

RECEIVED

2016 NOV 16 A 10: 51

Before the
Federal Communications Commission
Washington, DC

Received & Inspected

NOV 15 2016

FCC Mailroom

In re Applications of:

ENTERTAINMENT MEDIA TRUST,
DENNIS J. WATKINS, TRUSTEE

KFTK (AM), East St. Louis, Illinois (Facility ID 72815)

KZQZ (AM), St. Louis, Missouri (Facility ID 72391)

KQQZ (AM), DeSoto, Missouri (Facility ID 5281)

WQQW (AM), Highland, Illinois (Facility ID 90598)

For Assignment of License

File No. BAL-20160919ADH

File No. BAL-20160919ADI

File No. BAL-20160919ADJ

File No. BAL-20160919ADK

TO: Marlene H. Dortch
Secretary of the Commission

ATTN: Peter H. Doyle
Chief, Audio Services Division, Media Bureau

OPPOSITION TO PETITION TO DENY

Entertainment Media Trust, Dennis J. Watkins, Trustee ("EMT") hereby files its Opposition to the Petition to Deny ("Petition") filed by Mark A. Kern ("Kern")¹, and in response thereto states that the Petition is merely a continuing effort of Mr. Kern to harass a political opponent and critic of his performance of public duties. The Petition contains no new information and relies upon speculation and supposition as the basis for its demand for review of the assignment applications in question.

BACKGROUND

¹ Kern's Petition is dated October 21, 2016. EMT filed a Motion for Extension of Time on October 28, 2016, which Kern's counsel agreed to, extending the response date for this Opposition to November 15, 2016.

As noted in the Petition, Kern filed petitions to deny against the license renewal applications of each of the 4 stations subject to this Petition in 2012. Those petitions to deny (the “Renewal Petitions”)² remain pending with the Commission. EMT has filed responsive pleadings to the Renewal Petitions addressing the allegations therein, which Kern repeats in the instant Petition and which EMT again denies.³

EMT does concur with Kern that ordinarily, the pendency of the renewal applications would preclude grant of the instant license assignment applications, absent action on the renewal applications at the same time.⁴ Those instances, however, are all related to cases where the assignor and assignee are different parties. In the instant applications, both the assignor and assignee remain the same individual, Dennis J. Watkins, as Trustee, so there is no change in control, but there is a change in beneficial interest from Stephen Romanik, now deceased, to Katrina Sanders. Licensee is not “selling out” from under a potential disqualification, as alleged by Kern, but rather reporting and seeking consent to a change in beneficial interest due to the death of the original beneficiary utilizing Form 314 as directed by FCC staff. Furthermore, there is no “sale” here where the party alleged to have engaged in misconduct would be profiting from sale proceeds. No consideration is being paid as a result of the proposed transaction, which is more in the nature of a reorganization (with the same controlling party, Dennis J. Watkins,

² The Renewal Petitions were filed against BR-20120709ACO, BR-20120709ACP, BR-20120921AAW and BR-20120921ABA.

³ Kern again alleges that EMT was guilty of lack of candor and misrepresentation, however, as stated in EMT’s pleadings relating to the Renewal Petitions, EMT furnished, at FCC staff request, copies of the operative trust instruments and other information requested by FCC staff in connection with EMT’s acquisition of KQQZ in BAL-20090925ABD, which was granted by the Commission.

⁴ Kern cites to *Jefferson Radio Corp. v. FCC*, 340 F.2d 781 (D.C. Cir. 1964) as authority for this proposition.

continuing to maintain 100% control over the licensee Trust) and continuing the broadcasting services to the EMT stations' communities of license.⁵

DISCUSSION

The death of Stephen Romanik II followed a lengthy debilitating illness. As noted in the Renewal Petition pleadings, Stephen was (prior to his illness) a police officer. As beneficiary of the Trust, Stephen did not control the licenses of the broadcast facilities, which was reserved to Dennis J. Watkins as Trustee as specified in the trust agreement, but rather was recipient of the Trust income, when available, from the Trustee in accordance with the Trust terms. Stephen was also the equitable owner of Insane Broadcasting Company, which handled billing and administrative matters for the broadcasting station but held no broadcast interests. In May 2015, Stephen, faced with increasing illness, had Katrina Saunders assume a greater role in the operation of Insane Broadcasting Company to enable Stephen to focus on his health. Kern argues that Stephen's death was a reportable event, but since he had no control over the licenses or the Trust, his death was not of decisional significance in the Renewal Petition proceeding, and until proceedings under applicable Illinois law were completed, the Assignment Applications herein could not be prepared and filed disclosing the change in beneficial interest, as it was undetermined until such proceedings were completed. Contrary to Kern's assertion, EMT accurately reported in its November 2015 Ownership Report that Stephen was no longer a

⁵ See, e.g., *Lane Broadcasting Corporation*, *supra*, 20 FCC Rcd at 19375; *Harry O'Connor*, 2 FCC 2d at 49 ¶ 10; 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 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").

beneficiary of the Trust by removing him from said report. Form 323 Ownership Report does not offer any place to provide a narrative to describe the reasons for such removal.

Stephen exercised the power of appointment contained in the EMT Restated Trust Agreement dated December 19, 2012 (a true copy of which is filed in the Renewal Petitions proceeding) to Robert Romanik, who, as stated in the instruments filed in this proceeding, declined such appointment and assigned his rights to Katrina Saunders, all of which was properly documented under Illinois trust and probate rules, and copies of which were filed with the Assignment Applications. Kern then alleges that the proposed Assignee herein is merely the “continuation of a subterfuge” regarding Robert Romanik. Query – how can it be “subterfuge” when the documents disclose that Robert Romanik declined the appointment from Stephen Romanik and assigned his rights to Katrina Saunders? Is Robert Romanik an on-air host and “face” of the Radio stations? Most assuredly yes. Does that equate to “de facto” control as alleged by Mr. Kern? Most assuredly no. Mr. Kern claims the purpose of the trust was to conceal Robert Romanik’s 1998 and 1999 felony convictions and his involvement with the Radio Stations. As noted in footnote 3, FCC staff inquired and received information concerning the trust in connection with the acquisition of KQQZ in 2009, and was satisfied with the materials and information provided. It begs credulity for Mr. Kern to argue that Robert Romanik was “concealing” himself as associated with the stations as he is the most popular on-air host of programming on the radio stations and drives around in a vehicle decorated with the call signs of the radio stations.

Kern then somehow extrapolates from the execution and filing of the LMA for KFTK, duly executed by Dennis J. Watkins, that it is “probably and reasonable” to assume Robert Romanik negotiated and approved said instrument. This delusional conclusion, made up out of

thin air, is simply a continuing product of the political feud existing between Robert Romanik and Mark Kern concerning governance of St. Clair County, Illinois. Mr. Kern doesn't like criticism, and is trying to silence Robert Romanik from criticizing him. The use of Commission processes, time and personnel to bootstrap that effort to silence a critic is an affront to the First Amendment. Mr. Kern recognizes that he will get no traction complaining about the content of Robert Romanik's protected speech, so he is using whatever means necessary to attempt to make an end run around the First Amendment and attempt to "chill" such free speech.

Insofar as Kern's assertion that a newspaper article purports to present a basis for inquiry regarding the propriety of EMT's entry into a Local Marketing Agreement with Emmis Radio License, LLC for KFTK, EMT would suggest that Mr. Kern is undoubtedly aware of the ability of media reports to inaccurately characterize matters⁶ based on incomplete information. As such, Mr. Kern's suggestion is wholly without basis or merit.

CONCLUSION

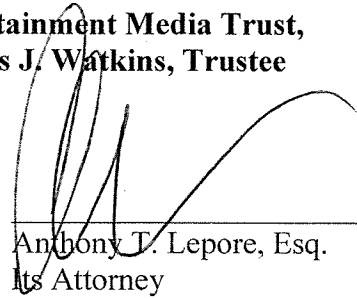
EMT hereby requests that the Commission proceed with consideration of the instant Assignment Applications which do not change the control of the licensee whatsoever but merely address a change in the holder of the beneficial interests in the licensee due to Stephen Romanik II's untimely death. In this particular case, the pendency of the Renewal Applications proceedings should not be an impediment to grant of the Assignment Applications.

⁶ See e.g. NBC Correspondent Jeff Rossin's report on Mr. Kern and MidAmerica Airport <https://static.nbclearn.com/files/higheredusa/site/pdf/104795.pdf>

Respectfully submitted,

**Entertainment Media Trust,
Dennis J. Watkins, Trustee**

By:



Anthony T. Lepore, Esq.
Its Attorney

RADIOTVLAW ASSOCIATES, LLC
4101 Albermarle Street NW, Suite 324
Washington, DC 20016
(202) 681-2201


November 15, 2016

CERTIFICATE OF SERVICE

I, Anthony T. Lepore, hereby certify that a true and correct copy of the foregoing Opposition to Petition to Deny was sent by first-class, postage prepaid mail this 15th day of November, 2016, to the following:

Peter H. Doyle, Chief
Audio Division, Media Bureau
Federal Communications Commission
Room 2-A267
445 12th Street, SW
Washington, DC 20554

Richard A. Helmick, Esq.
Cohn and Marks LLP
1101 17th Street, NW
Suite 1001
Washington, DC 20036
Counsel for Mark A. Kern



Anthony T. Lepore