



**Federal Communications Commission
Washington, D.C. 20554**

April 7, 2020

In Reply Refer to:
1800B3-SS

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In re: **WDMJ(AM), Marquette, MI**
Sovereign Communications, LLC
Facility ID No. 24448

WIAN(AM), Ishpeming, MI
Facility ID No. 24450

WIMK(FM), Iron Mountain, MI
Facility ID No. 64027

WJPD(FM), Ishpeming, MI
Facility ID No. 24449

WMIQ(AM), Iron Mountain, MI
Facility ID No. 64026

WZNL(FM), Norway, MI
Facility ID No. 74549

File No. BAL-20200124AAD

Application for Assignment of License

Informal Objection

WNGE(FM), Negaunee, MI
Facility ID No. 78159

WUPK(FM), Marquette, MI
Facility ID No. 64025

File No. BAL-20200124AAJ

Application for Assignment of License

Dear Counsel, Applicants and Objector:

We have before us an application (AMC Application) for consent to assign the licenses of six stations from Sovereign Communications, LLC (Sovereign), to AMC Partners Escanaba, LLC (AMC)¹ and an application (Marquette Application) for consent to assign the licenses of two stations from Sovereign to Marquette Radio, LLC (Marquette).² Broadcast Music, Inc. (BMI) filed an Informal Objection (Objection) to the AMC Application on February 14, 2020, and Sovereign filed an Opposition.³ For the reasons set forth below, we deny the Objection and, subject to the conditions set forth below, grant the AMC Application and the Marquette Application.

Background. Sovereign and AMC filed the AMC Application on January 24, 2020, and the Media Bureau staff accepted it for filing on January 27, 2020.⁴ Subsequently, on February 14, 2020, BMI filed the Objection.⁵

In its Objection, BMI argues that Sovereign should be barred from “transferring [its] substantial assets” to AMC in the proposed transaction because Sovereign has not yet made arrangements to pay two outstanding court-ordered judgements that BMI obtained against Sovereign.⁶

¹ File No. BAL-20200124AAD. This application seeks authorization for assignment of WDMJ(AM), WIAN(AM), WIMK(FM), WJPD(FM), WMIQ(AM), and WZNL(FM).

² File No. BAL-20200124AAJ. This application seeks authorization for assignment of WNGE(FM) and WUPK(FM). Collectively, all eight stations are referred to as Stations.

³ Informal Objection of BMI (filed Feb. 14, 2020) (Objection); Opposition of Sovereign to Objection to Transfer of License (filed Feb. 25, 2020) (Opposition). No pleadings were filed concerning the Marquette Application.

⁴ See *Broadcast Applications*, Public Notice, Report No. 29663 (MB Jan. 29, 2020).

⁵ On February 25, 2020, BMI filed a letter requesting to withdraw its Objection. *Letter from Randolph B. Osstyn, Counsel for BMI, to Marlene H. Dortch, Secretary, FCC* (Feb. 25, 2020). Because this request does not meet the Commission’s requirements for voluntary withdrawal or dismissal of an informal objection, 47 CFR § 73.3588, we consider and dismiss the Objection on the merits as discussed below.

In its Opposition, Sovereign asserts that the Objection should be denied because it is based on matters arising from a private contractual dispute. Sovereign argues that such matters are improper for consideration in this assignment proceeding and that BMI has already been heard and obtained judgment in the appropriate forum.⁷ In addition, Sovereign asserts that the Objection contains no facts demonstrating that grant of the AMC Application would not be in the public interest.⁸

Discussion. Section 310(d) of the Communications Act of 1934, as amended (Act),⁹ requires the Commission to decide whether the proposed transfer or assignment of a broadcast license would be in the public interest. Section 309(d)(1) of the Act authorizes any party in interest to file a petition to deny any application as long as the petition “contain[s] specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with [the public interest].”¹⁰ Informal objections, like petitions to deny, also must allege properly supported facts that, if true, would establish a substantial and material question of fact that grant of the application would be inconsistent with the public interest.¹¹

The issue raised by BMI constitutes a private contractual dispute between BMI and Sovereign that is within the province of, and has been adjudicated by, a local court of competent jurisdiction.¹² Furthermore, absent a final court judgment raising issues within the Commission’s jurisdiction, we will not ordinarily act on matters stemming from private contracts,¹³ and absent a prior court injunction specifically directed against the filing or processing of an application, we will not ordinarily withhold action on an otherwise acceptable application.¹⁴ We note, however, that Commission grant of an assignment or transfer of control application merely finds that the parties are qualified under, and the

⁶ Objection at 1. BMI attaches two Judgment Orders in the amounts of \$179,673.02 and \$159,958.34, respectively. See Objection at Attachments 1 and 2; see also Judicial Circuit Court of Chippewa County, State of Michigan, Case Nos. 19-15552-CK and 17-4885-CK, respectively.

⁷ Opposition at 1-2, citing *KMYA-DT, Camden, Arkansas*, Memorandum, Opinion and Order, 32 FCC Rcd 5015, para. 8 (MB 2017); *McAllister Television Enterprises, Inc.*, Memorandum, Opinion and Order, 60 RR 2d 1379, para. 8 (1986); and *Transcontinent Television Corp.*, Memorandum, Opinion and Order, 21 RR 945, 956 (1961) (Commission routinely refuses to interject itself into private disputes, emphasizing that they are outside the scope of its jurisdiction).

⁸ Opposition at 2.

⁹ 47 U.S.C. § 310(d).

¹⁰ *Id.* § 309(d)(1).

¹¹ See *id.* § 309(d)(2); see also, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197, n.10 (1990), *aff’d sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections, like petitions to deny, must also contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹² See, e.g., *George Bouris, Assignor*, Memorandum Opinion and Order, 14 FCC Rcd 14299, 14299, para. 3, citing *Kirk Merkley, Receiver*, 94 FCC 2d 829, 838, para. 18 (1983); *D.H. Overmyer*, 94 FCC 2d 117, 123, para. 9 (1983).

¹³ See *Applications of Northwest Broadcasting, Inc., Assignor and Western Pacific, Inc., Assignee*, Memorandum Opinion and Order, 12 FCC Rcd 3289, 3293, para. 10 (1997).

¹⁴ See, e.g., *id.* (this decision does not foreclose any relief to which Petitioner ultimately may be entitled based on the outcome of any subsequent litigation, if applicable).

proposed transaction does not violate, the Act, or the FCC's rules and policies. As such, it is permissive only and does not prejudice any relief to which the parties may ultimately be entitled.¹⁵

Conclusion/Actions. In light of the above discussion, we deny the Objection. Additionally, we have reviewed the AMC Application and the Marquette Application and find that Sovereign is qualified to assign, and AMC and Marquette are qualified to hold, the licenses for the referenced Stations and that grant of the AMC Application and the Marquette Application, subject to the conditions discussed below, is consistent with the public interest, convenience, and necessity.

Accordingly, IT IS ORDERED, that the Informal Objection filed by Broadcast Media, Inc., on February 14, 2020, IS DENIED.

IT IS FURTHER ORDERED, that the application for consent to assign the licenses of the Stations WDMJ(AM), WIAN(AM), WIMK(FM), WJPD(FM), WMIQ(AM), and WZNL(FM) (File No. BAL-20200124AAD), filed by Sovereign Communications, LLC and AMC Partners Escanaba, LLC, IS GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:¹⁶

- 1) Grant of the referenced application (File No. BAL-20200124AAD) is conditioned upon payment to the U.S. Department of Treasury in full, within 20 days of the date of this letter, of the Treasury Amount (which amount shall be determined by Treasury and its collection agent) for the following broadcast stations: WDMJ(AM), WIAN(AM), WIMK(FM), WJPD(FM), WMIQ(AM), WZNL(FM), WNGE(FM), and WUPK(FM).
- 2) Grant of the referenced application (File No. BAL-20200124AAD) is further conditioned upon payment to the FCC in full, within 20 days of the date of this letter, of all outstanding FCC regulatory fee debt for FY 2019 for the following broadcast stations: WDMJ(AM); WIAN(AM); WIMK(FM); WJPD(FM); WMIQ(AM); WZNL(FM); WNGE(FM); WUPK(FM); WKNW(AM), Facility ID Number (FIN) 978; WMKD(FM), FIN 59529; WNBY(AM), FIN 20378; WNBY-FM, FIN 20379; WSOO(AM), FIN 20420; WSUE(FM), FIN 20422; WYSS(FM), FIN 977.
- 3) Grant of the referenced application (File No. BAL-20200124AAD) is further conditioned upon Sovereign providing written proof (email transmission is sufficient) to the FCC and if required, to Treasury and its collection agent, that Sovereign is not in default under its installment payment agreements with Treasury and its collection agent.
- 4) In the event the required payments are not paid in full within 20 days of the date of this letter, the grant of the AMC Application and the Marquette Application will be rescinded and the parties must take all required actions to restore Sovereign

¹⁵ See *George R. Bosari, Jr., Esq.*, Letter Order, 24 FCC Rcd 11814, 11814 (MB 2009).

¹⁶ Commission staff placed a hold on processing of the AMC Application and the Marquette Application due to Sovereign nonpayment of certain past due regulatory fees for Fiscal Years (FY) 2016 through 2019. Sovereign asked that the FCC lift the hold and grant both Applications in return for Sovereign's agreement to pay the following amounts from the proceeds of the sale of the Stations: 1) to U.S. Department of the Treasury and its collection agent, an amount equal to the outstanding FY 2016 through FY 2018 regulatory fee debt, including accrued interest, penalties and other charges, owed for the Stations (the Treasury Amount) and 2) to the FCC, an amount equal to the outstanding FY 2019 fee debt, including accrued interest, penalties and other charges, owed for both the Stations and Sovereign's remaining seven AM and FM stations (the FCC Amount).

Communications, LLC, as the licensee of WDMJ(AM), WIAN(AM), WIMK(FM), WJPD(FM), WMIQ(AM), and WZNL(FM).

IT IS FURTHER ORDERED, that the application for consent to assign the licenses of the Stations WNGE(FM) and WUPK(FM) (File No. BAL-20200124AAJ), filed by Sovereign Communications, LLC and Marquette Radio, LLC, IS GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:¹⁷

- 1) Grant of the referenced application (File No. BAL-20200124AAJ) is conditioned upon payment to the U.S. Department of Treasury in full, within 20 days of the date of this letter, of the Treasury Amount (which amount shall be determined by Treasury and its collection agent) for the following broadcast stations: WDMJ(AM), WIAN(AM), WIMK(FM), WJPD(FM), WMIQ(AM), WZNL(FM), WNGE(FM), and WUPK(FM).
- 2) Grant of the referenced application (File No. BAL-20200124AAJ) is further conditioned upon payment to the FCC in full, within 20 days of the date of this letter, of all outstanding FCC regulatory fee debt for FY 2019 for the following broadcast stations: WDMJ(AM), WIAN(AM), WIMK(FM), WJPD(FM), WMIQ(AM), WZNL(FM), WNGE(FM), WUPK(FM), WKNW(AM), WMKD(FM), WNB(AM), WNB-FM, WSOO(AM), WSUE(FM), WYSS(FM).
- 3) Grant of the referenced application (File No. BAL-20200124AAJ) is further conditioned upon Sovereign providing written proof (email transmission is sufficient) to the FCC and if required, to Treasury and its collection agent, that Sovereign is not in default under its installment payment agreements with Treasury and its collection agent.
- 4) In the event the required payments are not paid in full within 20 days of the date of this letter, the grant of the AMC Application and the Marquette Application will be rescinded and the parties must take all required actions to restore Sovereign Communications, LLC, as the licensee of WNGE(FM) and WUPK(FM).

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

¹⁷ See *supra* note 16.