



Federal Communications Commission
Washington, D.C. 20554
March 27, 2008

In Reply Refer to:
1800B3-LAS/JP

Charles A. Hecht and
Alfredo Alonso
16 Doe Run
Pittstown, NJ 08867

Cleo Broadcasting, LLC
518 Peoples Street
Corpus Christi, TX 78401

RAMS III
415 North College Street
Greenville, AL 36037

Re: **AM Broadcast Auction 84
MX Group 84-96**

Masonboro, North Carolina
Facility ID No. 161051
File Nos. BNP-20040130ALJ
BNP-20051031AFQ

Town Creek, North Carolina
Facility ID No. 160404
File Nos. BNP-20040126AJY

Masonboro, North Carolina
Facility ID No. 161261
File No. BNP-20040130BEM

**Applications for New AM Station
Construction Permits**

Dear Applicants:

We have before us three mutually exclusive ("MX") AM construction permit applications. Charles A. Hecht and Alfredo Alonso ("Hecht") and RAMS III each propose a new AM station at Masonboro, North Carolina, and Cleo Broadcasting, LLC ("Cleo) proposes a new AM station at Town

Creek, North Carolina.¹ These three applications were designated MX Group 84-96 in AM Auction No. 84. We also have before us two Joint Requests for Approval of Agreement and Withdrawal (“Joint Requests” or “Settlement Agreements”) filed by Hecht and RAMS, and Hecht and Cleo on October 31, 2005. As discussed below, we approve the Settlement Agreements and dismiss the RAMS and Cleo applications.

Background. On June 15, 2005, the Media Bureau released a *Public Notice* containing a list of 802 MX AM Auction No. 84 window-filed Form 301 tech box applications.² The *AM MX Public Notice* defined three categories of MX applications, detailed the filings required for each category, and specified a September 16, 2005, deadline for submitting the required filings to the Commission. This filing deadline was extended to October 31, 2005, because of Hurricane Katrina.³ MX Group 84-96 was listed as a Category I MX group, eligible for settlement. Category I applicants were required to file a settlement agreement, an engineering solution resolving all mutual exclusivities, or a Section 307(b) showing by the filing deadline.

On October 31, 2005, Hecht and RAMS, and Hecht and Cleo filed the Settlement Agreements.⁴ Under the terms of each Settlement Agreement, Hecht is to reimburse RAMS and Cleo for their legitimate and prudent expenses in exchange for the withdrawal of their applications. The Settlement Agreements contain the affidavits required by Section 73.3525(a) of the Commission’s Rules (“Rules”).⁵

Discussion. *The Settlement Agreement.* After careful consideration of the Settlement Agreements, and the attached declarations and affidavits, we find that approval of the Settlement Agreements would serve the public interest and expedite the provision of new AM service. The applicants have complied with the provisions of Section 311(c)(3) of the Communications Act of 1934, as amended (the “Act”), and Section 73.3525(a) of the Rules.⁶ We further find that none of the parties filed their respective applications for the purpose of reaching or carrying out the Settlement Agreements⁷ and that no consideration, other than as provided by the Settlement Agreements, has been directly or indirectly paid or promised.

Section 307(b) Issues. Republication. Since the applicants propose to serve different communities, the parties have demonstrated that dismissal of the Cleo application would not unduly

¹ An application filed by Family Radio Network, Inc. (File No. BNP-20040129AQU) for Leland, North Carolina was dismissed on January 29, 2007. See *AM Auction No. 84 Mutually Exclusive Applications Dismissed for Failing to File or Untimely Filing of Required Settlement Agreement, Engineering Solution, or Section 307(b) Showing*, Public Notice, 22 FCC Rcd 1055 (MB 2007).

² See *AM Auction No. 84 Mutually Exclusive Applicants Subject to Auction, Settlement Period Announced for Certain Mutually Exclusive Application Groups; September 16, 2005 Deadline Established for Section 307(b) Submissions*, Public Notice, 20 FCC Rcd 10563 (MB 2005) (“*AM MX Public Notice*”).

³ See *Auction No. 84 Settlement Period and Section 307(b) Submission Deadline Extended to October 31, 2005*, Public Notice, 20 FCC Rcd 14492 (MB 2005).

⁴ On October 31, 2005, Hecht also filed a complete FCC Form 301 application. This application was granted by the staff on November 21, 2007. See *Broadcast Actions*, Public Notice, Report No. 46620 (MB Nov. 27, 2007).

⁵ 47 C.F.R. § 73.3525(a).

⁶ See 47 U.S.C. § 311(c)(3); 47 C.F.R. § 73.3525(a).

⁷ See 47 C.F.R. § 73.3525(a)(2).

impede the objectives of Section 307(b) of the Act.⁸ Additionally, the parties have shown that dismissal of the RAMS application will not unduly impede the objectives of Section 307(b) of the Act because Hecht and RAMS both proposed the same community. Accordingly, we will not require republication under Section 73.3525(b) of the Rules.⁹

Conclusion. Accordingly, IT IS ORDERED, that the Joint Requests for Approval of Settlement Agreement and Withdrawal ARE GRANTED and the associated Settlement Agreements ARE APPROVED. The tech box applications filed by Cleo (File No. BNP-20040126AJY) and RAMS (File No. BNP-20040130BEM) ARE DISMISSED.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Mark N. Lipp, Esq.
John M. Pelkey, Esq.
Lee J. Peltzman, Esq.

⁸ In this regard, Hecht submitted an amendment to the Joint Request on March 14, 2008. Hecht states that Cleo's proposed community of license, Town Creek, North Carolina, receives ample service and that Hecht's proposal would provide a first local transmission service to the larger community of Masonboro. Hecht also notes that RAMS proposed a new AM service to Masonboro as well, thus neither application would be entitled to a dispositive Section 307(b) preference. Because a dispositive Section 307(b) preference cannot be awarded to Hecht, RAMS, or Cleo, dismissing the RAMS and Cleo applications will not unduly impede the objectives of Section 307(b). *See National Communications Affiliates of West Virginia*, Order, 2 FCC Rcd 4515 (Rev. Bd. 1987).

⁹ 47 C.F.R. § 73.3525(b). *See Mobile Broadcasting Service, Inc.*, Memorandum Opinion and Order, 91 FCC 2d 1209 (1982); *Waterman Broadcasting Corp. of Texas*, Memorandum Opinion and Order, 10 FCC 2d 712 (Rev. Bd. 1967) (rule designed to preclude the artificial removal of a demand, evidenced by the filing of an application, for a local outlet of self-expression by private agreement among the applicants).