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Robert G. Blanchard
132 Brentwood Drive
North Smithfield, RI 02896

Global Broadcasting of Southern New England LLC
c/o Jonathan B. Mirsky
Harris, Wiltshire & Grannis LLP
1200 18th Street, NW
Washington DC 20036

Freedom Broadcasting of Southern New England Licensee, LLC
c/o David D. Burns
Latham & Watkins LLP
555 11th Street, NW, Suite 1000
Washington, DC 20004-1304

Re: Application for Assignment of License of Station
WLNE-TV, New Bedford, Massachusetts
File No. BALCT-20070319ACL
Facility ID No. 22591

Dear Parties:

This letter addresses a Petition to Deny ("Petition") filed by Robert Blanchard ("Blanchard"), on June 1, 2007, against the above-referenced application to assign the license of WLNE-TV, New Bedford, Massachusetts, from Freedom Broadcasting of Southern New England Licensee, LLC ("Freedom") to Global Broadcasting of Southern New England LLC ("Global"). For the reasons below, we find that no substantial and material question of fact has been raised concerning the application and, therefore, deny the petition.

In his petition, Blanchard alleges that Kevin O'Brien, the CEO and principal stockholder of Global, has filed false and/or misleading information in the instant application regarding past instances of racial discrimination. Moreover, Blanchard requests that the Commission designate the application for an evidentiary hearing. Blanchard argues that O'Brien is not of "good moral character", as required by the Commission, to operate or have a substantial ownership interest in a broadcast station. Specifically, Blanchard asserts that O'Brien was terminated as president of Meredith Broadcasting in March 2005, for violating EEO policies of the company. In this regard, O'Brien states that while president of Meredith Broadcasting, O'Brien made numerous racist and anti-Semitic statements.

Blanchard alleges that O'Brien deliberately misled the Commission in the instant application when he certified that no adverse finding has been made, nor any adverse final action been taken in

any court or administrative body regarding discrimination. Blanchard contends that while it is “technically true” that the applicant, Global, has never had any adverse final action made against it, O’Brien is “attempting to cloak his racist and anti-Semitic statements behind the protective veil of a newly organized company that has never owned any broadcast stations.” Moreover, Blanchard argues that O’Brien lost his job at Meredith Broadcasting due to an internal “adverse finding” and a subsequent law suit which upheld the right of Meredith Broadcasting to fire O’Brien. Because O’Brien failed to disclose this internal adverse finding, argues Blanchard, he is at the very least guilty of misrepresentation.

In response, counsel for Global filed a letter on June 11, 2007, arguing the Commission should exercise its discretion under Section 73.3584(e) of its rules to return Blanchard’s pleading without consideration because it is procedurally defective. Specifically, Global points out that the public comment period ended more than five weeks before the date of Blanchard’s pleading. In addition, Global notes that Blanchard’s pleading does not describe how he would be harmed by the grant of the application, and it does not claim that he has personal knowledge of anything alleged. On the merits, Global argues that its certifications in the instant application are true and correct. In this regard, Global contends that there has never been an adverse finding or adverse final action against O’Brien taken by any court or administrative body related to discrimination. Moreover, Global notes that O’Brien has done much throughout his broadcasting career to advance the lives and careers of minorities and women. Specifically, Global states that while O’Brien was president of Meredith Broadcasting, the number of minority and women senior executives and on-air talent at the company increased dramatically due to O’Brien’s direct efforts in recruiting, promoting and mentoring them.¹

Discussion. In assessing the merits of a petition to deny or informal objection, we follow a two-step analysis. First, we determine whether the petitioner makes specific allegations of fact which, if true, would demonstrate that grant of the application would be *prima facie* inconsistent with the public interest.² If so, we then proceed to examine and weigh all of the material before us to determine whether there is a substantial and material question of fact requiring resolution in a hearing.³ If the facts are not disputed, but disposition turns on inferences and legal conclusions to be drawn from facts already known, a hearing is unnecessary.⁴

Blanchard’s petition was untimely filed and procedurally defective. We will, therefore, treat it as an informal objection pursuant to Section 73.3587 of the Commission’s rules. Furthermore, we conclude that Blanchard has failed to raise a substantial and material question of fact sufficient to show that grant of the subject application would be inconsistent with the public interest. The

¹ In addition, Global states that in 1993 O’Brien co-founded an inner-city school, View Park Prep located in the Crenshaw neighborhood of Los Angeles, which is one of the most successful charter schools in California. Furthermore, Global asserts that as general manager of television station KTVU, Oakland, California, O’Brien established an innovative program whereby the station produced and aired free promotional spots for Dominican University in return for the school providing scholarships to deserving minority students.

² See *Astroline Communications Co. Ltd. Partnership v FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988).

³ *Id.*

⁴ *Stone v. FCC*, 466 F.2d 316, 323 (D.C. Cir. 1972).

Commission's policy is that there must be an ultimate adjudication by an appropriate trier of fact, either by a government agency or court, before it will consider non-FCC misconduct in its character determinations.⁵ Global attests that there has never been an adverse finding or final action against O'Brien (or against any other person or entity based on any allegations concerning Mr. O'Brien) taken by any court or administrative body related to discrimination. Blanchard erroneously characterizes the firing of O'Brien by Meredith Broadcasting as an internal "adverse finding." However, the firing of O'Brien does not constitute an "adverse finding" under the Commission's Character Policy, because no determination of discriminatory conduct was made by a governmental agency or court.⁶

Conclusion

For the reasons stated above, we conclude that Global Broadcasting of Southern New England is fully qualified to be the licensee for WLNE-TV, New Bedford, Massachusetts. Additionally, we find that grant of the application will further the public interest, convenience and necessity. Accordingly, the petition to deny filed by Robert Blanchard **IS DENIED** and the application to assign station WLNE-TV, New Bedford, Massachusetts, from Freedom Broadcasting of Southern New England Licensee, LLC to Global Broadcasting of Southern New England LLC the Board of Trustees (File No. BALCT-20070319ACL) **IS GRANTED**.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁵ See *Policy Regarding Character Qualifications in Broadcast Licensing* ("Character Policy"), 5 FCC Rcd 3252 (1990), *recon. granted in part*, 6 FCC Rcd 3448 (1991), *modified*, 7 FCC Rcd 6564 (1992) (Relevant non-FCC misconduct includes only adjudicated instances of fraudulent misrepresentations to governmental units, or adjudicated criminal misconduct involving false statements or dishonesty).

⁶ See e.g., *Atlantic City Community Broadcasting, Inc.*, 6 FCC Rcd 925 (Rev. Bd. 1991) (disqualifying applicant from comparative hearing for failure to report an adverse final court determination of sex discrimination involving one of its principals).