



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

May 10, 2016

*In Reply Refer To:*  
1800B3-ATS

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In re: Sincere Seven  
New LPFM, Washington, DC  
Facility ID No. 195472  
File Nos. BNPL-20131114AYL  
and BMPL-20150715AAG

**Request for Waiver and  
Petition for Reconsideration**

Dear Counsel, Mr. Redd, and Mr. Tucker:

We have before us: 1) the application of Sincere Seven (S7) for a construction permit for a new LPFM station at Washington, D.C. (Application); 2) the waiver request filed on December 28, 2015, by William L. Tucker, Jr. (Tucker), requesting a waiver of Section 73.865(d) of the FCC's rules (Rules);<sup>1</sup> and 3) the Petition for Reconsideration filed on October 19, 2015, by S7 seeking reconsideration of the dismissal of its application to modify its construction permit (S7 Petition).<sup>2</sup> For the reasons set forth below, we dismiss the Application, dismiss the waiver request as moot, and dismiss the S7 Petition as moot.

**Background.** S7 filed its Application during the 2013 LPFM filing window. On April 3, 2014, Radio One Licenses, LLC (Radio One) filed a Petition to Deny the Application, arguing that S7 was not an eligible nonprofit corporation at the time of the Application. The Bureau rejected Radio

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<sup>1</sup> Tucker requested a waiver of Section 73.853(c). However, this Rule discusses ownership of LPFM stations by Tribal Applicants. *See* 47 CFR § 73.853(c). We believe Tucker intended to request a waiver of Section 73.865(d), which concerns assignment and transfer of LPFM construction permits. *See* 47 CFR § 73.853(d) ("No party may assign or transfer an LPFM construction permit at any time.").

<sup>2</sup> *Sincere Seven*, Letter Order (MB Sep. 14, 2015). The Modification Application proposed to modify S7's construction permit, which was later rescinded when the Media Bureau (Bureau) granted a petition for reconsideration of the grant of the construction permit. The Modification Application included a second-adjacent channel waiver request with regard to Station WQSR(FM), Baltimore, Maryland. The Bureau subsequently denied the waiver request and dismissed the application.

One's argument and found that S7 was an eligible nonprofit organization because S7 met the requirements for an unincorporated nonprofit association under District of Columbia law.<sup>3</sup> Radio One filed a Petition for Reconsideration of the *Staff Letter*, arguing that the Bureau erred in finding that S7 was eligible to hold an LPFM license. Radio One also argued—for the first time on reconsideration—that S7 failed to list Perry Redd, who is identified as S7's Executive Officer in filings with the Internal Revenue Service and the District of Columbia, as a party to the Application.<sup>4</sup> Finally, Radio One argued that although Redd is a convicted felon, this conviction was not disclosed in the Application.<sup>5</sup>

The Bureau again rejected Radio One's eligibility arguments regarding S7's corporate status<sup>6</sup> but found that S7 had erred in not identifying Redd as an officer because—notwithstanding S7's assertion that Redd was not an officer of S7—he was listed as such in S7's records with the District of Columbia and was described by S7 as a *de facto* President or CEO of S7.<sup>7</sup> Accordingly, the Bureau granted reconsideration to the extent of rescinding the grant of S7's construction permit and returning the Application to pending status. The Bureau instructed S7 to amend the Application to: 1) “include Redd and *any and all* other current officers or directors as parties to the Application;” and 2) “disclose all of Redd's criminal convictions.”<sup>8</sup> As of the date of this letter, S7 has not filed such an amendment.

On December 28, 2015, the Bureau received a letter from William Tucker (Tucker Letter) and a pleading styled “Opposition to Supplement to Petition for Reconsideration” (Tucker Opposition). In the Tucker Letter, Tucker states he founded WOOK Radio DC, “formerly known as ‘WOOK LP Radio’” (WOOK)<sup>9</sup> in July of 2013 and WOOK entered into a Fiscal Sponsorship Agreement (FSA) with S7 “[i]n order to qualify for a point under the Commission's scoring system

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<sup>3</sup> *Sincere Seven*, Letter, Ref. No. 1800B3-PPD (MB Aug. 19, 2014) (*Staff Letter*).

<sup>4</sup> Petition at 2-3 and Exhs. 2-3.

<sup>5</sup> *Id.* at 3-4, citing *U.S. v. McCreary-Redd*, 475 F.3d 718 (6th Cir. 2007); *U.S. v. McCreary-Redd*, 628 F. Supp. 2d 764 (E.D. Tenn. 2007); *U.S. v. McCreary-Redd*, 407 Fed. Appx. 861 (6th Cir. 2010) (affirming convictions for conspiracy to possess cocaine base, possession of cocaine base, possession of a firearm by a felon, and criminal contempt). S7 certified that no adverse finding had been made against any party to the Application. See Application, Section II, Question 7.

<sup>6</sup> *Sincere Seven*, Letter Order (Nov. 30, 2015) (*Second S7 Letter*) at 4-5.

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.* at 5-6 (emphasis in original). The Bureau also dismissed a Supplement to the Petition for Reconsideration filed by Radio One on the grounds that: 1) it was untimely, and 2) Radio One's argument that the Application did not comply with Section 73.3513 because it was signed by William Tucker, who was not listed as an officer in the Application, could have been raised in its initial Petition to Deny. *Second S7 Letter* at 6.

<sup>9</sup> On September 28, 2015, S7 filed a civil claim against Tucker in D.C. Superior Court for libel and slander. On October 14, 2015, S7 obtained a temporary restraining order in which Tucker was ordered to “cease and desist holding himself out as a member, manager, management, administrative staff, or ownership of WOOK-LP.” See *Sincere Seven v. William Tucker*, No. 15 CA 7373 (D.C. Super. Ct. Oct. 14, 2015). WOOK-LP thus refers to the proposed station currently operated as an Internet radio site by S7 (<http://ok103.org/index.html>), while WOOK is controlled by Tucker (<http://www.wookradiodc.org/>).



for LPFM applications.”<sup>10</sup> Tucker also notes that S7 had obtained 501(c)(3) status with the IRS.<sup>11</sup> Tucker states that “[u]nder the terms of the FSA, S7 had fiduciary responsibility only consistent with a sponsoring organization; WOOK had complete control over [the proposed station’s] internal management and operation.”<sup>12</sup> Tucker states: “I directed all aspects of the project from its inception.”<sup>13</sup> Tucker notes that he had control of the S7 CDBS account when the Application was filed, and the Application was signed by Tucker under the title of “Chief Operations Officer.”<sup>14</sup> Tucker accuses S7 of having breached its agreement with WOOK by terminating its relationship with Tucker and WOOK and assuming control of S7’s CDBS account.<sup>15</sup> Tucker requests that the Bureau restore Tucker’s access to S7’s CDBS account and waive Section 73.865(d) of the Rules to enable the transfer of S7’s application and construction permit to WOOK.<sup>16</sup>

The Tucker Opposition states that Tucker and Kendall Mitchell—another officer of WOOK—were inadvertently not identified as parties to the Application.<sup>17</sup> The Tucker Opposition includes a copy of the FSA entered into between S7 and WOOK on October 30, 2013, in which S7 agreed to receive donations made to WOOK.<sup>18</sup> The FSA states that S7 entered into the agreement to “facilitate the receipt of donations of cash and other property designated for support of [WOOK] and to make disbursements in furtherance of [WOOK’s] mission” and that “[WOOK] desires to manage its activities on behalf of [S7].”<sup>19</sup> The FSA is notarized and signed by both Redd and Tucker as representatives of S7 and WOOK, respectively.

The Bureau received through Radio One’s counsel a copy of a pleading styled “Response to Petition for Reconsideration” from S7 and dated December 29, 2015 (First S7 Response).<sup>20</sup> In it, S7 again states that “[a]t no point in time has Mr. Redd held a position as an ‘officer’ with [S7] nor a seat on its board of directors” and that “Redd has signed official documents and otherwise acted on behalf of S7 as its Executive Director, again apropos of, and consistent with, positions bearing the title ‘President’ or ‘CEO’ with a traditional nonprofit organization.”<sup>21</sup> However, “S7 concedes to Radio One’s assertion herein that, if in the semantics of defining a corporation’s ‘officer,’ as one who serves

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<sup>10</sup> Tucker Letter at 1.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*; Application at Section V. As will be shown *infra* at p.4, S7 corroborates Tucker’s role in preparing and filing the Application.

<sup>15</sup> Tucker Letter at 1.

<sup>16</sup> *Id.* at 2.

<sup>17</sup> Tucker Opposition at 2

<sup>18</sup> Tucker Opposition at Attach. 2.

<sup>19</sup> FSA at paras. A and B.

<sup>20</sup> S7 has not filed the First S7 Response with the Commission or otherwise submitted it to the Bureau. The Bureau staff contacted Redd by telephone on February 11, 2016, and informed him that he was required to submit the First S7 Response through the Secretary’s office or by electronic filing. To date, S7 has still not properly filed the First S7 Response.

<sup>21</sup> First S7 Response at 2.

as its chief manager, overseer or executive, then Mr. Redd is indeed an ‘officer,’” but notes that Redd’s involvement with S7 has been noted in all its filings.<sup>22</sup>

S7 further argues that all of Redd’s criminal convictions are publicly documented and that in the Application, “‘all convictions’ requested for full disclosure would be related to communications broadcasting and the communications industry and commerce.”<sup>23</sup> S7 further states that Tucker “‘had been removed as executor of [S7’s] authorized representative on this community radio project as of January 23, 2015” and blames Tucker for not having identified Redd as a party to the Application.<sup>24</sup>

Radio One filed a Response to the Tucker Opposition and the First S7 Response on January 12, 2016 (Radio One Response). Radio One argues that both Tucker and S7 have acknowledged that S7 was not the real party in interest in the Application.<sup>25</sup> Radio One further argues that because Redd “‘functions as President/CEO, his conviction was relevant and should have been reported in the Application.”<sup>26</sup> Finally, Radio One argues that a waiver of Section 73.865(d) is not warranted because there are no extraordinary circumstances warranting such a waiver and S7 has not demonstrated that it was eligible to hold an LPFM license at the time of the filing of the Application.<sup>27</sup>

On April 25, 2016, S7 filed a letter with the Bureau (Second S7 Response).<sup>28</sup> S7 characterizes its relationship with Tucker as a “partnership” and not that of “strictly a fiduciary” and states that Tucker was the General Manager of the proposed station.<sup>29</sup> S7 also states that its partnership with Tucker did not make him an interested party, and states that S7 still maintained ownership of the station, despite the “boilerplate nature” of the FSA.<sup>30</sup> S7 again blames the omission of Perry as a party to the Application on Tucker, who actually prepared the Application and was aware of Perry’s criminal record.<sup>31</sup> The Second S7 Response is signed by four S7 board members—Bryon Ford, Barbara Patterson, Tim Buffalo, and David Schwartzman.<sup>32</sup>

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<sup>22</sup> *Id.* at 2.

<sup>23</sup> First S7 Response at 4-5.

<sup>24</sup> *Id.* at 7-9. The First S7 Response includes a copy of a letter from Redd to Tucker which states S7 was ending its relationship with him. The letter further thanks Tucker for “introducing the possibility of non-commercial radio us and the work you produced in the application and obtaining the FCC license for WOOK-LP will be memorialized in the annuls [sic] of our city-state[sic].” First S7 Response at Exhibit 8.

<sup>25</sup> Radio One Response at 1-2.

<sup>26</sup> *Id.* at 2.

<sup>27</sup> *Id.* at 3-4.

<sup>28</sup> The Second S7 Response states that it is being submitted by the S7 board, as opposed to S7’s prior responses, which were submitted by Redd. Second S7 Response at 1.

<sup>29</sup> *Id.* at 1.

<sup>30</sup> *Id.* at 2, 4.

<sup>31</sup> *Id.* at 2 and Exh.2 (emails between Redd and Tucker discussing Redd’s convictions).

<sup>32</sup> *Id.* at 4. S7’s website lists three additional directors for the “2016 term”: Hasim Dawkins, Carl Bruce and Carol Green. *See* Sincere Seven, Our Staff, <http://sincereseven.org/staff.htm> (last visited May 10, 2016). None of those seven identified directors are listed in the Application. *See* Application, Section II, Question 3. S7 has provided no explanation for its failure to amend the Application to provide the names of the directors specified in the Second S7 Response.



**Discussion. *Real Party in Interest.*** “The Commission’s real-party-in-interest inquiry typically focuses on whether a third person ‘has an ownership interest, or will be in a position to actually or potentially control the operation of the station.’”<sup>33</sup> The Tucker Letter, Tucker Opposition, and the FSA (which S7 never disclosed and came to light only after the *Second S7 Letter*) show that the Application was prepared and signed by Tucker under the name of S7 through a CDBS account controlled by Tucker at the time the Application was filed, that WOOK was the real party in interest behind the Application, and that WOOK intended to control the proposed station.<sup>34</sup> S7 was merely a “front” used for gaining the Commission’s point system and—because of its tax-exempt status—for funneling donations to WOOK.<sup>35</sup> From a regulatory standpoint, the FSA was effectively an agreement to cooperate in prosecuting a false FCC application presenting S7 rather than WOOK as the applicant.<sup>36</sup> Accordingly, we will dismiss the Application.<sup>37</sup> As a result, Tucker’s waiver request is moot and therefore will be dismissed.<sup>38</sup>

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<sup>33</sup> *Astroline Commc’ns Co. v. FCC*, 857 F.2d 1556, 1564 (D.C. Cir. 1998); *KOWL, Inc.*, Memorandum Opinion and Order, 49 FCC 2d 962, 964 para. 4 (1974) (same, citing *Creek County Broad. Co.*, Memorandum Opinion and Order, 15 FCC 2d 400 (1968)).

<sup>34</sup> See, e.g., *Edwin L. Edwards, Sr.*, Memorandum Opinion and Order and Notice of Apparent Liability, 16 FCC Rcd 22236, 22248, para. 20 (2001), *aff’d sub nom. Rainbow/PUSH Coalition v. FCC*, 330 F.3d 539 (D.C. Cir. 2003). In assessing the locus of control, the Commission examines who establishes an entity’s basic operating policies with respect to programming, personnel, and finances. See *WGPR, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 8140, 8142-46, paras. 11-30 (1995), *vacated on other grounds sub nom. Serfijn v. FCC*, 149 F.3d 1213 (D.C. Cir. 1998); *Choctaw Broad. Corp.*, Memorandum Opinion and Order, 12 FCC Rcd 8534, 8538-39, para. 11 (1997).

<sup>35</sup> The FSA states that it “shall terminate . . . when/if [WOOK] obtains 501(c)(3) status.” FSA at para. 7.

<sup>36</sup> See 47 U.S.C. §§ 308(b) and 319(a); Instructions to FCC Form 318, Section I.A (“The name of the applicant stated in Question 1 shall be the exact name of the . . . entity seeking the authorization”) and Section II.C (for non-stock corporations or other non-stock entities, the “applicant . . . and the officers, directors, and governing board members of the applicant . . . are considered to be parties to the application” and must be listed in response to Question 3 in Section II of the application).

<sup>37</sup> See, e.g., *Robert Lund*, Letter Order, 30 FCC Rcd 14367 (MB 2015) (affirming dismissal of LPFM applications that were filed and entirely controlled by Robert Lund in violation of rule prohibiting filing multiple applications).

<sup>38</sup> As a result of the Application’s dismissal, we need not address the errors in the Application that could present other grounds for dismissal. See, e.g., Application at Section II, Question 3 versus Application at Att. 2 (four directors listed in Section II are different individuals than the four directors listed in the S7 Articles of Incorporation, and those listed in the latter document include two persons who reside more than ten miles from the proposed transmitter site); Application at Section IV (Application signed by Tucker as “Chief Operations Officer” of S7 despite failure to list him as an officer of S7 in Section II, Question 3 and absence of any documentation to indicate Tucker was an officer of S7). Additionally, the Second S7 Response is signed by four board members that were not a party to the Application as originally filed. See also n.32 *supra*. Thus, it is apparent that S7 has undergone a complete change in the composition of its board, in violation of Section 73.871(c)(3) of the Rules. See 47 CFR § 73.871(c)(3). This apparent major change in ownership would serve as a separate and independent basis for dismissing the Application. See *US Pro Deschbierra*, Memorandum Opinion and Order, FCC 16-52 (rel. Apr. 27, 2016) (affirming dismissal of LPFM application where it underwent a complete change in the composition of its board in violation of Section 73.871(c)(3)).



*Change in Control.* Section 73.865(d) of the Rules precludes any assignment or transfer of control of a LPFM construction permit.<sup>39</sup> This case presents a confusing situation in which S7, in 2015—before the construction permit was rescinded—assumed the control that it was claimed (by Tucker) to have, but did not have, when the Application was filed in 2013. The First S7 Response, Second S7 Response, and the Tucker Letter and Tucker Opposition show that S7 took control of the construction permit by terminating S7's relationship with Tucker and WOOK, obtaining the court order referenced in note 9 *supra*, and assuming control of S7's CDBS account.<sup>40</sup> In light of the dismissal of the Application, we need not reach the issue of whether these actions violated Section 73.865(d).

*Criminal Convictions.* We also need not reach the issue of whether Redd's criminal record is a proper basis for dismissal of the Application. However, S7 is incorrect that Section II, Question 6 only refers to broadcast-related civil or criminal proceedings. A plain reading of the question reveals that an applicant must disclose *any* felony convictions.<sup>41</sup> Additionally, the Commission has stated the convictions for drug trafficking are grounds to engage in license revocation proceedings.<sup>42</sup> Thus, Redd's felony convictions must be disclosed in any application to which he is a party that contains such a question.

*Failure to Respond to Commission Letter.* Finally, S7's failure to comply with the Second S7 Letter by filing an amendment to the Application would serve as a separate and independent basis for dismissing the Application. Dismissal under Section 73.3568(a)(1) is appropriate when an applicant fails to respond to Commission requests for information.<sup>43</sup> The failure to prosecute applications not only ties up valuable spectrum, but also creates additional burdens on the Bureau staff and delays the processing of other applications.<sup>44</sup> Accordingly, we would dismiss the Application on this basis if we were not dismissing it for S7's failure to disclose WOOK's role as a real party in interest in the Application when it was filed.

*Future Applications.* The conduct here by Redd, Tucker, S7 and WOOK shows a disturbing willingness to ignore or self-servingly misinterpret Commission's regulations and

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<sup>39</sup> 47 CFR § 73.865(d).

<sup>40</sup> See notes 9 and 24 *supra* and associated text.

<sup>41</sup> Application at Section II, Question 7 (“*any felony*; media related antitrust or unfair competition; fraudulent statements to another government unit; or discrimination”) (emphasis added).

<sup>42</sup> *Commission Clarifies Policies Regarding Licensee Participation in Drug Trafficking*, 4 FCC Rcd 7533 (1989). See, e.g., *Richard Richards*, Hearing Designation Order, 8 FCC Rcd 4339 (1993) (designating license renewal application for hearing where licensee was convicted of possession with intent to distribute marijuana).

<sup>43</sup> 47 CFR § 73.3568(1). See also *South Texas FM Investments, LLC*, Letter Order, 27 FCC Rcd 14831 (MB 2012) (affirming dismissal of applications where applicant had failed to provide staff with requested information despite numerous extensions of time in which to respond). Cf. *Truth Broadcasting Corp.*, Letter, 28 FCC Rcd 16966 (MB 2013) (denying request to dismiss application for failure to prosecute where applicant responded to staff inquiry letter).

<sup>44</sup> See *Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications*, Public Notice, 49 Fed. Reg. 47331 (Dec. 3, 1984) (“Incomplete and patently defective applications place an inordinate burden on our processing staff. This burden entails repeated requests by the staff for information clearly called for in the application. This delays the processing of not only the incomplete and patently defective applications, but also the processing of grantable applications. Most important, service to the public in the initiation of new broadcast service is delayed.”).

disclosure requirements, to ignore a Commission request to provide required information, and to submit inconsistent documents to different governmental agencies. Accordingly, we will require that a copy of this letter be submitted with any future application filed by or on behalf of any of them or to which any of them is a party.<sup>45</sup>


**Conclusion/Actions.** Accordingly, IT IS ORDERED that the application of Sincere Seven (File No. BNPL-20131114AYL) for a construction permit for a new LPFM station at Washington, D.C., IS DISMISSED.

IT IS FURTHER ORDERED, the waiver request filed by William L. Tucker, Jr. on December 18, 2015, IS DISMISSED.

IT IS FURTHER ORDERED that the Petition for Reconsideration filed by Sincere Seven on October 19, 2015, is DISMISSED.

IT IS FURTHER ORDERED that each of Sincere Seven, Perry Redd (a/k/a Perry McCreary-Redd), WOOK Radio DC and William L. Tucker, Jr., as well as any entity in which any of them holds an interest that is within the scope of the ownership and control disclosure standard set forth in 47 CFR § 1.2112, SHALL SUBMIT a copy of this letter with every FCC broadcast facilities application—FCC Form 301, 302 (any version), 318, 340, 349 or 350—he or it files with the Commission for a period of five years from the date of this letter.

Sincerely,

  
Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: Ms. Michelle Bradley  
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<sup>45</sup> See *E-String Wireless, Ltd.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 31 FCC Rcd 133, 139-40, para. 18 (MB 2016).