



**Federal Communications Commission
Washington, D.C. 20554**

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In Reply Refer to:

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Mr. Ronald W. Cowan
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In re: WVAB(AM), Virginia Beach, Virginia
Facility ID No. 57611
File No. BAL-20071119AIW

WVBA(AM), Bayside, Virginia
Facility ID No. 84068
File No. BAL-20071119AIX

**Applications for Assignment of Licenses
Petition to Deny**

Dear Counsel and Mr. Cowan:

We have before us a Petition to Deny ("Petition") the captioned applications ("Applications") which seek Commission approval for assignment of the captioned licenses from R. Clinton Stackhouse, Jr., Interim Trustee (in Bankruptcy) to Birach Broadcasting Corp. ("Birach"). The Petition was filed by Ronald W. Cowan ("Cowan"), the prior licensee of the captioned stations. We also have before us an Opposition to Petition to Deny ("Opposition") filed by Birach, a Motion for Leave to File Opposition Out of Time, ("Extension Motion"), and a Motion for Expedited Processing filed by Birach. For the reasons stated below, we dismiss the Petition to Deny as untimely, grant the Extension Motion,¹ and grant the captioned applications.² We have, however, exercised our discretion to treat the Petition as an informal objection³ and, briefly, address Cowan's allegations below.

We agree with Birach that the Commission is not the appropriate forum to resolve the contractual, property, and bankruptcy issues raised by Cowan.⁴ With respect to matters within the Commission's jurisdiction, Cowan

¹ Birach alleges that it was not served with the Petition. Extension Motion at 1-2. Its Extension Motion was unopposed. Accordingly, we will grant the Extension Motion. Given our disposition of this matter, Birach's Motion for Expedited Processing is moot and will be dismissed as such.

² See 47 C.F.R. § 73.3584. "In the case of applications for transfers and assignments of construction permits or station licenses, Petitions to Deny must be filed not later than 30 days after issuance of a public notice of the acceptance for filing of the applications." The Applications were placed on Public Notice on November 26, 2007; Cowan filed the Petition on December 31, 2007 – five days late.

³ See 47 C.F.R. § 73.3587.

⁴ See Opposition at 3 citing *Station WOW v. Johnson*, 326 U.S. 120 (1945). The allegations not relevant to our consideration of the Applications include: (a) the claim that Stackhouse is using certain assets of the station without the approval of the assets' owner; (b) that certain unspecified civil lawsuits have been filed by unspecified "property owners;" (c) that Stackhouse "wishes to profit personally from this sale if approved;" and (d) that Cowan has several matters pending in Federal court that bear on the assignment of license. See Petition at 1-3. The Commission generally does not interfere with private contractual disputes "that should be solved by negotiation between the parties or in the courts." *Metromedia, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 595 (1988). See also, (footnote continued)

claims, *inter alia*, that Stackhouse has falsely represented that he did not violate the Commission's Rules, "during his time as licensee"⁵ and that he [Cowan] was denied access to the stations' public inspection file.⁶ Cowan requests, therefore, that the Applications be designated for hearing "as to whether the current licensee has operated both in the public interest, and within FCC regulations as required for approval of such an application."⁷

Pursuant to Section 309(e) of the Communications Act of 1934, as amended (the "Act"),⁸ informal objections, like petitions to deny, must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(a) of the Act.⁹ Because Cowan has not provided support for his allegations of Rule violation(s),¹⁰ we find that he has not raised a substantial and material question of fact warranting further inquiry.

Accordingly, IT IS ORDERED that the Petition to Deny filed by Robert W. Cowan, IS DISMISSED. IT IS FURTHER ORDERED that said Petition to Deny, considered as an informal objection pursuant to 47 C.F.R. § 73.3587 is DENIED. IT IS FURTHER ORDERED that the Motion for Leave to File Opposition Out of Time, filed by Birach Broadcasting Corporation, IS GRANTED. IT IS FURTHER ORDERED that the Motion for Expedited Processing filed by Birach Broadcasting Corporation is DISMISSED AS MOOT. IT IS FURTHER ORDERED that the Applications for Commission Consent to Assignment of License of Stations WVBA and WVBB, File Nos. BAL-20071119AIW and BAL-20071119AIX, respectively, ARE GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: R. Clinton Stackhouse, Jr., Esq.
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John F. Runner, Receiver (KBIF), Memorandum Opinion and Order, 36 RR 2d 773, 778 (1976); *Decatur Telecasting, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 8622 (1992).

⁵ Petition at 1.

⁶ See 47 C.F.R. § 73.3526. Cowan states that "the public file itself was denied access repeatedly" (sic). Stackhouse has filed a declaration under penalty of perjury stating that "I never denied him [Cowan] access to the Public Inspection Files."

⁷ Petition at 1.

⁸ 47 U.S.C. § 309(e).

⁹ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections, like petitions to deny, must contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹⁰ See, *Tom Struhar and Kenneth E. Satten, Esq.*, Letter, 22 FCC Rcd 6568, 6571 (MB 2007). (No rule violation found when a complainant who alleged lack of access to the public inspection file, "fail[ed] to provide the specific date on which he . . . visited the Station or identify with whom he spoke at the station.")