

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

April 3, 1996

In reply refer to: 1800B3-AJ/PHD

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Re: KCPL(AM), Olympia, WA
File No. BAPL-960111EX

Gentlemen:

The staff has under consideration an application (the "Application") to assign the license of Station KCPL(AM), Olympia, Washington from National Communications, Inc. ("National") to Spencer Broadcasting ("Spencer"). Tim and Myong Bartz (the "Objectors") filed an informal objection to the Application dated February 2, 1996. For the reasons set forth below, we deny the informal objection and grant the Application.

The Objectors contend that National is their judgment debtor pursuant to Cause No. 95-2-03585-7, Thurston County Superior Court, Washington. They request that the Commission condition the grant of the Application on the payment of the KCPL(AM) station sale proceeds to the local court. The Objectors do not raise any issue regarding the qualifications of Spencer. Rather, they argue that following *Arecibo Radio Corporation.*, 101 FCC 2d 545 (1985) ("Arecibo"), the Commission should take steps to ensure that the sale proceeds are used to satisfy a valid state court judgment.

The Objectors' reliance on *Arecibo* is misplaced. The Commission is obligated to reconcile its policies under the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 151 et seq., with other federal and state laws designed to protect creditors. *O.D.T International*, 9 FCC Rcd 2575, 2576 (1994) (citing *LaRose v. FCC*, 494 F.2d 1145 (D.C. Cir. 1974)). In *Arecibo*, the Commission granted an assignment application to permit a broadcast license to accompany the station's physical assets which had been sold at a court-ordered public auction. In this case, the objectors fail to demonstrate that an unconditional grant of the Application would infringe on the local court's jurisdiction or constitute less than a "fair accommodation between [the Commission's] exclusive authority over licensing matters and the authority of state and local courts." *Arecibo*, 101 FCC 2d at 548.

The Commission's grant of the Application is based upon the finding, pursuant to Section 310(d) of the Act, that the consummation of the proposed license assignment would serve the public interest. Absent a showing connecting the requested condition to the Commission's core statutory responsibilities, it is inappropriate to use the Commission's licensing procedures to resolve contractual disputes or, as here, to provide relief to which an objecting party claims it is entitled as a judgment creditor. See *John F. Runner, Receiver*, 36 RR 2d 777, 778 (1975); *Transcontinent Television Corporation*, 21 RR 2d 945, 956 (1961). Finally, we note that grant of the Application does not "preclude interested parties from

seeking recourse in other forums for any injunctive or monetary relief which they believe they are entitled to." Sonderling Broadcasting Co., 46 RR 2d 889, 895 (1979).

Accordingly, we DENY the February 2, 1996 informal objection of Tim and Myong Bartz and GRANT the application (File No. BAPL-960111EX) to assign the license of KCPL(AM), Olympia, Washington from National Communications, Inc. to Spencer Broadcasting.

Sincerely,

Linda Blair, Chief
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