

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

FILED/ACCEPTED  
SEP 13 2010  
Federal Communications Commission  
Office of the Secretary

In the Matter of )  
)  
EDDIE FLOYD )  
) MB Docket No. 10-157  
Licensee of FM Translator Station K273AF, ) NAL/Acct. No. 201041410018  
Carson City, NV ) FRN: 0011733425  
)  
EDDIE FLOYD ) Facility ID No. 13529  
)  
and )  
)  
WILKS LICENSE COMPANY-RENO )  
LLC )  
)  
For Assignment of License of FM Translator ) File No. BALFT 20070904ACU  
Station K273AF, Carson City, NV )  
)  
EDDIE FLOYD )  
)  
For Modification of License of FM Translator ) File No. BMLFT-20071218ABH  
Station K273AF, Carson City, NV )

To: Chief Administrative Law Judge  
Richard L. Sippel

**ENFORCEMENT BUREAU'S**  
**OPPOSITION TO MOTION FOR VOLUNTARY DISMISSAL AND REMOVAL OF**  
**PARTY**

1. The Enforcement Bureau ("Bureau"), pursuant to Section 1.294 of the Commission's Rules,<sup>1</sup> hereby opposes the "Motion for Voluntary Dismissal and to Remove Wilks License Company-Reno LLC as a Party" ("Motion"), filed by Wilks License Company-Reno LLC ("Wilks"), on September 1, 2010. As discussed below, the Bureau is in receipt of information

<sup>1</sup> See 47 C.F.R. § 1.294.

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raising questions about the circumstances under which the captioned application for assignment of license for Station K273AF from Eddie Floyd ("Floyd") to Wilks may have been filed. The resolution of the issues designated in this proceeding and the newly-received information require Wilks' continued participation as a party in this proceeding at this time.

2. In its Motion, Wilks asks the Presiding Judge to dismiss the captioned assignment application and remove Wilks as a party in this proceeding.<sup>2</sup> In support, Wilks explains that, on August 17, 2010, it sent a letter to Floyd terminating an Asset Purchase Agreement between them, effective immediately, and requesting Floyd to return a \$10,000 deposit given to him by Wilks.<sup>3</sup> Wilks asserts that it no longer has any interest in acquiring the license for Station K273AF and requests removal as a party in this proceeding.<sup>4</sup>

3. On August 27, 2010, three weeks *after* the Order to Show Cause in this proceeding ("OSC") was released,<sup>5</sup> Floyd directed an e-mail to an individual in the Commission's Media Bureau about a related Forfeiture Order<sup>6</sup> and the newly-designated hearing. A copy of the e-mail is attached.<sup>7</sup> In that e-mail, Floyd states that he had had no contact with the Commission between 2007 and "late 2009 or early 2010." Floyd denies having misled anyone at the Commission and expresses wonder as to who might be "trying to take this license [for Translator

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<sup>2</sup> See Motion at 1.

<sup>3</sup> See *id.* at 2 & Attachment B.

<sup>4</sup> See *id.* at 3.

<sup>5</sup> See *Order to Show Cause, Hearing Designation Order, and Notice of Apparent Liability for Forfeiture*, 2010 WL 3071377 (MB, rel. Aug. 5, 2010) ("OSC").

<sup>6</sup> The OSC in this proceeding, at note 1, referenced the release of a Forfeiture Order to Floyd involving the operation of his translator station.

<sup>7</sup> The e-mail was forwarded to Bureau counsel from the Media Bureau on September 7, 2010. Appended to the August 27, 2010, transmission was a chain of other apparently unrelated e-mails between Floyd and Media Bureau personnel dating back to July 2010. Because they are not germane to the instant matter, the unrelated e-mails have not been included in the attachment hereto. If the Presiding Judge so requests, the Bureau will provide the entire email chain to him.

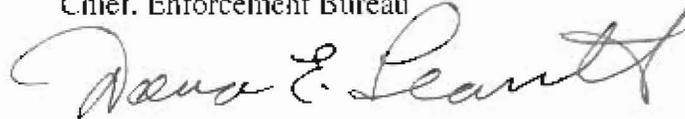
Station K273AFJ from me.” These statements, if true, suggest that the captioned assignment application may have been filed without Floyd’s knowledge or consent, while he was incarcerated.

4. One of the issues designated in the OSC requires the Presiding Judge to determine whether Floyd falsely certified and/or misrepresented his status as a convicted felon in the captioned assignment application. Wilks executed the assignment application while Floyd was incarcerated. In addition, the application was filed with the Commission while Floyd was in prison. Presumably, Wilks was aware that the individual from whom it intended to acquire the license for Station K273AF was a convicted felon serving time in federal prison. These circumstances, coupled with the information in Floyd’s recent e-mail, raise concerns about the circumstances under which the captioned assignment application was filed. Given Wilks’ status as the proposed assignee in the captioned assignment application, it is uniquely qualified to provide relevant information about the designated issues and the additional concerns raised by Floyd’s e-mail. Thus, Wilks’ continued participation as a party in this proceeding is critical.

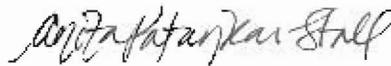
5. The Bureau respectfully submits that Wilks should remain a party to effectively and efficiently ascertain whether, and to what extent, Floyd and Wilks collaborated in filing the assignment application. Dismissing Wilks as a party at this stage of the hearing merely because Wilks no longer wishes to prosecute a potentially fraudulently-filed application would be premature and unnecessarily complicate the orderly gathering of relevant evidence.

6. Accordingly, the Presiding Judge should deny Wilks' request to be removed as a party to this proceeding.

Respectfully submitted,  
P. Michele Ellison  
Chief, Enforcement Bureau



Dana E. Leavitt  
Special Counsel  
Enforcement Bureau



Anita J. Patankar-Stoll  
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September 13, 2010

**ATTACHMENT**

\* ---Original Message-----

From: Eddie Floyd [mailto:[pardonme.eddie@gmail.com](mailto:pardonme.eddie@gmail.com)]

Sent: Friday, August 27, 2010 2:46 PM

To: Tom Hutton

Cc: Peter Doyle; Dale Bickel; Roland Helvajian; Shari Floyd

Subject: Re: FM Translator K273AF

Dear Tom:

For the record, I JUST received the FORFEITURE ORDER by regular mail at 11:46am today, 8/27/10. I will follow the instructions and will be sending out a request for HEARING within the 30 days allowed, but wanted to also go on record that from 2007 until my first email of late 2009 or early 2010 to the FCC I have had NO contact with FCC, so in NO WAY mislead ANYONE!

Have a nice weekend, and I look forward to the truth being told, and wonder who is trying to take this license from me. I wish to help all those who were counting on me in 2007 and have MANY people in support of my plans for the translator. Who has been using it all this time?????

We paid \$400.00 to FCC last year when we FINALLY received a billing.....

Have a nice weekend, and I also think you will understand once all the evidence is in.

Eddie Floyd

cc/all parties and file-legal

CERTIFICATE OF SERVICE

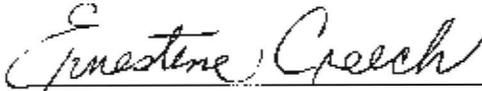
Ernestine Creech, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 13th day of September, 2010, sent by first class United States mail, electronic mail (e-mail) or delivered by hand, copies of the foregoing "Enforcement Bureau's Opposition Motion for Voluntary Dismissal and to Removal of Party" to:

Walter Edward Floyd, aka Eddie Floyd (by first class and by electronic mail)  
405 Apple Street  
Reno, Nevada 89502

Walter Edward Floyd, aka Eddie Floyd (by first class and by electronic mail)  
665 South Wells Avenue  
Reno, Nevada 89502

Clifford M. Harrington (by first class and by electronic mail)  
Paul Cicelski  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, N.W.  
Washington D.C. 20037

Chief Administrative Law Judge Richard L. Sippel (by hand)  
Federal Communications Commission  
445 12th Street, S.W., Room 1-C768  
Washington, D.C. 20054

  
Ernestine Creech