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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Matter of:	)	
	)	
	)	
Amendment of Section 73.202 (b)	)	MB Docket No. 02-352
Table of Allotments,	)	RM-10602
FM Broadcast Stations,	)	RM-10776
Glenville, Weaverville, and	)	RM-10777
Clyde, North Carolina;	)	
Tazewell, Tennessee	)	
	)	
Amendment of Section 73.202 (b)	)	MB Docket No. 05-191
Table of Allotments,	)	RM-11243
FM Broadcast Stations,	)	
Elberton and Union Point,	)	
Georgia	)	

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Federal Communication Commission
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To: Chief, Audio Division,
Media Bureau

REPLY TO OPPOSITION

Respectfully submitted,

WILLSYR COMMUNICATIONS, LIMITED PARTNERSHIP

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December 27, 2005

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REPLY TO OPPOSITION

Willsyr Communications, Limited Partnership ("Willsyr"), by its counsel, pursuant to 47 CFR 1.4 (h) and 1.106 (h), hereby submits its reply to the "Opposition to Petition for Reconsideration," filed December 15, 2005, and the "Erratum," filed December 16, 2005, by Glenville Radio Broadcasters ("GRB"), Stair Company, Inc., d/b/a The Stair Company ("Stair"), Georgia-Carolina Radiocasting Company, L.L.C. ("GCRC"), Frank McCoy ("McCoy"), and Asheville Radio Partners, L.L.C. ("ARP") (also the "Joint Parties"). Therein, the Joint Parties responded to Willsyr's "Petition for Reconsideration," filed October 24, 2005, and to its "Comments on Joint Request," filed October 11, 2005. In reply to the opposition, the following is submitted.

The Settlement Does Not Comply with Commission Requirements

In the "Erratum," GRB submitted a declaration of no consideration executed by its principal, as required by 47 CFR 73.3525 (a). However, this submission is well beyond the October 4, 2005, deadline established by the Bureau for the submission of all required documentation for a universal settlement with no limitation on reimbursement for expenses.

The Bureau had allowed a special one-time waiver of the expense limitation rules, but only if all the required documentation for the settlement was submitted by a pre-established deadline. See, Public Notice, DA 05-1688, rel. June 20, 2005, submission must be "complete and rule compliant."

The Joint Parties failed to timely submit a declaration of no consideration from GRB. The argument that GRB would not be

receiving any consideration from the settlement is not a valid excuse for the failure to timely submit such a declaration.

The Commission's Rules in 47 CFR 73.3525 (a) require an affidavit or declaration from each party to the settlement agreement, regardless of whether consideration is to be received. An unsworn statement in the settlement agreement or joint request does not substitute for a sworn affidavit or declaration, as required by 47 CFR 73.3525 (a). If the arguments of the Joint Parties were accepted, the Commission's strict requirements for settlement would be rendered meaningless.

Accordingly, the Bureau's approval of the settlement with no limitation on reimbursement of expenses must be rescinded. All that could be approved, at most, is a settlement limited to reimbursement of documented expenses of the parties.

The declaration submitted by GRB is moreover incomplete and fails to comply with 47 CFR 73.3525 (a). The principal of GRB, John Trent, states that "neither GRB nor I has either been paid or promised any consideration, direct or indirect, by any other party to the above-described proceeding."

The declaration of GRB omits any reference to consideration being received from a person or entity not a party to the rulemaking proceeding. In their Opposition, at p. 10, n. 5, the Joint Parties acknowledge that Saga Communications of North Carolina, L.L.C. ("Saga"), who is not a party to the proceeding,

will be paying consideration for the settlement.

Thus, GRB must re-submit its declaration to state whether *it or its principal will be receiving consideration from Saga* or from any person or entity not a party to the rulemaking proceeding. Without such a clarification, the settlement is not grantable, whether or not limited to reimbursement for expenses.

The Joint Parties have Engaged in Disqualifying Lack of Candor

A further basis to rescind approval of the settlement is that the Joint Parties engaged in disqualifying lack of candor. They failed to disclose to the Bureau, prior to approval of the settlement on October 14, 2005, that Saga would be paying on behalf of Stair the consideration to GCRC. The contention of the Joint Parties, at p. 10, n. 5, that the Commission is not actually concerned with the source of settlement payments is wrong and must be rejected.

The Commission's Rules, in 47 CFR 73.3525 (a), require the submission of all ancillary agreements, and sub-section (a)(4) requires the identification of all persons who are to make or receive payments for settlement, and declarations by them as to the amount of the payment to be made. Again, if the arguments of the Joint Parties were accepted, the Commission's strict requirements for settlements would be rendered meaningless.

The Joint Parties, moreover, make misleading statements in the Opposition, at p. 6, para. 11; and p. 11, para. 21, that the

rulemaking settlement is "unrelated" to the Biltmore Forest settlement. As recounted in the Opposition, at p. 10, para. 10, ARP determined in 2001 that if the Tazewell, TN station was reallocated to Weaverville in the Asheville market, a lucrative business opportunity would be created if that station was owned and operated with the Biltmore Forest station.

Request for Investigation of ARP

Since 2001, ARP has done everything possible to manipulate the Commission's Rules and policies in order to package the Biltmore Forest and Tazewell/Weaverville stations for delivery to a buyer, and to reap a profit from its endeavors, even though never the licensee of either station, nor party to the assignment applications. Saga has come forward to purchase the two stations as a package deal, with most of the payments and profits going to ARP as the holder of purchase options on the stations.

Willsyr requests the Bureau to conduct an investigation and make a ruling as to whether ARP's actions are an abuse of Commission Rules and policies. If ARP's actions are ignored or condoned, then 47 USC 310 (d) would be rendered meaningless. As a consequence to turning a blind eye, any alien, felon, drug dealer, or other person ineligible to hold a Commission license could reap the financial benefits of owning a station simply by acquiring and assigning for profit an option on a station.

Willsyr's Right to Oppose Approval of the Settlement

The Joint Parties, at paras. 2-3, contend that Willsyr does not have "standing" to oppose the settlement. However, Willsyr has the right under 47 CFR 73.3587 to file an objection to the settlement, which by agreement of the Joint Parties, is linked to the application of Liberty Productions, a Limited Partnership ("Liberty") for construction permit in BPH-870831MI and for license to cover in BLH-20020220AAL. This provision of the Commission's Rules allows any person to file an objection at any time related to any pending application.

Here, as a member of the public, Willsyr has assisted the Commission in pointing out that GRB failed to timely submit an affidavit of no consideration, as required by 47 CFR 73.3525 (a). GRB conceded this deficiency by belatedly submitting on December 16, 2005, the required declaration and offering excuses for its late-submission.

Apart from its participation pursuant to 47 CFR 73.3587, Willsyr has administrative "standing" to oppose the grant of the pending applications for construction permit (BPH-870831MI) of Liberty and for license to cover that permit. Willsyr has been a party to the Commission proceeding since 1987, as a competing applicant, contesting grant of the application of construction permit in BPH-870831MI of Liberty.

Because Sutton Radiocasting Corporation ("SRC"), an affiliate

of GCRC, timely filed for reconsideration of the Commission's initial grant of the construction permit in BPH-870831MI to Liberty on May 25, 2001, that grant has not become final. The Bureau first acted on SRC's 2001 petition for reconsideration in a letter ruling on December 3, 2004.

SRC then filed an application for review of the Bureau's ruling. The settlement in that proceeding, which is linked by agreement of the Joint Parties to the rulemaking settlement herein, calls for a dismissal of the application for review, with the anticipation that it would lead to a final grant to Liberty as to BPH-870831MI.

Willsyr timely filed on December 30, 2004, a "Petition for Reconsideration and to Reopen the Record," with respect to the Bureau's ruling on December 3, 2004, affirming grant to Liberty of the application for construction permit in BPH-870831MI. Willsyr presented newly discovered evidence of misrepresentation and fraud by Liberty since 1987 in pursuing grant of the permit.

Willsyr's petition was supplemented on November 28, 2005, with evidence that prior to the 1999 auction Liberty entered into an agreement which provided for it to sell the construction permit for BPH-870831MI to the lender of the funds for its auction bid. This agreement, which violated 47 USC 309 (l)(2), was assigned to ARP.

Willsyr's petition for reconsideration of grant of the

construction permit in BPH-870831MI to Liberty and to reopen the record remains pending before the Bureau. If the Joint Parties attempt to use the dismissal of SRC's appeal of the grant to Liberty to adversely affect Willsyr's pending petition for reconsideration and to reopen the record as to grant of the permit to Liberty, or contend that Willsyr's petition should not be heard because of the settlement, then it would be "aggrieved."

An additional basis for Willsyr's "standing" to seek reconsideration of the grant of construction permit in BPH-870831MI to Liberty and to reopen the record is that the judicial appeal before the U.S. Court of Appeals of certain limited aspects of the Commission's initial grant in 2001 was tainted by a flagrant conflict of interest that benefited Liberty (and benefited ARP, a party to the rulemaking settlement herein). This makes the appeal invalid and would require the Court to vacate its decision that was in favor of Liberty.

The law firm representing before the U.S. Court of Appeals the lead challenger to Liberty's grant, also represented ARP at the same time in the same matter. ARP was funding Liberty's defense and had over $2 Million in outstanding loans to Liberty that would not be re-paid if Liberty lost in the appeal.

The Joint Parties, at para. 4, do not deny or dispute that there was a conflict of interest. Rather, they contend that such conflict would only have been of concern to ARP and no one else

outside the law firm with the conflict.

However, conflicts of interest in a judicial appeal are a *matter of public concern to the Courts, to the Commission* as a party to the appeal, and to all the parties to the Commission proceeding on appeal. Here, ARP's undisclosed compromise of the integrity of the judicial process inured to its private financial benefit and to that of Liberty.

The request of the Joint Parties, at para. 3, for sanctions against Willsyr because of opposition to approval of the rulemaking settlement is an attempt to silence it for bringing evidence of rule violations to the attention of the Commission. The only issue before the Bureau is whether the rulemaking settlement complies with Commission Rules. With the late-filed submission of the GRB declaration, the Joint Parties have conceded that the settlement did not comply at the time of the Bureau's approval on October 14, 2005.

Conclusions

WHEREFORE, in view of the foregoing, Willsyr has a right under Commission Rules to oppose the settlement. This settlement is not in compliance with Commission Rules. Therefore, reconsideration is required. 1/

/1 All the other matters in the Opposition have been previously addressed by Willsyr in other pleadings and will not be repeated herein.

Respectfully submitted,

WILLSYR COMMUNICATIONS, LIMITED PARTNERSHIP

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December 27, 2005

CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney licensed to practice in the District of Columbia, do hereby certify that on this 27th day of December, 2005, I have caused to be hand-delivered or mailed, U.S. Mail, first-class, postage prepaid, a copy of the foregoing "Reply to Opposition" to the following:

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