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**ORIGINAL**

**Before the  
Federal Communications Commission  
Washington, DC**

**FILED/ACCEPTED**

**NOV - 1 2012**

**Federal Communications Commission  
Office of the Secretary**

In re Applications of:

**ENTERTAINMENT MEDIA TRUST,  
DENNIS J. WATKINS, TRUSTEE**

✓ WQQX (AM), East St. Louis, Illinois (Facility ID 72815)	)	File No. BR-20120709ACP
✓ WQQW (AM), Highland, Illinois (Facility ID 90598)	)	File No. BR-20120709ACO
✓ KZQZ (AM), St. Louis, Missouri (Facility ID 72391)	)	File No. BR-20120921AAW
✓ KQQZ (AM), DeSoto, Missouri (Facility ID 5281)	)	File No. BR-20120921ABA
For Renewal of License	)	

TO: Honorable Marlene H. Dortch  
Secretary of the Commission

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

**PETITION TO DENY**

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Dated: November 1, 2012

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## SUMMARY

Entertainment Media Trust, Dennis J. Watkins, Trustee, the nominal licensee of AM broadcast stations WQQX, East St. Louis, Illinois, WQQW, Highland, Illinois, KZQZ, St. Louis, Missouri, and KQQZ, DeSoto, Missouri (the “Stations”), is a straw party for Robert Romanik, a convicted felon, who exercises de facto control of the Stations. Romanik’s character qualifications and his control of and involvement with Entertainment Media Trust have been concealed from the Commission through misrepresentation, lack of candor and false certification. Moreover, under the control of Romanik, the Stations have been operated in a manner which evidences a pattern of abuse and disregard for compliance with Commission rules.

As set forth herein, the public interest and the integrity of the Commission’s processes require a full evidentiary hearing to determine whether the licenses of the Stations should be revoked and whether the applications to renew the licenses of the Stations should be denied.

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## **EXHIBITS**

Exhibit 1	Statement of Mark A. Kern
	Attachment A---Recordings of approximately 175 one hour programs of Bob Romanik, The Grim Reaper of Radio
	Attachment B---E-mails sent to WQQX website commenting on Robert Romanik's programs
Exhibit 2	Application (BAL-20090925ABD) for Consent to Assign KQQZ license from Big Stick Three, LLC to Entertainment Media Trust, Dennis J. Watkins, Trustee

- Exhibit 3      Application (BAL-20091103ABM) for Consent to Assign WQQX license from Simmons-Austin, LS, LLC to Entertainment Media Trust, Dennis J. Watkins, Trustee
- Exhibit 4      Memorandum of Law and Affidavit of Robert J. Sprague
- Exhibit 5      Decision in *United States of America v. Amiel Cueto*, 151 F.3d 620 (7<sup>th</sup> Cir. 1998)
- Exhibit 6      Judgment in *United States of America v. Robert Romanik*, Case No. 3:96CR30070-003, United States District Court, Southern District of Illinois at East St. Louis, 7/18/1997
- Exhibit 7      Judgment in *United States of America v. Robert Romanik*, Case No. 3:99CR30041-001, United States District Court, Southern District of Illinois at East St. Louis, 7/14/1999
- Exhibit 8      Statement of Richard A. Helmick
- Attachment A----Business card of Bob Romanik, The Grim Reaper of Radio
- Attachment B----Materials obtained from public inspection files of WQQX, KZQZ and KQQZ
- Exhibit 9      Notice of Apparent Liability for Forfeiture (EB-10-CG-0080), released 5/19/2011
- Exhibit 10     Notice of Apparent Liability for Forfeiture (EB-10-KC-0020), released 5/19/2011
- Exhibit 11     Letter of Inquiry (EB-FIELDSCR-12-00003064), dated July 5, 2012
- Exhibit 12     Romanik's Interlude: An ex-con finds his second calling as the "Grim Reaper of Radio" by Jessica Lussenhop, staff reporter, *Riverfront Times*
- Exhibit 13     Title records for property at 247 South 88<sup>th</sup> Street, Centreville, Illinois 62207
- Exhibit 14     Title records for property at 5841 Bunkum Road, Washington Park, Illinois 62204
- Exhibit 15     St. Clair County civil court records re Dennis J. Watkins representation of Robert Romanik

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TO: Honorable Marlene H. Dortch  
Secretary of the Commission

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

**PETITION TO DENY**

Mark A. Kern ("Petitioner"), by his attorneys, and pursuant to Section 309 (d) (1) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 309 (d) (1), and Section 73.3584 (a) of the Commission's rules, 47 C.F.R. § 73.3584 (a), hereby respectfully requests that the above-captioned applications of Entertainment Media Trust, Dennis J. Watkins, Trustee (Licensee) for renewal of license be designated for hearing and denied. In support thereof, the following is set forth.

Introduction

1. As will be demonstrated below, the licensee of record of the four above-captioned stations, Entertainment Media Trust (the trustee of which is Dennis J. Watkins, an attorney with

no prior broadcast experience), is in actuality nothing more than the nominee for Robert Romanik (on-air name, The Grim Reaper of Radio), a convicted felon involved in multiple serious criminal activities, who is the real party-in-interest with de facto control of the operations of the stations. The stations, under the control of Romanik, have engaged in a pattern of misrepresentations, concealments, and FCC rule violations. As a consequence, the licenses of the four above-captioned stations should not be renewed.

#### Preliminary Statement

2. Timeliness. Section 73.3516 of the rules provides that a petition to deny a broadcast license renewal application is due by the first day of the last full month of the expiring license term. For Illinois radio renewals, petitions to deny are due on or before November 1, 2012 and for Missouri radio renewals, petitions to deny are due on or before January 2, 2013. Accordingly, this petition is timely filed against all four of the above-captioned applications.

3. Standing. Licensee's four stations are within the St. Louis, Missouri Arbitron Radio Market. Petitioner resides in Belleville, Illinois which is within the coverage areas of Licensee's stations and regularly listens to and monitors Licensee's stations.<sup>1</sup> Petitioner, who is the County Board Chairman of St. Clair County, Illinois, and his wife have been the targets of numerous and slanderous personal attacks in programming broadcast over Licensee's station WQQX; for example, in one of these programs, the program host, Robert Romanik, referred to Petitioner's wife as "Mrs. hairy-ass Mark Kern's wife" and as "bitch Kern." See Statement of Mark A. Kern at Exhibit 1. Petitioner and his family have suffered injury as a result of Licensee's programming and would be harmed by a grant of the above-captioned license renewal applications; accordingly, Petitioner is deemed a party-in-interest as required by Section 309 (d)

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<sup>1</sup> Belleville, Illinois is also specified as the address (6500 W. Main Street., Suite 315, Belleville, Illinois 62223) of the Licensee, the trustee, Dennis J. Watkins, and the trust's beneficiary, Stephen Romanik II and is the main studio location of WQQX, KQQZ and KZQZ.

(1) of the Communications Act and, therefore, has standing to file the instant petition to deny. *Rainbow/PUSH Coalition v. FCC*, 330 F.3d 539, 542 (D.C. Cir 2003). *See also Petition for Rulemaking to Establish Standards for Determining the Standing of a Party to Petition to Deny a Broadcast Application*, Memorandum Opinion and Order, 82 FCC 2d 89, 98 (1980); *Lee Shubert, Esq.*, Letter, 21 FCC Rcd 7827, 7828 (Media Bureau 2006).

#### Statement of Facts

4. Misrepresentation Concerning Validity of Trust Agreement. Licensee acquired its four stations on the dates set forth below, paying all cash at closing according to the transaction documents included in each application for consent to assign:

<u>Call Sign/File Number</u>	<u>Purchase Price</u>	<u>Consummation Date</u>
WQQW (File No. BAL-20060202ABY)	\$450,000	May 11, 2006
KZQZ (File No. BAL-20071221AAT)	\$1,200,000	March 5, 2008
KQQZ (File No. BAL-20090925ABD)	\$600,000	November 30, 2009
WQQX (File No. BAL-20091103ABM)	\$450,000	January 15, 2010

Licensee, in various ownership reports and applications filed with the Commission, has represented that (a) Entertainment Media Trust is an Illinois trust which was established in March 2006, (b) Dennis J. Watkins is the sole trustee and vested with 100% control over the assets and property held by the trust, and (c) Stephen Romanik II is the sole beneficiary of the trust. See Exhibits 2 and 3.

5. On November 6, 2009, pursuant to an FCC staff request, Licensee filed an amendment to the KQQZ application for consent to assign which included a copy of what was represented to the staff to be the Trust Agreement; the Trust Agreement, which is not dated,

consisted of a single paragraph bearing the signatures of Stephen Romanik II, as beneficiary, and Dennis J. Watkins, as executor and trustee (the document also bears the undated signature of a notary public).<sup>2</sup> See Exhibit 2. If the Trust Agreement provided to the Commission staff by amendment is not the complete document, Licensee mislead the Commission staff into believing it was, in fact, the full document since licensee's amended application states that the FCC staff requested "a copy of the trust document" and that Licensee was providing "a copy of the trust instrument." Id. Pursuant to a staff request in connection with the WQQX application for consent to assign, Licensee filed an amendment in which it represented that the Trust Agreement was irrevocable and that the trustee, Dennis J. Watkins, cannot be removed by the beneficiary, Stephen Romanik II.<sup>3</sup> See Exhibit 3.

6. Licensee's representations concerning the nature of the trust are false. Robert Sprague, an attorney licensed to practice law in the State of Illinois and experienced in the requirements for trusts under state law, asserts that the trust document which Licensee filed with the Commission is not a valid trust agreement under Illinois law for the following reasons: the person furnishing consideration to establish the trust is not identified and there is no declaration of trust by such unidentified individual; the trust property is never identified; there is no specification of a trust purpose or the manner in which the trust is to be performed; and there is no mention of delivery of the trust property to the trustee or what constitutes the trust property. See Statement of Robert Sprague at Exhibit 4. Accordingly, Petitioner submits that there is a substantial and material question as to whether Licensee misrepresented the nature of the trust

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<sup>2</sup> The notary public signatory is Katrina Sanders who is Robert Romanik's long time (more than twenty years) girlfriend. See Exhibit 12.

<sup>3</sup>It should be noted, however, that the undated Trust Agreement, a copy of which is set forth at Exhibit 2, is silent as to whether the trust is irrevocable or under what circumstances, and by whom, the trustee may be removed. See Exhibit 2.



document and whether the trust is a valid entity under Illinois law and, therefore, qualified to be a Commission licensee.

7. Unauthorized Transfer of Control-- Real Party-In-Interest. In ascertaining control of a station, the Commission looks to whether a licensee possesses the right to determine the basic operating policies of the station regarding programming, personnel and finances. *See Southwest Texas Public Broadcasting Council*, 85 FCC 2d 713, 715 (1981). In making this determination, the Commission looks not only to who executes the programming, personnel and finance responsibilities, but also who establishes the policies governing those three areas. *See WGPR, Inc.*, 10 FCC Rcd 8141 (1995). Petitioner submits that Licensee's failure to identify the individual funding the trust is not by happenstance as there is substantial evidence, as set forth herein, that the Licensee trust is a subterfuge to disguise the fact that Robert Romanik, using the on-air name of "the Grim Reaper of Radio," a convicted felon and father of the trust beneficiary, is the real party-in-interest who controls Licensee's stations.

8. In December 1995, Thomas Venezia and B & H Vending/Ace Music Corporation were convicted of racketeering, illegal gambling and conspiracy involving the operation of an illegal video gambling business in East St. Louis and other areas of St. Clair County Illinois. As a result of the investigation and conviction of Venezia, Amiel Cueto, Venezia's attorney, advisor and business partner, and Robert Romanik, who worked for Venezia and Cueto as an investigator, were charged with, inter alia, conspiracy to defraud the United States, in violation of 18 U.S.C. § 371, and obstruction of justice, in violation of 18 U.S.C. § 1503. Romanik pled guilty to obstruction of justice for lying 150 times to a federal grand jury in the Venezia gambling and racketeering investigation (*See United States of America v. Amiel Cueto*, 151 F.3d 620 (7<sup>th</sup> Cir. 1998) at n. 8, a copy of which is set forth at Exhibit 5); on July 18, 1997, he was

placed on probation for a term of twelve months (with six months of that period to be served as home detention) and fined \$20,000 as a consequence of his plea of guilty to a violation of 18 U.S.C. § 1503 for obstruction of justice in lying to the grand jury. See Judgment in Criminal Case No. 3:96CR30070-003, United States District Court for Southern District of Illinois, at Exhibit 6.

9. In 1999, Romanik pled guilty to bank fraud in violation of 18 U.S.C. § 1344, having used straw parties to obtain loans which he then used to finance the construction of two topless clubs which he owned, the Crystal Palace in Centreville, Illinois and the Jewel Box in Washington Park, Illinois. On April 14, 1999, Romanik was sentenced to 20 months imprisonment (subsequently reduced to 16 months), restitution of \$1.575 million to the banks which he had defrauded, and fined \$40,000. See Judgment in Criminal Case No. 3:99CR30041-001, United States District Court for Southern District of Illinois, at Exhibit 7.

10. Although Robert Romanik's qualifications have never been passed on by the Commission (he refers to himself as a "consultant" to the Licensee), he is the public face of the Licensee and promotes himself as "Bob Romanik, the Grim Reaper of Radio" on his feature WQQX weekday radio program (aired from 11 a.m. to noon Eastern Time and 10 a.m. to 11 a.m. Central Time) which is simulcast on KQQZ and streamed on the Internet.<sup>4</sup> Romanik's program can be characterized as a vulgar, racist and demeaning personal vendetta against local governmental officials and others whom meet with his displeasure. The overriding message of Romanik's program on WQQX, which he promotes as "America's Voice of Freedom" and the "First Amendment and All American Station," is that white state, county and local Democratic

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<sup>4</sup> Before the start of Romanik's program, there is one minute of silence to permit listeners to remember their deceased family members and friends. Romanik asserts that if a listener doesn't like this practice of silence or dead air space, then he should tune to another station because "we don't want you as a listener." This exclamation may seem trivial, but it is just another indication of Romanik's control over Licensee's programming.

elected and/or appointed officials are “rotten bastards” who are exploiting proud black people and that black state, county and local Democratic elected and/or appointed officials are “plantation negroes” for supporting the Democratic party.<sup>5</sup> The sampling of approximately 175 hours of Romanik’s recorded radio programs evidence, at minimum, a rebuttable presumption that Romanik exercises a degree of control over Licensee’s programming (certainly as to his own show) that is not typical of an employee/consultant relationship. See Attachment A to Statement of Mark A. Kern at Exhibit 1.

11. Petitioner submits that, after listening to a small sampling of the recordings of Romanik’s program, a reasonable person could conclude that it would be contrary to the public interest and irresponsible for a station licensee to permit a daily diatribe of this outrageous nature to be broadcast. However, it is not Petitioner’s contention that Licensee and/or Romanik does not have the discretion to exercise the right of free speech to air Romanik’s vulgar and profane program,<sup>6</sup> only that the airing of such invective on a daily basis evidences that Romanik determines the programming decisions of the Licensee and is the real party-in-interest controlling Licensee’s stations.

12. Romanik would also appear to exercise control over the hiring of personnel and management of Licensee’s stations. On July 12, 2012, undersigned counsel went to Licensee’s studio at 6500 West Main Street, Suite 315, Belleville, Illinois, where the public inspection files

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<sup>5</sup> It is ironic (and hypocritical) that while Romanik berates white Democratic political leaders for being elitist, rich, having expensive cars, living in mansions and exploiting poor blacks (see Exhibit 1, Attachment A), he is white, rich, drives expensive cars, lives in a mansion and exploits both women and men, black and white, through his operation of topless clubs (see Exhibit 12).

<sup>6</sup> With respect to programming, a licensee has broad discretion, rooted in the First Amendment right of free speech, to choose, in good faith, the programming that it believes serves the needs and interests of its audience and the Commission will intervene in programming matters only if a licensee abuses that discretion, *i.e.*, if it is unreasonable or discriminatory in its selection of issues or offers such nominal levels of issue-responsive programming as to have effectively defaulted on its obligation. *See License Renewal Applications of Certain Commercial Television Stations Serving Philadelphia, Pennsylvania*, 5 FCC Rcd 3847-48 (1990), recon. denied, 6 FCC Rcd 4191 (1991). To make a prima facie case that a licensee abused its discretion over programming matters, petitioners bear a heavy burden. *Id.*

of WQQX, KZQZ and KQQZ are located. Upon entering the studio, I told the individual who admitted me that I was thinking of relocating to the Belleville area around year's end and might be interested in a sales position if there was an opening at that time; when I asked him who I should contact regarding possible employment I was handed the business card of Bob Romanik pictured in his guise as "The Grim Reaper of Radio." See Statement of Richard A. Helmick at Exhibit 8.

13. In examining the WQQX, KZQZ and KQQZ public inspection files, undersigned counsel found a number of communications from Licensee's FCC counsel, Anthony Lepore, addressed to Robert Romanik regarding day to day operational matters affecting Licensee's stations, including, for example, amending (pursuant to an FCC staff request) an application to modify the facilities of KQQZ, the nondiscrimination requirements for advertising contracts and certification of compliance with those requirements on upcoming license renewal applications and pre-filing announcements for the WQQX and WQQW license renewals. These communications from Licensee's attorney evidence that Robert Romanik exercises day to day management functions over Licensee's stations. Id.

14. Given the fact that Robert Romanik's adult son, Stephen Romanik II, is the Licensee trust's sole beneficiary, there is a rebuttable presumption that Robert Romanik is the source of the \$2.7 million dollars in funds used to purchase Licensee's four stations and, moreover, may also be the source of funding for the operating expenses of Licensee's stations. In the absence of any credible evidence to the contrary which Licensee may present, Robert Romanik is deemed to exercise control over Licensee's finances.

15. Licensee's FCC Violations Reflect a Pattern of Abuse. On April 20, 2010, the FCC's Chicago and Kansas City field offices inspected, respectively, WQQX-WQQW and

KZQZ-KQQZ. As a result of these inspections, two separate Notices of Apparent Liability for Forfeiture in the amounts of \$24,000 and \$25,000 were issued to Licensee. Stations WQQX and WQQW were each cited for failure to maintain and make available their local public inspection files (the only public file documents the stations had were ownership reports from 2008). Station KZQZ was cited for failure to operate in accordance with its license authorization (failure to switch from its daytime to its nighttime directional pattern at the specified time), failure to maintain a complete public inspection file (missing eight quarterly issues-programs lists as well as comments from the public posted on the station's website) and failure to conduct required annual equipment performance measurements. Station KQQZ was cited for failure to maintain a complete public inspection file (it was missing two quarterly issues-programs lists). See Exhibits 9 and 10.

16. All commercial broadcast stations, as well as entities with attributable interests in those stations, were required to file a biennial ownership report on or before November 1, 2009, with information current as of October 1, 2009, and biennially thereafter. *Report and Order and Fourth Further Notice of Proposed Rulemaking*, MB Docket No. 07-294, 24 FCC Rcd 5896 (2009), recon. granted in part, Memorandum Opinion and Order and Fifth Further Notice of Proposed Rulemaking, 24 FCC Rcd 13040 (2009).<sup>7</sup> The November 1, 2011 biennial ownership report filing deadline was extended by the Media Bureau until December 1, 2011. *Order*, MB Docket No. 07-294 (DA 11-1445), released August 23, 2011.

17. Licensee, in response to Section III, item 1, FCC Form 303-S of each of the four above-captioned applications for renewal of license, has certified to the Commission that it has

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<sup>7</sup> The Bureau extended the November 1, 2009 filing deadline until July 8, 2010 due to delays in the availability of the revised ownership report form. *Media Bureau Announces Revised Form 323 will be Available Online on April 9, 2010, and Sets New Filing Deadline of July 8, 2010*, MB Doc. No. 07-294, Public Notice, 25 FCC Rcd 3595 (MB 2010).

filed its biennial ownership report as required by Section 73.3615 of the rules; according to the Commission's Consolidated Data Base System ("CDBS"), however, Licensee never filed its 2011 biennial ownership report and, thus, has falsely certified to the Commission its compliance with this requirement. A false statement in a broadcast application, even in the absence of evidence of intent to deceive, may constitute misrepresentation under Section 73.1015 of the rules if the applicant had no reasonable basis for believing its submission was correct and not misleading. *See, e.g., San Francisco Unified School District*, 19 FCC Rcd 13326, 13334 (2004).

18. As noted above, Licensee was on notice that listener comments sent to a station's website are required to be placed in the station public file. See Exhibit 10 at paragraphs 11-12. At the suggestion of Petitioner, four local residents sent e-mail comments regarding WQQX programming to the station website; those e-mails were sent on June 27 (two e-mails), July 3, and July 5, 2012. See Statement of Mark A. Kern at Exhibit 1. However, when undersigned counsel inspected the WQQX public file on July 12, 2012, none of those four e-mails were in the WQQX public inspection file. See Statement of Richard A. Helmick at Exhibit 8.

19. On June 26, 2012, the Commission's Kansas City Field Office inspected KQQZ and found the station to be operating with three of its five transmission towers without secured fencing to preclude public access in violation of Section 73.49 of the rules; also the tower coordinates were those specified in a construction permit, but not those coordinates specified in the station's license authorization. See Enforcement Bureau letter dated July 5, 2012 at Exhibit 11 (letter was obtained by undersigned counsel from the KQQZ public inspection file). Petitioner submits that the above-referenced rule violations exhibit a pattern of abuse and disregard for compliance with Commission rules by the Licensee.

20. Other Evidence of a Pattern of Abuse. While the Commission ordinarily does not rely on newspaper articles without supporting affidavits, *see, e.g., Rothschild Broadcasting Co., Inc.*, 10 FCC Rcd. 7226, 7227 (1995), in the instant matter the Commission should take notice of a feature article on Robert Romanik which appeared in August 2-8 edition of the *Riverfront Times* (see Romanik's Interlude: An ex-con finds his second calling as the "Grim Reaper of Radio" at Exhibit 12) as it provides corroboration of much of the evidence set forth in this petition and includes direct quotes of statements made by Romanik to the staff reporter who authored the article (which Licensee and Robert Romanik have the ability to affirm or deny),<sup>8</sup> including the following statements which are relevant to Romanik's character qualifications, and whether he has a propensity to tell the truth or lie to a governmental authority or agency ( as well as Petitioner's standing):

- "They said I [Robert Romanik] lied 150 times to a grand jury. I probably lied 600 times. I wasn't going to give up my friend. If you're a man, you don't give up your friends."
- He [Robert Romanik] flies down the highway toward six spindly looking towers in the sky---the towers sending out KQQZ---then fiddles the radio dial to an FM station. "That's a big country station" he says, then flips over to 1190 AM [the frequency of KQQZ]. "That's mine."
- "Mark Kern, I should give you \$5,000 just to have sex with that nasty old lady [Mrs. Kern]. Hey, Mark Kern, you rotten bastard." See Exhibit 12.

21. The article also provides additional information, such as the following, which goes to Romanik's control over Licensee's stations (in which case there has been fraud and an abuse of the Commission's processes) for which further corroborating evidence will be readily available to the Commission in a full evidentiary hearing:

An ex-con buying up radio stations would cause chatter anywhere in the radio biz----The Federal Communications Commission's "character" rules make it difficult for felons to own stations. That Romanik's first acquisition was a

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<sup>8</sup> Obviously, Petitioner cannot obtain an affidavit from Robert Romanik attesting to his statements.

Christian-format station controlled by one of St. Louis' most recognizable pastors made the intrigue even juicier.

"I didn't know we were selling to Bob Romanik," recalls the Reverend Larry Rice of the New Life Evangelistic Center, who in 2006 sold WDID (re-identified as WQQW 1510 AM) to a group called Entertainment Media Trust.

The trust lists Belleville attorney Dennis Watkins as trustee and Romanik's son, Stephen, as the outfit's sole beneficiary. But it's Bob Romanik who---as a "consultant"---calls most of the shots within the group. Id.

22. Romanik's Use of Trusts for His Topless Nightclub Operations is Illustrative of a Pattern of Conduct. Just as Romanik is using a trust to hide his ownership and control of Licensee's stations, he has freely used trusts (including a stock cast of players) to obscure his ownership of topless nightclubs. The Crystal Place, now doing business under the name of the Pyramid of Pleasure, is located at 247 S. 88<sup>th</sup> Street, Centreville, Illinois 62207, and was built with bank loans fraudulently obtained by Romanik through third party straw men. See Exhibit 7. The club's business and liquor license was held by Katrina Sanders, Romanik's girlfriend who notarized the trust document which Licensee filed with the Commission in connection with its acquisition of KQQZ, but Romanik was the principal owner of the business. The club's building and land were held in the name of the Sunshine Land Trust, Eric Rheim, Trustee; the address of the Sunshine Land Trust was 23 Towne Hall Estates Drive, Belleville, Illinois 62223, which is Robert Romanik's residence address. On November 18, 1998, the property was conveyed by quit claim deed from Eric Rheim to Dennis J. Watkins (the same individual who is trustee of the Licensee), successor trustee for the Sunshine Land Trust. On April 28, 2011, Watkins conveyed the property by quit claim deed and for consideration of \$10 to Robert S. Romanik and on May 10, 2011, Romanik conveyed the property to Daniel J. Grueninger. See Exhibit 13.



23. The Hollywood Showclub is located at 5841 Bunkum Road, Washington Park, Illinois 62204. The business and liquor license is held by Stephen Romanik II who is listed as the President and 100% owner; Katrina Sanders is listed as an officer (according to the *Riverfront Times* article at Exhibit 12, however, Robert Romanik was identified by an employee of the Hollywood Showclub as the “boss” who is “in every night at 7:30”). On April 17, 2003, the club’s building and land was conveyed by Bi-State Group, LLC to Ben W. Jarrett, Trustee of Land Trust # 016589430 by warranty deed. In June 2004, liens were filed against the property for labor and materials contracted for by Robert Romanik in his capacity as a “tenant” of the property owned by the Land Trust in which he had a beneficial interest. On July 25, 2005, Jarrett conveyed the property by quit claim deed and consideration of \$1 to Robert S. Romanik; the quit claim deed was prepared by Dennis J. Watkins and notarized by Katrina Sanders. See Exhibit 14.

24. Robert Romanik’s use of straw men (his girlfriend, Katrina Sanders, and his son Stephen Romanik II) to front his de facto control of the topless club operations sets a pattern for his use of Dennis J. Watkins to front his de facto control of Licensee’s stations. Romanik has employed Watkins to provide legal representation in numerous civil court proceedings. See St. Clair County Civil Court Records at Exhibit 15. The selection of Watkins to be trustee of the Licensee surely came about as a result of his being hand-picked by Romanik because Romanik knew from past experience that he could depend on Watkins not to interfere with his management and control of the Licensee’s stations, particularly since Watkins is engaged full-time in the practice of law and has no apparent prior broadcast experience.

25. While Romanik’s use of a trust to hold title to property (particularly if his past felony convictions might preclude his direct ownership of the property) might be appropriate

provided he refrained from management of the trust property, his self-proclaimed “consultant” status has been shown to be a masquerade for his management and control of the programming and operations of Licensee’s stations. Even if Licensee could demonstrate that Romanik’s active involvement with the stations does not constitute control, nevertheless, there is no apparent justification for Licensee’s failure to disclose to the Commission that Robert Romanik would be involved in managing the operations of the stations, unless it was to hide his criminal past.

#### Discussion

26. Pursuant to Section 309 (e) of the Act, petitions to deny must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be prima facie inconsistent with Section 309 (k) of the Act which governs evaluation of applications for license renewal. Specifically, Section 309 (k) (1) provides that the Commission is to grant a renewal application if, upon consideration of the application and pleadings, it finds that during the preceding license term: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse. 47 U.S.C. § 309 (k) (1). Moreover, Section 312 (a) of the Act provides that the Commission may revoke any station license for, in part, false statements made in an application, conditions coming to the attention of the Commission which would warrant it to refuse to grant a license or assignment of license on an original application, for repeated failure to operate substantially as set forth in a license authorization and repeated violation of or failure to observe provisions of the Act or the Commission’s rules. 47 U.S.C. § 312 (a).

27. Felony Convictions/Misrepresentation/Lack of Candor. A licensee’s character is relevant in determining qualifications for continuing to hold an FCC license. 47 U.S.C. § 308

(b). Moreover, in determining character, all prior felony convictions, especially those involving fraud or untruthfulness, are pertinent to the Commission's evaluation of an applicant or licensee's character and its propensity to obey the law generally and to comply with the Communications Act and FCC rules and policies. Policy Regarding Character Qualifications in Broadcast Licensing, Policy Statement and Order, 102 FCC 2d 1179, 1190-91 (1986), modified, 5 FCC Rcd 3252 (1990). The statement of facts supports a finding that the Licensee's trust agreement was misrepresented to the Commission, as the trust document is invalid under Illinois law, and was proffered to the Commission in order to conceal the association and real party-in-interest status of Robert Romanik with the Licensee.

28. Robert Romanik's felony convictions provide a clear motive for Licensee to have made false certifications, misrepresented facts to and lacked candor with the Commission as to the specifics of the trust agreement in order to conceal from the Commission Romanik's association with the Licensee which would have potentially been disqualifying. Misrepresentation is a false statement of fact made with intent to deceive whereas lack of candor is concealment, evasion or other failure to be fully informative, accompanied by intent to deceive. *See, e.g., Fox River Broadcasting, Inc.* Order, 93 FCC 2d 127, 129 (1983). Intent to deceive is present if a licensee knowingly makes a false statement, such as filing a document with the FCC under the representation that such document is the Licensee's Trust Agreement with the implication that the trust is a lawful entity when, in fact, such document is not as represented. The fact of misrepresentation coupled with proof that the party making it had knowledge of its falsity is enough to justify a conclusion that there was fraudulent intent. *Leflore Broadcasting Co., Inc. v. FCC*, 636 F.2d 454, 462 (D.C. Cir 1980).

29. Intent to deceive is also inferred when one has a clear motive to deceive. *See, e.g., RKO General, Inc., Decision*, 4 FCC Rcd 4679, 4684 (Rev. Bd. 1989). Here, Licensee clearly has motive to conceal the involvement of a convicted felon in the operation and management of its broadcast stations. The Commission may revoke the license of any entity which deliberately makes misrepresentations or lacks candor in dealing with the agency because it lacks the basic character qualifications to hold such license. *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 196 (D.C. Cir. 2000) citing *Schoenbohm v. FCC*, 204 F.3d 243, 247 (D.C. Cir. 2000) and other cases.

30. Technical and Other Rule Violations. Licensee's operation of its stations since their acquisition in violation of Commission rules, e.g., without complete (or any) public inspection files, failure to conduct annual equipment performance measurements and to operate in accordance with station authorization, a false biennial ownership report certification in renewal applications, demonstrate an apparent indifference to the Commission's regulatory authority that is inconsistent with its responsibilities as a licensee. The Commission has designated hearing issues for "willful and repeated" violations of its technical and legal requirements or where "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate in the future in accordance with the requirements of its licenses and the Commission's rules. *See, William L. Zawila*, Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order, 18 FCC Rcd 14938, 14964-64 (2004), citing *Lewel Broadcasting, Inc.*, Decision, 86 FCC 2d 896 (1981); *Heart of the Black Hills Stations*, Decision, 32 FCC 2d 196, 200 (1971). These rule violations also constitute a pattern of abuse warranting a finding that Licensee's above-captioned applications for renewal of license do not meet the standard for renewal set forth in Section 309 (k) (1) of the Act. *Terry Keith*

*Hammond*, Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order, 21 FCC Rcd 10267, 10275 (2006).

### Conclusion

31. Based on the above showing, a hearing is required to resolve serious issues concerning the Licensee's qualifications to be and to remain a Commission licensee. It appears that Licensee made false certifications, misrepresented facts to and lacked candor with the Commission regarding the real party in interest status of Robert Romanik and his criminal felony convictions. Misrepresentation, lack of candor and false certifications constitute the types of serious violations of the Commission's rules that provide the foundation for denying a grant of a license renewal application. *See, e.g., FCC v. WOKO, Inc.*, 329 U.S. 223, 225-27 (1946); *Contemporary Media, Inc.*, 214 F.3d at 196.

32. Should Licensee, personally, not be found to have engaged in misrepresentation, lack of candor or false certifications, nevertheless, Robert Romanik's involvement in the day to day operations of Licensee's station raises a substantial and material question of fact as to its qualifications to be and to remain a Commission licensee and may warrant revocation of license under Section 312 of the Act. 47 U.S.C. § 312. Moreover, Licensee's operation of its stations in violation of various Commission rules demonstrates an apparent indifference to the Commission's regulatory authority that is inconsistent with its responsibilities as a licensee. *See, e.g., William L. Zawila*, 18 FCC Rcd at 14964-65, *Family Broadcasting, Inc.*, Order to Show Cause and Notice of Opportunity for Hearing, 16 FCC Rcd 4330, 4335-4337 (2001), recon. denied, 16 FCC Rcd 12810 (2001).

33. Accordingly, pursuant to Sections 312 (a) and 312 (c) of the Act, and Section 1.91 of the Commission's rules, the Commission should order Licensee to show cause why the

licenses for Stations WQQX, East St. Louis, Illinois, WQQW, Highland, Illinois, KQQZ, St. Louis, Missouri, and KZQZ, St. Louis, Missouri, should not be revoked and to provide evidence at a hearing on the following issues:

1. To determine whether Robert Romanik is the real party-in-interest with control of Stations WQQX, WQQW, KQQZ and KZQZ, and, if so, the effect of Robert Romanik's felony convictions on Licensee's qualifications to be and remain a Commission licensee.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether Licensee is qualified to be and to remain a Commission licensee and whether the licenses for Stations WQQX, WQQW, KQQZ and KZQZ should be revoked.

34. In addition, pursuant to Sections 309 (e) and 309 (k) of the Act, the Commission should designate for hearing the Licensee's above-captioned applications for renewal of license of Stations WQQX, WQQW, KQQZ and KZQZ on the following issues:

3. To determine whether Licensee made false certifications, misrepresentations and/or lacked candor in its applications for consent to acquire the licenses of WQQX (File No. BAL-20091103ABM), WQQW (File No. BAL-20060202ABY), KQQZ (File No. BAL-20090925ABD), and KZQZ (File No. BAL-20071221AAT);

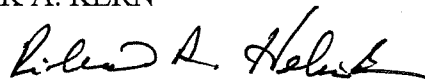
4. To determine whether Licensee made false certifications, misrepresentations and/or lacked candor in its license renewal applications of WQQX (File No. BR-20120709ACP), WQQW (BR-20120709ACO), KZQZ (BR-20120921AAW) and KQQZ (BR-20120921ABA) in violation of Section 73.1015 of the Commission's rules; and

5. To determine whether, in light of the evidence adduced pursuant to the foregoing issues, whether the above-referenced applications for renewal of license should be granted or denied.

Respectfully submitted

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