



Federal Communications Commission
Washington, D.C. 20554

July 20, 2006

DA 06-1479

In Reply Refer to:

1800B3-JP

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RJM Communications, Inc.
1218 Park Street
Kalamazoo, MI 49001

Mr. Steve Reszka
Anscombe Broadcasting Group, Ltd.
114 The Village Green
Williamsville, NY 14221

In re: Anscombe Broadcasting Group, Ltd.
WSIR(AM), Winterhaven, Florida
Facility ID: 72683
File No. BR-20030911AAH

Anscombe Broadcasting Group, Ltd.
WAVP(AM), Avon Park, Florida
Facility ID: 72684
File No. BR-20030911AAF

Gentlemen:

We have before us: (1) RJM Communications, Inc. ("RJM")'s petition for reconsideration of a staff decision granting the above captioned license renewal applications for Stations WSIR(AM), Winterhaven, Florida and WAVP(AM), Avon Park, Florida on March 2, 2006;¹ (2) Anscombe Broadcasting Group ("Anscombe")'s April 22, 2006, opposition to petition for reconsideration;² and (3) Anscombe's Supplement to Opposition to the Petition for Reconsideration, dated May 25, 2006.

Background. Anscombe timely filed license renewal applications for Stations WSIR(AM) and WAVP(AM) on September 11, 2003. RJM filed an informal objection against each application on December 30, 2003, alleging that Anscombe had usurped control of Station WGSR(AM), Fernandina Beach, Florida, from RJM without Commission authorization.³ On March 2, 2006, the staff granted the license renewal applications and dismissed RJM's informal objection because the allegations contained in RJM's objection pertained to a different station, and had no bearing on Anscombe's qualifications to be

¹ *Letter to Rick Morrison and Steven M. Cohen, Esq.*, 21 FCC Rcd 2193 (MB 2006) ("Staff Decision").

² Anscombe's April 22, 2006, opposition indicated that it was a preliminary response and that a more complete response would be filed by May 8, 2006. However, no further responses were filed until Anscombe provided a copy of Rick Morrison's death certificate on May 25, 2006.

³ Section 310(d) of the Communications Act of 1934, as amended (the "Act") prohibits the transfer or assignment of a broadcast license without Commission approval. 47 U.S.C. § 301(d). Anscombe filed a reply to the informal objection on February 4, 2004, and RJM responded to Anscombe's reply on May 12, 2004.

the licensee of Stations WSIR(AM) and WAVP(AM) under Section 309(k) of the Act.⁴ For the reasons set forth below, we dismiss the petition for reconsideration and uphold the grant of the license renewal applications.

Discussion. The Commission will consider a petition for reconsideration when a petitioner shows either a material error in the Commission's original order, or raises additional facts, not known or existing at the time of the petitioner's last opportunity to present such matters.⁵ RJM contends in its petition for reconsideration that Section 309(k)(1)(C) of the Act⁶ allows the Commission to consider "other violations" of the Act or the Commission's Rules (the "Rules") by the licensee. RJM contends that these "other violations" are not limited to the actions of the licensee with respect to the station being considered for license renewal and as such, Anscombe's actions regarding Station WGSR(AM) should be considered during the WSIR(AM) and WAVP(AM) license renewal proceedings.

In response, Anscombe states that the petition for reconsideration should be dismissed because (1) the petition is procedurally defective because it was not served on Anscombe;⁷ (2) the petition is fraudulent because Rick Morrison, the president and sole owner of RJM, died on June 3, 2004, yet the petition for reconsideration bearing his signature was filed on April 3, 2006; and (3) the petition presents no new information to contradict the findings in the March 2, 2006, staff decision.

A petition for reconsideration must comply with the requirements of Section 1.52 of the Rules.⁸ Section 1.52 of the Rules requires documents submitted to the Commission to be signed by an attorney or a party. A party's signature verifies that such party has read the document; that to the best of his or her knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a document submitted is signed with intent to defeat the purpose of Section 1.52 of the Rules it may be stricken as sham and false, and the matter may proceed as though the document had not been filed.⁹ The death certificate submitted by Anscombe on May 25, 2006,¹⁰ presents uncontradicted evidence that Rick Morrison's decease predates the filing of the petition for reconsideration. RJM has not submitted an explanation for its filing which bears Rick Morrison's name and "signature."¹¹ For these reasons, the petition for reconsideration will be dismissed.

⁴ 47 U.S.C §309(k).

⁵ 47 C.F.R § 1.106, and *WWIZ, Inc.*, 37 FCC 685, 686 (1964), *aff'd sum nom.*, *Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966).

⁶ 47 U.S.C. § 309(k)(1)(C)

⁷ We find that Anscombe was not prejudiced by RJM's failure to serve the petition for reconsideration. Anscombe states that it received notice of the petition through the Public Notice published on April 11, 2006, and duly filed a response which will be considered.

⁸ *See* 47 C.F.R § 1.106(h). 47 C.F.R. § 1.52.

⁹ 47 C.F.R. § 1.52.

¹⁰ *See Supplement to Opposition to Petition for Reconsideration, Exhibit A.*

¹¹ A letter of inquiry asking RJM to clarify this discrepancy was returned by the United States Postal Service as attempted, unknown and undeliverable. The letter was mailed to the address on file with both the Commission and the State of Michigan. RJM is a former licensee of WGSR(AM), Fernandina Beach, Florida and no longer holds any broadcast interests. Under Section 503(b)(5) of the Act, 47 U.S.C. § 503(b)(5), the Commission generally cannot impose a forfeiture on a non-licensee for an initial violation, thus no action will be taken against RJM for apparently filing a false pleading with the Commission.

In any event, we find that RJM's petition is without merit. RJM's sole contention is based on a misinterpretation of Section 309(k) of the Act. Section 309(k) of the Act states:

(k) BROADCAST STATION RENEWAL PROCEDURES. –

(1) STANDARDS FOR RENEWAL. – If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, **with respect to that station**, during the preceding term of its license –

(A) the station has served the public interest, convenience, and necessity;

(B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

(C) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.¹²

The plain language and structure of this section clearly establish that the scope of the “other violations” listed in Section 309(k)(1)(C) is limited to the station for which license renewal is being considered. RJM's petition for reconsideration contains no allegation that Anscombe has violated the Act or the Rules through its operation of WSIR(AM) or WAVP(AM). Thus, RJM's petition for reconsideration fails to show a material error or omission in the original decision.

Conclusion/Actions. For the reasons discussed above, RJM's Petition for Reconsideration is DISMISSED and the grant of the renewal applications for Stations WSIR(AM), Winter Haven, Florida (File No. BR-20030911AAH) and WAVP(AM), Avon Park, Florida (File No. BR-20030911AAF) is UPHELD.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Steven M. Cohen, Esq.
John Trent, Esq.
Dan J. Alpert, Esq.

¹² 47 U.S.C. § 309(k) (emphasis supplied).