

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: December 10, 2019

Released: December 10, 2019

Appearances: Davina S. Sashkin, Anthony T. Lepore, and Seth Williams on behalf of Trustee in Bankruptcy Donald M. Samson; 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 conference conducted in the above-captioned matter on December 5, 2019, and addresses related developments. The purpose of the conference was to clarify legal representation of Entertainment Media Trust, Dennis J. Watkins, Trustee (EMT). By order dated November 25, 2019, the Presiding Judge ordered Mr. Watkins to appear at the December 5 prehearing conference.¹ Neither Mr. Watkins nor any other representative of EMT attended.

2. As a result of EMT's pending petition for Chapter 7 bankruptcy in the U.S. Bankruptcy Court for the Southern District of Illinois, which EMT subsequently has moved to dismiss, the Media Bureau granted a transfer of control of the licenses that are the subject of this proceeding to Trustee in Bankruptcy Donald M. Samson.² Thus, while EMT remains a party to this proceeding and continues to be an applicant seeking renewal of its licenses, assignment of those renewed licenses, and a construction permit for an FM translator, its licenses are currently considered to be in the control of Trustee Samson. Consistent with Commission practice, and understanding that EMT and Trustee Samson had agreed upon terms for dismissal of the bankruptcy petition, "in the interest of procedural clarity and prompt resumption of discovery," the Presiding Judge joined Trustee Samson as a party to this hearing proceeding during a November 14 prehearing teleconference.³ He was and continues to be represented by the same counsel that represented EMT until recently.

3. Upon receipt of a pleading entitled Request for Correction of the Record and Notification of Withdrawal of Counsel on November 19, the Presiding Judge ordered an in-person conference to convene at FCC Headquarters on December 5. Because counsel for Trustee Samson indicated that they "are no longer counsel to EMT and are withdrawing from this proceeding as counsel of record to EMT,"⁴ the Presiding Judge ordered the named Trustee of EMT, Dennis J. Watkins, to attend the December 5 conference.⁵ Appearing on behalf of the Trustee in Bankruptcy, counsel indicated at that December 5 conference that they had not been aware until after the November 14 teleconference that they were no longer representing EMT in this proceeding. The Presiding Judge reiterated that the Trustee, as the party in control of the subject licenses, was responsible for responding to outstanding discovery. Due to the confusion regarding representation, the Presiding Judge again extended the aforementioned discovery deadlines. Following the December 5 conference, the Enforcement Bureau, Petitioner Kern, and the Trustee reached a compromise by which Trustee Samson has agreed to seek a continuance of his motion in the Bankruptcy Court for stay of this hearing proceeding in exchange for the Bureau's commitment not to seek responses from Trustee Samson to its motion to compel or to the discovery requests served on

¹ *Entertainment Media Trust*, Order, FCC 19M-15 (ALJ Nov. 25, 2019).

² File No. BTC-20190916AAA, granted Oct. 11, 2019, by the Chief, Media Bureau.

³ *Entertainment Media Trust*, Order, FCC 19M-14 at para. 4 (ALJ Nov. 18, 2019).

⁴ Request for Correction of the Record and Notification of Withdrawal [sic] of Counsel, Davina Sashkin, Esq., Seth Williams, Esq., and Anthony Lepore, Esq. (filed Nov. 19, 2019) at 2. The Presiding Judge accepts counsel's withdrawal from representation of EMT in this proceeding but declines to issue an erratum to her order summarizing the November 14 teleconference, FCC 19M-14, because the designation of appearances was not clearly erroneous at the time the item was released.

⁵ Order, FCC 19M-15 at para. 4.

EMT and to refrain from serving additional requests on EMT or Trustee Samson before the licenses are transferred back to EMT by the Media Bureau.⁶

4. The Presiding Judge finds it in the public interest to accept the compromise negotiated among the Bureau, Petitioner Kern, and Trustee Samson. Accordingly, the Bureau's motion to withdraw its December 6 emergency motion seeking an additional prehearing conference is granted.⁷ Trustee Samson is therefore relieved of the obligation to respond to (1) the Enforcement Bureau's Motion to Compel (filed September 16, 2019); (2) Petitioner Kern's First Request for Production of Documents (filed September 9, 2019); and (3) the Enforcement Bureau's First Set of Interrogatories (filed August 20, 2019).

5. The Presiding Judge appreciates the efforts of the Enforcement Bureau, Petitioner Kern, and Trustee Samson in reaching agreement on these pending discovery issues. The Presiding Judge is, however, deeply troubled by EMT's actions vis-à-vis this proceeding. Dennis J. Watkins, Trustee of EMT and a licensed attorney, was ordered to appear at the December 5 conference. That order of the Presiding Judge, FCC 19M-15, was sent via certified mail to the postal addresses of record for Mr. Watkins and Entertainment Media Trust, and was emailed to the email address on record for Entertainment Media Trust.⁸ Yet neither Mr. Watkins nor a representative of Mr. Watkins or Entertainment Media Trust appeared at the conference or otherwise responded to the November 25 order. The Presiding Judge noted during the December 5 conference that this default provides a basis for immediate dismissal of this proceeding. Nonetheless, due to the apparent tumult regarding representation, the Presiding Judge concluded that to ensure that EMT has a full and fair opportunity to present its case, she will not proceed to dismissal at this time. Rather, she directed that a substitute representative of EMT shall file an appearance in this proceeding on or before December 20, 2019. If no appearance is filed on or before that date, the Presiding Judge made known her intention to invite the Enforcement Bureau and Petitioner Kern to file a motion to dismiss this proceeding based on EMT's failure to prosecute.

6. EMT is reminded that it bears the burden of proof in this proceeding.⁹ If it fails to satisfy that burden, its licenses will not be renewed. In turn, its applications to transfer those licenses and its application for an FM translator will be dismissed. To date, despite several concessions affording EMT additional time to respond to discovery requests, very little discovery has been submitted. As part of its mandate to operate in the public interest, a Commission licensee has an ongoing obligation to know and follow the Commission's rules and to abide by Commission orders. The failure of Mr. Watkins to appear at the December 5 conference and the ongoing silence of EMT with respect to this matter provides justification for entry of a default judgment and termination of this hearing proceeding. Out of

⁶ Trustee Samson has indicated that immediately following the anticipated dismissal of the bankruptcy proceeding, he will file a Form 316 with the Commission to transfer control of the subject licenses back to EMT. Until that transfer is granted by the Media Bureau, he remains in control of the licenses pursuant to Commission rules and procedures.

⁷ Enforcement Bureau's Motion to Withdraw its Emergency Motion for a Prehearing Conference (filed Dec. 9, 2019) (withdrawing Enforcement Bureau's Emergency Motion for a Prehearing Conference for Monday, December 9, 2019 (filed Dec. 6, 2019)). *See also* Motion to Withdraw Opposition and for Relief from Obligation to Respond to Motion to Compel and Discovery Requests, Donald M. Samson, Trustee in Bankruptcy (filed Dec. 9, 2019) (withdrawing Opposition to Enforcement Bureau's Emergency Motion for a Prehearing Conference for Monday, December 9, 2019 (filed Dec. 6, 2019)).

⁸ An email address for Mr. Watkins has not been provided.

⁹ *Applications of Entertainment Media Trust*, MB Docket No. 19-156, Hearing Designation Order and Notice of Opportunity for Hearing, 34 FCC Rcd 4351 (MB 2019) at para. 70; 47 CFR § 1.254.

consideration for the listeners that EMT is obligated to serve, however, the Presiding Judge will afford EMT an opportunity to forestall dismissal and demonstrate its intention to prosecute its case.

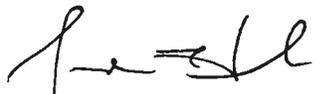
7. Accordingly, IT IS ORDERED that a representative for Entertainment Media Trust, Dennis J. Watkins, Trustee, SHALL ENTER AN APPEARANCE in this proceeding pursuant to section 1.221(c) of the Commission's rules, 47 CFR § 1.221(c), on or before **December 20, 2019**.

8. IT IS FURTHER ORDERED that the Enforcement Bureau's Motion to Withdraw its Emergency Motion for a Prehearing Conference IS GRANTED subject to the conditions detailed therein.

9. IT IS FURTHER ORDERED that the Motion to Withdraw Opposition and for Relief from Obligation to Respond to Motion to Compel and Discovery Requests filed by Donald M. Samson, Trustee in Bankruptcy, IS GRANTED subject to the conditions detailed therein.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION



Jane Hinckley Halprin
Administrative Law Judge