

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

In re Applications of
Wings Communications, Inc.
Licensee of Station WELE(AM)
Ormond Beach, Florida
For Renewal of License
Wings Communications, Inc., Assignor
and
Goliath Radio, LLC, Assignee
and
Wings Communications, Inc., Assignor
and
Bethune-Cookman University, Assignee
For Assignment of License
FRN: 0010576544
Facility ID No. 72937
File Nos. BR-20040316AFO
BR-20110929AMR
File No. BAL-20091117ACZ
File No. BAL-20131018AAY

MEMORANDUM OPINION AND ORDER

Adopted: May 15, 2014

Released: May 15, 2014

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau ("Bureau") has before it: (1) the two captioned applications filed by Wings Communications, Inc. ("Licensee") for renewal of its license (the "2004 Renewal Application" and "2011 Renewal Application," respectively) for station WELE(AM), Ormond Beach, Florida (the "Station"); three informal objections ("Objections")¹ to the 2004 Renewal Application ("Station"); and

1 The objections were filed by Paul Tanner on March 17, 2009; Barbara and Murray Steinberg on January 5, 2010, and Thomas L. Vetter on January 8, 2010. The Steinbergs styled their pleading a Petition to Deny. However, it was a procedurally defective late filing. See 47 U.S.C. § 73.3516(e)(1) (Petition to deny filing period for late-filed license renewal applications begins when Commission places such application on public notice). Because the public notice was issued March 22, 2004, the Steinbergs should have filed by June 22, 2004, in order to be timely. (Broadcast Applications, Public Notice, Report No. 25697 (Mar. 22, 2004)). We treat the Petition as an Informal Objection under Section 73.3587 of the Rules. 47 C.F.R. § 73.3587.

(3) two separate applications for Commission consent to the assignment of the Station's license ("First Assignment Application" and "Second Assignment Application").² For the reasons set forth below, we dismiss in part and deny in part the Objections, dismiss the First Assignment Application, and grant the 2004 and 2011 Renewal Applications, and the Second Assignment Application, with conditions.

II. BACKGROUND

2. *Overview.* As will be explained more fully below, the Station has had an exceptionally troubled history in the last several years. F. Douglas Wilhite ("Wilhite"), the sole shareholder of the Licensee, was convicted in 2010 of two felonies (child abuse and neglect of a child causing great bodily harm). The Licensee went into bankruptcy in 2011 and emerged from bankruptcy in 2012. The Licensee also faced a litany of complaints of consumer fraud, leading to a civil penalty for violations of the Florida Sellers of Travel Act in 2010. In light of Wilhite's criminal record, we cannot make a determination that Wilhite and the Licensee are qualified to hold, or assign, the Station's license. However, compelling public interest determinations support actions that will allow a donation of the Station's license and related assets to Bethune-Cookman University (the "University"). Wilhite will derive no financial benefit from the donation. Our action here will result in Wilhite's full withdrawal from broadcasting and will ensure that the Station may operate in the public interest under the University's control. Accordingly, we will follow Commission precedent that finds that such public interest considerations support a grant of an assignment application where a character issue is resolved against a licensee or is pending.

3. *2004 Renewal Application.* The Station's 2004 Renewal Application remains pending.³ On March 17, 2009, Paul Tanner ("Tanner") filed an informal objection against the 2004 Renewal Application. He asked the Commission to deny that application, claiming that Wilhite and his family misled Tanner about the travel packages the Station promoted.⁴ As a supplement, he included a letter dated October 6, 2008, that he reportedly mailed to Licensee. In it, he lists five terms of a seven-night timeshare travel package that Licensee misleadingly or inaccurately advertised, both on and off the air. Tanner alleges that Licensee or its representatives stated that: (1) there were no fees other than the redemption fee, but he incurred a \$135 service fee; (2) there were no restrictions to enter the timeshare, but he was required to submit to a "time share presentation;" (3) the only bar to travel was during holidays, but he could only travel during off season and "shoulder season;" (4) there was no bar to travel with family members, but he discovered flights were not to be used together by members of the same family; (5) there were no additional fees for the flights, but there was a \$50 per person fee plus a \$60 redemption fee.⁵ As a result, Tanner asked his credit card company to suspend the travel package charge, calling Licensee's advertising practices "at best deceptive and ... more likely criminal."⁶

4. On January 5, 2010, Murray and Barbara Steinberg filed a pleading titled "Petition to Deny" against the 2004 Renewal Application, asking the Commission to deny that application. The Steinbergs alleged "unethical and unscrupulous" management practices at the Station in connection with

² The 2011 Renewal Application is timely and uncontested.

³ The application should have been filed by October 1, 2003, but was not filed until March 16, 2004, after the Station's license had expired. Licensee provided no explanation for the untimeliness of the application, nor did it file a request for special temporary authority to continue Station operations after the license expiration.

⁴ Tanner Objection at 1. Senator Bill Nelson wrote the Commission's Enforcement Bureau on Mr. Tanner's behalf. In a response to Senator Nelson on February 23, 2009, the Enforcement Bureau stated that the claim did not violate any of the Commission's Rules but pledged to consider the objection in the Station's license renewal proceeding and referred Mr. Tanner's complaint to the Federal Trade Commission's Bureau of Consumer Protection Division of Marketing Practices. (Ref. EB-IHD-MT).

⁵ Tanner Objection at Attachment 1.

⁶ *Id.*

its travel show.⁷ The petition includes a copy of a civil complaint (“Complaint”) that the Steinbergs and four other individuals, including objector Thomas L. Vetter (“Vetter”), initiated in the United States District Court. It alleged that Licensee, Wilhite, and others had conspired to commit fraud and swindle and had violated the racketeer influenced corrupt organization act (“RICO”).⁸ Specifically, the allegations included: (1) fraudulently yet explicitly stating that there were no additional fees and/or restrictions; (2) intentionally failing to disclose additional fees and/or restrictions; (3) failing to schedule trips advertised on the Station; (4) advertising free airfare to any U.S. destination without disclosing additional fees, taxes, and/or restrictions on times and/or places; (5) selling travel packages as “all inclusive” but omitting material facts about availability and additional fees and taxes; (6) selling more items than were available or selling items without permission of owners (*e.g.*, restaurants, lodges, transportation companies).⁹

5. In a letter dated January 8, 2010, Vetter also sought denial of the 2004 Renewal Application. He claimed Licensee, through the Station’s travel show, engaged in “fraudulent practices” and alleged that Wilhite, despite promising to do so, has not furnished more than \$4,000 of the “vacation vouchers, plane-hotel packages and other restaurant coupons” that Vetter purchased from Licensee.¹⁰

6. On March 24, 2010, the Steinbergs filed with the Commission reports from the Florida Department of Agriculture and Consumer Services, Bureau of Investigations (“Florida Consumer Bureau”) indicating that it had fined Licensee \$4,000 for violating four Florida statutes pertaining to those who sell travel packages.¹¹ The Florida Consumer Bureau reported that Station listeners filed 129 complaints against Licensee and the numbers “continued to rise.”¹² It found that that Licensee had consistently failed to refund travel packages and other offers (*e.g.*, gift cards) for charges both authorized and unauthorized by listeners,¹³ and failed to inform customers of the travel package cancellation and refund terms as required by Florida law.¹⁴ The Steinbergs filed the additional documentation to give the

⁷ January 5, 2010, Steinberg Objection at 1. On February 26, 2010, May 6, 2010, and May 26, 2010, the Steinbergs supplemented their informal objection. The first supplement expands upon the Steinbergs’ arguments against the First Assignment Application. The second supplement updates the Commission on the court’s decision regarding felony charges against Wilhite. The final supplement includes a copy of the final court order regarding those felony charges against Wilhite and responds to an amendment filed by the proposed assignee in the First Assignment Application. As discussed below, the First Assignment Application will be dismissed as requested by the proposed assignee.

⁸ 18 U.S.C. §§ 1961-68.

⁹ Complaint at 21-22. According to court records, this case settled at mediation on June 1, 2010. *See* “Notice of Settlement” filed on June 9, 2010 (amended June 21, 2010, with certification of service).

¹⁰ Vetter Objection at 1-2.

¹¹ *Investigation of Wings Communications, Inc., d/b/a WELE Radio d/b/a Premier Vacations*, Case # 0809-35660, Mar. 11, 2010, at Section VII: Exhibit 6 (dated Mar. 11, 2010; received Mar. 24, 2010) (“Florida Consumer Bureau Report”). Specifically, it referenced 131 complaints against Licensee, approximately half of which were resolved with refunds or the like. The statutory violations included: Licensee’s failure to disclose its second office in its license application; failure to include its license in contracts with travelers; failure to include the required cancellation disclosures; and failure to honor the terms of the contracts by refusing to issue refunds within the 30-day refund period. *Id.* at Section IV: Statutes Violated.

¹² *Id.* at 4.

¹³ *Id.* The Report cites Mr. Stanley Dorfman as an example of a consumer seeking a refund. He claims his credit card was charged \$320.95 for a package that he did not order. Three months later, he received a full refund. *Id.* at 3.

¹⁴ According to the Florida Consumer Bureau Report, Licensee claimed that it sent the refund disclosure terms, though not in the manner required by Florida statute. The Report also noted that Licensee had refunded about half of the money claimed by listeners and expressed desire to refund more but was near bankruptcy. *Id.* at 3.

Commission a “better understanding of the situation.”¹⁵

7. *Wilhite Felony Convictions.* In October, 2009, Wilhite was charged in the Criminal Division of the Seventh Circuit Court, Volusia County, Florida, with neglect of a child causing great bodily harm, a second degree felony, and child abuse, a third degree felony. Wilhite pled *nolo contendere* to the charges and on May 5, 2010, was found guilty. The judge sentenced Wilhite to two years of community control and 13 years of probation for the former violation and, for the latter, three years of probation and two years of community control, to be served concurrently.¹⁶

8. *First Assignment Application.* On November 17, 2009, Licensee filed the First Assignment Application, requesting Commission consent to assign the Station license to Goliath Radio, LLC (“Goliath”). It generated several objections and petitions to deny,¹⁷ but on October 17, 2013, Goliath asked to withdraw this application.¹⁸

9. *2011 Renewal Application.* On September 29, 2011, Licensee filed the 2011 Renewal Application. The application is uncontested. In it, Licensee admitted it had not placed all items in the Station’s public inspection file at the appropriate times during the previous license term, as required by the Rules, but that it had brought the files up to date and has continued to maintain it.¹⁹ Shortly thereafter, on November 27, 2011, Licensee filed a short form transfer of control application indicating that Wilhite and his wife had voluntarily filed for bankruptcy.²⁰ That transfer of control application was not consummated because it was granted shortly before the bankruptcy case was closed on November 14, 2012.²¹

10. *Second Assignment Application.* On October 18, 2013, Licensee filed the Second Assignment Application, seeking consent to assign the Station license to the University for no consideration.²² This application also is uncontested. In an amendment to the Second Assignment Application filed on January 17, 2014, Licensee states, “Neither Donor nor Donor’s sole shareholder, Mr.

¹⁵ Mar. 24, 2010, Steinberg Objection at 2. This Objection also attached the Business Name History of Licensee, allegedly indicating that the Licensee, a corporation registered in Georgia, was not in compliance with statutory requirements because the registered agent, Wilhite, reported a Florida, rather than Georgia address.

¹⁶ See *State of Florida vs. F. Douglas Wilhite*, No. 209-35634CFAES (Seventh Cir. May 5, 2010) (Order of Community Control/Probation) (unpublished). On June 15, 2011, the court suspended the remaining term of the house arrest. See File No. BTC-20111227ABF, Exhibit 8.

¹⁷ These included: A Petition to Deny by Black Crow Radio, L.L.C. (“Black Crow”) on December 28, 2009; an Informal Objection by West End Media Group, Inc. on December 17, 2009; an Informal Objection by Murray L. and Barbara F. Steinberg on January 5, 2010; an Informal Objection by George and Constance Colby on December 28, 2009; a Motion to Strike by Goliath on January 8, 2010; a Reply by Black Crow on January 22, 2010; three Supplements to Informal Objection filed by the Steinbergs on January 26, 2010, May 6, 2010, and May 26, 2010; a Reply by Goliath on June 10, 2010; a Motion to Strike by Goliath on July 5, 2011; an Opposition by Black Crow on July 13, 2011; and the Motion to Withdraw referenced above on October 17, 2013.

¹⁸ See “Request for Withdrawal of Application for Consent to Assignment of License” (Oct. 17, 2013).

¹⁹ See 2011 Renewal Application, Exhibit 12, and 47 C.F.R. § 73.3526. Licensee attributes the Rule violation to Wilhite’s legal and subsequent financial problems. *Id.* at Exhibit 12.

²⁰ See File No. BTC-20111227ABF, Attachment 12.

²¹ See Order Approving Account, Discharging Trustee, Canceling Bond, and Closing Estate, Case No. 6:11-bk-17323-KSJ, Nov. 14, 2012; Letter from Howard M. Liberman (counsel to Licensee) to Secretary of FCC (Oct. 19, 2012).

²² See Second Assignment Application, Exhibit 5, Attachment 5, “Contribution Agreement.” There is a separate contribution agreement between Goliath and the University in which Goliath agreed to donate to the University certain assets used to operate the Station that are not owned by Licensee. *Id.* at Exhibit 5.

F. Douglas Wilhite, nor any other person or entity associated with Donor or Donor's sole shareholder, shall claim or receive any tax benefit, directly or indirectly, of any kind or amount, as a result of Donor's contribution of the Station Assets to Donee."²³ Also, Wilhite signed a declaration stating:

“[n]either Wings nor I, nor any other entity in which Wings or I are involved, will acquire or seek to acquire any FCC authorization or any interest in any other broadcast station in the future. Once the donation contemplated by the above-referenced assignment application has taken place, I will hold no interest in any broadcast station. Although I have no intention to acquire any FCC authorization or attributable media interest of any type in the future, I agree to henceforth disclose in any application for an FCC authorization in which I have any interest (a) my criminal record, (b) my unresolved character issues, (c) the foregoing commitment, and (d) any decision issued in this matter. The same applies to any entity in which I am involved.”²⁴

III. DISCUSSION

11. *License Renewal Applications.* Informal objections to license renewal applications must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Communications Act of 1934, as amended (“Act”).²⁵ Section 309(k) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Commission's rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.²⁶ If such a finding cannot be made on the basis of the application and pleadings, Section 309(k) provides that the license renewal application is to be designated for a trial-type hearing pursuant to Section 309(k) of the Act.

12. *2004 Renewal Application Pleadings.* All objectors claim that those operating the Station's travel show unethically, misleadingly and fraudulently promoted and sold travel packages and failed to disclose material restrictions on travel packages. In the *Character Qualifications Policy Statement* and the preceding Notice of Inquiry, the Commission cautioned against “abuse [of] the licensing privilege conferred on [broadcasters] through deceptive or fraudulent programming” because it goes to the essence of the trust placed in a broadcaster to provide quality service oriented to the needs of its community.²⁷ In that proceeding, the Commission tentatively concluded that “such unethical broadcasting conduct as fraudulent contests, deceptive advertising, news staging and news distortion” should continue to be treated as “adverse reflections on an applicant's qualifications to serve the public

²³ *Id.* at Attachment 5, “Amendment to Contribution Agreement.”

²⁴ *Id.* at Attachment 7.

²⁵ 47 U.S.C. § 309(e). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n. 10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1989) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested (“*Area Christian*”).

²⁶ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 10 Stat. 56 (1996). See *Implementation of Section 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

²⁷ *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, Report, Order, and Policy Statement, 102 FCC 2d 1179, 1211 (1986) (citing *Policy Regarding Character Qualifications In Broadcast Licensing*, Notice of Inquiry, 87 FCC 2d 836, 847 (1981)), *modified*, 5 FCC Rcd 3252 (1990), 6 FCC Rcd 3448 (1991), and 7 FCC Rcd 6564 (1992) (“*Character Qualifications Policy Statement*”).

interest.²⁸ Here, however, we find the evidence lacking as to allegedly fraudulent programming practices because none of the Objections include a date, time, a transcript of the broadcasts, a recorded segment,²⁹ or a copy of the disclosed terms.³⁰ Therefore, we find they do not provide the supporting facts necessary to make a *prima facie* case for fraudulent advertising.³¹

13. The Commission's *Character Qualifications Policy Statement* also classifies certain types of civil and criminal violations as non-FCC misconduct that is relevant to the Commission's licensing decisions. The Steinbergs' transmittal of information regarding the Florida Consumer Bureau's decision to fine Licensee for violations of the Florida Sellers of Travel Act raises the question as to whether these civil violations should be considered relevant here, but we need not reach that question because Wilhite's felony convictions, standing alone, raise a substantial and material question of fact as to whether he and Wings are qualified to hold a Commission license.³²

14. The *Character Qualifications Policy Statement* indicates that the Commission generally only considers three types of adjudicated non-FCC misconduct (*i.e.*, misconduct which is not specifically proscribed by the Act or Rules): (1) fraudulent statements to government agencies; (2) felony convictions; and (3) mass media related violations of anti-competitive and antitrust statutes.³³

15. We conclude that Wilhite's convictions for neglect of a child causing great bodily harm, a second degree felony, and child abuse, a third degree felony, by themselves raise a substantial and material question of fact as to whether he possesses the requisite qualifications to remain a Commission licensee.³⁴ Ordinarily, we would designate the 2004 Renewal Application and the 2011 Renewal Application for an evidentiary hearing before an administrative law judge to determine if, in light of Wilhite's felony convictions, Licensee is qualified to hold a broadcast license.³⁵ However, Licensee proposes to donate the Station license and related assets to the University for no consideration. For the reasons discussed below, we will grant the 2004 and 2011 Renewal Applications subject to the specified conditions set forth below in connection with the Second Assignment Application.

16. *Assignment Applications.* We will grant Goliath's request to dismiss the First Assignment Application below. With respect to the Second Assignment Application, the Commission's *Jefferson Radio* policy precludes consideration of license assignment applications where a character issue has been resolved against the seller or is pending.³⁶ This is because, as the Commission has explained, "there is no

²⁸ *Id.*

²⁹ *See, e.g., Journal Broadcast Corp.*, Notice of Liability for Forfeiture, 25 FCC Rcd 2797, 2798-99 (EB 2010), *appeal denied*, Forfeiture Order, 28 FCC Rcd 2259 (EB 2013) (using transcripts of broadcasts to determine whether licensee violated Section 73.1216 involving contests).

³⁰ *Lincoln Dellar*, Memorandum Opinion and Order, 8 FCC Rcd 2582, 2585-86 (MMB 1993) (using objector's copy of contest rules to evaluate claim of misleading contest advertising).

³¹ *Area Christian*, 60 RR 2d 862, 864.

³² The RICO and fraud claims made in the civil lawsuit against Licensee were not adjudicated, so we will not consider them here. *See Character Qualifications Policy Statement*, 5 FCC Rcd at 3252-53.

³³ *Id.* at 3252-53.

³⁴ *See Contemporary Media, Inc. v. FCC*, 214 F.3d 187 (D.C. Cir. 2000) (upholding the *Character Qualifications Policy Statement* as applied to principal of licensee with multiple felony convictions for sexual assaults on minors).

³⁵ *See, e.g., Contemporary Media*, Order to Show Cause and Notice of Apparent Liability, 10 FCC Rcd 13685 (1995) and *Eddie Floyd*, Order to Show Cause, Hearing Designation Order and Notice of Apparent Liability for a Forfeiture, 25 FCC Rcd 11348 (2010) (questioning licensees' qualifications to remain licensees due to felony convictions).

³⁶ *See Jefferson Radio Corp. v. FCC*, 340 F.2d 781 (D.C. Cir. 1964).

authorization to assign” if the seller ultimately is found unqualified.³⁷ The policy’s underlying purpose is to prevent licensees from evading responsibility for wrongdoing by selling their stations.³⁸ The policy serves as a deterrent because a licensee would likely suffer an “awesome loss” that would result from revocation or non-renewal of license.³⁹ This deterrent effect would be undermined if a licensee could “sell out from under a potential disqualification.”⁴⁰

17. In rare circumstances, the Commission has exempted sellers from application of the *Jefferson Radio* policy based on compelling public interest considerations.⁴¹ We find that granting the Second Assignment Application, in accordance with the representations made in the amendment to the Second Assignment Application, advances the public interest, consistent with precedent.⁴² Grant of the Second Assignment Application will result in Mr. Wilhite’s full withdrawal from broadcasting⁴³ and will ensure the Station’s continued public service.⁴⁴ Additionally, Licensee is donating the Station’s assets for

³⁷ *Catherine C. Murphy*, Decision, 42 FCC 2d 346, 347 (1973).

³⁸ See, e.g., *Harry O’Connor*, Memorandum Opinion and Order and Notice of Apparent Liability, 2 FCC 2d 45, 48 (1965) (“*O’Connor*”) (“The purpose underlying this policy is obvious: A licensee cannot act inconsistently with the Communications Act or the Commission’s rules and policies, and then, when a question is raised concerning such improper activity, transfer or assign the license to another; if he could, the only result of the wrongdoing would be a forced sale.”).

³⁹ See *Stereo Broadcasters, Inc. v. FCC*, 652 F.2d 1026, 1030 (D.C. Cir. 1981).

⁴⁰ See *Cellular System One of Tulsa, Inc.*, Memorandum Opinion and Order, 102 FCC 2d 86, 89-90 (1985) (“To permit a licensee to sell out from under a potential disqualification would significantly impair the Commission’s ability to police and deter licensee misconduct.”), citing *Pass Word, Inc.*, Order to Revoke Licenses, to Terminate Comparative Proceedings, and to Proceed with Docket 20941, 76 FCC 2d 465, 516 (1980), *modified*, 86 FCC 2d 437 (1981), *aff’d sub nom. Pass Word, Inc. v. FCC*, 673 F.2d 1363 (D.C. Cir. 1982).

⁴¹ See, e.g., *WEWC(AM), Callahan, FL*, Letter, 22 FCC Rcd 17311 (MB 2007) (“*WEWC(AM)*”) (exempting convicted felon from *Jefferson Radio* policy where licensee shareholders received no monetary consideration and sale proceeds first paid off licensee’s debts to all other innocent creditors, then paid partially the withheld salaries of licensee employees) *erratum issued*, 22 FCC Rcd 21522 (MB 2007) (deleting a footnote and reordering accordingly); *Lane Broadcasting Corporation*, Letter, 20 FCC Rcd 19373, 19375 (MB 2005) (“*Lane*”) (exempting convicted felon from *Jefferson Radio* policy where proceeds from sale were distributed under strict supervision by District Attorney to ensure that no shareholder would receive direct benefit from the sale). See also *Second Thursday Corp.*, Memorandum Opinion and Order, 22 FCC 2d 515 (1970), *recon. granted*, Memorandum Opinion and Order, 25 FCC 2d 112 (1970) (to harmonize policies of federal bankruptcy law with those of the Communications Act, a grant without hearing of applications by applicant with qualifications issues may be made if the individuals charged with misconduct will have no part in the proposed operations and will either derive no benefit from favorable action on the applications or only a minor benefit which is outweighed by equitable considerations in favor of innocent creditors); *Hertz Broadcasting of Birmingham, Inc.*, Memorandum Opinion and Order, 57 FCC 2d 183, 184-85 (1976) (evidentiary hearing terminated on basis of principal’s disabling illness; station sale permitted for no profit); and *Lois I. Pingree*, Memorandum Opinion and Order, 69 FCC 2d 2179, 2183-84 (1978) (no-profit sale permitted where disability provides mitigation for wrongdoing).

⁴² *Id.*

⁴³ See *Radio San Juan, Inc.*, Letter, 45 FCC 2d 375, 376 (1974) (permitting assignment of license despite unresolved “issues” that ordinarily would necessitate an evidentiary hearing, because licensee represented that it wanted to expeditiously withdraw from broadcasting); see also *Northwestern Indiana Broadcasting Corp.*, Decision, 65 FCC 2d 66, 70 (1977).

⁴⁴ See, e.g., *Lane*, 20 FCC Rcd at 19375; *O’Connor*, 2 FCC 2d at 49. See also *Spanish Int’l Communications Corp.*, Memorandum Opinion and Order, 2 FCC Rcd 3336, 3339-40 (1987), *rev’d sub nom. Coalition for the Preservation of Hispanic Broadcasting v. FCC*, 893 F.2d 1349, 1362 (D.C. Cir 1990), *vacated and aff’d*, 931 F.2d 73 (D.C. Cir) (*en banc*), *cert. denied*, 502 U.S. 907 (1991) (permitting the sale of seven television stations for which renewal applications had been designated for evidentiary hearing would “expeditiously remove the ‘cloud’ that has continued...

no consideration, and therefore Mr. Wilhite will reap no benefit from a disposition of the Station's license.⁴⁵ Accordingly, we will make compliance with those representations to be conditions on grant of the Second Assignment Application. Our actions here approving the assignment of the Station license to the University for no consideration, along with the other conditions imposed herein, are a sufficient sanction in this context. Accordingly, we do not impose a forfeiture for the late-filed 2004 Renewal Application and unauthorized operation, or for the public file violations acknowledged in the 2011 Renewal Application.⁴⁶

IV. ORDERING CLAUSES

18. IT IS FURTHER ORDERED, that the Informal Objection filed by Paul Tanner on March 19, 2009, and Thomas L. Vetter's letter objection dated January 8, 2010, ARE DENIED.

19. IT IS FURTHER ORDERED, that the Informal Objection filed by Barbara and Murray Steinberg on March 19, 2009, IS DISMISSED, IN PART, AND IS DENIED IN ALL OTHER RESPECTS.

20. IT IS FURTHER ORDERED, that the application for consent to the assignment of the license of Station WELE(AM), Ormond Beach, Florida, from Wings Communications, Inc. to Goliath Radio, LLC, (File No. BAL-20091117ACZ) IS DISMISSED.

21. IT IS FURTHER ORDERED, that pursuant to Section 309(k) of the Communications Act of 1934, as amended, the license renewal applications of Wings Communications, Inc. for Station WELE(AM), Ormond Beach, Florida (File Nos. BR-20040316AFO, BR-20110929AMR) ARE GRANTED), subject to the conditions set forth below.

continued from previous page_____

surrounded the operation of these stations" during the pendency of this proceeding, acknowledging that "service to the public may deteriorate during an extended period of uncertainty").

⁴⁵ See, *WEWC(AM)* and *Lane*, *supra*, note 41.

⁴⁶ *Terry Keith Hammond*, Memorandum Opinion and Order, 24 FCC Rcd. 8229 (EB 2009) (finding that where license was cancelled due to licensee's felony conviction, imposition of forfeiture was unnecessary); *Radio Moultrie, Inc.*, Order of Revocation, 18 FCC Rcd 22950 (EB 2003) (finding that where license was revoked due to licensee's unreliable behavior, imposition of forfeiture was unnecessary). The Rules and the Act permit us to issue a notice of apparent liability for the above-mentioned violations. 47 C.F.R. §§ 0.283; 1.80(b)(4); 73.3526; 73.3539(a) and 47 U.S.C. §§ 301; 503(b)(1)(B).

22. IT IS FURTHER ORDERED, that the application for consent to the assignment of the license of Station WELE(AM), Ormond Beach, Florida, from Wings Communications, Inc. to Bethune-Cookman University (File No. BAL-20131018AAY) IS GRANTED, subject to the following conditions:

(1) Mr. Wilhite will not seek or accept any benefit from the assignment, including tax benefits (e.g., charitable deduction), or relief from debt of any sort; (2) neither Mr. Wilhite or any member of his immediate family, nor any entity in which any of them hold any interest, shall receive any consideration, direct or indirect, from Bethune-Cookman University or any party acting on behalf of Bethune-Cookman University; (3) Mr. Wilhite will disclose in any application for an FCC authorization in which he has any direct or indirect interest: (a) his criminal record; (b) his unresolved character issues; (c) the foregoing conditions; and (d) this Memorandum Opinion and Order in File No. BAL-20131018AAY.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau