

FILED/ACCEPTED
AUG - 5 2009
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
)	
PENDLETON C. WAUGH, CHARLES M. AUSTIN, and JAY R. BISHOP)	File No. EB-06-IH-2112
)	NAL/Acct. No. 200732080025
)	
PREFERRED COMMUNICATION SYSTEMS, INC.)	FRN No. 0003769049
)	
Licensee of Various Site-by-Site Licenses in the Specialized Mobile Radio Service.)	
)	
PREFERRED ACQUISITIONS, INC.)	FRN No. 0003786183
)	
Licensee of Various Economic Area Licenses in the 800 MHz Specialized Mobile Radio Service)	
)	

To: Chief Administrative Law Judge
Richard L. Sippel

JOINT MOTION
TO
ACCEPT SETTLEMENT AGREEMENT UNDER SEAL

1. The Enforcement Bureau, Preferred Communication Systems, Inc., Preferred Acquisitions, Inc., Charles M. Austin, and Jay R. Bishop (collectively, the "Parties"), hereby jointly request that the attached Settlement Agreement be accepted for filing under seal and that the Settlement Agreement remain under seal until such time as it is approved by the Presiding Judge in this proceeding.

2. The Parties are simultaneously filing herewith a Joint Request for Approval of Settlement Agreement ("Joint Request"). The Joint Request sets forth the justifications

046

explaining why the public interest would be served by adoption of the instant Settlement Agreement.

3. The Settlement Agreement contains terms, conditions, and representations which will only become effective if and when the Settlement Agreement is approved by the Presiding Judge. The Parties believe that disclosure of such terms, conditions, and representations to the general public before the Settlement Agreement has become effective could prejudice the captioned-licensees in the event that the Settlement Agreement is ultimately disapproved by the Presiding Judge and this case returned to hearing status. Accordingly, in addition to filing the Settlement Agreement under seal, the Parties have marked that copy of the Settlement Agreement sent to the above-captioned parties as subject to the Protective Order adopted in EB Docket No. 07-147 until such time as the Presiding Judge approves it.¹

4. It is well established that a presiding administrative law judge has broad discretion to provide for the proper conduct of the hearing, to protect parties, and to take such other actions which would be conducive to the efficient and expeditious management of the proceeding.² In this regard, the Parties believe that accepting the subject Settlement Agreement under seal and releasing it at such time that it becomes effective strikes an appropriate balance between protecting the interests of the captioned licensees and those of the public in an open, evidentiary hearing.

5. Accordingly, the Parties respectfully request that the Presiding Judge accept the attached Settlement Agreement under seal and to release it, if at all, as an attachment

¹ See *Pendleton C. Waugh, et al.*, FCC 07M-44, Order (ALJ Steinberg, rel. November 2, 2007) (adopting Protective Order proposed by Bureau, as revised by email concurrence with all parties).

² See, e.g., 47 C.F.R. § 1.313.

to his order approving the Settlement Agreement. PCSI, PAI, Charles M. Austin, and Jay R. Bishop represent that they have read this Joint Motion To Accept Settlement Agreement Under Seal, concur with the representations therein, and have authorized the undersigned to file this Motion on their behalf.

Respectfully submitted,
Kris Anne Monteith
Chief, Enforcement Bureau



Gary A. Oshinsky
Anjali K. Singh
Attorneys, Investigations and Hearings Division

Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420

August 5, 2009

Attachment

Note:

The Joint Motion to Accept Settlement Agreement Under Seal served on the Presiding Judge and parties to this proceeding includes a copy of the proposed Settlement Agreement, for which coverage under the Protective Order is sought until such time as the Presiding Judge approves it.

The Joint Motion to Accept Settlement Agreement Under Seal filed with the Office of the Secretary intentionally does not include a copy of the proposed Settlement Agreement.

CERTIFICATE OF SERVICE

Alicia Smothers McCannon, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 5th day of August 2009, sent by first class United States mail or electronic mail, as noted, copies of the foregoing "Joint Motion to Accept Settlement Agreement Under Seal," to:

Charles M. Austin
Preferred Acquisitions, Inc.
Preferred Communication Systems, Inc.
400 East Royal Lane, 9 Suite N-24
Irving, TX 75039
precomsys@aol.com

Jay R. Bishop
P.O. Box 5598
Palm Springs, CA 92262
jaybishopps@aol.com
michellebishopps@aol.com

William D. Silva**
Law Offices of William D. Silva
5335 Wisconsin Ave., NW
Suite 400
Washington, DC 20015-2003
bill@luselaw.com
Attorney for Pendleton C. Waugh

Chief Administrative Law Judge Richard L. Sippel*
Federal Communications Commission
445 12th Street, S.W., Room 1-C768
Washington, DC 20054



Alicia Smothers McCannon

* Hand-Delivered and Courtesy Copies Sent Via E-Mail and Facsimile

** Service Copies May Be Sent Via E-Mail (E-Mail service acceptable in lieu of hard copies for files 4 MB or less per agreement.)