

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

In the Matter of)
)
Applications of Tribune Company and)
Licensee Subsidiaries for Consent to) MB Docket No. 10-104
Assignment of Broadcast Station)
Licenses)

**OPPOSITION TO REQUEST OF WILMINGTON TRUST COMPANY
TO SUPPLEMENT PETITION TO DENY**

Tribune Company, Debtor-in-Possession (“Tribune”), hereby opposes the “Request of Wilmington Trust Company for Leave To Supplement Its Petition to Deny” (“Request To Supplement”) that Wilmington Trust Company (“Wilmington Trust”) filed on August 4, 2010, against the pending Form 314 applications (the “Exit Applications”) seeking consent for Tribune and its broadcast licensee subsidiaries to emerge from bankruptcy pursuant to the Plan of Reorganization for Tribune and its subsidiaries before the United States Bankruptcy Court for the District of Delaware.¹

By its Request To Supplement,² Wilmington Trust, the indenture trustee for a group of creditors dissatisfied with its economic treatment under the Debtors’ proposed Plan of Reorganization, continues its campaign to delay and disrupt the processing of the Exit Applications. Wilmington Trust seeks leave to “supplement” its Petition To Deny with the

¹ Wilmington Trust filed a petition to deny the Exit Applications on June 14, 2010. On June 29, 2010, Tribune filed an opposition to that petition.

² Wilmington Trust reiterated that request in a letter dated August 5, 2010, filed in response to a Notice of Ex Parte Presentation filed on behalf of Tribune on August 3, 2010. (“Wilmington Trust Ex Parte Response”).

report of an Examiner appointed by the Bankruptcy Court to assess potential claims from prior Tribune financial transactions. This amounts to a call to add over one thousand pages of irrelevant material to the record of this proceeding.³

Wilmington Trust's Request To Supplement purports to raise character issues pertaining to proposed assignees, but fails even to cite, much less address, the Commission's Policy Statement Regarding Character Qualifications in Broadcast Licensing ("Policy Statement").⁴ The Policy Statement expressly defines and limits the categories of non-FCC litigation relevant to an assessment of licensee "character" qualifications, in terms of both subject matter and procedural status. The Examiner's Report fails to meet both standards. The Policy Statement is intended to protect the efficiency and integrity of the Commission's processes by rejecting precisely the kind of inquiry that Wilmington Trust would foist upon the Commission: an attempt to second-guess the conclusions a court or administrative body might reach in an ongoing adjudicatory proceeding dealing with matters outside the Commission's jurisdiction. Accordingly, for the reasons set forth below, the Commission should reject Wilmington Trust's tender and deny its Request To Supplement.

The Policy Statement specifies that broadcast applicants "need to report only adverse findings or adverse final actions taken by an ultimate trier of fact," which the Policy Statement defines as "a court or administrative body whose factual findings are not subject to *de novo*

³ Report of Kenneth N. Klee, as Examiner, filed July 26, 2010, in *In re Tribune Company, et al.* Case No. 08-13141 (KJC) (Bankr. D. Del.) ("Examiner's Report"). The four-volume Examiner's Report with its attachments comprises well over one thousand pages of text and includes an additional 1120 attached exhibits.

⁴ See *Policy Statement and Order*, 5 FCC Rcd 3252 (1990), *on reconsideration*, 6 FCC Rcd 3448 (1991), *modified*, 7 FCC Rcd 6564 (1992).

review.”⁵ The Examiner’s Report is neither. The Examiner’s Report does not purport to be formal findings of fact; rather it simply provides the Examiner’s assessment, in terms of varying degrees of probability, of what a trier of fact *might* conclude after a full inquiry. Nor is the Examiner’s Report the decision of an “ultimate trier of fact,” as Wilmington Trust itself admits: “Wilmington Trust recognizes that the Examiner’s findings are not binding on the Bankruptcy Court, and certainly not the Commission.”⁶ In sum, the Examiner’s Report is not even an adjudication, much less an adverse action by an ultimate trier of fact. It is thus irrelevant to the Commission’s decision on the Exit Applications.

Second, the predictive assessments that Wilmington Trust cites from the Examiner’s Report do not address any subject-matter category of non-FCC misconduct relevant to the assessment of the “character” qualifications of a broadcast licensee or its principals. The Commission has held that only a very narrow range of fully adjudicated non-FCC misconduct is relevant to assessing the character qualifications of a proposed licensee: (a) fraudulent representations to governmental units; (b) criminal misconduct involving false statements or dishonesty; (c) broadcast-related violations of antitrust laws or other laws dealing with competition; or (d) felonies.⁷ None of the Examiner’s assessments cited by Wilmington Trust addresses conduct that falls within these categories of non-FCC misconduct that the Policy Statement treats as relevant to the assessment of the “character” qualifications of a broadcast

⁵ *Policy Statement, supra*, 7 FCC Rcd at 6566; *see also* 47 C.F.R. § 1.65.

⁶ Wilmington Trust Request to Supplement at 5.

⁷ *Policy Statement, supra*, 5 FCC Rcd at 3252. Section 1.65 of the Commission’s Rules provides for broadcasters also to report final adjudications involving employment discrimination, but these final adjudications are relevant to licensee “character” only where there is a pattern of adjudicated non-FCC related employment discrimination. *See Policy Statement, supra*, 7 FCC Rcd at 6566 n.31.

licensee or its principals. Thus, even if an ultimate trier of fact eventually should enter a final adjudication with findings consistent with those on which Wilmington Trust has relied in the Examiner's Report, that decision also would be irrelevant to the processing of the Exit Applications under the Policy Statement.

The Commission therefore should not entertain Wilmington Trust's plea to delay processing and to clog the record in this proceeding with plainly irrelevant material. Indeed, doing so could imply that the Commission was undertaking an independent obligation to analyze filings in the Bankruptcy Court and to reach factual and legal conclusions regarding claims outside its jurisdiction. That is precisely the sort of inefficiency and jurisdictional confusion that the Commission sought to preclude by adopting the Policy Statement.⁸

Furthermore, neither the Bankruptcy Court's August 3, 2010 extension of the ballot date for the Tribune Plan of Reorganization,⁹ nor the Court's subsequent order of August 17, 2010, extending the ballot date pending future action by the Bankruptcy Court, warrants any delay in the Commission's processing of the Exit Applications. Neither the Commission nor the parties reliably can predict what developments in a bankruptcy proceeding may delay or accelerate the issuance of a confirmation order. For that reason, the Commission processes applications for broadcasters to emerge from bankruptcy expeditiously as a matter of general policy, not just when the issuance of a confirmation order is demonstrably imminent. As Tribune explained in its Opposition to Wilmington Trust's Petition To Deny, expeditious processing serves the public interest by putting the Commission in a position to issue its consent promptly once the

⁸ See *Policy Statement, supra*, 6 FCC Rcd at 3448-3449 ("The Commission generally does not have the expertise or resources to resolve questions of state or federal law outside its principal areas of jurisdiction, and it is generally more efficient to allow other forums to resolve such matters and for us to focus on adjudicated misconduct.").

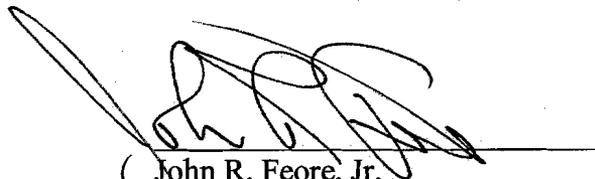
⁹ Cited in the Wilmington Ex Parte Response, *supra*.

Bankruptcy Court has issued a confirmation order. Consistent application of that policy is warranted here, because the Commission will need to address the principal matters in the Exit Applications – including, but not limited to, Tribune’s requests for ownership and cross-ownership waivers – regardless of the outcome of matters now before the Bankruptcy Court.

In sum, there is no factual or legal basis for the Commission to add to the record of this proceeding thousands of pages of preliminary assessments and associated exhibits that the Bankruptcy Court necessarily will review and reflect, to the extent relevant to its decision, in its forthcoming confirmation order, nor should the Commission delay processing the Exit Applications because of Wilmington Trust’s speculation about the prospect of possible future “character” issues. Expedient processing of applications for broadcasters to emerge from bankruptcy benefits the public, broadcasters, and the creditors as a whole. Accordingly, for the reasons set forth above, the Commission should deny the Request to Supplement filed by Wilmington Trust Company and continue to process the Exit Applications expeditiously.

Respectfully submitted,

TRIBUNE COMPANY,
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August 18, 2010

Certificate of Service

I, Rayya Khalaf, hereby certify that on this 18th day of August, 2010, a copy of the foregoing Opposition to Request of Wilmington Trust Company to Supplement Petition to Deny was served by first-class mail, postage prepaid, upon the following:

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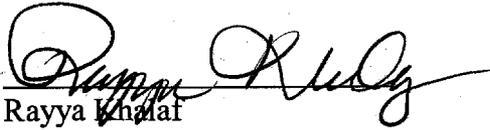
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