



Federal Communications Commission
Washington, D.C. 20554
March 2, 2020

In Reply Refer To:
1800B3-TH

Auburn Network, Inc.
P.O. Box 950
Auburn, AL 36831-0950

In re: **W242AX, Auburn, AL**
Facility ID No. 146140
File No. BSTA-20191220ACG

Dear Licensee:

This refers to the application (Application) of Auburn Network, Inc. (Auburn), licensee of FM translator station W242AX, Auburn, Alabama (Station), for special temporary authority (STA) to operate from a different location (Fuller Tower) than the Station's licensed transmitter site.¹

Auburn has disclosed that its President and controlling stockholder, Michael G. Hubbard, was convicted in 2016 in an Alabama state trial court of 12 felony counts under the Alabama Ethics Act.² In 2018, the Alabama Court of Criminal Appeals upheld 11 of the convictions and reversed one conviction.³ Mr. Hubbard has appealed the 11 affirmed convictions in a case pending before the Alabama Supreme Court. The Commission has not yet undertaken any proceeding to determine the impact of that criminal proceeding on the qualifications of Auburn to continue to hold Commission licenses.⁴

Auburn's Application proposes a site change to enable the Station to continue operating. Auburn received notice from the owner of the Station's current tower site that Auburn is required to terminate operation at that site and remove its equipment from the tower. The proposed relocation to the Fuller Tower will enable the Station to continue its service to the public, rebroadcasting WGZZ(AM), Waverly, Alabama.

We will grant a conditional STA, for a period of 180 days, for the Station's proposed relocation to preserve the Station's service to the public.⁵ The grant will be conditioned on the outcome of Mr. Hubbard's pending criminal proceeding, including any further appeals, and any Commission proceedings

¹ Auburn filed a minor modification application to effectuate such a change in 2017. See File No. BMPFT-20170717ACB. That application remains pending.

² See *State of Alabama v. Michael Gregory Hubbard*, CC-2014-565 (Circuit Court, Lee County, Alabama).

³ See *Michael Gregory Hubbard v. State of Alabama*, CR-16-0012 (Alabama Court of Criminal Appeals).

⁴ See *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order and Policy Statement, 102 FCC 2d 1179 (1986), *modified*, Policy Statement and Order, 5 FCC Red 3252 (1990), *recon. granted in part*, Memorandum Opinion and Order, 6 FCC Red 3488 (1991), *modified in part*, Memorandum Opinion and Order, 7 FCC Rcd 6564 (1992).

⁵ See 47 U.S.C. § 154(i); 47 CFR § 73.1635(a). Any STA granted pursuant to Section 73.1635(a) "may be modified or cancelled by the FCC without prior notice or right to hearing." 47 CFR § 73.1635(b).

that may be initiated with respect to that criminal proceeding to determine whether Auburn is qualified to continue to hold Commission licenses.⁶ Our action here is consistent with Commission precedent providing for interim operating authority in appropriate circumstances to preserve service to the public notwithstanding a licensee's potential or actual disqualification based on character qualifications.⁷

Accordingly, pursuant to section 4(i) of the Communications Act of 1934, as amended, and sections 0.283 and 73.1635 of the Commission's rules,⁸ the application by Auburn Network, Inc. for special temporary authority for W242AX, Auburn, Alabama, Facility ID No. 146140 (File No. BSTA-20191220ACG) IS GRANTED for a period of 180 days from the date of this letter.⁹ This authority is subject to and conditioned upon (a) the outcome of all pending and further appeals of the criminal convictions of Michael G. Hubbard for felony violations of the Alabama Ethics Act and any Commission proceedings that may be initiated in connection with that case to determine whether Auburn Network, Inc. is qualified to continue to hold Commission licenses, and (b) electronic notification from Auburn Network, Inc. to Dale Bickel, Audio Division, Media Bureau (dale.bickel@fcc.gov), upon any suspension or termination of the station's normal daily operations and upon commencement of station operation as proposed in the application.

Sincerely,



Albert Shuldiner
Chief, Audio Division

cc:

Mark Lipp, Esq.
Fletcher, Heald & Hildreth, PLC
1300 N. 17th Street
Arlington, VA 22209

⁶ The grant will also be conditioned on notice to Commission staff upon any suspension or termination of the Station's normal daily operations during the term of the STA and upon commencement of the Station's operation from the Fuller Tower, so that the staff will remain aware of the Station's status.

⁷ See *Liberty Cable Co.*, Hearing Designation Order and Notice of Opportunity for Hearing, 11 FCC Rcd 14133 (1996) (subsequent history omitted; interim operating authority granted to preserve service to the public where the designated issues included admission of serious violations of the Act and a substantial and material question of fact as to whether the licensee misrepresented facts in its submissions to the Commission); *Mobilefone Communications*, Memorandum Opinion and Order, 60 RR 2d 1185 (1986) (interim operating authority granted to preserve service to the public despite licensee's disqualification to hold FCC authorizations).

⁸ 47 U.S.C. § 154(i); 47 CFR §§ 0.283, 73.1635.

⁹ Requests for extension of this authority may be considered by the staff. Any extensions that are granted will be subject to the same conditions as the original STA grant.