



Federal Communications Commission
Washington, D.C. 20554

April 14, 2011

DA 11-682

In Reply Refer to:

1800B3-SLW

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2000 K Street, NW
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Washington, DC 20006-1809

Re: Universal Broadcasting, Inc.
KQLO(AM), Sun Valley, Nevada
Facility ID No. 38456
File No. BR-20081029ACD

Dear Mr. Pippin:

The staff has before it a November 12, 2009, Response of Trustee in Bankruptcy to Notice of Apparent Liability for Forfeiture (“Response”) requesting the cancellation of a Notice of Apparent Liability (“NAL”) issued to Universal Broadcasting, Inc. (“Licensee”), former licensee of station KQLO(AM), Sun Valley, Nevada (“Station”). The Petition was filed by Anabelle Savage (“Trustee”), Chapter 7 Trustee for the Estate of Universal Broadcasting, Inc. For the reasons set forth below, we grant the Trustee’s request and cancel the NAL.

Background. The Licensee should have filed a license renewal application for the Station by June 1, 2005, four months prior to the Station’s October 1, 2005, license expiration date.¹ Subsequently, the Licensee fell into bankruptcy. On July 25, 2007, it filed for Chapter 11 bankruptcy protection.² On December 7, 2007, the bankruptcy proceeding was converted to Chapter 7,³ and Anabelle Savage was appointed as the bankruptcy Trustee on December 12, 2007.⁴

On October 29, 2008, the Licensee filed its renewal application. On the same date, the Licensee filed an application to transfer control from its shareholders to the Trustee⁵ and a request for special temporary authorization (“STA”) to continue Station operations pending consideration of the late-filed renewal application.⁶ The staff granted the STA Request on November 5, 2008, and it expired on May 4,

¹ See 47 C.F.R. § 73.3539(a).

² Response at 1, Attachment A.

³ *Id.* at 1, Attachment B.

⁴ *Id.*

⁵ See File No. BTC-20081029ACF. The staff granted the application to transfer control on November 4, 2008.

⁶ See File No. BLSTA-20081029ACG (“STA Request”). In its STA Request, the Licensee indicated that it inadvertently failed to file the renewal application and two years later fell into bankruptcy.

2009.⁷ The Licensee did not seek an extension of the STA. Instead, on May 1, 2009, the Trustee filed an STA to remain silent, which the staff dismissed on July 8, 2009 after the Station returned to the air.⁸

On October 16, 2009, the Bureau issued an NAL in the amount of seven thousand dollars (\$7,000) to the Licensee for willfully violating Section 73.3539 of the Commission's Rules ("Rules"),⁹ by failing to timely file a license renewal application for the Station and willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended ("Act"),¹⁰ by engaging in unauthorized operation of the Station after its license had expired.¹¹ The Trustee timely filed a Response to the NAL.¹² In her Response, the Trustee argues that the Licensee's bankrupt status warrants cancellation of the NAL.

Discussion. We have reviewed the record in this case, and we will cancel the NAL. The Commission and the staff have given significant weight to a respondent's bankrupt status in determining whether cancellation of a forfeiture is warranted.¹³ Cancellation is generally warranted where the licensee or permittee has relinquished control over its assets and the imposition of a forfeiture "would diminish the amount available to [Licensee's] innocent creditors and would otherwise serve no public interest purpose."¹⁴ Here, the Licensee filed for Chapter 7 bankruptcy protection. The appointment of the bankruptcy Trustee has removed the Licensee from any involvement in the dissolution and distribution of the Licensee's assets, and we agree with the Trustee that imposing a forfeiture here would serve only to diminish the proceeds available to the Licensee's innocent creditors. Therefore, based on the Licensee's bankrupt status, we believe it is appropriate to cancel the NAL.

Conclusion. Accordingly, IT IS ORDERED, that the November 12, 2009, Response of Trustee in Bankruptcy to Notice of Apparent Liability for Forfeiture filed by Anabelle Savage, Chapter 7 Trustee for the Estate of Universal Broadcasting, Inc. IS GRANTED, and the October 16, 2009 Notice of Apparent Liability (NAL/Acct. No. MB-200941410022) IS CANCELLED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Anabelle Savage, Chapter 7 Trustee for the Estate of Universal Broadcasting, Inc.

⁷ Letter to Brian M. Madden, Esq., Ref. 1800B3 (Chief, Audio Division, Media Bureau, November 5, 2008).

⁸ See File No. BLSTA-20090501AOU. In her Response, the Trustee claims the Station returned to the air to avoid violating Section 312(g) of the Act, which prohibits stations from remaining silent for 12 consecutive months.

⁹ 47 C.F.R. § 73.3539.

¹⁰ 47 U.S.C. § 301.

¹¹ *Universal Broadcasting, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 12656 (MB 2009).

¹² Response of Trustee in Bankruptcy to Notice of Apparent Liability for Forfeiture (November 19, 2010).

¹³ See *Dennis Elam*, Memorandum Opinion and Order, 11 FCC Rcd 1137 (1996); *Yvette Gonzales*, Memorandum Opinion and Order, 24 FCC Rcd 5669, 5670 (MB 2009).

¹⁴ *Yvette Gonzales*, 11 FCC Rcd at 5670.