

Before the  
Federal Communications Commission  
WASHINGTON, D.C. 20554

|   |   |                  |
|---|---|------------------|
| In the Matter of                            | ) |                  |
|   | ) |                  |
| Applications of Tribune Company, Debtor-in- | ) | MB Docket 10-104 |
| Possession, and its                         | ) |                  |
| Licensee Subsidiaries                       | ) |                  |
|   | ) |                  |
| For Consent to Assignments of License       | ) |                  |
| Pursuant to a Plan of Reorganization        | ) |                  |

**ORDER**

**Adopted: January 19, 2011**

**Released: January 20, 2011**

By the Chief, Video Division, Media Bureau:

**I. INTRODUCTION**

1. For the reasons discussed below, we adopt the Protective Order set forth in Appendix A to ensure that certain highly confidential documents and information submitted by the parties in the above-captioned proceeding are afforded adequate protection.

**II. BACKGROUND**

2. The Commission has before it Applications for Consent to the Assignment of Broadcast Station Licenses (FCC Form 314) filed by the Tribune Company, Debtor-in-Possession, and its licensee subsidiaries (collectively "Tribune"), which were filed jointly with applications seeking consent to assign certain broadcast auxiliary, satellite earth station, private land mobile, private fixed microwave, and CARS licenses in connection with Tribune's bankruptcy reorganization plan.<sup>1</sup> As part of that proceeding, Tribune has sought a failing station waiver<sup>2</sup> of the local television ownership rule to permit common ownership of WTIC-TV, Hartford, Connecticut, and WTXN(TV), Waterbury, Connecticut. To ensure Tribune's confidential and proprietary information is made available to parties that have filed petitions to deny in this proceeding while affording Tribune appropriate protection against public disclosure of that information, the parties have negotiated the attached Protective Order.

**III. DISCUSSION**

3. After due consideration, we are persuaded that the public interest would be served by approving the attached Protective Order (Appendix A) which reflects the agreement negotiated between Tribune and Counsel for Free Press, Media Alliance, NABET/CWA, National Hispanic Media Coalition, Office of Communication of the United Church of Christ, Inc., and Charles Benton, all of whom have filed petitions to deny in this proceeding. We conclude that granting the attached Protective Order will facilitate the prompt resolution of the issues raised in this proceeding. This Order does not constitute a

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<sup>1</sup> MB Docket 10-104.

<sup>2</sup> See 47 C.F.R. § 73.3555, n, 7.

resolution of the merits concerning whether the confidential information contained in the documents would be released publicly by the Commission upon a proper request under the Freedom of Information Act (“FOIA”) or otherwise.

4. In addition to the requirements in Paragraphs 6 and 7 of the attached Protective Order, we clarify that a party filing a document with the Commission that contains Confidential Information (“Confidential Filing”) must file one copy of the Confidential Filing and, where feasible, two copies of the Confidential Filing in redacted form (“Redacted Confidential Filing”) in addition to electronically filing the Redacted Confidential Filing in Docket 10-104 according to the procedures already established for this docket. **UNDER NO CIRCUMSTANCES IS THE CONFIDENTIAL FILING TO BE FILED ELECTRONICALLY.** A Confidential Filing must be accompanied by a cover letter stating: **“CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION – DO NOT RELEASE – SUBJECT TO PROTECTIVE ORDER IN APPLICATIONS OF TRIBUNE COMPANY, DEBTOR-IN-POSSESSION, AND ITS LICENSEE SUBSIDIARIES, MB DOCKET 10-104.”** Redacted Confidential Filings must also be accompanied by a cover letter stating **“REDACTED – FOR PUBLIC INSPECTION”** and the cover letter should also state that the Submitting Party is filing an unredacted version of the same document(s).

#### IV. ORDERING CLAUSES

5. Accordingly, we **ADOPT AND ISSUE**, the Protective Order attached at Appendix A pursuant to Section 4(i) and 4(j) of the Communications Act as amended, 47 U.S.C., §§ 154 (i)(j), Sections 0.457(d) and 0.459 of the Commission’s Rules, 47 C.F.R. §§ 0.457 and 0.459. The attached Protective Order is effective upon its adoption. This action is taken pursuant to delegated authority by Section 0.283 of the Commission’s Rules.

FEDERAL COMMUNICATIONS COMMISSION

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Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

APPENDIX A

Before the  
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| For Consent to Assignments of License       | ) |                  |
| Pursuant to a Plan of Reorganization        | ) |                  |

PROTECTIVE ORDER

Adopted: January 19, 2011

Released: January 20, 2011

By the Chief, Video Division, Media Bureau:

1. This *Protective Order* is intended to facilitate and expedite the review of certain confidential information submitted by Tribune Company, Debtor-in-Possession (“Tribune”) in MB Docket No. 10-104 (the “Proceeding”) as part of its “failing” station duopoly waiver request for its television stations in the Hartford, Connecticut Designated Market Area. To ensure Tribune’s confidential and proprietary information is made available to organizations that have filed petitions to deny in this Proceeding while affording Tribune appropriate protection against public disclosure of that information, the Media Bureau (the “Bureau”) hereby enters this *Protective Order*.

2. Definitions.

(a) Authorized Representative. “Authorized Representative” means an individual who has signed and filed with the Commission (hereinafter defined) a Declaration in the form of Attachment A to this *Protective Order* and is one of the following:

(i) Counsel for Free Press, Media Alliance, NABET/CWA, National Hispanic Media Coalition, Office of Communication of the United Church of Christ, Inc., and Charles Benton (“Free Press, *et al.*”), including in-house counsel who are actively engaged in the conduct of this Proceeding, and partners, associate attorneys, secretaries, paralegal assistants, and employees of such counsel;

(ii) Outside consultants or experts retained to render professional services to Free Press, *et al.*, provided that they are under the supervision of the counsel for Free Press, *et al.*;

(iii) In-house economists and regulatory analysts, provided that they are under the supervision of counsel for Free Press, *et al.*

(b) Bureau. “Bureau” means the Media Bureau of the Federal Communications Commission.

(c) Commission. “Commission” means the Federal Communications Commission.

(d) Confidential Information. “Confidential Information” means any and all information in any form that is designated as confidential by Tribune upon a determination in good faith that such information constitutes privileged or confidential information entitled to protection from public disclosure under a *bona fide* claim of right or privilege, including, but not limited to, those rights guaranteed by Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4). Confidential Information includes all copies of, notes regarding, and information derived from Confidential Information.

(e) Stamped Confidential Document. A “Stamped Confidential Document” means any document which bears the legend (or which shall otherwise have had the legend recorded upon it in a way that brings its attention to a reasonable examiner) “CONFIDENTIAL – NOT FOR PUBLIC INSPECTION” to signify that it contains Confidential Information, the submission, use, and disclosure of which is governed by this *Protective Order*. For purposes of this *Protective Order*, the term “document” means all written, recorded, or graphic material, whether produced or created by a party or another person, whether produced pursuant to the Commission’s rules, pursuant to subpoena, by agreement, or otherwise. Documents that quote, summarize, or contain materials entitled to protection shall be accorded status as Stamped Confidential Documents, but, to the extent feasible, shall be prepared in such a manner that the Confidential Information is bound separately from that not entitled to protection.

3. Non-Disclosure. Except with the prior written consent of Tribune or as hereinafter provided under this *Protective Order*, no Stamped Confidential Document may be disclosed to any person.

4. Permissible Disclosure. Notwithstanding Paragraph 3, Stamped Confidential Documents may be disclosed subject to the provisions of subparagraphs (a) and (b), to Authorized Representatives of Free Press, *et al.* if disclosure is reasonably necessary for such Authorized Representatives to render professional services in this Proceeding.

(a) Notwithstanding any other provision of this *Protective Order*, before any disclosure shall occur, any individual (other than a Commission employee) to whom Confidential Information is disclosed must certify in writing that he/she has read and understands this *Protective Order*, agrees to abide by its terms, and understands that unauthorized disclosures of Stamped Confidential Documents are prohibited. A copy of each such certification shall be provided to Tribune. (*See Attachment A for a model certification.*)

(b) Before seeking access to any Stamped Confidential Document, any Authorized Representative shall give at least five days’ advance notice in writing to counsel for Tribune, stating the names and addresses of the person(s) to whom the disclosure will be made, identifying with particularity the Stamped Confidential Documents that are sought, and stating the purposes of such disclosure. Such notice shall also be filed in the Commission’s Electronic Comment Filing System (ECFS) for this docket. No such disclosure shall be made within the five-day period. If, within the five-day period, a motion is filed objecting to the proposed disclosure, disclosure is not permissible until the Commission has denied such motion. Any such motion shall be hand-served on the party seeking such disclosure.

5. Access to Confidential Information. Tribune shall designate a Washington, D.C., location and such other locations as may be convenient at which all entities participating in this Proceeding shall be permitted access to and review of requested confidential information pursuant to the other terms of this order, or pursuant to alternative arrangements agreed upon by the parties. Any such access or review may be limited to regular business hours after reasonable notice by the requesting party.

6. Confidential Information Filed in the Record. This *Protective Order* applies to all Confidential Information that has been submitted into the record in this proceeding prior to the adoption of this *Protective Order*. Tribune has ensured that each page of its submissions that include Confidential Information bear the legend “CONFIDENTIAL – NOT FOR PUBLIC INSPECTION.” An electronic copy of any document containing Confidential Information that is filed for the first time subsequent to the date of adoption of this *Protective Order* should bear the same legend and should be submitted to David Roberts (David.Roberts@fcc.gov) and Adrienne Denysyk ([Adrienne.Denysyk@fcc.gov](mailto:Adrienne.Denysyk@fcc.gov)). No additional unredacted electronic courtesy copies should be submitted unless they are specifically requested by Bureau or Commission Staff.

7. Commission Treatment of Confidential Information. Stamped Confidential Documents submitted to the Commission as described in Paragraph 6 shall remain sealed while in the Secretary’s office or such other place as the Commission may designate so long as they retain their status as Stamped Confidential Documents. The Commission may, *sua sponte* or by petition, determine that all or part of the information claimed by the producing party to be confidential is not entitled to such treatment. *See generally* 47 C.F.R. § 0.459.

8. Use. Authorized Representatives obtaining access to Stamped Confidential Documents or other Confidential Information under this *Protective Order* shall use such Confidential Information only in the conduct of this Proceeding and any judicial proceeding arising there from, and shall not use such Confidential Information for any other purpose, including business, governmental, commercial, or other administrative or judicial proceedings. Authorized Representatives obtaining access to Confidential Information under the terms of this *Protective Order* may disclose, describe, or discuss the Confidential Information in any pleading filed in this Proceeding, provided that such pleading is stamped confidential in accordance with Paragraph 6 of this *Protective Order* and filed under seal, and provided that a separate public version is filed in which all Confidential Information is redacted. Authorized Representatives filing pleadings under seal based on Confidential Information submitted by another entity shall serve such pleadings by hand or overnight delivery on counsel for Tribune.

9. Subpoena by Courts or Other Agencies. If a court or another administrative agency subpoenas or orders production of Stamped Confidential Documents or other Confidential Information which an entity has obtained under terms of this order, such entity shall promptly notify Tribune of the pendency of such subpoena or order. Consistent with the independent authority of any court, department, or agency, such notification must be accomplished such that Tribune has a full opportunity to oppose such production, which shall be at least five (5) business days prior to the production of any Confidential Information.

10. Prohibited Copying. If a document contains information so sensitive that it should not be copied, it shall bear the additional legend “Copying Prohibited.” Application for relief from this restriction against copying may be made to the Commission, with notice to counsel for Tribune.

11. Non-Termination. The provisions of this *Protective Order* shall not terminate at the conclusion of this Proceeding.

12. Modification Permitted. Nothing shall prevent any party or other person from seeking modification of this *Protective Order*.

13. Responsibility of Attorneys. The attorneys of record for Free Press, *et al.*, are responsible for employing reasonable measures to control, consistent with this *Protective Order*, duplication of, access to, and distribution of copies of Stamped Confidential Documents. Entities in possession of Stamped Confidential Documents or other Confidential Information shall not duplicate any Stamped Confidential

Document or other Confidential Information except working copies and for purposes of filing at the Commission under seal.

14. Return of Confidential Documents. Within two weeks after conclusion of this Proceeding and any administrative or judicial review, persons described in Paragraph 2(a) of this *Protective Order* shall destroy or return to Tribune Stamped Confidential Documents, Confidential Information, and all copies of the same. No material whatsoever derived from Stamped Confidential Documents or other Confidential Information may be retained by any person having access thereto, except counsel (as described in Paragraph 2(a)) may retain, under the continuing strictures of this *Protective Order*, two copies of pleadings (one of which may be in electronic format) containing Confidential Information prepared (in whole or in part) by that party and one copy of orders issued by the Commission or Bureau containing Confidential Information. All counsel retaining any such documents containing Confidential Information shall make certification of compliance herewith and shall deliver the same to counsel for Tribune not more than three weeks after conclusion of this Proceeding and any administrative or judicial review. The provisions of this Paragraph 14 regarding retention of Stamped Confidential Documents or Confidential Information shall not be construed to apply to the Commission or its staff.

15. No Waiver of Confidentiality. Disclosure of Confidential Information as provided herein shall not be deemed a waiver by Tribune of any entitlement to confidential treatment of such Confidential Information. Authorized Representatives, by viewing these materials: (a) agree not to assert any such waiver; (b) agree not to use Confidential Information in any proceeding except as expressly permitted herein; and (c) agree that accidental disclosure of Confidential Information shall not be deemed a waiver of entitlement to confidential treatment of such Confidential Information.

16. Penalties. In addition to any other penalties or remedies authorized under the Communications Act, the Commission's rules, the common law or other source of law, any failure to abide by the terms of this *Protective Order* may result in dismissal of a party's pleadings, or censure, suspension, or disbarment of the attorneys involved, *see* 47 C.F.R. § 1.24, or possible referral to the relevant local bar.

17. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and pursuant to authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.61, the *Protective Order* IS ADOPTED, effective upon its release.

FEDERAL COMMUNICATIONS COMMISSION

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Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

## ATTACHMENT A

MB DOCKET NO. 10-104

I have received a copy of the protective order in MB Docket No. 10-104 (the "*Protective Order*"). I have read the *Protective Order* and agree to comply with and be bound by its terms and conditions. By signing below, I declare under penalty of perjury that I understand the terms of the *Protective Order* and acknowledge, in particular, that I understand that unauthorized disclosure, or the use of Confidential Information (as defined in the *Protective Order*) for competitive commercial or business purposes, will constitute a violation of the *Protective Order*.

SIGNATURE:

NAME PRINTED:

TITLE:

ADDRESS:

REPRESENTING:

EMPLOYER:

DATE: