

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

In the Matter of)	
)	
PAPPAMMAL KURIAN)	
)	
Assignment of Authorization for)	File No. 0005264554
Industrial/Business Pool Stations WPKT842 and)	
WPMT214 to Balhir Bhogal)	
)	
Request for Reinstatement of Licenses)	Call Signs WNVJ741, WPIQ777,
)	WPTG843, WPXC618, WPXY504, and
)	WQAQ340
)	
THOMAS KURIAN)	Call Signs KNNF731 and WQO982

**ORDER ON FURTHER RECONSIDERATION AND
SECOND ORDER ON FURTHER RECONSIDERATION**

Adopted: February 9, 2015

Released: February 9, 2015

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* In this *Order on Further Reconsideration and Second Order on Further Reconsideration*, we address two petitions for reconsideration filed by Warren Havens, Environmental LLC, Environmental-2 LLC, Skybridge Spectrum Foundation, Verde Systems LLC, Telesaurus Holdings GB LLC, Intelligent Transportation & Monitoring Wireless LLC, and V2G LLC (collectively, Havens Entities), of decisions by the Wireless Telecommunications Bureau’s Mobility Division (Division). In the first petition, the Havens Entities seek reconsideration of an *Order and Order on Reconsideration*¹ that, *inter alia*, affirmed the Division’s consent to the application of Pappammal Kurian (Ms. Kurian) to assign the licenses for private land mobile radio Stations WPKT842 and WPMT214 to Balhir Bhogal (Mr. Bhogal).² In the second petition, the Havens Entities seek reconsideration of an *Order on Further Reconsideration*³ that affirmed the Division’s decision to restore certain frequencies to the licenses of Thomas Kurian (Mr. Kurian) for Stations KNNF731 and WQO982.⁴ For the reasons stated below, we deny both petitions.

2. *Background.* In 2011, the Division reinstated Ms. Kurian’s licenses for Stations WNVJ741, WPIQ777, and WQAQ340 after a state court concluded that the licenses belonged to her, rather than to a competing party who had assigned the licenses to Mr. Kurian, who had canceled them after adding

¹ Pappammal Kurian, *Order and Order on Reconsideration*, 29 FCC Rcd 4994 (WTB MD 2014) (*Assignment Order*).

² Petition for Reconsideration (filed June 6, 2014) (Assignment PFR). Rebel Communications LLC (Rebel) filed an opposition. The Havens Entities filed a reply.

³ Pappammal Kurian, *Order on Further Reconsideration*, 29 FCC Rcd 5384 (WTB MD 2014) (*Modification Order*).

⁴ Petition for Reconsideration Based on New Facts (filed June 23, 2014) (Modification PFR).

frequencies from those licenses to his licenses for Stations KNNF731 and WQO982.⁵ The Division subsequently modified Mr. Kurian's licenses for Stations KNNF731 and WQO982 to remove the frequencies he had added,⁶ so that Ms. Kurian could restore interference-free operations on Stations WNVJ741, WPIQ777, and WQAQ340. Instead of bringing the stations back into operation, however, Ms. Kurian cancelled the licenses for Stations WPIQ777 and WNVJ741 and failed to construct Station WQAQ340. The Division consequently granted Mr. Kurian's petition for reconsideration of the modification of his licenses for Stations KNNF731 and WQO982, concluding that it no longer would further the public interest to delete the frequencies that he had added from the licenses that were once again inactive.⁷

3. In May 2012, Ms. Kurian filed an application to assign the licenses for Stations WPKT842 and WPMT214 to Mr. Bhogal, and the Commission consented to the application.⁸

4. The Havens Entities sought reconsideration of both the decision not to modify Mr. Kurian's licenses for Stations KNNF731 and WQO982 and the consent to the assignment of the licenses for Stations WPKT842 and WPMT214 from Ms. Kurian to Mr. Bhogal. In both petitions, they argued that the actions should be set aside because one of the Havens Entities obtained a monetary judgment against Ms. Kurian in Nevada state court and planned to proceed with the necessary legal actions to obtain satisfaction of the judgment by forcing a sale of Ms. Kurian's licenses. The Nevada state court prohibited Ms. Kurian from disposing of any assets in December 2012,⁹ and subsequently appointed a receiver¹⁰ to seek Commission approval to take control of the licenses listed in an attachment to the receivership appointment order, and sell them and distribute the net proceeds to the plaintiff to satisfy the judgment.¹¹

5. The Division denied both petitions for reconsideration in 2014. It noted that the state court temporary restraining order and receivership appointment order were issued after Ms. Kurian canceled her licenses for Stations WPIQ777 and WNVJ741 and allowed the license for Station WQAQ340 to terminate for failure to construct,¹² and after she assigned the licenses for Stations WPKT842 and WPMT214 to Mr. Bhogal.¹³ It also noted that Stations WPKT842 and WPMT214 were not listed in the

⁵ See Pappammal Kurian, *Order and Order Proposing Modification*, 26 FCC Rcd 15177, 15180-81 ¶¶ 10-14 (WTB MD 2011).

⁶ See Pappammal Kurian, *Order on Reconsideration and Order of Modification*, 27 FCC Rcd 13516, 13518 ¶ 7 (WTB MD 2012).

⁷ See Pappammal Kurian, *Order on Reconsideration*, 28 FCC Rcd 11025, 11027 ¶ 6 (WTB MD 2013).

⁸ FCC File No. 0005264554. The assignment was consummated on June 18, 2012. See FCC File No. 0005266430. On July 16, 2012, Mr. Bhogal filed an application to assign the licenses to Rebel, and the Commission consented to the application. FCC File No. 0005311461. The assignment was consummated on August 2, 2012. See FCC File No. 0005337256.

⁹ See Order Granting Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Be Issued, Case No. A-12-669776-C, Eighth Judicial District Court of Clark County, Nevada (filed Dec. 6, 2012).

¹⁰ See Order Granting Plaintiff's Motion to Appoint William Holland as Receiver, Case No. A-12-669776-C, Eighth Judicial District Court of Clark County, Nevada (filed Jan. 30, 2014).

¹¹ Both court orders are viewable in the Universal Licensing System under Call Sign WNXG425. See Further Supplement to Petition to Respect and Take Actions Under Court Restraining Order, Exhibit 3 (filed Dec. 17, 2012); Letter dated Feb. 11, 2014 from Warren Havens, to Stana Kimball, Attorney-Advisor, Mobility Division, Wireless Telecommunications Bureau, Attachment.

¹² See *Modification Order*, 29 FCC Rcd at 5385 ¶ 6.

¹³ See *Assignment Order*, 29 FCC Rcd at 4996 ¶ 6.

attachment to the receivership appointment order.¹⁴ The Division concluded that neither granting Mr. Kurian's petition for reconsideration of the modification of his licenses for Stations KNNF731 and WQO982 nor consenting to Ms. Kurian's assignment of the licenses for Stations WPKT842 and WPMT214 conflicted with any order of the court.¹⁵

6. The Havens Entities now seek reconsideration of the Division's denial of their petitions for reconsideration, offering the following new facts in support: a 2013 stipulation order which states that Mr. Kurian and his entities agree to abandon any claim to the licenses listed in the attachment to the receivership appointment order and not to interfere with the Havens Entity's efforts to obtain those license rights;¹⁶ and a 2014 order holding Ms. Kurian in contempt of court for failure to cooperate with the receiver.¹⁷ They also argue that the Commission should respect the Nevada state law which provides relief for creditors to set aside fraudulent transfers.¹⁸ Finally, they assert that because neither Ms. Kurian nor Mr. Bhogal filed an opposition to the Havens Entities' original petition, the Commission should have "accepted the asserted facts as valid."¹⁹

7. *Discussion.* Because the stipulation order and the contempt order arose after the Havens Entities' last opportunity to present them to the Division, we will address them herein.²⁰ We conclude, however, that they do not support any claim that granting Ms. Kurian's applications to cancel the licenses for Stations WPIQ777 and WNVJ741, granting Mr. Kurian's petition for reconsideration of the modification of his licenses for Stations KNNF731 and WQO982, or consenting to Ms. Kurian's application to assign the licenses for Stations WPKT842 and WPMT214 conflicted with any order of the Nevada state court.²¹ The stipulation order and contempt order, like the restraining order and receivership appointment order, were issued well after the licensing actions at issue. Therefore, we again reject the Havens Entities' argument that the Division should set aside the assignments and cancellations. That one of the Havens Entities had obtained a monetary judgment against Ms. Kurian does not constitute grounds for action regarding licenses of which the receivership appointment order does not clearly authorize the receiver to take control.²² The Commission is not the proper forum in which to adjudicate whether an action constituted a fraudulent conveyance under state law.²³

¹⁴ *See id.*

¹⁵ *See id.*; *Modification Order*, 29 FCC Rcd at 5385-86 ¶ 6.

¹⁶ *See* Modification PFR at 2-3, and Exhibit 1: Stipulation and Order for Dismissal of Claims Against Thomas Kurian, Vegas Wireless, LLC, and American Wireless, LLC Only, Case No. A-12-669776-C, Eight Judicial District Court of the Clark County, Nevada (filed Sept. 11, 2013).

¹⁷ *See* Assignment PFR at 2, and Exhibit 1, Part 1: Order Holding Pappammal Kurian in Contempt of Court, Case No. A-12-669776-C, Eight Judicial District Court of the Clark County, Nevada (filed May 6, 2014).

¹⁸ *See* Assignment PFR at 4; Modification PFR at 6-8.

¹⁹ *See* Assignment PFR at 5.

²⁰ Neither the temporary restraining order nor the receivership appointment order is a new fact; the Division addressed them in both decisions. *See Assignment Order*, 29 FCC Rcd at 4996 ¶ 6; *Modification Order*, 29 FCC Rcd at 5385-86 ¶ 6.

²¹ The Havens Entities contend that Mr. Kurian is violating the stipulation order by continuing to maintain on his licenses for Stations KNNF731 and WQO982 the frequencies that the Division decided earlier not to delete. *See* Modification PFR at 2. This is a matter for the state court to resolve.

²² Pappammal Kurian, *Order and Order on Reconsideration*, 29 FCC Rcd 12699, 12700 ¶ 5 (WTB MD 2014) (citing Lewis J. Paper, Esq., *Letter*, 28 FCC Rcd 4550, 4552, *recon. denied*, *Letter*, 28 FCC Rcd 16553 (MB AD 2013)).

²³ David D. Oxenford, Esq., *Letter*, 21 FCC Rcd 6895, 6896 (MB VD 2006).

8. Lastly, we reject the Havens Entities' argument that the absence of an opposition by an interested party in response to a petition renders allegations presented in the petition "valid." We are not obligated to accept facts presented in filed pleadings at their face value, even if they are unchallenged by an opposing party. Moreover, there is no factual dispute here. The Havens Entities seek reconsideration not of any factual findings, but of the Division's conclusions regarding the legal effect of the underlying facts, which the Division must decide regardless of whether any opposing pleadings are filed. Therefore, we find no error in the Division's actions.

9. *Ordering Clauses.* Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by Warren Havens, Environmental LLC, Environmental-2 LLC, Skybridge Spectrum Foundation, Verde Systems LLC, Telesaurus Holdings GB LLC, Intelligent Transportation & Monitoring Wireless LLC, and V2G LLC on June 6, 2014 and the Petition for Reconsideration Based on New Facts filed by Warren Havens, Environmental LLC, Environmental-2 LLC, Skybridge Spectrum Foundation, Verde Systems LLC, Telesaurus Holdings GB LLC, Intelligent Transportation & Monitoring Wireless LLC, and V2G LLC on June 23, 2014 ARE DENIED.

10. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau