to participate in the funding of the costs of the operation of her station. To the extent that Lutz participated in the sales of service and equipment, such participation was done as a part of her regular duties as an employee of Metroplex, and was not specifically associated with her station.

133. After the grant of the 1996 licenses issued to O. C., the Sumpters, and Lutz, Ronald undertook the responsibility of constructing the station facilities using radio equipment owned or leased by Metroplex. Ronald and Patricia purchased the necessary repeaters and controllers and Metroplex paid for the installation of the equipment. Neither O. C. nor his estate paid the construction or operating costs of his station. The Sumpters did not agree to pay, or in fact pay, for any of the costs related to their stations. Lutz, too, was never required to pay the costs associated with the installation of the equipment used for her station, and was never asked to pay any of the expenses related to her station. Nor did Lutz assume any financial risk in connection with her license.

134. Ronald and Patricia largely substantiated the testimony of the Sumpters and Lutz regarding these matters. Ronald and Patricia stated that they did not discuss with the Sumpters the funding of the stations. Ronald did not remember asking them if they would be willing to fund the cost of operation of their stations. It was understood that Metroplex would pay for the equipment as well as everything else. Lutz was also told that having a station would never cost her any money. Ronald testified that he told Jim, Norma, and Lutz that they would be given the opportunity to sell equipment on their systems. However, contrary to the representation made in the April 5, 1999, response, Ronald stated that this was not a condition for making them applicants. Ronald testified that he had no conversations with Melissa or Jennifer regarding any of the criteria outlined above.

135. The April 5, 1999, response also stated that, with the exception of the Sumpters, each licensee "provided substantial direction and supervision regarding the operation of [their] facilities." This statement, which was verified by Ronald, was a misrepresentation. It could not possibly have been true with regard to O. C. since he died before his application was filed and before his station was constructed and became operational. In addition, the record establishes that Lutz did not have any involvement with or exercise any supervision or control over the operation of her station. At the hearing, Ronald testified that O. C. gave him directions "[t]hrough the power of attorney," that

his (Ronald's) decisions would be considered as those of O C., and that he (Ronald) would be "directing myself" to do things. Even if the revocation of the power of attorney was disregarded, Ronald's testimony was completely unconvincing and must be rejected.

136. The April 5, 1999, response further stated that if the amount of revenue derived from operation of a station was not sufficient to pay the costs of operation, the difference would be lent to licensee, and that such loans would be subject to later repayment. This statement, which was verified by Ronald, was not true. Norma testified that she had never been told this, and Jim stated that he did not agree to lend money for the construction or operation of his station. Lutz testified that she was "absolutely not" told this, and stated: "Nothing was ever said in the way of lending money or paying back money."

137. On November 9, 1998, the WTB sent a letter of inquiry to counsel for Metroplex. In his December 4, 1998, response, Ronald represented that each licensee was informed of the date his or her station was constructed and placed in operation; that mobile equipment and installation was available for each licensee; that each licensee retained the right to sell, transfer, remove from management, or cancel its license at any time; that Ronald made certain reports available to each licensee; that Ronald was obligated to follow the directions of each licensee; that Ronald did not have the authority to take a station off the air or change equipment type without the approval of the licensee, and that each licensee was responsible for reviewing and signing its own application. However, none of these representations was true with regard to O. C. and Bearden,[15] inasmuch as they died before their applications were even filed. Consequently, Ronald's statements created the false impression that O. C. and Bearden were alive – how else could they have, for example, reviewed and signed their applications, given Ronald directions, cancelled their licenses, or approved changes in equipment types? – and served further to conceal their deaths. In addition, as will be discussed in detail below, the Sumpters did not review and sign their own applications.

138. On November 17, 1997, the Net Wave Petition was filed. In an Opposition filed by Metroplex *et al* on November 25, 1997, it was stated that "[e]ach of the Operators retains control of its own station(s)." Appended to the Opposition was the declaration of Ronald stating that the facts contained in that pleading were "true and correct." This statement regarding control was a blatant misrepresentation. The findings establish that the Sumpters, Lutz, and O. C. did not "retain[ ]" control over their stations; they never had control in the first instance. In fact, the Sumpters did not even know that licenses had been issued in their names until they received copies of the Net Wave Petition more that a year after the issuance of their licenses. In addition, none of the Sumpters had any involvement in the management or operation of the stations licensed to them. Further, when Ronald asked Lutz to apply for a license, he told her that she would never have to do anything with regard to the license, and that he needed a name under which to file an application. Lutz did not have any involvement with or exercise any supervision or control over the operation of the station licensed to her beyond performing her regular duties as a Metroplex employee. Moreover, O. C. could not have "retain[ed]" control over his station because he died before it was applied for, licensed, and built.

139. At the hearing there were major conflicts between the testimony of Ronald and Patricia, on the one hand, and Jim, Norma, Melissa, and Jennifer, on the other. These conflicts revolved around the circumstances surrounding the signing and filing of the four Sumpter applications, and the signing of the client copies of the applications of Norma, Melissa, and Jennifer. For the reasons which follow, these conflicts will be resolved in favor of the Sumpters. Their testimony in this proceeding will be fully credited as it was far more credible than was the

[15] Although Bearden's station was never constructed, the record establishes that she was the licensee of Station WPJR762.

testimony of Ronald and Patricia. Consequently, to the extent that Ronald and Patricia's testimony was inconsistent with that of the Sumpters, it is rejected.

140 Ronald and Patricia testified that there were a series of at least eight to ten meetings with Norma and/or Jim, occurring over the four to six month period prior to the filing of the T-band applications. During these meetings, Ronald and Patricia allegedly discussed with Norma and Jim whether they and their daughters would be interested in obtaining radio licenses. Ronald and Patricia stated that Jim, Norma, and Jennifer agreed to allow their names to be used on applications, and that Norma gave her permission for the use of Melissa's name. Ronald and Patricia testified that, on June 10, 11, or 12, 1996, after the Sumpters' applications had been prepared, they took all four applications to Jim's office and left them with Jim and Norma to be signed at a later time. Ronald and Patricia stated that, a few days later, they returned to Jim's office, retrieved the signed applications, and sent them to the frequency coordinator for filing with the Commission. Jim, Norma, Melissa, and Jennifer denied giving their permission to Ronald and Patricia to use their names on applications, denied signing those applications, and denied even knowing that the applications had been filed.

141. It is concluded that neither Jim, Norma, Melissa, nor Jennifer gave permission to Ronald and Patricia to use their names on T-band applications, that none of the Sumpters had knowledge of the filing of their applications, and that Ronald's and Patricia's testimony to the contrary was false. The hearing testimony of Ronald and Patricia conflicted in significant respects with a June 30, 1999, affidavit executed by Ronald which was filed with the Commission on August 3, 1999. As outlined above, Ronald and Patricia testified at the hearing that there were a series of meetings with Norma and Jim over a four to six month period, and that the Sumpters had already decided to become applicants by the time the June 10, 11, or 12 meeting took place. However, in his affidavit, Ronald referred to this same meeting as "this *initial* meeting," and stated that the purpose of the meeting was for Ronald "*to offer an opportunity* to [the Sumpters] to become licensees." (Italics added.) Further, Ronald also represented in his affidavit that the applications were not signed that day because he "wanted to provide to the Sumpters ample time *to . . . decide if they wanted to hold a Commission license*." (Italics added.) Both versions of the events in question, as related by Ronald and Patricia, cannot be true. Either there was a series of meetings or this was the initial meeting. Either the offer had been made in the series of meetings or it had been made at the June 10, 11, or 12 meeting. Either the Sumpters had already made the decision to become licensees by the time of this meeting or they had not. These disparate renditions of the "facts" do not inspire much confidence in the veracity of Ronald and Patricia.

142. The conclusion that the Sumpters did not give Ronald and Patricia permission to use their names is further supported by the signatures which appeared on the applications filed in the names of the Sumpters. There is no dispute that those signatures were not the genuine signatures of Jim, Norma, Melissa, and Jennifer. The Sumpters denied that they signed their applications and their testimony was fully corroborated by Gail Bolsover, a Forensic Document Analyst who testified as an expert in this proceeding.[16] However, if the Sumpters had truly decided to become licensees, and had actually authorized Ronald and Patricia to use their names on applications, there would have been no logical reason for the Sumpters not to have signed those applications. Indeed, if Ronald and Patricia were telling the truth, it is highly likely that at least one genuine signature would have appeared on the applications in question. But it did not.

[16] Bolsover testified that the signatures which appeared on the applications of the Sumpters were not the genuine signatures of Jim, Norma, Melissa, and Jennifer. Bolsover concluded that the signatures and dates appearing on the applications of Norma, Melissa, and Jennifer were written by one writer, but she was not able to identify that writer. However, Bolsover "identified" Ronald as the writer of the date in the date box on Jim's application.

143. The findings establish that Ronald and Patricia had a clear motive to use the Sumpters' names without their permission. As discussed above, Ronald and Patricia had to find a number of different names under which they could file a sufficient number of applications to acquire enough spectrum to service Metroplex's new customers The Sumpter family was a convenient source for four of those names. In this connection, Jennifer testified that, when she told Ronald that she could not recall signing any license application in her married name, Ronald told her that "once [she] had signed one application, . . . he could use [her] name again and again." Further, the record shows that the use of the Sumpters' names fit into a pattern. That is, Ronald and Patricia also used O. C.'s and Bearden's names without their permission.

144. Turning to the client copies of the applications, Ronald and Patricia testified that, on June 22, 1996, Norma, Melissa, and Jennifer visited their residence and, in their presence, signed and dated the client copies of their applications. Norma, Melissa, and Jennifer denied that they visited the Brashers' residence on that date, and denied that they signed the client copies of their applications. Norma and Jim testified that Norma could not have signed her client copy because they were out of town from June 21 to June 23, 1996, visiting Jim's ill elderly aunt in Junction, Texas.

145. It is concluded that Norma, Melissa, and Jennifer did not sign and date the client copies of their applications, and that the eyewitness testimony of Ronald and Patricia regarding the signing and dating of those documents was untrue. Moreover, it is further concluded that Ronald and/or Patricia falsified, or caused to be falsified, the signatures and dates which appeared on the client copies of the applications of Norma, Melissa, and Jennifer. In reaching these conclusions, reliance has been placed on Bolsover's testimony that the handwritten dates appearing on Norma's and Jennifer's client copies, "6-22-96," were absolutely identical. Bolsover stated that the dates were photocopies of "a single handwritten entry," and that they could be "superimposed one on top of the other." She testified that it was not possible for one person to have written both dates on different documents, and stated that identical dates could be placed on different documents by "[c]ut and paste, transparency. Some way one was photocopied onto the other." Bolsover further testified that, although it appeared as if Norma, Melissa, and Jennifer "probably wrote" their signatures, she could not tell whether those signatures were original to the documents on which they purportedly appeared because the photocopies she examined were so poor. Bolsover also stated that she could not tell if any of the signatures was traced, cut and pasted, or placed on the documents by means other than having been originally written on the pages.

146. Bolsover's testimony establishes that the client copies of Norma's and Melissa's applications were tampered with in some manner. This necessarily places into question the genuineness of the signatures and dates on all of the client copies. Clearly, there would have been no rational basis whatsoever for Norma, Melissa, or Jennifer to have faked the signatures and dates written on their own client copies. If, as Ronald and Patricia asserted, the Sumpters had actually given their permission to use their names and file their applications, Norma, Melissa, and Jennifer would have just signed and dated their client copies when asked to do so. However, Bolsover's testimony provides corroboration for their testimony that they did not. On the other hand, Ronald and Patricia had a compelling motive to falsify and fabricate the signatures and dates on the client copies. The findings establish that poor quality second-generation photocopies of the client copies were submitted to the Commission on behalf of Ronald and Patricia in support of their contention that Norma "ratifi[ed] . . . her intent to be a Commission applicant," that Melissa "ratif[ied] her participation in the earlier application," and that Jennifer "did, indeed, execute documents employing her married name." Therefore, it was plainly in the interests of Ronald and Patricia, and no one else, to tamper with the client copies in order to make it appear as if their assertions had validity. Moreover, the record reflects that Ronald and Patricia had the opportunity to doctor those

documents since they had possession and control of them from the time Black returned them to Ronald

147. When viewed in light of the evidence of falsification, the testimony of Norma and Jim, that Norma was approximately 325 miles away from the Brasher residence on the date in question and could not have signed her client copy, rings true. In this connection, their testimony was supported by contemporaneous documentation, the most significant of which was a credit card receipt showing the purchase of gasoline in Junction, Texas, on June 23, 1996. Norma's testimony that, since 1991, Jim had never visited his aunt without Norma accompanying him, was entirely credible.

148. In awarding full credit to the testimony of the Sumpters, the Presiding Judge has taken into consideration the nature of the cross-examination of these witnesses by trial counsel for Ronald, Patricia, and Metroplex. Counsel had a deep, booming, voice, and the tone which he employed in his questioning was extremely confrontational, adversarial, and intimidating. He could also be very sarcastic. Counsel put a great deal of pressure on each of the Sumpters, and a reading of the cold transcript of these proceedings does not begin to do justice to counsel's considerable skills. That being said, the Sumpters handled themselves exceedingly well in a highly charged and stressful situation, and their testimony was forthright, candid, and entirely believable. In contrast, the record of this proceeding as a whole demonstrates a pervasive and consistent pattern of deceit on the part of Ronald and Patricia. Thus, even independent of the conflict in the testimony of the Brashers and the Sumpters, there still exist more than ample grounds for concluding that Ronald and Patricia were simply not credible witnesses.

149. "The bedrock requirement for absolute truth and candor from a Commission licensee or from a license[ ] applicant is, simply stated, this agency's *quintessential* regulatory demand." *California Broadcasting Corporation*, 2 FCC Rcd 4175, 4177 (Rev. Bd. 1987) (italics in original). Material misrepresentations to the Commission or an intentional lack of candor with respect to matters affecting an applicant's basic eligibility status are two species of misconduct that thoroughly disqualify applicants for the public trust embodied in a Commission license. *RKO General, Inc. v. FCC*, 670 F.2d 215 (D.C. Cir. 1981); *WHW Enterprises, Inc. v. FCC*, 753 F.2d 1132 (D.C. Cir 1985), *Sea Island Broadcasting Corp of S. C. v. FCC*, 627 F.2d 240 (D.C. Cir. 1980); *FCC v. WOKO*, 329 U.S. 223 (1946). Where an applicant has knowingly attempted to mislead the Commission on an underlying matter of decisional import, complete disqualification of such an untrustworthy licensee or applicant has consistently resulted. *See, e.g., Contemporary Media, Inc.*, 13 FCC Rcd 14,437 (1998); *Catoctin Broadcasting Corp. of New York*, 2 FCC Rcd 2126, 2136-38 (Rev. Bd. 1987); *TeleSTAR, Inc.*, 2 FCC Rcd 5 (Rev. Bd. 1987); *Mid-Ohio Communications, Inc*, 104 FCC 2d 572 (Rev. Bd. 1986); *Bellingham Television Associates, Ltd.*, 103 FCC 2d 222 (Rev. Bd. 1986). As the Court of Appeals stated in *WHW Enterprises*, 753 F.2d at 1139:

> [A]pplicants before the FCC are held to a high standard of candor and forthrightness. The Commission must license more than 10,000 radio and television stations in the public interest, and therefore relies heavily on the completeness and accuracy of the submissions made to it. *RKO General, Inc. v. FCC*, 670 F.2d 215, 232 (D.C. Cir. 1981), *cert. denied*, 456 U.S. 927 . . . (1982). Thus, "applicants . . . have an affirmative duty to inform the Commission of the facts it needs in order to fulfill its statutory mandate." *Id.*

150. In *Character Qualifications*, 102 FCC 2d 1179, 1210 (1986), the Commission emphasized that the trait of "truthfulness" was one of the key elements of character necessary to

operate broadcast stations in the public interest.[17] If the Commission cannot believe and rely on its licensees' reports, it cannot maintain the integrity of its processes. *Tri-State Broadcasting Co., Inc.*, 5 FCC Rcd 1156, 1173 (Rev. Bd. 1990). Consequently, a licensee's intentional deception of the Commission by the submission of either false information or incomplete and misleading information is viewed as a "serious breach[ ] of trust." *Character Qualifications*, 102 FCC 2d at 1211. Where the submission of false or incomplete and misleading information results from an intent to deceive, the remedy may be total disqualification, even if the facts concealed do not appear to be particularly significant. *Standard Broadcasting, Inc.*, 7 FCC Rcd 8571, 8573-74 (Rev. Bd. 1992); *Contemporary Media*, 13 FCC Rcd at 14,454-59 (1998); *FCC v. WOKO.*

151. As demonstrated in great detail above, the record warrants the conclusion that Ronald Brasher made multiple misrepresentations of fact to, and concealed material information from, the Commission in applications he filed with the Commission in the names of others, in an Opposition pleading, and in his and Metroplex's responses to several WTB letters of inquiry. In addition, in some instances, Patricia Brasher was complicit in the misrepresentations made by Ronald. Moreover, the record also warrants the conclusion that both Ronald and Patricia misrepresented significant and critical facts in the testimony they gave in this proceeding, and that falsified and fabricated documents were submitted to the Commission in support of their case. There can be no question that these derelictions were intentional. Ronald and Patricia had personal knowledge of all of the relevant facts at all times. Yet, as shown above, they chose to misrepresent, conceal, and distort those facts to serve their own private interests. In any event, since the record reflects that Ronald and Patricia had an extremely strong motive for their misrepresentations, concealment, false testimony, and document falsification, an intent to deceive may be inferred. *Black Television Workshop of Los Angeles, Inc.*, 8 FCC Rcd 4192, 4198 n 41 (1993) ("Intent is a factual question that can be inferred if other evidence shows that a motive or logical desire to deceive exists").

152 In light of these determinations, it must ultimately be concluded that Ronald, Patricia, and Metroplex cannot be relied upon to deal with the Commission in a fully truthful, candid and forthright manner. Therefore, they lack the requisite qualifications to be or to remain Commission licensees. Consequently, their authorizations must be revoked and their pending applications must be denied. *Leflore Broadcasting Co , Inc.*, 65 FCC 2d 556 (1977); *Star Stations of Indiana, Inc* , 51 FCC 2d 95 (1975); *Contemporary Media*, 13 FCC 2d at 14,459.

B. Issues (b) and (c): Real Party-in-Interest/Unauthorized Transfer of Control/Abuse of Process

153. The findings establish, and it is concluded, that Ronald Brasher, Patricia Brasher, and Metroplex were the undisclosed real parties-in-interest in the applications filed in the names of O. C. Brasher, Ruth I. Bearden, Jim Sumpter, Norma Sumpter, Melissa Sumpter, Jennifer Hill, and Carolyn S. Lutz, and that they abused the Commission's processes in this regard. Moreover, the findings establish, and it is concluded, that Ronald, Patricia, and Metroplex exercised *de facto* control over the stations licensed to O. C., Jim, Norma, Melissa, Jennifer, and Lutz, and that a violation of Section 310(d) of the Communications Act occurred. These misdeeds constitute independent grounds for the disqualification of Ronald, Patricia, and Metroplex.

154. Inasmuch as the unauthorized transfer of control, real party-in-interest, and abuse of process issues are inextricably intertwined, they will be considered together. It is well established that "[t]he test for determining whether a third person is a real party in interest is whether that

[17] Although *Character Qualifications* on its face applies to applicants for broadcast facilities, it has been applied in cases similar to the instant case. *See, e g , James A Kay, Jr* , 17 FCC Rcd 1834, 1865 (2002); *Marc Sobel*, 17 FCC Rcd 1872, 1893 (2002)

person has an [undisclosed] ownership interest, or is or will be in a position to actually or potentially control the operation of the station." *KOWL, Inc.*, 49 FCC 2d 962, 964 (Rev. Bd. 1974); *Creek County Broadcasting Co.*, 31 FCC 2d 462, 467 (Rev. Bd. 1971); *WLOX Broadcasting Co. v. FCC*, 260 F.2d 712, 716 (D.C. Cir. 1958). The regulatory sin embodied in the issue is the failure to disclose the true owners of a station, information the Commission must have for a variety of administrative purposes. *Lowrey Communications, L P.*, 7 FCC Rcd 7139, 7147 (Rev. Bd. 1992). A real party-in-interest issue, by its very nature, is a basic qualifying issue in which the element of deception is necessarily subsumed. *Fenwick Island Broadcast Limited Partnership I*, 7 FCC Rcd 2978, 2979 (Rev. Bd. 1992).

155 In addition, abuse of process has been generally defined as the use of a Commission process to achieve a result that the process was not designed or intended to achieve or, alternatively, the use of such process in a manner which subverts the underlying intended purpose of that process. *Broadcast Renewal Applicants*, 3 FCC Rcd. 5179, 5199 n.2 (1988). In *Arnold L. Chase*, 5 FCC Rcd 1642, 1643 (1990), the Commission stated that "it is an abuse of process to specify a surrogate to apply for a station so as to deny the Commission and the public the opportunity to review and pass on the qualifications of that party." An abuse of process issue may result in disqualification. *Margaret J. Hanway*, 59 RR 2d 1296, 1301-02 (Rev. Bd. 1986).

156. Further, Section 310(d) of the Communications Act prohibits the transfer of control of a station license, or any rights thereunder, without prior Commission consent. In determining whether *de facto* control of a non-broadcast radio facility has been transferred in violation of Section 310(d) of the Act, the Commission utilizes the following criteria:

(a) Does the licensee have unfettered use of all facilities and equipment?
(b) Who controls daily operations?
(c) Who determines and carries out policy decisions, including preparing and filing applications with the Commission?
(d) Who is in charge of employment, supervision and dismissal of personnel?
(e) Who is in charge of the payment of financing obligations, including expenses arising out of operating?
(f) Who receives monies and profits from the operation of the facilities?

Marc Sobel, 17 FCC Rcd at 1877, *citing Intermountain Microwave*, 24 RR 983, 984 (1963); *see also James A Kay, Jr.*, 17 FCC Rcd at 1860 (*Intermountain* will be used in future cases). Each of these factors will be examined below.

157. Unfettered Use of Facilities and Equipment. O. C. could not have had unfettered use of and access to his station's equipment and facilities inasmuch as he was deceased. In addition, the Sumpters did not even know where their stations were located, and Lutz did not have unlimited access to the transmitting facility of her station. In their PFCs, Ronald, Patricia, and Metroplex contended that there was nothing which prevented the Sumpters and Lutz from accessing their respective station facilities and that they did, in fact, have unfettered access to and use of those facilities. Even assuming, *arguendo*, that this argument is accepted, it ultimately has little significance in this case because it is substantially outweighed by other factors unequivocally demonstrating *de facto* control by Ronald, Patricia, and Metroplex. *Marc Sobel*, 17 FCC Rcd at 1878.

158. Control of Daily Operations. At the time of the hearing, David and Diane managed Metroplex's day-to-day operations. Neither O. C., the Sumpters, nor Lutz directed or had any control over Metroplex's daily operations, or the daily operations of their individual stations. As a

Metroplex employee, Lutz did nothing with regard to her particular station that she did not also do in connection with Metroplex's other stations. Indeed, Ronald told Lutz at the time he asked her to apply for a station that she would never have to do anything with regard to her license, and no one asked her if she would be willing to participate fully in the operation of her facilities. Metroplex personnel solicited the customers which used the Sumpters' stations and serviced and billed those customers None of the Sumpters had any involvement with the management or operation of their stations. Norma was not told that she would have had to be willing to participate in the sales of service and equipment to be provided to customers of her station. No one told Melissa that she had any control over the operation of her station. Jennifer did not help find customers for Metroplex and never agreed to help in this regard.

159. Policy Decisions and Application Preparation. Collectively, Patricia, Ronald, David, and Diane made all major decisions for Metroplex, but Patricia had the final say. Ronald had primary responsibility for overseeing Metroplex's compliance with FCC regulations. O. C. was dead so he could not have had any input into any policy decisions relating to his station. Lutz did not have any involvement with or exercise any supervision or control over the operation of her station beyond performing her regular duties as a Metroplex employee. None of the Sumpters had any involvement in the management or operation of their stations, and no one told Melissa that she would have any input into any policy decisions regarding her station. Although Jim gave advice on the timing of large asset purchases, it was abundantly clear that he did this in his capacity as Metroplex's accountant and not in his position as a station licensee. Indeed, Jim did not even know that he was a licensee until more than a year after his license was issued.

160. All of the research needed to locate available frequencies was done by Ronald and John Black, a consultant. All of the applications involved in this proceeding were prepared by Black at the express direction of Ronald. All of the application fees were paid by Ronald and Patricia through the "Brasher" checking account. All of the applications were submitted to the frequency coordinator by Ronald. O. C., Bearden, Jim, Norma, Melissa, Jennifer, and Lutz did not prepare any of their own applications. Nor did O. C., Bearden, Jim, Norma, Melissa, or Jennifer review or sign their applications. In fact, none of the Sumpters even knew that applications had been prepared and filed in their names, or that they had been issued licenses, until more than a year after the issuance of their licenses. Ronald also prepared and filed with the Commission all of the forms and reports relating to the applications and licenses of O. C., Bearden, the Sumpters, and Lutz (*e.g.*, FCC Form 800A, FCC Form 1046).

161. Employment and Supervision of Personnel. Patricia had the primary responsibility for the office staff. She also had the final authority over the hiring of the sales and service persons, including the sales and service managers. Similarly, Patricia made the final decision with regard to firing Metroplex employees. Prior to November 2000, Ronald supervised the sales staff. The service manager reported to Ronald and Patricia and supervised the sales staff. Since O. C. was deceased, he could not have had any responsibility for employment and personnel decisions involving his station. Beyond performing her regular employment duties, Lutz did not have any involvement with or exercise any supervision or control over the operation of her station, and no one asked her if she would be willing to participate fully in the operation of her facilities. None of the Sumpters had any involvement in the management or operation of their stations, and no one told Melissa that she would have any input into personnel decisions relating to her station. Jim did not supervise anyone in connection with the operation of his station. Although Jim gave advice on the hiring and firing of personnel, he did this only if it concerned "the employment rates," that is, the documentation necessary to ensure that Metroplex's unemployment taxes would not go up. It was apparent that he performed this function not in his capacity as a station licensee, but in his role as

Metroplex's accountant. As noted above, Jim did not even know about his license until more than a year after it was issued

162. Payment of Financing Obligations and Operating Expenses. Patricia wrote the checks which accompanied the applications of O. C., Bearden, the Sumpters, and Lutz. The funds came from the "Brasher" checking account. Ronald undertook the responsibility of constructing the facilities of O C., the Sumpters, and Lutz using radio equipment owned or leased by Metroplex. Ronald and Patricia purchased the necessary repeaters and controllers. Metroplex paid for the installation of the equipment, which was performed by Metroplex personnel. Ronald and Patricia paid for the site rental, including electricity. Neither O. C., his estate, the Sumpters, nor Lutz paid any of the costs associated with the construction and operation of their stations.

163. The Sumpters did not agree to pay, or in fact pay, for any of the costs related to their stations, nor did Ronald discuss such payments with them. It was understood and assumed by everyone that Metroplex would bear all of the costs associated with the Sumpters' stations. None of the Sumpters had been given a breakdown of the expenses of his or her particular station. Norma and Melissa were not told that they would have had to be willing to participate in the funding of the construction and operation of their stations. Norma was not told that she would have had to be willing to accept the risk of failure. Jennifer did not risk any money, purchase any insurance, take out any loans, or sign any loans in connection with her station Jim did not risk any money with respect to his station or agree to lend anyone any money to construct or operate his station.

164. Ronald told Lutz at the time he asked her to apply for a station that she would not have to pay any of the bills, buy any of the equipment, spend any money, or do anything else with regard to her station. No one asked Lutz if she would be willing to participate in the funding of the costs of construction or operation of her station. Lutz was never required to pay the costs associated with installation of the equipment used for her station, was never asked to pay any of the expenses related to her station, and was never required to pay any money at all with respect to her license. Lutz never assumed any financial risk in connection with her license, and no one asked her if she would be willing to accept the risk of failure resulting from the operation of her station.

165. Receipt of Monies and Profits. All of the revenues received from the operation of the stations licensed to O. C., the Sumpters, and Lutz were deposited into Metroplex's account. There was no evidence that either O. C. or his estate received any of the monies or profits of his station. Metroplex made no cash payments to the Sumpters for the use of their licenses, and none of the Sumpters received any revenue from the operation of his or her station. Nor were the Sumpters given a breakdown of the revenues of their stations, and Jim could not determine the profits and losses of those stations from the records provided to him as Metroplex's accountant. Lutz stated that she had no reason to expect to make money from her station because it was Ronald's, not hers. She was unaware of the revenues and expenses associated with the operation of her station, and did not know how to compute such figures.

166. Discussion. From the above, the conclusion is inescapable that Ronald, Patricia, and Metroplex at all times relevant to this proceeding had *de facto* control over the stations licensed to O. C., the Sumpters, and Lutz. Specifically, the evidence overwhelmingly demonstrates that the putative licensees did not prepare or file their own applications, did not pay the application fees, did not prepare any forms or reports relating to their stations, had no control over any aspect of the daily operations of their stations, had no role in making policy decisions regarding their stations, did not hire, fire, or supervise station employees, did not purchase the equipment used by their stations, did not construct their stations, did not pay the construction costs or operating expenses of their stations, and did not receive any of the revenue generated by their stations. In short, there was no input or

"any positive exercise of authority," at any time, from the purported licensees. *Marc Sobel*, 17 FCC Rcd at 1887 On the contrary, Ronald, Patricia, and/or Metroplex performed the functions described above. Although Ronald and Patricia contended that they were "managing" the stations for the licensees, the record as a whole establishes beyond question that they were operating the stations for no one but themselves and Metroplex. Under these circumstances, it must be concluded that Ronald, Patricia, and Metroplex violated Section 310(d) of the Communications Act. *Marc Sobel*, 17 FCC Rcd at 1887; *James A. Kay, Jr.*, 17 FCC Rcd at 1859-60; *Intermountain*, 24 RR at 985

167. Moreover, it must also be concluded that Ronald, Patricia, and Metroplex were the undisclosed real parties-in-interest in the applications of O C., Bearden, the Sumpters, and Lutz.[18] Suffice it to say, Ronald, Patricia, and Metroplex needed names to place on applications so that they could acquire sufficient spectrum to service their new customers. The record demonstrates that the applications in question were manifestly controlled by and filed for the benefit of Ronald, Patricia, and Metroplex. Thus, from the very outset of their quest for T-band facilities, Ronald, Patricia, and Metroplex were in a position to control, and actually did control, the entire application process. None of the individuals whose names appeared on the applications were involved in that process in any meaningful way. Indeed, Lutz was the only applicant who even knew about, and signed, her own application before it was filed. It is clear, therefore, that Ronald, Patricia, and Metroplex, not the professed applicants, were the real parties-in-interest in those applications. *Ocean Pines LPB Broadcast Corp* , 5 FCC Rcd 5821, 5822-25 (Rev. Bd. 1990); *Fenwick Island*, 7 FCC Rcd at 2979.

168. Finally, it is concluded that Ronald, Patricia, and Metroplex abused the Commission's processes by filing applications in the names of O. C., Bearden, Jim, Norma, Melissa, and Jennifer. The evidence establishes that Ronald and Patricia had been told by two independent sources that, pursuant to the Commission's rules and PCIA policy, they could apply for only one T-band license each in the names of Ronald, Patricia, and Metroplex. However, in order to serve their new customers, they needed more spectrum than they themselves could have acquired. As a result, Ronald and Patricia caused to be prepared and filed applications for T-band licenses under the names of O. C., Bearden, Jim, Norma, Melissa, and Jennifer. By using surrogates, Ronald, Patricia, and Metroplex were able to evade the Commission's limitation and acquire far more licenses than the Commission's rules allowed. They therefore subverted those rules and achieved a result that undermined the Commission's processes. *Arnold L. Chase*, 5 FCC Rcd at 1643.

169. Given that the real party-in-interest, abuse of process, and Section 310(d) violations were accompanied by deception (*i.e*, misrepresentations, concealment, false testimony, and document falsification), it must ultimately be concluded that these transgressions warrant the disqualification of Ronald, Patricia, and Metroplex. *Marc Sobel*, 17 FCC Rcd at 1893, *citing Deer Lodge Broadcasting, Inc.*, 86 FCC 2d 1066, 1097 n.164 (1981); *Fenwick Island*, 7 FCC Rcd at 2979; *Margaret J. Hanway*, 59 RR 2d at 1301-02. Consequently, they constitute an independent ground for the revocation of their licenses and the denial of their pending applications.

IV. ULTIMATE CONCLUSION

170. In sum, it has been concluded that Ronald Brasher, Patricia Brasher, and Metroplex misrepresented facts to, and concealed material information from the Commission, that Ronald

[18] If Ronald's testimony about his uncle is believed, then Ed Bearden, not Ronald, Patricia, and Metroplex, was the real party-in-interest in the Ruth I. Bearden application. However, this point is without decisional significance Obviously, Ronald knew that his mother was deceased but he nevertheless caused to be prepared and filed an application in her name Whether that application was filed on his own initiative, or at Ed Bearden's behest, Ronald remains culpable

and Patricia testified falsely at the hearing, and that they submitted to the Commission in support of their case documents which had been falsified. It has also been concluded that Ronald, Patricia, and Metroplex were the real parties-in-interest in applications filed in the names of others, that they abused the Commission's processes in this regard, and that they violated Section 310(d) of the Communications Act. Consequently, it must ultimately be concluded that Ronald, Patricia, and Metroplex are not basically qualified to be or to remain Commission licensees, that their captioned licenses must be revoked, and that their captioned applications must be denied. *James A Kay, Jr*, 17 FCC Rcd at 1865, *Marc Sobel*, 17 FCC Rcd 1893-94.[19]

V. ORDERING CLAUSES

Accordingly, IT IS ORDERED that, unless an appeal from this Initial Decision is taken by a party, or it is reviewed by the Commission on its own motion in accordance with Section 1.276 of the Rules, the licenses of Ronald Brasher for Private Land Mobile Stations WPLQ202, KCG967, WPLD495, WPKH771, WPKI739, WPKI733, WPKI707, WIL990, WPLQ475, WPLY658, WPKY903, WPKY901, WPLZ533, WPKI762, and WPDU262, Dallas/Fort Worth, Texas, ARE REVOKED.

IT IS FURTHER ORDERED that the licenses of Patricia Brasher for Private Land Mobile Stations WPJI362, WPKY900, and WPLD570, Dallas/Fort Worth, Texas, ARE REVOKED.

IT IS FURTHER ORDERED that the license of O. C. Brasher for Private Land Mobile Station WPJR761, Dallas/Fort Worth, Texas, IS REVOKED.

IT IS FURTHER ORDERED that the licenses of Metroplex Two-Way Radio Service for Private Land Mobile Stations WPHS735, WPKP673, WPKM797, WPLZ841, and WPJR754, Dallas/Fort Worth, Texas, ARE REVOKED.

IT IS FURTHER ORDERED that the licenses of DLB Enterprises, Inc., for Private Land Mobile Stations WPKM796, WPKL830, WPJY510, WPLU490, WPBH830, WPKP667, WPLY713, WPMH354, WPMH477, and WPKY978, Dallas/Fort Worth, Texas, and WNAH223, Cleora, Oklahoma, ARE REVOKED.

IT IS FURTHER ORDERED that the applications of DLB Enterprises, Inc., for Conventional Industrial/Business Private Land Mobile Licenses, Dallas, Texas, File Nos. AO17774, AO20241, and AO19157, ARE DENIED.

IT IS FURTHER ORDERED that the application of DLB Enterprises, Inc., for Conventional Industrial/Business Private Land Mobile Licenses, Crowley, Texas, File No. AO18555, IS DENIED.

IT IS FURTHER ORDERED that the application of DLB Enterprises, Inc., for Trunked Industrial/Business Private Land Mobile Licenses, Crowley, Texas, File No. AO20755, IS DENIED.

IT IS FURTHER ORDERED that the application of DLB Enterprises, Inc., for Assignment of Private Land Mobile Stations from Ronald Brasher (WPKI707, WPKI739,

[19] Inasmuch as the hearing record warrants the revocation and denial of the captioned licenses and applications of Ronald, Patricia, and Metroplex, no useful purpose would be served by also imposing a forfeiture for the violation of Section 310(d) of the Act. *See HDO* at para. 12.

WPKI733, and WPLQ475), D. L. Brasher (WPJR750), David Brasher (WPJR757), Metroplex Two-Way Radio Service (WPJR754), and O. C Brasher (WPJR761), Dallas, Texas, File No. D113240, IS DENIED.

IT IS FURTHER ORDERED that, in light of the cancellation of the licenses of Norma Sumpter, Jim Sumpter, Jennifer Hill, and Melissa Sumpter, those portions of the application of DLB Enterprises, Inc., pertaining to the Assignment of Private Land Mobile Stations from Norma Sumpter (WPJR739), Jim Sumpter (WPJR725), Jennifer Hill (WPJR740), and Melissa Sumpter (WPJS437), Dallas, Texas, File No. D113240, ARE DISMISSED as moot.

IT IS FURTHER ORDERED that those portions of the application of DLB Enterprises, Inc., pertaining to the Assignment of Private Land Mobile Stations from Ronald Brasher (WPKI707, WPKI739, WPKI733, and WPLQ475), D. L. Brasher (WPJR750), David Brasher (WPJR757), Metroplex Two-Way Radio Service (WPJR754), and O. C. Brasher (WPJR761), Dallas, Texas, File No. D113240, ARE DENIED.

IT IS FURTHER ORDERED that the application of DLB Enterprises, Inc., for Assignment of Private Land Mobile Station, File No. D113242, IS DENIED.

IT IS FURTHER ORDERED that the application of DLB Enterprises, Inc., for Modification of Private Land Mobile Stations WPKM796, and WPKL830, and Assignment of Private Land Mobile Stations WPKI733, WPLQ475, WPKI707, and WPKI739 from Ronald Brasher, and Assignment of Private Land Mobile Station WPKM797 from Metroplex, Dallas, Texas, File No. D113241, IS DENIED.[20]

FEDERAL COMMUNICATIONS COMMISSION

Arthur I. Steinberg
Administrative Law Judge

[20] In the event exceptions are not filed within 30 days after the release of this Initial Decision, and the Commission does not review the case on its own motion, this Initial Decision shall become effective 50 days after its public release pursuant to Section 1.276(d) of the Rules.