

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

In the Matter of	)	MB Docket No. 19-156
)	
ENTERTAINMENT MEDIA TRUST,)	
DENNIS J. WATKINS, TRUSTEE)	
)	
Applications to Renew License:)	
)	
KFTK(AM) (formerly WQQX(AM)),	)	Facility ID No. 72815
East St. Louis, Illinois	)	File No. BR-20120709ACP
)	
WQQW(AM), Highland, Illinois	)	Facility ID No. 90598
	)	File No. BR-20120709ACO
)	
KZQZ(AM), St. Louis, Missouri	)	Facility ID No. 72391
	)	File No. BR-20120921AAW
)	
KQQZ(AM), DeSoto, Missouri	)	Facility ID No. 5281
	)	File No. BR-20120921ABA
)	
Application for Consent to Assignment of)	
Licenses:)	
)	
KFTK(AM) (formerly WQQX(AM)),	)	Facility ID No. 72815
East St. Louis, Illinois	)	File No. BAL-20160919ADH
)	
WQQW(AM), Highland, Illinois	)	Facility ID No. 90598
	)	File No. BAL-20160919ADI
)	
KZQZ(AM), St. Louis, Missouri	)	Facility ID No. 72391
	)	File No. BAL-20160919ADJ
)	
KQQZ(AM), DeSoto, Missouri	)	Facility ID No. 5281
	)	File No. BAL-20160919ADK
)	
Application for Permit to Construct New Station:)	
)	
W275CS, Highland, Illinois	)	Facility ID No. 200438
	)	File Nos. BNPFT-20170726AEF
	)	BNPFT-20180314AAO

ORDER

Issued: November 18, 2019

Released: November 18, 2019

Appearances: Davina S. Sashkin and Anthony T. Lepore on behalf of applicant Entertainment Media Trust and Trustee in Bankruptcy Donald M. Samson; Robert G. Kirk and Howard M. Liberman on behalf of Petitioner Mark A. Kern; Pamela S. Kane, Jeffrey J. Gee, and Anya Baez on behalf of the Enforcement Bureau, Federal Communications Commission.

1. This Order summarizes the prehearing teleconference conducted in the above-captioned matter on November 14, 2019. The purpose of the teleconference was to effectuate the resumption of discovery, which had been delayed in light of the licensee's bankruptcy petition in the U.S. Bankruptcy Court for the Southern District of Illinois and the appointment of Donald M. Samson as Trustee in Bankruptcy.

2. Discovery in this case thus far has proceeded as follows: On August 20, 2019, the Enforcement Bureau submitted to licensee Entertainment Media Trust, Dennis J. Watkins, Trustee (EMT), both its First Request for Production of Documents and its First Set of Interrogatories.¹ Under Commission rules, EMT's response to the document request was due on August 30, 2019, and its response to the interrogatories was due on September 3, 2019.² By Order dated September 6, 2019, the Presiding Judge granted a brief extension of time³ and EMT filed its responses to the Bureau's document production request on September 9, 2019.⁴ Also on September 9, Petitioner Mark Kern submitted to EMT his First Request for Production of Documents.⁵ On September 11, 2019, EMT sought Chapter 7 Bankruptcy protection in the Southern District of Illinois and filed in this proceeding a Motion for Stay of Proceedings or in the Alternative Extension of Time.⁶ To allow for full consideration of EMT's stay request, the Presiding Judge on September 12, 2019, ruled that "EMT is temporarily relieved of its duty to respond to the pending Bureau interrogatories, the Kern document production request, and any similar requests filed in the interim."⁷ Pursuant to the timeline established by section 1.325 of the Commission's rules, 47 CFR § 1.325, the Enforcement Bureau filed a Motion to Compel Complete Responses to its Requests for Production of Documents on September 16, 2019.⁸ Consistent with the September 12 ruling of the Presiding Judge, EMT has not yet responded to that motion.

3. On October 4, 2019, the Presiding Judge issued an order that denied the EMT motion for stay, but indicated that a brief delay in discovery was warranted pending action by the Media Bureau on

¹ Enforcement Bureau's First Request for Production of Documents to Entertainment Media Trust, Dennis J. Watkins, Trustee (filed Aug. 20, 2019); Enforcement Bureau's First Set of Interrogatories to Entertainment Media Trust, Dennis J. Watkins, Trustee (filed Aug. 20, 2019).

² 47 CFR §§ 1.325, 1.323.

³ *Entertainment Media Trust*, MB Docket No. 19-156, Order, FCC 19M-08 (ALJ Sept. 6, 2019).

⁴ Response of Entertainment Media Trust, Dennis J. Watkins, Trustee to Request for Production of Documents (filed Sept. 9, 2019).

⁵ Mark Kern, First Request for Production of Documents to Entertainment Media Trust, Dennis J. Watkins, Trustee (filed Sept. 9, 2019).

⁶ Entertainment Media Trust, Motion for Stay of Proceedings or in the Alternative Extension of Time (filed Sept. 11, 2019).

⁷ *Entertainment Media Trust*, MB Docket No. 19-156, Order, FCC 19M-09 (ALJ Sept. 12, 2019).

⁸ Enforcement Bureau's Motion to Compel Complete Responses to its Requests for Production of Documents (filed Sept. 16, 2019).

EMT's request for involuntary transfer of control to the Trustee in Bankruptcy of KFTK(AM), WQQW(AM), KZQZ(AM), and KQQZ(AM).⁹ The Media Bureau granted the transfer on October 11, 2019,¹⁰ and the Trustee, as instructed by the Presiding Judge in the order of October 4, filed a petition to intervene in this proceeding pursuant to section 1.223 of the Commission's rules, 47 CFR § 1.223.¹¹ In its response to the Trustee's petition, the Enforcement Bureau noted that it does not object to the Trustee becoming a party to this proceeding but informed the Presiding Judge that on October 16, 2019, the day after the Trustee filed his petition, EMT moved to voluntarily dismiss the bankruptcy action.¹² The Trustee opposed that motion, while the U.S. Attorney, acting on behalf of the FCC, supported it.¹³ On November 13, 2019, the Trustee filed with the bankruptcy court an Application to Approve Stipulation for Dismissal that would, if granted, terminate the bankruptcy proceeding.¹⁴

4. During the November 14 teleconference, in the interest of procedural clarity and prompt resumption of discovery, the Presiding Judge joined the Trustee as a party despite the anticipated dismissal of the bankruptcy proceeding. The Trustee is currently in control of the licenses due to the involuntary transfer granted by the Media Bureau. That action cannot be reversed until after the bankruptcy case is officially dismissed, which it appears will take at least a month if that case proceeds as expected. The Trustee is therefore a necessary party at present. EMT is directed to promptly notify the Presiding Judge when the bankruptcy case is dismissed, at which time the Presiding Judge intends to issue an order removing the Trustee as a party to this proceeding.

5. The Presiding Judge also indicated her intention to modify the schedule of this proceeding to account for the delay detailed above. The Presiding Judge finds it appropriate to add approximately three months to the deadlines previously established.¹⁵ As a result, the new deadlines applicable to this hearing proceeding are as follows:

Deadline for completion of discovery	May 21, 2020
Last day to request summary decision	July 2, 2020
Completion of exchange of exhibits and witness lists	September 1, 2020

⁹ *Entertainment Media Trust*, MB Docket No. 19-156, Order, FCC 19M-11 (ALJ Oct. 4, 2019).

¹⁰ File No. BTC-20190916AAA, granted Oct. 11, 2019, by the Chief, Media Bureau.

¹¹ Donald M. Samson, Trustee, Petition for Leave to Intervene (filed Oct. 15, 2019).

¹² Enforcement Bureau's Response to Chapter 7 Trustee's Petition for Leave to Intervene, MB Docket No. 19-156 (filed October 18, 2019) (citing Motion for Voluntary Dismissal, *Entertainment Media Trust, Debtor, Donald M. Samson, Trustee v. Federal Communications Commission*, Case No. 19-31224-lkg, Bankr. S.D. Ill. (filed Oct. 16, 2019)).

¹³ See *Entertainment Media Trust, Debtor, Donald M. Samson, Trustee v. Federal Communications Commission*, Case No. 19-31224-lkg, Bankr. S.D. Ill., Donald M. Samson, Trustee, Amended Objection to Debtor's Motion to Dismiss (filed Oct. 18, 2019) and Joinder of the United States of America in the Debtor's Motion for Voluntary Dismissal (filed Oct. 18, 2019).

¹⁴ Donald M. Samson, Trustee, Application to Approve Stipulation for Dismissal, *Entertainment Media Trust, Debtor, Donald M. Samson, Trustee v. Federal Communications Commission*, Case No. 19-31224-lkg, Bankr. S.D. Ill. (filed Nov. 13, 2019).

¹⁵ *Entertainment Media Trust*, MB Docket No. 19-156, Order, FCC 19M-05 (ALJ July 11, 2019).

Deadline for filing written affirmative direct cases	September 1, 2020
Deadline for notification of witnesses intended for cross-examination	September 8, 2020
Deadline for filing objections to affirmative direct case exhibits and written testimony	September 15, 2020
Deadline for filing replies to objections	September 22, 2020
Commencement of hearing	October 19, 2020

6. Finally, with respect to the three discovery matters that remain pending, the Presiding Judge established the following deadlines for filing of responsive pleadings:

Enforcement Bureau’s Motion to Compel Filed September 16, 2019	November 21, 2019
First Request for Production of Documents Filed by Mark Kern on September 9, 2019	December 2, 2019
Enforcement Bureau’s First Set of Interrogatories Filed August 20, 2019	December 6, 2019

7. Accordingly, IT IS ORDERED that the Petition for Leave to Intervene filed on October 15, 2019, by Donald M. Samson, Trustee in Bankruptcy for Entertainment Media Trust, Dennis J. Watkins, Trustee, IS GRANTED.

8. IT IS FURTHER ORDERED that Entertainment Media Trust, Dennis J. Watkins, Trustee, SHALL PROMPTLY NOTIFY the Presiding Judge upon the dismissal of its Chapter 7 Bankruptcy Petition by the United States Bankruptcy Court for the Southern District of Illinois.

9. IT IS FURTHER ORDERED that discovery in this proceeding, which was temporarily suspended by the Presiding Judge’s Order of October 4, 2019, FCC 19M-11, HAS RESUMED as directed by the Presiding Judge in the prehearing teleconference of November 14, 2014.

10. IT IS FURTHER ORDERED that that the revised procedural schedule provided herein IS ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

Jane Hinckley Halprin
Administrative Law Judge