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In re: WVKO(AM), Columbus, OH
Facility ID No. 22341
File No. BAL-20060301ACU

WVKO-FM, Johnstown, OH
Facility ID No. 58633
File No. BALH-20060301ACV

WRBP(FM), Hubbard, OH
Facility ID No. 63498
File No. BALH-20060301ACW

WASN(AM), Youngstown, OH
Facility ID No. 72100
File No. BAL-20060301ACX

WGFT(AM), Campbell, OH
Facility ID No. 74164
File No. BAL-20060301ACY

**Applications for Assignment of
License
Petitions to Deny
Informal Objections**

WVKO(AM), Columbus, OH
Facility ID No. 22341
File No. BR-20040601AST

WVKO-FM, Johnstown, OH
Facility ID No.58633
File No. BRH-20040601ASR

WRBP(FM), Hubbard, OH
Facility ID No. 63498
File No. BRH-20040601ATA

WASN(AM), Youngstown, OH
Facility ID No. 72100
File No. BR-20040601ASW

WGFT(AM), Campbell, OH
Facility ID No. 74164
File No. BR-20040601ASV

**Applications for Renewal of License
Petition to Deny**

Dear Mr. Litton and Counsel:¹

We have before us: (1) the captioned applications proposing to assign the licenses of Ohio stations WVKO(AM), Columbus, WVKO-FM, Johnstown, WRBP(FM), Hubbard, WASN(AM), Youngstown, and WGFT(AM), Campbell (collectively, the “Stations”), from Stop 26 Riverbend Licenses, LLC, Debtor-In-Possession (“SRL DIP”) to Bernard Ohio LLC (“Bernard”) (collectively, the “Assignment Applications”); and (2) the captioned applications to renew the licenses of the Stations (collectively, the “Renewal Applications”). On August 31, 2004, Mark S. Litton (“Litton”), the sole principal of ICS Holdings, Inc., licensee of Station WVXG(FM), Mt. Gilead, Ohio, filed a Petition to Deny Renewal Applications for Stations WVKO(AM) and WVKO-FM (“Renewal Petition”).² Additionally, on April 10, 2006, Litton filed a Petition to Deny the Assignment Applications.³ On April 10, 2006, Frank Halfacre and Percy Squire Co., LLC jointly

¹ The Commission also received objections to the above-captioned assignment applications from 577 listeners, who did not serve their objections on the applicants. Their submissions are exempt under the Commission’s *ex parte* rules, 47 C.F.R. §§ 1.1200 *et seq.*, pursuant to 47 C.F.R. § 1.1204(a)(8). Their informal comments are addressed herein.

² Stop Riverbend Licenses, LLC filed a Motion for Extension of Time on September 23, 2004, and an Opposition on November 2, 2004. Litton filed a Reply on December 6, 2004.

³ SRL DIP filed an Opposition to and/or Motion to Dismiss Petition to Deny on April 20, 2006, and Bernard filed an Opposition on April 20, 2006. Litton filed a Reply to Oppositions to Petition to Deny on May 3, 2006, and a

(collectively, “H&PSC”) filed a Petition to Deny the Assignment Applications, requesting that the Commission defer action on the Assignment Applications pending resolution of their appeals of various orders from the United States Bankruptcy Court, Southern District of Ohio, Western Division (the “Court”) regarding SRL DIP.⁴ A significant number of the Stations’ listeners (collectively, the “Informal Objectors”) have also filed objections to the Assignment Applications, alleging that Bernard has prematurely taken control of the Stations (collectively, the “Informal Objections”). For the reasons stated below, we deny the Petitions to Deny and the Informal Objections, grant the Assignment Applications, deny the Renewal Petition, and grant the Renewal Applications.

Background. On June 1, 2004, Stop 26 Riverbend Licenses, LLC (“SRL”) filed the Renewal Applications. On August 31, 2004, Litton filed the Renewal Petition against the renewal applications for stations WVKO(AM) and WVKO-FM. The Renewal Petition alleges that SRL: (1) operated WVKO(AM) at 1 kW both day and night in “patent disregard” of its authorization;⁵ (2) operated WVKO-FM at five times its authorized power; and (3) failed to timely place issues/programs lists in its public file⁶ at either station for the entire license term. In opposition, SRL contends that the Renewal Petition does not establish a material question of fact sufficient to warrant designation of the Renewal Applications for hearing. SRL also argues that the methods used by Litton to measure the field intensity signals of WVKO-FM and WVKO(AM) are “subjective and unreliable”⁷ and contradict measurements taken by SRL and an independent firm.⁸

SRL and its ultimate parent company, Stop 26 Riverbend, Inc. (“SRI”), filed for Chapter 11 bankruptcy in July 2005.⁹ On August 17, 2005, the Court issued an order (the “CRO Order”) appointing

Supplement to Reply to Oppositions to Petition to Deny on May 16, 2006. SRL DIP and Bernard filed a Joint Reply to Mark S. Litton’s Supplement to Reply to Opposition to Petition to Deny on May 26, 2006.

⁴ SRL DIP and Bernard filed a Joint Opposition to Petition to Deny on April 25, 2006, and H&PSC filed a Reply on May 4, 2006. H&PSC filed a Request for Leave to File Supplement and a Supplement to Petition to Deny on June 19, 2006. SRL DIP filed an Opposition to Request for Leave to File a Supplement to Petition to Deny on July 5, 2006. Percy Squire and Percy Squire Co., LLC filed a Request for Leave to Supplement Instantly the Petition to Deny on October 19, 2006.

⁵ WVKO(AM)’s authorization requires a reduction from 1000 Watts to 250 Watts at nighttime.

⁶ See 47 C.F.R. § 73.3526. SRL had initially certified compliance with the public file rule in the Renewal Applications, but then filed an amendment on July 9, 2004, for Stations WVKO(AM) and WVKO-FM stating that “[C]ertain documentation, including the quarterly listings of issues programs are not available and have not been in the WVKO . . . Local Public File for the entire eight year term of the current license period.” See July 9, 2004, amendment to Renewal Applications.

⁷ Opposition to Renewal Petition at 7.

⁸ *Id.*

⁹ *In re Esq. Communications, Inc. et al.* (jointly administered under Case No. 05-16685) (Bankr. S.D. Ohio). The immediate parent of SRL, Associated Radio, Inc. (“ARI”), did not file for Chapter 11 bankruptcy at the time. A Chapter 11 bankruptcy petition was filed for ARI on March 3, 2006. See *In re Associated Radio, Inc.* (Case No. 06-Bk-10497) (Bankr. S.D. Ohio).

a Chief Restructuring Officer (“CRO”) for SRL DIP and SRI.¹⁰ The CRO Order gave the debtor companies and Percy Squire, their then-Managing Member and Chief Executive Officer, until December 1, 2005, to sell or refinance the obligations of the Stations. No such sale or refinancing occurred by the required deadline. At that time and pursuant to the CRO Order’s terms, all corporate powers shifted to the CRO, including the authority to sell or refinance the obligations of the Stations in order to satisfy the claim of the primary secured lender, D.B. Zwirn Special Opportunities Fund, L.P. (“DBZ”).

On January 12, 2006, the Commission granted a *pro forma* application for the involuntary assignment of the Stations’ licenses from SRL to SRL DIP.¹¹ In January 2006, pursuant to Court approval, the CRO conducted a public auction of the Stations’ assets. DBZ was the successful high bidder. On January 26, 2006, acting on the motion of the CRO, the Court issued an order authorizing the sale of the Stations’ assets to DBZ or its designee (“Sale Order”). The Sale Order also provided for SRL DIP to enter into a Local Marketing Agreement (“LMA”) with the purchaser, and specified that assignment of the Stations’ licenses to DBZ’s designee, Bernard,¹² would occur upon Commission approval.¹³ On February 9, 2006, the Commission granted *pro forma* applications for the involuntary transfer of control of SRL DIP from the shareholders of SRI to Bradley E. Scher, CRO.¹⁴ The instant Assignment Applications seek Commission consent to the assignment of SRL DIP’s licenses to Bernard pursuant to the Sale Order.

On March 7, 2006, the Chief, Audio Division, issued an inquiry letter pursuant to Section 1.88 of the Commission’s rules (the “Rules”)¹⁵ in order to determine whether SRL had the requisite character to remain a Commission licensee. The inquiry letter focused on allegations raised in the Renewal Petition, specifically those concerning operation at the unauthorized power of WVKO(AM) and WVKO-FM, as well as allegations concerning SRL’s failure to maintain its public inspection files.

Notwithstanding the terms of the CRO Order, SRL principal Percy Squire continued to occupy and operate the Stations until, at a hearing on March 7, 2006, the Court obtained agreement from Squire to cease his ongoing efforts to prevent the CRO from gaining access to the Stations’ premises and

¹⁰ Pursuant to a September 16, 2005, order, the Court authorized Bradley Scher as CRO on a *nunc pro tunc* basis as of August 18, 2005.

¹¹ File Nos. BAL/BALH-20060106ABE-ABI.

¹² As noted by SRL DIP, Bernard is an entity formed by DBZ management to acquire the Stations’ assets. *See* n.16 *infra* and accompanying text.

¹³ To further effectuate the Sale Order, on March 3, 2006, the CRO removed the board of directors of SRL’s parent company, ARI. The CRO also filed for Chapter 11 bankruptcy for ARI on March 3, 2006.

¹⁴ File Nos. BTC/BTCH-20060203AAC-G. On February 13, 2006, ARI filed a Petition for Reconsideration of the grant of these applications. On March 20, 2006, ARI filed a request for withdrawal and dismissal of this Petition for Reconsideration. The Petition for Reconsideration was dismissed on March 30, 2006, per ARI’s request. On April 28, 2006, H&PSC filed a Petition for Reconsideration of the March 30, 2006, dismissal of the ARI Petition for Reconsideration. H&PSC’s Petition for Reconsideration fails to provide good reason why H&PSC, which is not a party to the proceeding, did not participate in the earlier stages of the proceeding. Accordingly, pursuant to 47 C.F.R. § 1.106(b)(1), H&PSC’s April 28, 2006, Petition for Reconsideration is hereby dismissed.

¹⁵ 47 C.F.R. § 1.88.

facilities.¹⁶ Thus, despite repeated prior attempts to gain entry,¹⁷ the first day that the CRO had access to the Stations was March 8, 2006. On March 9, 2006, the Court issued its Compliance Order,¹⁸ which ordered, *inter alia*, Percy Squire not to interfere with the CRO's access to the Stations. On March 23, 2006, the Chief, Audio Division informally advised counsel for the CRO that SRL DIP (as now controlled by the CRO) need not respond to the Section 1.88 inquiry letter.

On March 31, 2006, pursuant to the Court-approved LMA, Bernard began programming the Stations.¹⁹ SRL DIP filed an amendment to the Renewal Applications on April 4, 2006, and a similar amendment to the Assignment Applications on April 6, 2006.²⁰ These amendments requested that, notwithstanding the allegations against SRL, the Commission grant the pending Renewal and Assignment Applications pursuant to the Commission's *Second Thursday Doctrine* (collectively, "April 2006 Second Thursday Amendment").²¹ On May 16, 2006, the Media Bureau granted SRL DIP's May 8, 2006, request for Special Temporary Authority to permit WVKO(AM) to remain silent for a period not to exceed 180 days.²²

Discussion. *Assignment Applications.* As a matter of general policy, the Commission will not approve an assignment or transfer application where an assignor's or transferor's qualifications to continue holding the license are at issue.²³ However, in *Second Thursday*, the Commission established an exception to this general policy, stating that "a grant without hearing of the renewal, extension and assignment applications pending before us may be made only 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."²⁴ Thus, the *Second Thursday* doctrine is designed to "accommodate[] the policies of the federal bankruptcy law with those of the Communications Act."²⁵

In the instant case, while the captioned applications have not been designated for hearing, the issuance of the March 7, 2006, Section 1.88 inquiry letter sufficiently put SRL's character qualifications at issue, rendering consideration of the *Second Thursday* policy relevant. Moreover, pursuant to the April

¹⁶ See SRL DIP Opposition to and/or Motion to Dismiss Petition to Deny, Exhibit B (Declaration of CRO Bradley E. Scher), at page 1.

¹⁷ See SRL DIP Opposition to and/or Motion to Dismiss Petition to Deny at 5-6.

¹⁸ See *id.* at Exhibit B and Exhibit D.

¹⁹ See LMA (attachment 14 to Assignment Applications) at 1.

²⁰ H&PSC filed an Opposition to this amendment on April 26, 2006.

²¹ See *Second Thursday Corp.*, Memorandum Opinion and Order ("*Second Thursday*"), 22 FCC 2d 515 (1970), *recon. granted*, Memorandum Opinion and Order, 25 FCC 2d 112 (1970).

²² See *Letter to Joseph M. DiScipio, Esq.*, Reference 1800B3-ALM (May 16, 2006).

²³ *Jefferson Radio v. FCC*, 340 F.2d 781 (D.C. Cir. 1964).

²⁴ *Second Thursday*, 22 FCC 2d at 516.

²⁵ *LaRose v. FCC*, 494 F.2d 1145, 1146 n.2 (D.C. Cir 1974).

2006 Second Thursday Amendment request, we find that the facts of the case make application of the *Second Thursday* policy appropriate. As recounted above, the CRO has removed all those connected to alleged misconduct from any station operations, and no debtor party will have an interest in or control over the Stations following grant of the Assignment Applications. Consistent with the *Second Thursday* doctrine, no portion of the purchase price is to be retained by SRL, ARI or Percy Squire. All proceeds from the proposed sale will go toward satisfying the debt of an innocent creditor. Specifically, the Court's Sale Order finds that creditor DBZ has a valid claim of at least \$15,574,000.²⁶ The \$12,000,000 purchase price for the Stations will be used solely to reduce the bankrupt entities' obligations to DBZ.²⁷ The Court explicitly approved this purchase arrangement, which fully accords with the *Second Thursday* policy. We next examine the pleadings in light of this determination.

Litton Petition. Litton raises three arguments against SRL DIP. Based on his March 16, 2006, examination, Litton asserts that the Stations' public file contained neither the applications filed with the Commission between January 6 and March 1, 2006, nor the requisite issues/programs lists. Litton also alleges that the 2005 annual EEO report was missing from the public file. Finally, Litton submits measurements taken with a field strength meter on the night of April 6, 2006, from his residence in Powell, Ohio. Based on these measurements, Litton argues that WVKO(AM) failed to operate within its licensed operating parameters. Specifically, Litton contends that there was no signal strength change between 6:00 and 9:00 p.m., although the license required reduction of power from 1000 Watts to 250 Watts at 7:45 p.m. that night.

With regard to the incomplete state of the public file on March 16, 2006, we note that the CRO was only able to obtain access to the Stations on March 8, 2006, pursuant to Court order.²⁸ We further note that the assignee of a station license is only required "to retain public file documents obtained from the assignor . . . [but is not] responsible for correcting any omissions."²⁹ Thus, SRL DIP, as controlled by the CRO, was not responsible for filing failures by the Stations' former licensee. Furthermore, SRL DIP states that, "[s]ince March 8, 2006, the CRO has worked diligently to review the Stations' public files; his public file efforts are continuing."³⁰ As to Litton's assertion that the public file did not contain a 2005 annual EEO report as of March 16, 2006, SRL DIP correctly responds that it had no annual EEO reporting obligation until June 1, 2006,³¹ and then, only if the Stations' employment unit has five or more full time employees.³²

Furthermore, Litton's April 6, 2006, measurements fail to evidence unauthorized WVKO(AM) operation. First, Litton neglects to specify the measurements obtained from his April 6, 2006, field

²⁶ Sale Order at 4.

²⁷ *Id.*

²⁸ *See supra* nn.15-16 and accompanying text.

²⁹ *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, Report and Order, 13 FCC Rcd 15691, 15708 (1998).

³⁰ Opposition to and/or Motion to Dismiss Petition to Deny at 8.

³¹ 47 C.F.R. § 73.2080(c)(6).

³² 47 C.F.R. § 73.2080(d).

strength test of WVKO(AM)'s radiated power. Further, Litton appears to have disregarded the field strength measurement guidelines set out in Sections 73.151 and 73.154 of the Rules.³³ These rules require that measurements be taken at certain monitoring point locations. Litton also has failed to submit information and make representations necessary to establish the reliability of the meter used for these measurements. Accordingly, Litton's unsupported allegation regarding nighttime operations do not raise a substantial and material question of fact warranting further inquiry.

Moreover, in its April 20, 2006, Opposition, SRL DIP states that, when the CRO was ultimately able to gain physical access to the Stations, he initiated corrective measures regarding the public file problems and retained a qualified engineering consultant to review operations. SRL DIP authorized the consultant to take all necessary corrective technical measures, such as ensuring compliance with EAS requirements and providing local telephone access to listeners in the FM station's community of license.³⁴ SRL DIP submitted a statement from engineering consultant John M. McKinley ("McKinley") who states that by April 19, 2006, he had corrected the switching problems between daytime and nighttime patterns and power levels.³⁵ McKinley also states that WVKO-FM's transmitter power output is within its licensed parameters and the automatic power control circuitry in the transmitter is operational and working properly to insure that the power output remains within these limits.³⁶ SRL DIP reiterates that the CRO is evaluating all aspects of the Stations' operations, technical and otherwise, and has taken remedial measures to bring the Stations' public files into proper order, update the Stations' political files, comply with EAS requirements, and provide local telephone access to listeners in the FM station's community of license.³⁷

H&PSC Pleadings. H&PSC requests that we defer action on the Assignment Applications pending resolution of appeals in the Bankruptcy Court, which authorized the CRO to take control of SRL DIP. We decline H&PSC's request, which is plainly contrary to well-established Commission precedent.³⁸ The Commission has consistently held that parties should seek redress for private contractual disputes in courts of competent jurisdiction.³⁹ H&PSC has not provided evidence of an injunction or a stay issued by any court against the proposed sale. In the absence of such a court order, the Commission has routinely acted favorably on license assignment applications pending resolution of private disputes such as those at issue here.⁴⁰ We note, however, that Commission grant of an assignment application

³³ 47 C.F.R. §§ 73.151 and 73.154.

³⁴ Opposition to Litton Petition to Deny Assignment Applications at 11.

³⁵ *Id.*, Exhibit C at 3-4.

³⁶ *Id.* at 3.

³⁷ Opposition to and/or Motion to Dismiss Petition to Deny at 11; Exhibit B at 2.

³⁸ See *D.H. Overmyer*, Memorandum Opinion and Order, 94 FCC 2d 117, 123 (1983) (challenges to the appointment of a bankruptcy trustee or receiver should be left to those tribunals charged with reviewing such matters on appeal).

³⁹ See *John F. Runner, Receiver (KBIF)*, Memorandum Opinion and Order, 36 RR 2d 773, 778 (1976); *Decatur Telecasting, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 8622 (1992).

⁴⁰ See *H. Edward Dillon*, Memorandum Opinion and Order, 94 FCC 2d 203 (1973) (Commission will not delay action on an involuntary assignment application where state appellate court refused to grant stay of receiver's appointment and specifically authorized the receiver to close the sale).

merely finds that the parties are qualified under, and the proposed transaction does not violate, the Communications Act of 1934, as amended (the “Act”), and the Commission’s Rules and policies. As such, it is permissive only and does not prejudice any relief to which the parties may ultimately be entitled.

H&PSC also argues that Bernard is not qualified to be a Commission licensee because it has failed to demonstrate that its ownership structure complies with the Commission’s alien ownership requirements.⁴¹ Staff review of the Assignment Applications, as supplemented by Bernard’s November 8, 2006, amendment, confirms that Bernard’s ownership structure is in full compliance with the Act and all Commission Rules and policies, including those involving foreign ownership.

Finally, H&PSC, as well as the Informal Objectors, allege that Bernard, the proposed assignee, has engaged in an unauthorized transfer of control of the Stations. The only affidavit submitted to support the unauthorized transfer of control allegation is from Charles Traylor (“Traylor”), whose radio program was taken off the air when WVKO(AM) went silent on May 5, 2006. Traylor alleges that the CRO stated at a May 5, 2006, staff meeting that Bernard directed the CRO to take the station off the air.⁴² SRL DIP denies that Bernard made the decision to take WVKO(AM) off the air, and asserts that the CRO never made the statement alleged by Traylor.⁴³ In support, SRL DIP offers the sworn Declaration of station employee Charles Jennings, who states that he was present at the meeting and denies that the CRO made such a statement.⁴⁴ Additionally, SRL DIP provides the sworn Declaration of the CRO, who states that he personally made the decision to take WVKO(AM) off the air because the station was about to lose its tower site.⁴⁵

The Commission has expressly found that LMA arrangements, properly conditioned, do not by themselves establish that a transfer of control has taken place.⁴⁶ Staff review of the LMA indicates compliance with Commission requirements. For example, Section 6.1 provides for complete licensee control over the policies, programming, and operations of the Stations. Sections 5.1 and 6.2 make the licensee responsible for providing meaningful management and staff presence at the Stations, and Section 5.2 makes the licensee responsible for payment of the Stations’ expenses. We find that the record fails to establish a *prima facie* case that Bernard engaged in an unauthorized transfer of control or that Bernard’s conduct under the LMA constitutes anything other than appropriate broker involvement with the station. In light of the above, grant of the Assignment Applications will comply with the Court’s

⁴¹ H&PSC Petition to Deny at 6-7.

⁴² H&PSC Supplement to Petition to Deny, Exhibit 1.

⁴³ Opposition to Request for Leave to File a Supplement to Petition to Deny at 3-4.

⁴⁴ *Id.*, Exhibit A.

⁴⁵ *Id.*, Exhibit B.

⁴⁶ See *Solar Broadcasting Company, Inc.*, Memorandum Opinion and Order, 17 FCC Rcd 5467, 5486 (2002) (licensee’s participation in LMA does not *per se* constitute a premature transfer of control); *WGPR, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 8140, 8141 (1995) (participation in LMA not *per se* violative of the Act or any Commission Rule or policy).

mandate and serve the public interest through the accommodation of federal laws and policies intended to protect innocent creditors.⁴⁷

Renewal Applications. In evaluating an application for license renewal, the Commission's review is governed by Section 309(k) of the Act. That Section 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 Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.⁴⁸ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”⁴⁹

We find that it is appropriate to consider the Renewal Applications in accordance with the *Second Thursday* policy. The Commission has long held that the grant of a renewal application to effectuate the grant of an assignment application from a receiver, when consistent with *Second Thursday* principles, serves the public interest, convenience and necessity.⁵⁰ While the standards for license renewal were amended by adoption of Section 309(k) in 1996,⁵¹ we find that this modification does not impede the Commission's ability to grant applications in accordance with the *Second Thursday* policy, consistent with the Commission's commitment to accommodate the policies of the federal bankruptcy law with those of the Act.⁵² Accordingly, based on the record before us, we find that the requirements of Section 309(k) are satisfied, that further inquiry regarding grant of the Renewal Applications is unwarranted, and that grant of these applications will serve the public interest.

Conclusion/Actions. Based on the above, we find that Litton, H&PSC, and the Informal Objectors have not raised a substantial and material question of fact warranting further inquiry. We further find that Bernard is qualified as the assignee and that grant of the Assignment Applications is consistent with the public interest, convenience and necessity. Accordingly, IT IS ORDERED, that the April 10, 2006, Petition to Deny filed by Mark S. Litton and the April 10, 2006, Petition to Deny filed by Frank Halfacre and Percy Squire Co., LLC and the various Informal Objections ARE DENIED, and that the applications to assign the licenses of Stations WVKO(AM), Columbus, Ohio (File No. BAL-20060301ACU), WVKO-FM, Johnstown, Ohio (File No. BALH-20060301ACV), WRBP(FM), Hubbard, Ohio (File No. BALH-20060301ACW), WASN(AM), Youngstown, Ohio (File No. BAL-20060301ACX), and WGFT(AM), Campbell, Ohio (File

⁴⁷ See *supra* n.24 and accompanying text.

⁴⁸ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described in Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

⁴⁹ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

⁵⁰ See *Capital City Communications, Inc.*, Memorandum Opinion and Order, 50 FCC 2d 51 (1974).

⁵¹ See *supra* n.47.

⁵² See *O.D.T. International*, Memorandum Opinion and Order, 9 FCC Rcd 2575, 2576 (1994) (Commission must reconcile its rules and policies with federal and state mandates designed to protect innocent creditors).

No. BAL-20060301ACY) from Stop Riverbend Licenses, LLC, Debtor-In-Possession, Debtor-In-Possession to Bernard Ohio LLC ARE GRANTED. IT IS FURTHER ORDERED, that the April 28, 2006, Petition for Reconsideration filed by Frank Halfacre and Percy Squire Co., LLC contesting the grant of applications for the involuntary transfer of control of Stop Riverbend Licenses, LLC, Debtor-In-Possession from the shareholders of Stop 26 Riverbend, Inc. to Bradley E. Sher, Chief Restructuring Officer, for Stations WVKO(AM), Columbus, Ohio (File No. BTC-20060203AAC), WVKO-FM, Johnstown, Ohio (File No. BTCH-20060203AAD), WRBP(FM), Hubbard, Ohio (File No. BTCH-20060203AAE), WASN(AM), Youngstown, Ohio (File No. BTC-2006030203AAF), and WGFT(AM), Campbell, Ohio (File No. BTC-20060203AAG) IS DISMISSED.

IT IS FURTHER ORDERED, that pursuant to Section 309(k) of the Communications Act of 1934, as amended, and Sections 0.61 and 0.283 of the Commission's Rules,⁵³ and for the reasons set forth above, the August 31, 2004, Petition to Deny the Renewal Applications filed by Mark S. Litton, IS DENIED. Finally, because the subject applications are in full compliance with the Commission's Rules and the Communications Act of 1934, as amended, and finding that the public interest, convenience, and necessity would be served thereby, IT IS FURTHER ORDERED, that the applications for renewal of license for Stations WVKO(AM), Columbus, Ohio (File No. BR-20040601AST), WVKO-FM, Johnstown, Ohio (File No. BRH-20040601ASR), WRBP(FM), Hubbard, Ohio (File No. BRH-20040601ATA), WASN(AM), Youngstown, Ohio (File No. BR-20040601ASW) and WGFT(AM), Campbell, Ohio (File No. BR-20040601ASV) ARE GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

⁵³ 47 U.S.C. § 309(k); 47 C.F.R. §§ 0.61, 0.283.