

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

In the Matter of	)	MB Docket No. 19-156
	)	
<b>ENTERTAINMENT MEDIA TRUST,</b>	)	
<b>DENNIS J. WATKINS, TRUSTEE</b>	)	
	)	
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 OF DISMISSAL**

**Issued: February 19, 2020**

**Released: February 19, 2020**

## I. INTRODUCTION

1. This Order dismisses the above-captioned applications and terminates this proceeding. The Presiding Judge has concluded that dismissal with prejudice is warranted by the applicant's failure to prosecute its applications consistent with the Commission's rules and prior orders issued in this proceeding.

## II. BACKGROUND

2. The above-captioned applications filed by Entertainment Media Trust, Dennis J. Watkins, Trustee (EMT), were designated for hearing by the Chief, Media Bureau, on June 5, 2019.<sup>1</sup> According to the *Hearing Designation Order* in this proceeding, EMT purchased four AM radio stations between 2006 and 2010 – KFTK(AM), East St. Louis, IL; WQQW(AM), Highland, IL; KZQZ(AM), St. Louis, MO; and KQQZ(AM), DeSoto, MO. When EMT applied for renewal of its licenses in 2012, Mark A. Kern filed a petition to deny, asserting that the stations are actually controlled by Robert S. Romanik, a convicted felon, who was not named by the licensee in its applications. In 2016, while the renewal application was pending, EMT filed applications with the Commission to assign its licenses to a newly formed trust, EMT#2, of which Dennis J. Watkins is also the named trustee. Mr. Kern filed a petition to deny that transaction based on the same allegations. In 2017, EMT filed an application with the Commission to construct a new FM translator, W275CS, Highland, IL, that would rebroadcast WQQW(AM).

3. EMT submits that it was established in 2006 via an undated trust instrument designating Mr. Watkins as trustee and Mr. Romanik's son, Stephen Romanik, since deceased, as sole beneficiary.<sup>2</sup> Mr. Romanik, as grantor of the trust, provided the funding for the trust's acquisition of the stations<sup>3</sup> but was not disclosed as a party in any of EMT's applications to the Commission. EMT#2 was established in 2016 with Mr. Watkins as trustee and Mr. Romanik's longtime companion, Katrina Sanders, as grantor and beneficiary.<sup>4</sup> The Media Bureau investigated Mr. Kern's allegations and found evidence that it concluded supports the claim that Mr. Romanik exercises *de facto* control over the stations. The Media Bureau also adduced evidence suggesting that Mr. Romanik, who hosts a weekday talk show on one of the stations, has held himself out as the stations' owner and is personally involved in station business. As a result, the Bureau issued the *Hearing Designation Order* initiating this hearing proceeding to determine whether EMT has violated the Communications Act and the Commission's rules such that grant of the above-captioned applications would be contrary to the public interest. In particular, the *Hearing Designation Order* found that substantial and material questions of fact exist regarding whether, as the result of an undisclosed transfer of control of the stations from EMT to Mr. Romanik, he is the real party-in-interest to the pending applications; whether EMT engaged in misrepresentation and/or lack of candor in its applications and other communications with the Commission; and whether the trust shields Mr. Romanik or the beneficiaries from holding attributable interests in the stations pursuant to the Commission's ownership attribution policies. The *Hearing Designation Order* accordingly delineated the

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<sup>1</sup> *Entertainment Media Trust*, MB Docket No. 19-156, Hearing Designation Order and Notice of Opportunity for Hearing, 34 FCC Rcd 4351 (MB 2019) (*Hearing Designation Order*).

<sup>2</sup> Amended Response of Entertainment Media Trust, Dennis J. Watkins, Trustee, to Request for Production of Documents, Response to Request 1 (filed Sept. 10, 2019).

<sup>3</sup> Entertainment Media Trust, Response to Request for Admissions at 58, 59, 60, and 61 (filed July 31, 2019).

<sup>4</sup> Amended Response of Entertainment Media Trust, Dennis J. Watkins, Trustee, to Request for Production of Documents, Response to Request 3 (filed Sept. 10, 2019).

following issues to be resolved via administrative hearing:

- a) To determine whether Entertainment Media Trust, Dennis J. Watkins, Trustee, is (and/or has been, during the most recent license term) exercising affirmative control of Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), and KQQZ(AM).
- b) To determine whether there has been a *de facto* transfer of control of Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), and KQQZ(AM) to Robert S. Romanik in violation of section 310(d) of the Communications Act, either occurring in the most recent license term or continuing during that license term.
- c) To determine whether Robert S. Romanik is (and/or has been, during the most recent license term) a real-party-in-interest to the captioned applications for Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), KQQZ(AM), and W275CS, both before and after Stephen Romanik's death.
- d) To determine whether Entertainment Media Trust, Dennis J. Watkins, Trustee, or Dennis J. Watkins engaged in misrepresentation and/or lack of candor in applications and communications with the Commission or otherwise violated 47 CFR § 1.17 during the most recent license term with respect to matters involving Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), KQQZ(AM), and W275CS.
- e) To determine whether Entertainment Media Trust, Dennis J. Watkins, Trustee, shields the grantor or the beneficiary from the ownership attribution requirements under section 73.3555 of the Commission's rules.
- f) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the captioned license renewal applications should be granted.
- g) To determine, in light of the foregoing issues, whether the captioned application for consent to assignment of the licenses of Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), and KQQZ(AM) should be granted, denied, or dismissed.
- h) To determine, in light of the foregoing issues, whether the captioned application for a permit to construct FM translator Station W275CS should be granted, denied, or dismissed.<sup>5</sup>

Because these questions arise in the context of applications for which EMT seeks Commission approval, EMT bears the burden of proof in this proceeding.<sup>6</sup>

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<sup>5</sup> *Hearing Designation Order* at 4372-73, para. 65.

<sup>6</sup> *Hearing Designation Order* at 4373, para. 70; 47 C.F.R. § 1.254, *Entertainment Media Trust*, MB Docket No. 19-156, Order, 19M-16 at 3, para. 6 (ALJ Dec. 10, 2019); *Entertainment Media Trust*, MB Docket No. 19-156, Order,

### III. PROCEDURAL HISTORY

4. The Presiding Judge convened the initial pre-hearing conference in this proceeding on July 9, 2019, at which counsel were present representing EMT, the FCC's Enforcement Bureau and Petitioner Kern.<sup>7</sup> EMT responded to the Enforcement Bureau's initial request for admissions and provided some documents sought by the Enforcement Bureau in its first document request, but no other discovery was produced before EMT requested a stay of this proceeding based on its filing a petition for Chapter 7 Bankruptcy in the Southern District of Illinois on September 11, 2019.<sup>8</sup> Shortly after the Presiding Judge denied EMT's request to suspend this proceeding,<sup>9</sup> EMT withdrew its bankruptcy petition. By that time, control of the licenses had been involuntarily transferred to the Trustee in Bankruptcy pursuant to Commission procedure. The transfer back to EMT was stalled by disagreement between EMT and the Trustee in Bankruptcy that delayed termination of the bankruptcy proceeding. Accordingly, the Trustee in Bankruptcy remained the party responsible for the licenses and the above-captioned applications.

5. On November 14, 2019, the Presiding Judge held a prehearing conference by telephone with the goal of resuming discovery. She formally joined the Trustee in Bankruptcy as a party and established new deadlines for the Trustee, standing in the shoes of EMT as the party in control of the licenses, to respond to outstanding discovery requests. Participants in the teleconference included representatives of the Enforcement Bureau and Petitioner Kern, the Trustee in Bankruptcy himself, and the attorneys who represented him and had been concurrently representing EMT in this proceeding.<sup>10</sup> On November 19, those attorneys notified the Presiding Judge of their withdrawal from representation of EMT and indicated for the first time that they had in fact not been representing EMT on the November 14 call but were only speaking for the Trustee in Bankruptcy.<sup>11</sup> To alleviate confusion and ensure that all parties were being properly represented, the Presiding Judge scheduled an in-person prehearing conference for December 5. She specifically ordered Dennis J. Watkins, Trustee of EMT, to appear.<sup>12</sup> He did not. EMT's former attorneys clarified at the December 5 conference that they had been dismissed by EMT just after the November 14 telephone conference. Following a discussion of whether to enter a default judgement from the bench, the Presiding Judge instead ordered that a representative of EMT enter an appearance in this proceeding consistent with section 1.221(c) of the Commission's rules by December 20, 2019.<sup>13</sup>

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20M-02 at 5, para. 8 (ALJ Jan. 24, 2020).

<sup>7</sup> *Entertainment Media Trust*, MB Docket No. 19-156, Order, 19M-05 (ALJ July 11, 2009).

<sup>8</sup> *Entertainment Media Trust*, Motion for Stay of Proceedings or In the Alternative Extension of Time (filed Sept. 11, 2019).

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

<sup>10</sup> *Entertainment Media Trust*, MB Docket No. 19-156, Order, 19M-14 (ALJ Nov. 18, 2019).

<sup>11</sup> Davina Sashkin, Esq., Seth Williams, Esq., and Anthony Lepore, Esq., Request for Correction of the Record and Notification of Withdrawal of Counsel (filed Nov. 19, 2019).

<sup>12</sup> *Entertainment Media Trust*, MB Docket No. 19-156, Order, 19M-15 (ALJ Nov. 25, 2019).

<sup>13</sup> *Entertainment Media Trust*, MB Docket No. 19-156, Order, 19M-16 (ALJ Dec. 10, 2019).

6. The Bankruptcy Court dismissed the bankruptcy case on December 11, 2019, the Media Bureau transferred control of the licenses from Trustee in Bankruptcy back to EMT on January 10, 2020, and the Presiding Judge excused the Trustee in Bankruptcy from this case on January 13, 2019.<sup>14</sup> Dennis J. Watkins submitted a timely pleading captioned as a notice of appearance but, as detailed in a January 24, 2020, order of the Presiding Judge, that pleading was procedurally and substantively deficient.<sup>15</sup> The Presiding Judge also pointed out EMT's failure to follow prior orders in this proceeding requiring all parties to serve pleadings electronically and to file monthly status reports.<sup>16</sup> As a result, the Presiding Judge ordered EMT to show cause by February 10, 2020, why its applications should not be dismissed for failure to prosecute. When EMT did not file a responsive pleading, the Enforcement Bureau and Petitioner Kern jointly filed a pleading on February 14, 2020, urging that EMT's applications be dismissed with prejudice and that this proceeding be terminated.<sup>17</sup> They cite numerous examples of hearing proceedings being terminated when an applicant failed to appear, to prosecute its case, or to otherwise follow Commission rules or orders of the Presiding Judge.<sup>18</sup>

7. The series of dilatory actions on EMT's part that has brought us to this point was detailed in the *January 24 Order* and will not be recounted here. It bears repeating, however, that parties to a hearing proceeding are expected to comply with the Commission's rules, procedures, and orders, including orders of the Presiding Judge. That duty is also inherent in the privilege of being entrusted with a Commission license. Lack of counsel or unfamiliarity with Commission processes does not excuse nonfeasance.<sup>19</sup> Moreover, the Commission's hearing procedures were established to afford parties a full and fair opportunity to present evidence in support of their cases. The Presiding Judge stood ready to receive EMT's evidence and consider arguments in favor of granting its applications, and afforded EMT several procedural concessions to facilitate discovery.<sup>20</sup> EMT chose not to take advantage of those opportunities, however, and instead has increasingly detached from this proceeding, culminating in its failure to submit any response to the *January 24 Order*. The Presiding Judge therefore declines to expend further government time and resources on this matter.

8. Accordingly, IT IS ORDERED that the above-captioned applications of Entertainment Media Trust, Dennis J. Watkins, Trustee, ARE DISMISSED WITH PREJUDICE due to the applicant's failure to prosecute.

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<sup>14</sup> *Entertainment Media Trust*, MB Docket No. 19-156, Order, 20M-01 (ALJ Jan. 13, 2020).

<sup>15</sup> *Entertainment Media Trust*, MB Docket No. 19-156, Order, 20M-02 (ALJ Jan. 24, 2020) (*January 24 Order*).

<sup>16</sup> At the time of the *January 24 Order*, EMT had missed two months of status reports. See *January 24 Order* at 2 n.6. It has missed a third monthly deadline in the interim.

<sup>17</sup> Joint Response of Enforcement Bureau and Mark Kern to Failure of Entertainment Media Trust, Dennis Watkins, Trustee, to "Show Cause" as Ordered (filed Feb. 14, 2020).

<sup>18</sup> *Id.* at 3 nn.4-5.

<sup>19</sup> *January 24 Order* at 3, para. 4; see also *Frank Rackley, Jr.*, Memorandum Opinion and Order, FCC 20-4, at 3 n.21 (Jan. 28, 2020).

<sup>20</sup> See *January 24 Order* at 6, para. 9.

9. IT IS FURTHER ORDERED that this hearing proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Jane Halprin".

Jane Hinckley Halprin  
Administrative Law Judge

APPENDIX

## ALJ Orders in MB Docket No. 19-156

<u>FCC Number</u>	<u>Release Date</u>	<u>Subject</u>
FCC 19M-04	6/12/2019	Order scheduling initial prehearing conference
FCC 19M-05	7/11/2019	Order summarizing prehearing conference
FCC 19M-06	7/23/2019	Order granting licensee extension of time
FCC 19M-07	8/7/2019	Protective order
FCC 19M-08	9/6/2019	Order granting licensee extension of time
FCC 19M-09	9/12/2019	Order suspending discovery deadlines
FCC 19M-10	9/18/2019	Order granting Trustee in Bankruptcy leave to file reply to opposition
FCC 19M-11	10/4/2019	Order denying licensee motion for stay
FCC 19M-12	10/10/19	Order striking status report of Trustee in Bankruptcy
FCC 19M-13	11/5/2019	Order scheduling prehearing teleconference
FCC 19M-14	11/18/2019	Order summarizing prehearing teleconference
FCC 19M-15	11/25/2019	Order scheduling prehearing conference
FCC 19M-16	12/10/2019	Order summarizing prehearing conference and directing licensee to file appearance
FCC 20M-01	1/13/2020	Order granting withdrawal of Trustee in Bankruptcy
FCC 20M-2	1/24/2020	Order to Show Cause directing EMT to show cause why its applications should not be dismissed for failure to prosecute
FCC 20M-3	2/19/2020	Order of Dismissal terminating proceeding