

PETER HARMER

June 20, 2013

Federal Communications Commission
445 12th Street, SW
Washington, DC

Filed Electronically

Dear Ladies and Gentlemen,

RE: WT Docket No. 13-85

This **Reply to Opposition** is being submitted to the Federal Communications Commission (FCC) in accordance with the Public Notice posted on March 28, 2013 concerning the Application from Maritime Communications/Land Mobile, LLC. (MCLM) to Assign Licenses under “*Second Thursday*” Doctrine to Choctaw Holdings, LLC (Choctaw) and following Oppositions to Petitions and Reply Comments in this matter posted on May 30, 2013.

This Reply follows comments by the writer timely submitted on May 9, 2013 in this matter urging the FCC to **DENY** the assignment of MCLM licenses to Choctaw.

Because, at a glance, the FCC appears to have received an avalanche of support from numerous elected officials and industry entities urging the transfer of licenses to Choctaw under the “*Second Thursday*” doctrine, it seems prudent to examine the source and content of this lobbying effort.

The duplication of wording in the letters of support from government officials and industry sources and the actual copying of an entire letter in several instances¹ would indicate the presence of a dispersed and scripted endorsement of the assignment of the licenses being generated by a third party encouraging the use of the “*whatever it takes as soon as possible approach*” i.e., forget the fraud and just meet the public’s need for the product. Translated, this is a sacrifice of public interest in order to facilitate consummation of the fraud.

There are two phases to the matter before the FCC and one need not be sacrificed for the other.

First, there is the need of the public for the product. Second, there is the need of the public to make certain that persons supplying the product not be allowed to defraud the government for profit.

¹ May 23, 2013; Grace F. Napolitano, Member of Congress, 32nd District of California
May 24, 2013; SMART – Transportation Division, Washington Legislative Office, Washington, DC
Undated; Bonnie Lowenthal, Assemblymember, 70th District, California Legislature
May 29, 2013; Department of Transportation, Division of Rail, Sacramento, California

A way can and should be found to protect both of the public's interests.

The expressions of support for the assignment of licenses to Choctaw appear to be perfunctory and superficial in content with little manifestation of actual knowledge of the ramifications of their respective requests. The statements of support to the FCC by persons and entities with incomplete knowledge should not obscure the serious issues at hand.

For example, the allegation in the letter to the Commission by the Chief, Division of Rail, Department of Transportation, State of California, that the delay in the matter is one of “*bureaucratic delay*” is, respectfully, without merit and incorrect and is symptomatic of the lack of understanding of the matter at hand exhibited by the various supporters.

The concerted attempt at “*blindly stuffing the ballot box*” in favor of the assignment of MCLM licenses to Choctaw should not be a mitigating nor influencing factor in this critical matter and should not serve in any way to obscure the serious issues at hand..

Included in the comments are numerous pleas by “innocent” MCLM creditors for the assignment of the MCLM licenses to be approved by the FCC.

One interesting comment is by James L. Teel² who is listed as the second largest “Unsecured Creditor” in the MCLM bankruptcy and who served in an executive capacity as far back as 1995 at American Nonwovens Corp. (ANC), Vernon, Alabama, a company 100% owned by Donald DePriest.

ANC defaulted on a loan to the Alabama Department of Economic and Community Affairs (ADECA), Montgomery, Alabama in 2007 in the amount of \$2.4 million and, in the course of default, tendered three bad checks as payment of the obligation to ADECA.

The ADECA default by ANC and DePriest involved a Termout Agreement and the repayment of various loans or debentures guaranteed by the United States Department of Housing and Urban Development (HUD), Section 108 loans and the repayment of incentive loans made to ANC.

The lawsuit resulted in a summary judgment in the amount of \$2.2 million against DePriest, as guarantor of the transaction. (*Case No. CV-2006-24; Circuit Court of Montgomery County, Alabama*)

Mr. Teel must have been aware of his former business associate's financial problems that were detailed in several widely circulated newspaper articles three years ago, in April 2010, which prompted his former associate's abrupt retroactive resignation from the Board of the Tennessee Valley Authority (TVA).³

² MCLM Bankruptcy – List of Creditors Holding 20 Largest Unsecured Claims – James L. Teel – \$320,000.00

³ Knoxville News Sentinel, April 12, 2010

Mr. Teel must have been aware of the 5 day trial that that took place one month later, in May 2010, in Columbus, Mississippi and received daily coverage in the local press following DePriest's resignation from TVA. That case involved DePriest's default of numerous obligations to another business partner resulting in a judgment totaling more than \$9 million. (*Cause No. 2007-0526; Chancery Court of Lowndes County, Mississippi*)⁴

The motivation of Mr. Teel, an "innocent" creditor, to lend almost a third of a million dollars on an **unsecured** basis, no less, to another company "managed" by his former business associate with a publicized history of millions of dollars of unsatisfied judgments, breached contracts and unpaid taxes must be questioned and puts into doubt the legitimacy of the individual's claim of "innocent creditor" and begs the questions of "Why" and "For what reason."

There are other individuals who do not qualify as "innocent creditors" but who are involved with MCLM as apparently opportunistic participants/lenders/investors at inflated rates of interest that were apparently promised a substantial return by MCLM in return for their respective loans/investments.

Finally, MCLM, in an effort to mollify the ubiquitous concern from all quarters that the DePriests, the alleged "*wrongdoers*," will benefit, in some manner, from the assignment of the licenses to Choctaw, has offered sworn declarations from both Donald and Sandra DePriest, **under penalty of perjury**, that they will not benefit from the transaction.

The entire matter at hand at the FCC is the result of 8 years of obfuscation, stonewalling, misrepresentations and lack of candor by the DePriests with numerous documents signed "under penalty of perjury."

This is the same couple that appeared to routinely exhibit a lack of truthfulness in their conspiratorial dealings and sworn documents with the FCC in order to attempt to benefit financially from their ill-gotten acquisition of spectrum in Auction No. 61 in August 2005.⁵

The DePriests are the respective authors of their own lengthy apparently mendacious legacy that, in this case, was apparently intentionally engineered to circumvent FCC regulations in order to apparently attempt to achieve financial solvency.

The DePriest legacy covers years of questioning by the FCC and evasiveness by the DePriests in their answers and cannot be simply erased by proffering two token affidavits, under penalty of perjury, at the eleventh hour to achieve a proposed settlement incorporating the "*Second Thursday*" doctrine.

⁴ The Dispatch, Columbus, Mississippi , May 4 – 9, 2009; July 8, 2009

⁵ FCC Order to show Cause, Hearing Designation Order and Notice of Opportunity for Hearing (OSC)

It should not be forgotten that one month before DePriest appeared before members of the United States Senate on January 4, 2006 to be confirmed to the Board of the Tennessee Valley Authority, following his nomination by President Bush in 2005,⁶ ANC was sued for failing to repay more than \$2.5 million to ADECA. (see above, page 2)

Despite tendering three checks drawn against insufficient funds by ANC and the \$2.2 million breach of contract and the accompanying default by ANC that DePriest had personally guaranteed and then defaulted on his guaranty, DePriest was able to appear before the Senate confirmation committee one month later and assure the Committee that he would bring the “*highest degree of corporate governance*” to the TVA.

The ADECA/HUD default by ANC, personally guaranteed by DePriest, would appear to qualify as a “*non-tax debt owed to a federal agency*” delinquency by DePriest which, in itself, is a violation of FCC licensee rules, and should have been disclosed by DePriest as a licensee. ANC was delinquent on April 1, 2005, prior to Auction No. 61 in August, 2005 and thereafter.⁷

In late 2004, Lucius Burch, a former Board member of Charisma Communications and MCT Corp.⁸ and a principal in Choctaw, formed Collateral Plus, LLC (CP) as a majority shareholder with Pinnacle National Bank in Nashville, Tennessee to insure lending collateral for financial institutions as a credit enhancement company.⁹

The goal of CP was to reduce the risk in a transaction to the point where the lender would be sufficiently confident that it will be repaid should the borrower run into trouble. With the presence of Burch’s CP’s credit enhancement services behind the loan, MCLM was able to borrow \$8.9 million from Pinnacle National Bank.

However, when MCLM filed for Chapter 11 bankruptcy protection on August 1, 2011, CP had to stand behind the \$8.9 million MCLM loan from Pinnacle NB which had become a non-earning asset of Pinnacle NB as a result of the MCLM bankruptcy and the automatic stay that accompanies the bankruptcy.

Until the ratification of the MCLM reorganization plan and the implementation of the “*Second Thursday*” doctrine which is now wholly dependant on the approval by the FCC, CP is liable for the debt.

The possibility of funding the CP loan enhancement undertaking with MCLM (DePriest) has provided substantial financial incentive for Choctaw (Burch) to mount a campaign amongst creditors to lobby for the transfer of MCLM licenses to Choctaw under the “*Second Thursday*” doctrine.

⁶ FEC records show that Donald DePriest contributed over \$345,000.00 to Republican candidates and causes from 1995 - 2010

⁷ City of Vernon – American Nonwovens Corp. ledger – note B-97-DC-01001 – 10/21/04;7/21/05;10/21/05

⁸ Lucius Burch served on the Boards of Charisma Communications established in 1984 by DePriest and MCT Corp where DePriest served as Chairman and Burch was a major shareholder.

⁹ Nashville Business Journal, December 19, 2004

In early 2007, Patrick Trammel, another major principal in Choctaw, and President of Southeastern Commercial Finance, LLC., Birmingham, Alabama (SCF),¹⁰ was not able to directly extend additional credit through SCF to one of DePriest's companies, Wireless Properties of Virginia, Inc., Alexandria, Virginia. However, Mr. Trammel was able to arrange a loan for his long time business associate in the amount of \$1.25 million for the wireless company by telephone with the principal of Capital Plus Partners, LLC., Columbus, Ohio (CPP). The President of CPP did not know DePriest until Trammell's introduction for a loan.

The CPP loan, personally guaranteed by DePriest, went into default at maturity, despite apparent assurances from Trammell to CPP that "*he would shake it loose at the FCC*" in order to allow MCLM to go forward and permit the loan to be repaid. The judgment against DePriest remains unsatisfied. (*Case #10 CVH 01 966; Court of Common Pleas, Franklin County, Ohio*)

Trammell apparently arranged a syndicated loan package for MCLM in the total amount of \$8.35 million between three Alabama parties in the amount of \$2.7 million, respectively, that needs FCC approval to be repaid.¹¹

SCF extended emergency credit to MCLM following the filing of Chapter 11 Bankruptcy on three different occasions as Debtor-in-Possession (DIP) financing in the total amount of \$450,000.00.

MCLM stated that the DIP arrangement was "*significantly more favorable than any terms that would be offered by other lenders.*" It must be noted that DePriest owned 10% of SCF at the time but MCLM was able to claim in court filings to have "*negotiated with the lender at arm's length, in good faith and pursuant to sound business judgment,*" SCF perfected a lien on MCLM's monthly Revenue Stream of \$400.00 as partial security.¹²

SCF's substantial financial involvement with the bankrupt MCLM (DePriest) has provided financial incentive for Choctaw (Trammell) to lobby for the transfer of MCLM licenses to Choctaw under the "*Second Thursday*" doctrine.

The total direct and indirect loan involvement of Burch and Trammell with MCLM is well in excess of \$17 million which, again, begs the questions of "Why" and "For what reason?"

¹⁰ Donald DePriest was a 10% stockholder in Southeastern Commercial Financial, LLC until just before the agreement to divest his ownership in SCF in order to comply with the bankruptcy plan.

¹¹ Schedule D – MCLM Bankruptcy - C. Chris Dupree - \$2,782,293.06; R. Hayne Hollis - \$2,784,293.06; Watson & Downs, LLC - \$2,784,293.06 - totaling \$8,350,879.00 c/o Patrick B. Trammell

¹² Emergency Motion to Authorize Financing Pursuant to 11 U.S.C. § 364 – August 30, 2011; December 6, 2011; and February 16, 2012. MCLM Bankruptcy Case no. 11-13463-DWH – United States Bankruptcy Court for the Northern District of Mississippi

The investment of \$2 million by Choctaw in an effort to obtain the assignment of MCLM licenses, while substantial, must be regarded less as an arm's length investment to assist the creditors and more as a self serving act by Choctaw (Burch and Trammel, et al.) to recoup the potential substantial financial losses which are far greater than the CP investment if the FCC approval under "*Second Thursday*" doctrine is not forthcoming.

There is no monitoring mechanism in existence or being developed to ensure that the long time, close business associates of the DePriest's who now form Choctaw will prevent the DePriests from benefitting directly or indirectly in some "backdoor" manner, at some future date, from the proposed "*Second Thursday*" transaction in spite of an undertaking by the DePriests, under penalty of perjury. Law measures a subsequent oath by previous oaths by the doctrine known as "*falsus in uno, falsus in omnibus.*"¹³

It is folly to believe that the DePriests will not profit handsomely from the proposed assignment.

Admittedly, the Commission is now faced with a difficult Solomonesque type decision which is exacerbated, it must be admitted, by the apparent delay on the part of the FCC that allowed the issues at hand to evolve over a period of 7 years to this state at this late date.

Latency of action by the FCC should not beget sacrifice of principle.

As the writer was told by one creditor in 2010, in no uncertain terms, in a telephone conversation "*The FCC will never take the licenses away from Sandra DePriest!*"

The FCC Order dated November 27, 2006 (File No. 0002303355), dealt with the "bidding credit" issue that MCLM falsely claimed by MCLM in order to achieve a 35% bidding credit in Auction No. 61 in August, **2005** by not including Donald DePriest and violating the "spousal attribution" rule pertaining to designated entity showings.

Following the above-mentioned Order, **almost 7 years ago**, there has followed a continual series of communications by the FCC requesting information from MCLM, **under penalty of perjury**, concerning, among other matters, the critical status of Donald DePriest as Chairman of MCT Corp.

The requests have invariably been met with less than truthful responses by MCLM for more than seven years. Donald DePriest appeared to consistently evade truthful responses to the numerous requests by the FCC concerning Donald DePriest's chairmanship role in MCT Corp. MCT Corp was sold in 2007 for approximately \$300 million.

¹³ *Falsus in Uno, Falsus in Omnibus* - false in one thing, false in everything. A witness who willfully falsifies one matter is not credible on any matter. The underlying motive for attorneys to impeach opposing witnesses in court.

The absence of action by the FCC despite the numerous violation of FCC rules by MCLM has allowed MCLM to flourish and, with respect, as if to add insult to injury, with the retention of taxpayer money. The FCC is listed as a creditor of the bankrupt MCLM in the amount of \$6 million.

It appears that the FCC is faced with either: (A) allowing the assignment of MCLM's fraudulently obtained licenses to Choctaw to go forward as being requested and accept the basic "plea bargain" of the participants under the guise of the "*Second Thursday*" doctrine or, (B) revoking the MCLM licenses as mentioned in the Hearing Designation Order as a result of the egregious, manipulative and deceptive actions of the DePriests and creating a clean slate and permitting the unfettered reallocation of MCLM licenses to take place by placing the spectrum back into the marketplace.

The unanimous expression for the need of spectrum by the various Critical Infrastructure Industries (CII) directly involved in this matter indicates a fertile and, probably, highly profitable market for the FCC for possible resale of the highly sought spectrum.

The willingness of Choctaw to invest more than \$2 million in this MCLM "*Second Thursday*" undertaking in addition to the above-mentioned indirect liability indicates and confirms a substantial perceived future value of the spectrum in question and profit potential.

To address the needs of the existing CII participants who would be deprived of the benefit of MCLM licenses, the FCC could award a credit to CII participants equal to their respective down payments to MCLM, plus interest. This credit would offset the cost of rebidding for the licenses in question if these same CII entities wished to participate in the re-auctioning of the revoked licenses.

This matter is not a case of David versus Goliath but rather a concerned citizen opposing the strenuous strategic legal maneuverings by financially impacted entities attempting to persuade the FCC to allow wrong to eclipse right **at all costs**.

By way of explanation, the writer is neither an attorney, a licensee, prospective licensee nor a paid spokesperson for any entity or person.

The writer's linkage to these matters is also as a former *Pro Se Defendant* in a \$40 million lawsuit filed three years ago against the writer by Donald DePriest (shortly after the issuance of the Hearing Designation Order by the FCC).

DePriest claimed, without basis or specifics, that the writer had tortiously interfered with DePriest's business interests by discussing publicly documented matters relating to DePriest's business activities with other persons and entities. (*Case No. 1:10-CV00177-WAP-JAD; U.S. District Court, Northern District of Mississippi, Eastern Division*)

DePriest issued a “Cease and Desist” letter to the writer on June 16, 2010 threatening legal action through the offices of DePriest’s attorney and, one month later, on July 16, 2010, the writer was sued by DePriest for \$40 million for alleged tortious interference and defamation.

It was not coincidence that DePriest filed the lawsuit after learning of the writer’s exchange of information with another individual in the telecommunications business and participant in Auction No. 61 ten days before the issuance of the “cease and desist” letter. In a December 29, 2010 filing with the FCC, when challenged by another petitioner concerning the similarity of the amount of the claim against the writer of \$40 million and the value of MCLM’s licenses, Depriest justified his claim of \$40 million as being, in part, the “*value of other assets such as Mr. DePriests’s reputation and his emotional peace which are also express bases of Mr. DePriest’s suit.*”¹⁴

In effect, DePriest sought to use the federal court system to suppress and intimidate the writer by filing a multimillion dollar lawsuit and demanding that the writer retract statements that had allegedly been made to “*all courts of law and all other organizations and individuals and cease and desist from any further attempts to interfere with his (DePriest) business reputation.*”

The case was stayed on June 15, 2011 by the late United States District Judge W. Allen Pepper, Jr. in a seven page detailed Order Staying Case issued “*sua sponte*” by the Court.

The Order stated that the case was stayed until the “*conclusion of an investigation the Federal Communications Commission is currently conducting regarding, among other things, the role that plaintiff Donald DePriest played in the ownership, control, and management of Maritime (MCLM).*”

The Order further stated:

“*Another of the court’s concerns is the nebulous nature of the allegations against Mr. Harmer regarding precisely to whom Mr. Harmer spoke, what he said, when he said it, how it damaged Mr. DePriest, and how Mr. DePriest determined the damage to be \$20 million.*¹⁵ *This ambiguity is puzzling because such information goes to the heart of Mr. DePriest’s allegations against Mr. Harmer.*

“*The court is also concerned about Mr. DePriest’s obvious reluctance to provide this information in discovery. For example, when Mr. Harmer has sought more specific information regarding these and other relevant issues in discovery, Mr. DePriest has objected – in the vaguest of terms – to revealing that information.*

“*In this case, Mr. Depriest has adopted a pattern of responding to Mr. Harmer’s discovery only after Harmer seeks relief from this court by way of motions to compel.*

¹⁴ December 29, 2010 – FCC File No. 0004507921 – Opposition to Petition to Deny by MCLM

¹⁵ In his Complaint against the writer, DePriest sought an additional \$20 million in damages for a total judgment sought by DePriest of \$40 million.

“Mr. DePriest’s seeming lack of desire to move forward with his case through expeditious and complete responses to discovery, his alleged pattern of obfuscation in the FCC proceeding...give rise to questions regarding Mr. DePriest’s motivations in filing the suit in the first place.”

The case was voluntarily dismissed by DePriest after more than two years with no advancement or supporting evidence ever put forth by DePriest during that time to support the baseless allegations and, not surprisingly, 10 days after the writer/defendant filed a motion to lift the Order Staying Case and proceed to trial.

However, at the time of dismissal of the lawsuit, DePriest unsuccessfully continued to attempt to continue suppression of comments by the writer by imposing conditions that would prevent the writer from: (a) making any public statement about the dismissal; (b) disclosing the dismissal to any third party who will then make a public statement, and; (c) bringing the dismissal to anyone’s attention.

In short, DePriest’s attempted dismissal conditions would have imposed a lifetime gag order on the writer. The conditions were not imposed at the dismissal of the case.

It is now incumbent on the FCC to hold true to its own published rules and regulations that appear to have been violated on several occasions by MCLM and not be swayed by the choreographed uninformed support mounted by potential beneficiaries of the apparent bidding credit fraud by which the licenses were obtained by MCLM seven years ago.

Due diligence on the part of the so-called “innocent creditors” affiliated DePriest would have revealed the need for extreme caution in their dealings with MCLM and its principals.

In a March 2006 MCLM “Business Plan,” by D. DePriest it states:

“MCLM will advocate the creation of a national wireless network dedicated to emergency communications, using MCLM’s exclusive spectrum. Thus, just one licensee, MCLM, will create a common platform for all other licensees to utilize. MCLM will propose to not only build such a system, but also to manage such a system, like a toll road in a public-private partnership, in exchange for a usage toll.

“If approved, this effort will be the subject of a future financing by MCLM, or potentially a government grant, in the range between \$100 Million and \$250 Million.

*“MCLM’s exclusive Public Safety Network would be the backbone of an emergency response system. MCLM would build an affordable **nationwide** Public Safety Network that would deploy 2,300 sites.*

“This estimate assumes that a site covers a radius of operations of 20 miles omnidirectionally from the tower.

“This assumption is based upon MCLM’s existing system experience in Chicago, New York City, Boston and other locations. With a radius of 20 miles in every direction, one site will cover 1,256 square miles.

“There are 3.7 Million square miles in the Continental United States (“CONUS”). Thus, it would require 2,800 MCLM sites for full CONUS coverage . However, MCLM believes that 22% of this geography needs no coverage, simply because it is either barren desert, water, Rocky Mountains, or is otherwise devoid of inhabitants.

“Thus, MCLM intends to cover 2.9 Million square miles, which represents 78% of the landmass of the CONUS area.”

Was it, perhaps, these apparently hollow, exaggerated claims of the future activity of MCLM that Donald DePriest and his associate at MCLM, John Reardon, put forth to lenders, investors and “innocent creditors” that created the huge ephemeral prospect of success, capability and potential profit of MCLM?

Was it, perhaps, the apparent willingness of Donald DePriest to be a co-debtor (guarantor) of 19 alleged “innocent creditors”¹⁶ that provided a convincing and enticing incentive to the lenders as if to say: *“If you invest in MCLM, I, Donald DePriest, will guarantee the profitable future of MCLM and will guarantee your loan”* that lenders were able to disregard (if they even knew about) DePriest’s checkered financial history of defaulted loans and breached contracts and apparent inability to fund a guaranty, if needed, in return for unfounded promises of huge profits?¹⁷

In today’s business environment the absence of a basic website concerning the purported business activities of a company that *“intended to cover 78% of the continental United States”* should have been cause for concern for the lenders and should have prompted an investigation on the part of prospective lenders/investors/buyers concerning the non existence of a website and the viability and authenticity of MCLM, in general, and the DePriests, in particular.

While lacking information about MCLM the internet does reveal an interesting amount of information concerning Donald DePriest, Sandra DePriest and MCLM activity at the FCC that might have served as a source of information regarding a financial/business relationship, **if only the most basic effort** had been made by creditors/investors before an investment/loan had been finalized.

It is apparent that MCLM will use any recourse to achieve their objective from fraudulent claims and statements under oath to a Federal lawsuit against an individual to suppress information being freely discussed or revealed by a citizen of the United States that might appear to be detrimental to the apparent objective of achieving financial solvency.

¹⁶ Schedule H – Co-debtors in the bankruptcy case of MCLM (Case #11-13463-DWH)

¹⁷ October 20, 2009 – Donald DePriest appealed to the Supreme Court of Mississippi in a hand delivered letter to Stay Execution of the Oliver Phillips’ judgment in the amount of \$9.1 million that would cause “irreparable harm” and force bankruptcy for DePriest if acted upon by Phillips.

Fraudulently obtaining property by material false representations, as apparently undertaken by MCLM in this matter with the FCC, is a basic theft of property from the U.S. government.

Theft is theft no matter what means are used and must be regarded by the FCC as such. It is this subject, respectfully, that should be the primary focus of the FCC not the “*after the fact*” dispersal of ill-gotten proceeds.

It is this basic issue, even at this late stage, that should now be addressed by the FCC not the attempt at the “plea bargaining” implementation of the “*Second Thursday*” doctrine subsequent to a bankruptcy proceeding in another jurisdiction with apparently questionable motivation and results that were likely planned by MCLM to halt the FCC investigation in its tracks and allow the liquidation of the resultant spoils to former long time business associates to proceed.

The FCC cannot allow an apparent complex plan of willfully duping and attempted strong arming of the FCC by MCLM over a period of years with the establishment of a sham company with no readily available business profile by an FCC knowledgeable and experienced husband with a stable of attorneys and an ordained minister wife who admitted only “*very limited rental property*” interests and was “*not involved in the spectrum telecommunications business other than on the companies we’ve talked about today (MCLM)*”¹⁸ to succeed through a conspiracy to establish a precedent setting exercise that could become a tutorial for other ethically challenged FCC licensees in the future. This teaching, if successful, could render the FCC a far less effective regulator and it make it appear to be a toothless tiger in enforcing its own rules.

By invoking the “*Second Thursday*” doctrine immediately upon filing for bankruptcy protection MCLM attempted to bypass the hearing and the potential consequences of having the Commission determine that the alleged wrongdoing had, in fact, been committed. It should be noted that failure to request consideration of “*Second Thursday*” prior to an adjudication at such a hearing or in another court or agency proceeding would have compromised the potential benefit of the doctrine.

The “*Second Thursday*” doctrine has traditionally been applied to situations in which the FCC has designated a matter for hearing to determine whether a license should be revoked or a transfer application denied on the basis of alleged misconduct.

However, under Section 312 of the Communications Act, the FCC may revoke licenses it has issued, based on certain FCC-related misconduct, such as misrepresentation or lack of candor to the Commission, deception or defrauding of the public...”

¹⁸ Transcript of Sandra DePriest; September 23, 2011; United States Bankruptcy Court for the Northern District of Mississippi in the case of Maritime Communications/Land Mobile, LLC; pages 124-125.

Choctaw states in its Reply Comments and Opposition to Petitions to Deny to the FCC that:

*“Moreover, Second Thursday looks at benefits that will result from grant of application, not benefits that a wrongdoer may have received prior to such a grant.”*¹⁹

With respect, it is this perverse mentality that permeates the arguments of Choctaw and the predecessor parties of Choctaw, Donald and Sandra DePriest.

Restated, the FCC is urged to disregard the egregious, manipulative misrepresentation and deception that occurred at the hands of the DePriests and allow Choctaw to inherit the results of the apparent fraud committed by the DePriests in the public interest and for the benefit of Choctaw.

As a threshold matter in any license transfer request the transferor is required to show that it is still qualified to be a license holder. If the transferor has already been found to have committed some serious misconduct, it would seem that a showing of qualification would be difficult if not impossible to make.

The FCC has the authority to revoke licenses *“because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license permit on an original application.”*²⁰

MCLM would appear to be a poster child for misconduct, misrepresentation, obfuscation and lack of candor before the FCC.

The fact that creditors have been duped is most unfortunate but should not motivate the FCC to perpetuate the fraud. Hopefully, we have not become a society where multiple wrongs can be pushed aside for those individuals who are blinded by greed and attempt to interpret the law for their own benefit.

MCLM should not become the standard by which future licensees can fashion their behavior with self-prescribed rules of “spousal attribution,” “bidding credits,”²¹ a lack of candor, stonewalling and evasiveness in their dealings with the FCC and then hand the results to former business associates with a dubious pledge not to benefit from their actions.

It is the primary role of the FCC to fairly and effectively protect the interests of the U.S. government and the public by safeguarding the integrity of the auction process and the marketplace for transfer of spectrum.

¹⁹ May 30, 2013 - Choctaw - Reply Comments and Opposition to Petitions to Deny; page 7; footnote #23

²⁰ SEC. 312 (a) Any station license may be revoked for false statements either in the application or in the statement of fact which may be required under section 308 hereof, or because of conditions revealed by such statements of fact as may be required from time to time which would warrant the Commission in refusing to grant a license on an original application, or for failure to operate substantially as set forth in the license, or for violation of or failure to observe any of the restrictions and conditions of this Act or of any regulation of the Commission authorized by this Act ...

²¹ See letter - Peter Harmer – May 9, 2013; FCC Docket 13-85

It should not be the overarching role of the FCC to minimize the losses that may be suffered by creditors of applicants who obtain and resell spectrum through fraudulent schemes.

The FCC should buttress its primary role by making sure that ill-gotten assets obtained from the FCC are not doled out to creditors, especially when many of those creditors ignored the obvious risks of putting their money in the hands of a person who had consistently shown himself to be far from creditworthy.

Accordingly, the writer respectfully reaffirms his previous request at this time and strongly urges the FCC to consider MCLM's antagonistic record during the past eight years replete with numerous and consistent "*economies of truth*" made under penalty of perjury and the enduring implications that FCC approval would establish and appear to condone and to **DENY** the assignment of the MCLM licenses to Choctaw Holdings, LLC.

These comments are made by the writer under penalty of perjury; without coercion by or consultation with any third party; are made without an incentive payment either monetary or otherwise from any source and have been obtained by the writer from published material as noted and emanating from various sources including court documents, readily available related information and various parties pertaining to MCLM.

Respectfully submitted,

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