



Federal Communications Commission  
Washington, D.C. 20554

August 24, 2005

World Investments, Inc.  
c/o Marissa G. Repp, Esq.  
Hogan & Hartson, L.L.P.  
Columbia Square  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004-1109

**DA 05-2350**  
**Released: August 25, 2005**

Re: KOWH(TV), Lincoln, Nebraska  
ID NO. 84453, File No. BTCCT-20040330BDM

Dear Permittee:

This is in regard to your letters of July 15, 18 and 25, 2005 regarding the referenced application to transfer control of Lincoln Broadcasting, LLC (Lincoln) from World Investments, Inc. (World) to CFM Communications, LLC (CFM) in which you ask that the Commission leave CFM in control of Lincoln. CFM filed letters in response to World's letters on July 15 and July 20.<sup>1</sup> Gray Television Licensee, Inc. filed a letter in response to these filings on July 22.<sup>2</sup>

On May 24, 2005, we granted the transfer application. The parties have indicated that they closed on the transaction on June 3, 2005, well prior to the date on which the grant would have become final—June 23, 2005. On June 17, 2005, during the reconsideration period,<sup>3</sup> we released a letter rescinding the grant.<sup>4</sup> Once the rescission was issued, there was no longer any legal basis on which to transfer control of Lincoln to CFM and control of the permittee was required to revert to World. As a result, Commission records have been adjusted to reflect World's control of the permittee. Contrary to the position taken in World's letter, the present reality is that World is the only entity legally authorized to be in control of Lincoln.

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<sup>1</sup> CFM acknowledges that the rescission of the transfer grant returns the parties to the *status quo ante* and indicates in its July 20 letter, that it would be willing to assume control of the permittee if, and only if, the Commission authorizes such control.

<sup>2</sup> Other filings have been made in this proceeding, including a Petition for Reconsideration of our original decision filed by Gray, a Motion to Dismiss that petition by CFM, a Statement for the Record by CFM and various responses to those pleadings. We will address the issues raised in those filings in the context of our further inquiry into the substantive issues surrounding the transfer application and the parties to it.

<sup>3</sup> See 47 C.F.R. § 1.108, 1.114.

<sup>4</sup> Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to CFM Communications, *et al.*, rel. June 17, 2005.

Although applicants may close on a granted transfer application prior to that grant becoming final, they do so solely at their own risk.<sup>5</sup> As CFM points out in its July 15 letter, the risks associated with closing, including the risks that the grant of the application may be rescinded on the Commission's own motion or may be reversed pursuant to an appeal, fall on both parties to the transaction. World's claims that it is somehow inconvenienced or otherwise harmed are irrelevant. If World wanted to avoid the risk that the transfer could be rescinded or reversed, it should not have closed until the order became final. Any contractual disputes that arise between the parties as a result of the rescission are private matters and will not be reviewed by the Commission.<sup>6</sup>

Contrary to World's assertion, we do not believe there is any basis to conclude that it would be in the public interest to undo the rescission and permit the transfer of control of a Commission permittee to an applicant when serious questions have been raised regarding that applicant's character and qualifications to be a licensee. Such a course of action might benefit World, but cannot be credibly argued to be a benefit to the public. The public interest is not necessarily the same as the interest of one of the parties. If, following our investigation, CFM is found to be qualified to be a Commission licensee and the transfer is then found to be in the public interest, then we will permit control to pass to CFM, but only after those requirements have been met.

If World fails to immediately exercise and maintain control of the permittee, we will regard it as having abandoned its duty as a permittee and will take appropriate enforcement action. This will be in addition to any other actions that we may take with respect to other issues related to this transaction.

The parties have requested that we toll the construction deadline in KOWH(TV)'s permit during the pendency of these proceedings. An application for transfer of control, whether pending, granted or denied, is not a basis for tolling a permit's construction deadline.<sup>7</sup> Therefore, we will deny the parties' request.

To the extent that World's July 15, 18 and 25 letters represent a petition for reconsideration of the rescission, that petition IS DENIED. Within seven (7) days of the date of this letter, World IS ORDERED to file a statement, accompanied by a declaration made in accordance with §1.16 of the Commission's Rules, with the Office of the Secretary acknowledging that it is in control

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<sup>5</sup> *Improvement Leasing Co.*, 73 FCC 2d 676, 684 (1979), *aff'd sub nom. Washington Association for Television and Children v. FCC*, 665 F.2d 1264 (D.C. Cir. 1981).

<sup>6</sup> *See, e.g., Paso Del Norte Broadcasting*, 12 FCC Rcd 6876 (MMB 1997).

<sup>7</sup> *See 1998 Biennial Regulatory Review-Streamlining of Mass Media Applications, Rules, and Processes*, 13 FCC Rcd 23056 (1998); *Order on Reconsideration*, 14 FCC Rcd 17525 (1999).

of Lincoln Broadcasting, Inc. and Station KOWH(TV), Lincoln, Nebraska. FURTHERMORE,  
the request to toll the construction deadline in the permit for KOWH(TV) IS DENIED

Sincerely,

Donna C. Gregg  
Acting Chief, Media Bureau.

cc: Kathleen Victory, Esq., Counsel to CFM Communications, LLC  
Peter Gutmann, Esq., Counsel to Gray Television Licensee, Inc.  
Michael D. Basile, Esq., Counsel to Mitts Telecasting Company.