

OCT 15 2007

Federal Communications Commission  
Office of the Secretary

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

In the Matter of	)	EB Docket No. 07-147
	)	
<b>PENDLETON C. WAUGH, CHARLES M. AUSTIN, and JAY R. BISHOP</b>	)	File No. EB-06-IH-2112
	)	NAL/Acct. No. 200732080025
	)	
<b>PREFERRED COMMUNICATION SYSTEMS, INC.</b>	)	FRN No. 0003769049
	)	
Licensee of Various Site-by-Site Licenses in the Specialized Mobile Radio Service.	)	
	)	
<b>PREFERRED ACQUISITIONS, INC.</b>	)	FRN No. 0003786183
	)	
Licensee of Various Economic Area Licenses in the 800 MHz Specialized Mobile Radio Service	)	

To: Charles M. Austin

**ENFORCEMENT BUREAU'S FIRST INTERROGATORIES**  
**TO**  
**CHARLES M. AUSTIN**

1. The Enforcement Bureau ("Bureau"), pursuant to Sections 1.311 and 1.323 of the Commission's rules, 47 C.F.R. §§ 1.311 and 1.323, submits the following interrogatories to Charles M. Austin ("Austin").

2. Austin shall deliver his responses to the offices of the Investigations and Hearings Division, Enforcement Bureau, Suite 4-C330, 445 12<sup>th</sup> Street, S.W., Washington, DC 20554 (or at some other location that is mutually acceptable to the Bureau and Austin) within 14 days of the date of these interrogatories.

3. The obligation of Austin to answer these interrogatories is continuing in nature. Austin has an obligation to provide in the future any and all additional responsive

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ENCLOSURE

information that may come to his attention subsequent to his answering these interrogatories but not initially disclosed at the time, date and place set forth herein or in any supplemental answers that he submits. In this regard, Austin must supplement his initial and supplemental responses if he learns that, in some material respect, the responses initially provided, or as supplemented, were incomplete or incorrect or if additional responsive information is acquired by or has become known to him after his initial or supplemental responses.

### **Definitions and Instructions**

a. As used herein, the term “Austin” means Charles M. Austin, President and CEO of Preferred Communication Systems, Inc.

b. The term “PCSI” means Preferred Communication Systems, Inc., its subsidiaries and affiliates.

c. The term “PAI” means Preferred Acquisitions, Inc., its parent company, subsidiaries, and affiliates.

d. The term “Commission” means Federal Communications Commission and includes any and all Bureaus, Divisions, Branches, and offices thereof.

e. The terms “relate to” and “relating to” mean constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or in any way is pertinent to the specified subject, including documents concerning the preparation of the documents.

f. The term “and” also means “or” and the term “or” also means “and.”

g. The term “each” also means “every” and the term “every” also means “each.”

h. The term “all” also means “any” and the term “any” also means “all.”

i. The term “identify” when used with reference to a person or persons, means to state his or her full name; last known business and residence addresses; and last known business and residence telephone numbers.

j. The term "Document" means the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, videotaped, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any book, pamphlet, periodical, contract, agreement, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form) in the possession, custody, or control of Austin.

k. The terms “authorization,” “authorizations,” “license” or “licenses” refer to those licenses identified in footnotes 1-2 of the Commission’s Order in the above-captioned proceeding, *Pendleton C. Waugh, et al.*, Order to Show Cause and Notice of Opportunity for Hearing, FCC 07-125, released July 20, 2007.

l. With regard to each answer, identify the person(s) or document(s) relied upon by Austin in determining the substance of the answer.

m. Unless otherwise specifically stated, all questions refer to the period of time from January 1, 1998, to the present.

**Interrogatories**

1. Identify all businesses in which Austin has engaged. As to each such business:
  - a. Specify the name, address, and telephone number;
  - b. Specify the nature of such business;
  - c. Specify the duration of Austin's involvement;
  - d. Describe fully the nature and extent of Austin's involvement.
  
2. State whether Austin has or has had a financial interest of any kind in any business entity. If so, as to each such business entity:
  - a. Identify the name, address, and telephone number of the business entity;
  - b. Describe the nature and extent of such financial interest;
  - c. Specify the date such financial interest was acquired and explain fully how such financial interest was acquired;
  - d. If Austin no longer holds such financial interest, so state and specify how and when Austin disposed of such financial interest.
  
3. State whether Austin has ever held a controlling interest in any business entity. If so, as to each such entity:
  - a. Identify the name, address, and telephone number of the business entity;
  - b. Describe the nature and extent of such controlling interest;
  - c. Specify the date such controlling interest was acquired and explain fully how such controlling interest was acquired;

- d. If Austin no longer holds such controlling interest, so state and specify how and when Austin disposed of such controlling interest.
4. State whether Austin has filed a federal income tax return for each year between January 1, 1998, and the present. If not, explain fully why not.
5. Describe each and every professional and/or trade license held by Austin. If Austin held a license but no longer holds such license, so state and specify how and when Austin relinquished such license.
6. State whether any of the authorizations licensed to Preferred Communication Systems, Inc. ("PCSI") are, in fact, held or controlled in part or in full by Austin. If so, state the type of ownership interest and control, and, for each ownership interest, state the percentage of such ownership.
7. State whether any of the authorizations licensed to Preferred Acquisitions, Inc. ("PAI"), are, in fact, held or controlled in part or in full by Austin. If so, state the type of ownership interest and control, and, for each ownership interest, state the percentage of such ownership.
8. State whether Austin is or at any time has been the sole real party-in-interest behind any of PCSI's licenses.
9. State whether Austin is or at any time has been the sole real party-in-interest behind any of PAI's licenses.
10. State whether Austin or any other individual has entered into a management contract (whether written or otherwise) for control of the day-to-day operations of PCSI. If so, provide the dates, terms, and description of the services/responsibilities of the manager under such contract.

11. State whether Austin or any other individual has entered into a management contract (whether written or otherwise) for control of the day-to-day operations of PAI. If so, provide the dates, terms, and description of the services/responsibilities of the manager under such contract.
12. Identify all individuals that have been members of PCSI's Board of Directors from January 1, 1998 to the present. If these individuals are no longer engaged on the Board, explain fully why not.
13. Identify all individuals that have been members of PAI's Board of Directors from January 1, 1998 to the present. If these individuals are no longer engaged on the Board, explain fully why not.
14. State whether Austin, PCSI, or PAI has ever employed Pendleton C. Waugh. If so, state the dates and terms of such employment, the nature of the services provided by him, whether there has ever existed an employment contract, agreement or understanding (whether written or otherwise), and compensation paid for such services.
15. State whether Austin, PCSI, or PAI has ever employed Jay R. Bishop. If so, state the dates and terms of such employment, the nature of the services provided by him, whether there has ever existed an employment contract, agreement or understanding (whether written or otherwise), and compensation paid for such services.
16. State whether Austin has or has had unfettered use of all of PCSI's facilities, licenses and/or equipment. If not, explain fully the extent of Austin's use of and

access to PCSI's facilities, licenses and/or equipment. Provide the specific locations of all facilities and equipment used by PCSI.

17. State whether Austin has or has had unfettered use of all of PAI's licenses and/or equipment. If not, explain fully the extent of Austin's use of and access to PCSI's facilities, licenses and/or equipment. Provide the specific locations of all facilities and equipment used by PAI.
18. Identify all individual(s) who have had responsibility for control of PCSI's daily operations from the date of its inception and, as to each such person, describe the nature of his or her responsibilities.
19. Identify all individual(s) who have had responsibility for control of PAI's daily operations from the date of its inception and, as to each such person, describe the nature of his or her responsibilities.
20. Describe in detail Austin's responsibilities for the day-to-day operations of PCSI, including but not limited to (1) supervision of employees; (2) control of directors; (3) FCC filings; (4) debt or operations financing; and (5) revenue generation and allocation. If the nature of such involvement has changed in any way during the relevant period, describe fully how such involvement changed.
21. Describe in detail Austin's responsibilities for the day-to-day operations of PAI, including but not limited to (1) supervision of employees; (2) control of directors; (3) FCC filings; (4) debt or operations financing; and (5) revenue generation and allocation. If the nature of such involvement has changed in any way during the relevant period, describe fully how such involvement changed.

22. Identify all individual(s) who have ever been responsible for preparing, filing, or assisting in preparing and filing, Documents on behalf of PCSI with the Commission.
23. Identify all individual(s) who have ever been responsible for preparing, filing, or assisting in preparing and filing, Documents on behalf of PAI with the Commission.
24. Identify all individual(s) who have ever prepared Documents containing the phrase “action items” on behalf of PCSI. Provide a general explanation of the content of each such Document.
25. Identify all individual(s) who have ever prepared such Documents containing the phrase “action items” on behalf of PAI. Provide a general explanation of the content of each such Document.
26. Identify all individual(s) who have ever prepared, or assisted in preparing, correspondence or other materials to investors on behalf of PCSI. Provide a general explanation of the content of each such Document.
27. Identify all individual(s) who have ever prepared, or assisted in preparing, correspondence or other materials to investors on behalf of PAI. Provide a general explanation of the content of each such Document.
28. Identify all individual(s) who have ever been responsible for negotiating contracts, investment agreements, and/or legal proceedings on behalf of PCSI, and as to each such person describe fully the negotiations in which he or she was involved, the parties to the negotiations, and the dates of such negotiations.

29. Identify all individual(s) who have ever been responsible for negotiating contracts, investment agreements, and/or legal proceedings on behalf of PAI, and as to each such person describe fully the negotiations in which he or she was involved, the parties to the negotiation, and the dates of such negotiations.
30. Identify all individual(s) responsible for the creation of the annual budget and business plan for PCSI for each year beginning in 1998 to the present.
31. Identify all individual(s) responsible for the creation of the annual budget and business plan for PAI for each year beginning in 1998 to the present.
32. Identify all individual(s) who have been responsible for payment of financing obligations incurred on behalf of PCSI, including expenses arising out of daily operations, since the date of PCSI's inception.
33. Identify all individual(s) who have been responsible for payment of financing obligations incurred on behalf of PAI, including expenses arising out of daily operations, since the date of PAI's inception.
34. Identify all individual(s) or business entities that have ever received consideration of any kind, compensation or revenue arising from the operation of PCSI's facilities or business. Describe fully the nature and extent of such consideration, what share, percentage, and/or amount of such compensation or revenue that each individual or entity received and any agreements establishing the right to such receipt. As to each individual, state the time period(s) during which each such receipt of compensation or revenue continued.
35. Identify all individual(s) who have ever received consideration of any kind, compensation or revenue from the operation of PAI's facilities or business.

Describe fully the nature and extent of such consideration, what share, percentage, and/or amount of such compensation or revenue that each individual or entity received and any agreements establishing the right to such receipt. As to each individual, state the time period(s) during which each such receipt of compensation or revenue continued.

36. Identify all individual(s) who have had authority to hire, fire, or supervise PCSI's employees, since the date of its inception.
37. Identify all individual(s) who have had authority to hire, fire, or supervise PAI's employees, since the date of its inception.
38. Specify by licensee name, licensee address, licensee telephone number, call sign, service, location, and expiration date all FCC licenses held and/or controlled by Austin from January 1, 1998 to the present.
39. Identify by file number, application number, application title, date of filing, purpose, and disposition each and every application filed with the Commission by or on behalf of Austin and/or entities owned or controlled by Austin. As to each such application:
  - a. Identify each and every person who was engaged in the planning, preparation, review, and/or filing of the application; and
  - b. Describe fully the nature and extent of his or her involvement therein.
40. State whether Austin has ever been convicted of a felony in a state or federal court. If so, as to each such conviction:
  - a. Specify the case number;
  - b. Specify the court in which the conviction occurred;

- c. State the date of the conviction;
  - d. Describe the nature of the offense;
  - e. State the date of the offense; and
  - f. Describe the nature and extent of any sentence.
41. State whether Austin is or has been aware that Pendleton C. Waugh has ever been convicted of a felony or felonies in a state or federal court. If so, specify when, where, and by what means Austin came to have the knowledge that Pendleton C. Waugh had been convicted of a felony or felonies; describe fully any documents related to Austin's acquisition of such knowledge, and describe any actions taken by Austin as a result of receipt of this knowledge.
42. State whether Austin is or has been aware that Jay R. Bishop has ever been convicted of a felony or felonies in a state or federal court. If so, specify when, where, and by what means Austin came to have the knowledge that Jay R. Bishop had been convicted of a felony or felonies; describe fully any documents related to Austin's acquisition of such knowledge, and describe any actions taken by Austin as a result of receipt of this knowledge.
43. State whether, at any time prior to July 27, 2006, Austin, PCSI, PAI, or Pendleton C. Waugh ever reported the felony convictions of Pendleton C. Waugh to the Commission. If so, identify by whom and specify when and the method by which Austin, PCSI, PAI, or Pendleton C. Waugh reported such convictions to the Commission. If not, explain fully why Austin, PCSI, PAI, and Pendleton C. Waugh did not report such convictions to the Commission prior to reporting such conviction on July 27, 2006.

44. State whether, at any time prior to January 25, 2007, Austin, PCSI, PAI, or Jay R. Bishop ever reported the felony convictions of Jay R. Bishop to the Commission. If so, identify by whom and specify when and the method by which Austin, PCSI, PAI, or Jay R. Bishop reported such convictions to the Commission. If not, explain fully why Austin, PCSI, PAI, or Jay R. Bishop did not report such convictions to the Commission prior to January 25, 2007.
45. Identify by file number, application number, application title, date of filing, purpose of the application, and disposition of each and every application that Austin, or any entity owned or controlled by Austin, has filed with the Commission, in which it responded “No” to the question, “Has the applicant to this application or any party directly or indirectly controlling the applicant ever been convicted of a felony by any state or federal court?” As to each such application, describe fully the basis for such “No” response.
46. State whether all statements by Austin or by PCSI in PCSI’s responses to the Enforcement Bureau’s June 30, 2006, and December 27, 2006, letters of inquiry were accurate when submitted to the Commission. If not, explain fully why not.
47. State whether all statements by Austin or by PCSI in PCSI’s responses to the Enforcement Bureau’s June 30, 2006, and December 27, 2006, letters of inquiry remain accurate. If not, explain fully why not.
48. State whether Austin has any information or materials that would supplement PCSI’s responses to the Enforcement Bureau’s June 30, 2006, and December 27, 2006, letters of inquiry. If so, provide such supplemental responses, information, and/or materials, as applicable, attached as responses to these interrogatories.

49. With respect to PCSI's response, dated January 25, 2007, to the Enforcement Bureau's second letter of inquiry:

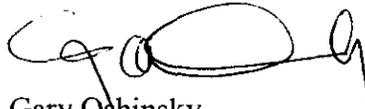
- a. State whether PCSI stated in response to Inquiry 1 that "[a]s of the date of this response the remaining items need to be completed to effectuate the Raymond A. Hebrank Voting Trust: (1) initial payment of the trustee's compensation; (2) filing for the voting trust's taxpayer identification number; and (3) transfer of funds by Mr. Waugh to the voting trust that then would tender such funds to Preferred to purchase the shares to be issued to the voting trust." If so:
  - i. Identify the individual(s) on whom PCSI relied in making that statement.
  - ii. State whether the statement was accurate on January 25, 2007.
  - iii. State whether the statement is currently accurate. If not, explain fully why not.
  - iv. State why Waugh did not effectuate the Raymond A. Hebrank Voting Trust.
  - v. State the amounts of (1) the referenced "initial payment of the trustee's compensation;" (2) the referenced "funds to Preferred to purchase shares to be issued to the voting trust;" (3) the value of 800,000 shares of PCSI stock on April 14, 2000; and (4) the current value of 800,000 shares of PCSI stock.

- vi. State what funds, compensation, services, or other items of value that Waugh has tendered, or is required to tender, to PCSI to effectuate the Raymond A. Hebrank Voting Trust.
  - vii. State what percentage of ownership interest and voting stock was represented by 800,000 shares at the time that the Raymond A. Hebrank Voting Trust was drafted and executed.
- b. State whether PCSI stated in response to Inquiry 1 that “Certificate C-17 was never issued, but remained on Preferred’s books to be issued (with the correct name of the Trust) at such time as Mr. Waugh or Mr. Hebrank presented executed voting trust documents together with a taxpayer identification number and the voting trust tendering funds to Preferred in the appropriate amount to purchase the 800,000 shares.” If so:
- i. Identify the individual(s) on whom PCSI relied in making that statement.
  - ii. State whether the statement was accurate on January 25, 2007.
  - iii. State whether the statement is currently accurate. If not, explain fully why not.
  - iv. State what funds, compensation, services, or other items of value that Waugh has tendered, or is required to tender, to PCSI in order to purchase the referenced 800,000 shares of PCSI stock.
50. State whether Austin, or any entity controlled or operated by Austin, is or has been involved in any litigation. If so, Identify the parties, describe the nature and status of all such litigation, and provide detailed information identifying the file

number, docket number, court or other adjudicatory body, and jurisdiction of any such litigation.

51. State whether Austin received a copy of the Order to Show Cause and Notice of Opportunity for Hearing in *Pendleton C. Waugh, et al.*, FCC 07-125 (released July 20, 2007), and if so, the date on which Austin received it.

Respectfully submitted,  
Kris Anne Monteith  
Chief, Enforcement Bureau



Gary Oshinsky  
Attorney, Investigations and Hearings Division



Anjali Singh  
Attorney, Investigations and Hearings Division

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October 15, 2007

**CERTIFICATE OF SERVICE**

Kerri Johnson a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 15<sup>th</sup> day of October, 2007, sent by first class United States mail or electronic mail, as noted, copies of the foregoing "Enforcement Bureau's First Interrogatories to Charles M. Austin" to:

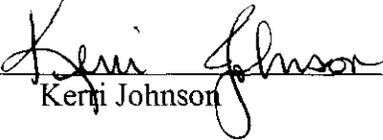
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Keri Johnson

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