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## BEFORE THE

## FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of:

MOBILE RADIO PARTNERS, INC.

Proposed Permittee of NEW FM TRANSLATOR

Channel 231, Richmond, VA

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) Facility ID: 201399

) BNPFT-20171201AJQ

TO: Chief, Media Bureau:

**MOBILE RADIO PARTNERS, INC. REPLY TO "INFORMAL OBJECTION"**

Comes now MOBILE RADIO PARTNERS, INC., (hereinafter referred to herein as "MRP") the proposed permittee of a NEW FM Translator Facility (Fac. ID# 201399) at Richmond, VA, to be a rebroadcast facility for WBTL (AM), Richmond VA under the above-captioned application, by and through counsel, and hereby submits its Reply to the "Informal Objection" (the "Informal Objection") filed by PRESTON BROWN ("Brown") in connection with BNPFT-20171207AJQ initial construction permit application, and in response thereto would state in brief that the Informal Objection is untimely, erroneous, and raises issues outside the jurisdiction of the Commission regarding contractual disputes that are irrelevant to the issue of granting a construction permit for the FM translator facility.

**BACKGROUND**

The instant facility was originally proposed by MRP in the July 2017 filing window authorized by the *AM Revitalization Proceeding*<sup>1</sup> for Class C & D AM stations seeking a companion FM translator, filed under BNPFT-20170801AAG as a short-form "tech box" 349 application. The instant facility was thereafter one of the 844 short form applications that were

<sup>1</sup> *Revitalization of the AM Radio Service*, First Report and Order, FCC 15-142 (rel. October 23, 2015); Second Report and Order, 32 FCC Rcd 1724 (2017).

NOT mutually exclusive and therefore eligible to file a long form 349 application in the December 1-21, 2017 filing window as set forth in the Commission's November 1, 2017 Public Notice<sup>2</sup> (the "*Public Notice*"). MRP filed the subsequent long-form Form 349 application in the applicable window as BNPFT-20171201AJQ, which is the subject matter of this proceeding.

MRP was formed for the purpose of acquiring and operating, inter alia, WBTL (AM), the proposed parent AM facility for the instant FM Translator application. MRP acquired WBTL following application and approval of BAL-20170731AAH from Delmarva Educational Association, and was instrumental in returning the facility to broadcast operations from previously granted silent status<sup>3</sup> through coordinating technical assistance to the Assignor even prior to consummation of its acquisition. In furtherance of its objective of restoring viability to WBTL, MRP utilized the provisions of the *AM Revitalization Proceeding*, seeking to construct and pair an FM translator with WBTL to further increase its economic viability.

MRP is a corporation organized under the laws of the Commonwealth of Virginia and is comprised of 4 shareholders<sup>4</sup>. Brown is a minority shareholder in MRP, holding a 20% equity interest. Brown was an officer of the former licensee of another AM station acquired by MRP in 2017 (WUWN, f/k/a WCLM, Facility ID#73728) who agreed to become a shareholder/investor in MRP when it sought to acquire WUWN.

The Informal Objection appears to allege a dispute between Brown, a minority shareholder, and the other shareholders of MRP, regarding the programming content of WUWN and alleged misrepresentations by the other shareholders of MRP to Brown. However, as will be demonstrated below, it is Brown who has misrepresented his position to the Commission in his

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<sup>2</sup> "*Media Bureau announces FM Translator Filing Window for Long Form Applications*" DA-17-1069, November 1, 2017.

<sup>3</sup> See BLSTA-20161121ADV, superceded by BSTA-20170825AAA which restored broadcast operations.

<sup>4</sup> See BOS-20171103AAX, filed following consummation of WBTL by MRP

Informal Objection, and thus his allegations must be taken with a proverbial “grain of salt”.

### **REPLY TO THE “INFORMAL OBJECTION”**

Brown argues in his Informal Objection for rejection of two MRP long-form 349 applications for FM translators, including the instant application<sup>5</sup> on the grounds that MRP allegedly changed the programming of AM station WUWN, contrary to alleged promises made to Brown, and that MRP filed inconsistent documentation with the Commission concerning the ownership of MRP. These two “facts” form the entire basis of the Informal Objection filed by Brown.

1. Brown in his Informal Objection initially claims that he “owned the site and the station for over 20 years”<sup>6</sup> (meaning WCLM, n/k/a WUWN). However, a review of the FCC’s Ownership Reports for WCLM show the licensee as World Media Broadcast Company, with Mr. George Lacy as sole shareholder, and Brown listed only as an officer.<sup>7</sup> This misrepresentation of his position with World Media Broadcast Company, the prior licensee of WCLM, taints all of his subsequent allegations and raises the question of his motivation for filing the informal objection, since he is a 20% shareholder of MRP and is inflicting financial losses on himself by opposing the instant application.

2. Brown captioned his filing as an Informal Objection because it is untimely as a Petition to Deny, which appears to be his true goal. Pursuant to the *Public Notice*, Petitions to Deny were to be filed within 15 days of publication of “Broadcast Applications” notice showing the application accepted for filing. In the case of the instant application, the “Broadcast

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<sup>5</sup> MPR also sought a construction permit for an FM translator for co-owned AM facility WUWN, which was granted prior to the filing of the informal objection as W225CU under BNPFT-20171201AJM.

<sup>6</sup> Informal Objection dated January 10, 2018 and docketed January 16, 2018.

<sup>7</sup> See BOA-20110203ADS, listing Mr. Brown as “General Manager”

Applications” publication of its acceptance occurred on December 12, 2017, meaning the last date for Petitions to Deny to be filed would have been December 28, 2017. Brown is attempting to use the process permitted under 47 CFR §73.3587 to overcome his failure to meet the time obligations set forth in the *Public Notice*.

3. Brown claims that there was an agreement between him and the other shareholders of MRP to retain the programming of WCLM (now WUWN) following its acquisition by MRP and that MRP violated that agreement by changing the programming. First, Brown statements are bare allegations and he provides no documentary evidence of any such agreement; MRP denies any such agreement was ever made, and even if there were such an agreement, a dispute regarding same would need to be resolved through local courts and civil litigation in accordance with Commission policy, which is to not get involved in “private contractual disputes”; Second, the FCC has long standing policy<sup>8</sup> to not interfere with a licensee’s content and programming decisions unless it is obscene, indecent or profane. No such allegation is made in the Informal Objection, which appears to be solely regarding a change in programming which Brown disapproves. As there is no shareholder’s agreement between the MRP shareholders, Brown’s remedies for disapproving the actions of the majority of the shareholders are those available under the Virginia Corporation Act to all minority shareholders. It is not, however, within his rights to seek to prevent the proper grant of an FM translator construction permit for an eligible AM licensee. Brown’s filing appears to be a classic example of a “strike petition” utilized by Brown to try and extract financial concessions from MRP regarding his minority shareholder interest in the licensee company. Furthermore, it appears from the attachments to the Informal Objection that Brown has created an internet radio station designed to compete with MRP for advertisers and listeners, which suggests his motivation in attempting to block the construction of

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<sup>8</sup> In accordance with the Communications Act and the First Amendment of the Constitution.

the FM translator in question is motivated by financial considerations rather than altruism.

3. Brown's final allegations are that MRP submitted "inconsistent" paperwork with the Commission, although he fails to indicate in connection with what application or proceeding. Presumably Brown is referencing the assignment applications for WBTL and WUWN<sup>9</sup>, which details the ownership structure of MRP as the Assignee, and which was re-stated in the post-consummation ownership reports filed by MRP in accordance with Commission rules.<sup>10</sup> There is no inconsistency between the data provided in connection with the applications for assignment of license and the data in the post-consummation ownership reports, so it is impossible to understand what Brown's vague, unsubstantiated allegations are intended to convey.

4. The balance of the Informal Objection makes allegations of alleged "community grief" over programming changes at WUWN and Brown attaches self-serving newspaper articles that he alone provided information for to substantiate this allegation. However, as noted above, the Commission does not involve itself in programming and content decisions outside the parameters of indecent or obscene programming, and thus the balance of these allegations likewise carry no weight or import relative to the grant of BNPFT-20171201AJQ and are irrelevant to the proceeding.

## **CONCLUSION**

In summary, the above Informal Objection filed by Brown is predicated on false statements, is untimely, fails to provide any detail or substantiation for its allegations, presumes incorrect matters or misstates facts that are of record with the Commission, and seeks relief which is both unwarranted and without any basis in statute, rule or precedent for the circumstances as they currently exist. The Informal Objection should be

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<sup>9</sup> BAL-20170731AHH and BAL-20170725AAO, respectively.

<sup>10</sup> BOS-20171103AAX and BOS-20171103AAW, respectively

dismissed and the application for construction permit should be granted forthwith.

RESPECTFULLY SUBMITTED,  
MOBILE RADIO PARTNERS, INC.

By: 

Anthony T. Lepore, Esq.  
Its Counsel

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January 23, 2018

## CERTIFICATE OF SERVICE

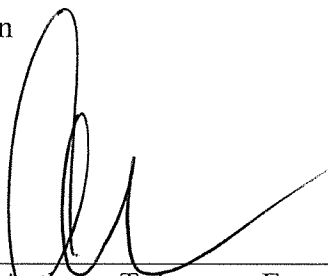
I, Anthony T. Lepore, Esq., do hereby certify that I caused to be mailed, via first class U.S. Mail, postage prepaid (or by e-mail\* where indicated), a copy of the foregoing REPLY TO "INFORMAL OBJECTION" to the following, this 23rd day of January, 2018.

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