



Federal Communications Commission
Washington, D.C. 20554

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DA 07-4435

In Reply Refer to:

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Sister Grace, Inc.
c/o Christopher James Londo
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Escanaba, MI 49829

Andrew Disterhaft
737 Wright Street
Oshkosh, WI 54901

Mark Heller
WTRW Incorporated
1414 16th Street
Two Rivers, WI 54241-3031

In re: Sister Grace, Inc.
W247AZ, Berlin, Wisconsin
Facility ID: 144663
File No. BAPFT-20070207ABZ

**Application for Consent to Assignment
of Construction Permit**

Dear Messrs. Londo, Disterhaft, and Heller:

We have before us the above-captioned application for consent to assignment of the construction permit for FM translator station W247AZ, Berlin, Wisconsin, from Sister Grace, Inc. ("Sister Grace") to Andrew Disterhaft ("Disterhaft"), filed on February 7, 2007 (the "Assignment Application").¹ We also have before us a Petition to Deny the Assignment Application filed by Mark Heller ("Heller") on March 7, 2007.² For the reasons discussed below, we deny the Petition to Deny and grant the Assignment Application.

Background. Sister Grace filed the above-captioned Assignment Application on February 7, 2007. Heller claims that the Assignment Application must be dismissed because it violates Section 74.1232(d) of the Commission's Rules (the "Rules").³ Heller contends that the rule violation occurs

¹ On June 5, 2007, Sister Grace filed an Application for an FM Translator License (File No. BLFT-20070605AAU). This application was granted on July 25, 2007. On June 13, 2007, Sister Grace filed a minor modification application to move the W247AZ transmitter site (File No. BPFT-20070613ABZ). The minor modification application was granted on June 14, 2007.

² On March 13, 2007, Disterhaft filed an Opposition to the Petition to Deny.

³ 47 C.F.R. § 74.1232(d).

because Disterhaft is an employee of primary station WAUH(FM), Wautoma, Wisconsin, and thus is prohibited from owning a non-fill-in translator station.

In response, Disterhaft acknowledges his employment as an independent contractor for Station WAUH(FM). However, Disterhaft states that, once constructed, Station W247AZ will be a fill-in translator station for primary station WAUH(FM). Since the translator's coverage contour will remain entirely within the primary station's protected contour, Disterhaft contends that he is not prohibited from owning the translator, notwithstanding his relationship with the primary station.

Discussion. Section 74.1232(d) of the Rules prohibits "any person or entity having an interest whatsoever, or any connection with a primary FM station" from holding a license for an FM translator station whose coverage contour extends beyond the protected contour of the commercial primary station. We find that translator station W247AZ's coverage contour does not extend beyond the protected contour of primary station WAUH(FM). Therefore, Station W247AZ is properly classified as a fill-in translator station with regard to WAUH(FM) and is not subject to the ownership restrictions set forth in Section 74.1232(d) of the Rules.⁴ As a result, Disterhaft's employment at Station WAUH(FM) does not disqualify him from acquiring the translator station construction permit. We further find that Sister Grace and Disterhaft are fully qualified to be a licensee, and that the grant of the application would further the public interest, convenience and necessity. We will, therefore, deny Heller's Petition to Deny and grant the Assignment Application.

Conclusion. For the above stated reasons, Heller's Petition to Deny is DENIED. Additionally, we have evaluated the Assignment Application and we find that it complies with all pertinent statutory and regulatory requirements and that the public interest, convenience, and necessity will be served by its grant. Accordingly, the application of Sister Grace, Inc. for consent to assignment of the construction permit for FM translator station W247AZ, Berlin, Wisconsin, to Andrew Disterhaft (File No. BAPFT-20070207ABZ) is GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Denise B. Moline, Esq.

⁴ We note that the June 13, 2007, minor modification application does not alter Station W247AZ's classification as a fill-in translator station because its coverage contour remains entirely within the protected contour of primary station WAUH(FM). See File No. BPFT-20070613ABZ, Attachment 5.