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

FCC 09M-16
07737

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|--|---|----------------------|
| In the Matter of |) | MB Docket No. 08-214 |
| |) | |
| Herring Broadcasting, Inc. d/b/a WealthTV, |) | File No. CSR-7709-P |
| Complainant |) | |
| v. |) | |
| Time Warner Cable Inc. |) | |
| Defendant |) | |
| |) | |
| Herring Broadcasting, Inc. d/b/a WealthTV, |) | File No. CSR-7822-P |
| Complainant |) | |
| v. |) | |
| Bright House Networks, LLC, |) | |
| Defendant |) | |
| |) | |
| Herring Broadcasting, Inc. d/b/a WealthTV, |) | File No. CSR-7829-P |
| Complainant |) | |
| v. |) | |
| Cox Communications, Inc, |) | |
| Defendant |) | |
| |) | |
| Herring Broadcasting, Inc. d/b/a WealthTV |) | File No. CSR-7907-P |
| Complainant |) | |
| v. |) | |
| Comcast Corporation, |) | |
| Defendant |) | |

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ORDER

Issued: February 19, 2009

Released: February 19, 2009

On February 18, 2009, Protective Order governing *TCR/MASN v. Comcast Corp.* was signed by the Presiding Judge. Language of the Protective Order drafted by the parties is clear and succinct, and provides at least minimal protection against information poachers, a justified business concern of the parties.

Now under consideration in this litigation, *Wealth TV v. Time Warner, et al.*, are opposing motions for adoption of different Protective Order provisions. The motions were filed on February 9. On February 12 and 13, additional pleadings were filed by both sides which seek to clarify but actually aggravate by their complexity. It is evident that there has been a failure to reach agreement on amplified protective language.

Coincidentally, in a Joint Status Report submitted on February 9, there were two impasses reported concerning: (1) measures to protect information disclosed in oral testimony; and (2) limitations precluding experts from commercial exploitation of information learned in preparation for testifying. To resolve the problem, each side presented their own operative language for resolution by the Presiding Judge. Such a horseback ruling by the undersigned would be no more than a best estimate on which formula might work best. Here, the parties know best their commercial concerns that they want to protect and the protection believed to be

needed. Of course, the parties may continue to negotiate a workable formula to resolve their impasses which would not require signature or concern of the Presiding Judge.

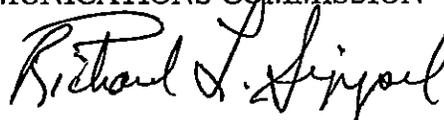
The Presiding Judge is reminded that document production was to commence on February 13, 2009, subject to agreed Protective Orders.¹ Depositions probably would not be commenced and concluded until document discovery is complete or at least underway. Therefore, it has now become necessary to expedite by order that which should by now have been negotiated, concluded and submitted for signature.

Ruling

Accordingly, by 1 p.m. February 19, 2009 today, the non-government parties in *Wealth TV v. Time Warner et al.*, shall submit for signature substantially the same Protective Order as "Joint Protective Order" signed by the Presiding Judge in *MASN v Comcast Corp.*, modified as needed to reflect the parties and persons covered in this litigation.

SO ORDERED.²

FEDERAL COMMUNICATIONS COMMISSION



Richard L. Sippel
Chief Administrative Law Judge

¹ See *Further Revised Procedural and Hearing Order* FCC 09M-12, released February 3, 2009, fn.1 (document production to begin day after protective order is effective). It is noted that notwithstanding proclamation of cooperation in prehearing conferences, motions to compel document production are pending from some parties.

² Courtesy copies provided to counsel by email on date of *Order's* issuance.