

**SO ORDERED.**

**SIGNED this 14th day of July, 2022.**



*Dale L. Somers*

Dale L. Somers  
United States Chief Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS**

IN THE MATTER OF:	)	
	)	Case No. 22-20242
ROCKING M MEDIA, LLC, et al.,	)	(Lead Case)
	)	Administratively Consolidated
Debtors. <sup>1</sup>	)	Chapter 11

**ORDER (A) APPROVING (I) BIDDING PROCEDURES AND (II) FORM AND MANNER OF  
NOTICES; (B) SCHEDULING THE TIME, DATE, AND PLACE FOR THE AUCTION AND  
HEARING TO CONSIDER FINAL APPROVAL OF SALE; AND  
(C) GRANTING RELATED RELIEF**

On June 23, 2022, the above-captioned jointly administrated Debtors (the “**Debtors**”) filed a motion (the “**Motion**”)<sup>2</sup> in seeking, among other things, an order pursuant to Bankruptcy Code §§ 105 and

<sup>1</sup> The Debtors in these Chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Rocking M Media, LLC (“RMM”) (0260) (Bankr. Case No. 22-20242); Rocking M Media Wichita, LLC (“RMMW”) (0260)(Bankr. Case No. 22-20243); Rocking M Radio, Inc. (“RMR”) (8143)(Bankr. Case No. 22-20244); and Melia Communications, Inc. (“MCI”) (5545)(Bankr. Case No. 22-20245). The headquarters for each of the Debtors is located at 1065 S. Range Road, Colby, Kansas 67701.

<sup>2</sup> Capitalized terms used but not defined in this Order shall have the meanings ascribed to them in the Motion.

363 and Federal Rules of Bankruptcy Rules 2002(a)(2), 6004, and 6006 (i) approving Bidding Procedures to be used in connection with the proposed sale of certain radio station assets (the “**Assets**”) – to the Successful Bidder, (ii) scheduling an Auction for the Assets and the Sale Hearing to consider approval of the Sale, and (iii) approving the form and manner of notice of the Auction and the Sale Hearing. No objections were filed to the Motion.

Upon review of the Motion, good cause appearing therefore, and no further notice being required, it is hereby

**FOUND AND DECREED THAT:**

This Court has jurisdiction over the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (N); venue of this case and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409; and the statutory predicates for the relief sought in the Motion are §§ 105(a), 363, and 365 of the Rules 2002, 6004, and 6006.

Good and sufficient notice of the relief sought in the Motion has been given and no further notice is required. A reasonable opportunity to object or be heard regarding the relief requested in the Motion has been afforded to all interested persons and entities, including (i) the Internal Revenue Service, (ii) the Kansas Department of Revenue, and (iii) the Debtors’ known secured creditors and lien holders, including all creditors or their counsel known to the Debtors to assert a lien (including any security interest), claim, right, interest, or encumbrance of record against all or any portion of the Assets; (v) the United States Trustee; (vi) the creditors listed as holding the 20 largest unsecured claims against the Debtors’ estates; (vii) all entities that have expressed an interest to the Debtors in purchasing the Assets; and (viii) all other parties that filed notices of appearance in the Chapter 11 case, (collectively (i)-(vii), the “**Notice Parties**”).

Various lenders (collectively, the “**Secured Parties**”) may assert a security interest in the Radio Stations which consist in some instances of both real and personal property as set forth below:

Debtor	Secured Parties	Radio Stations
MCI	Farmers & Merchants Bank KS StateBank Belate LLC Eagle Communications, Inc.	KLOE-AM, Goodland, Kansas KKCI-FM, Goodland, Kansas KWGB-FM, Colby, Kansas
RMMW	Belate, LLC KS StateBank	*KIBB-FM, Haven, Kansas *KVWF-FM, Augusta, Kansas
RMM	KS StateBank Bank of Commerce Farmers & Merchants Bank Belate LLC E. Gordon Johnson and Susan G. Johnson Revocable Trust Dated July 31, 2006	KXXX-AM, Colby, Kansas KRDQ-FM, Colby, Kansas KGNO-AM, Dodge City, Kansas KAHE-FM, Dodge City, Kansas KERP-FM, Ingalls, Kansas *KZRS-FM, Great Bend, Kansas *KSOB-FM, Larned, Kansas *KNNS-AM, Larned, Kansas KSMM-FM, Liberal, Kansas KSMM-AM, Liberal, Kansas *KMMM-AM, Pratt, Kansas *KZUH-FM, Minneapolis, Kansas *KVOB-FM, Lindsborg, Kansas KZRD-FM, Dodge City, Kansas *KWME-FM, Wellington, Kansas *KLEY-AM, Wellington, Kansas *KKLE-AM, Winfield, Kansas *K262CQ-FM, Wellington, Kansas (FM TRANSLATOR)  *Denotes stations for sale

The proposed notice of the Sale and the Bidding Procedures, as set forth in the Motion, is good, appropriate, sufficient, and is reasonably calculated to provide all interested parties with timely and proper notice of the Sale and the Bidding Procedures, and no other or further notice of the Sale of the Assets, or the Bidding Procedures, as set forth herein and in the Motion, is required.

The Debtors have articulated good and sufficient reasons for this Court to grant the relief requested in the Procedures Motion, including this Court's approval of (i) the Bidding Procedures, attached hereto as Exhibit 1, and (ii) the form and manner of service of the notice of the Auction, the Motion and Sale Hearing, attached hereto as Exhibit 2 (the "Notice of Auction and Sale Hearing").

The Debtors articulated good and sufficient reasons for, and the best interests of the Debtors' estates will be served by, this Court scheduling a subsequent hearing to consider whether to grant the remainder of the relief requested in the Motion, including approval of the proposed Sale to the Successful Bidder free and clear of, among other things, all liens, claims, encumbrances, and interests pursuant to 11 U.S.C. § 363.

The entry of this Order is in the best interests of the Debtors, their estates, their creditors, and other parties-in-interest.

The Debtors have exercised sound business judgment and presented sound business reasons for approval of the Bidding Procedures. The Bidding Procedures are reasonably designed to maximize the value to be achieved for the Assets.

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is hereby granted to the extent provided in this Order.
2. Any and all objections, if any, to entry of this Order or to the relief provided herein and requested in the Motion that have not been withdrawn, waived, resolved, or settled, and all reservations of rights included therein, are hereby denied and overruled in their entirety.

**Approval of the Bidding Procedures**

3. The Bidding Procedures, as set forth on Exhibit 1 and incorporated herein by reference as if fully set forth herein, are hereby approved in all respects and shall govern all bids and bid proceedings relating to the Assets.

4. The deadline for submitting bids for the Assets that are not credit bids shall be 5:00 p.m. Prevailing Central Time on the day that is 60 days from the date the ads in the advertising in select trade publications begin to run (as may be extended by the Debtors with the consent of the Secured Parties, the "**First Bid Deadline**"). The deadline for submitting bids for the Assets that are credit bids shall be 5:00 p.m. Prevailing Central Time on the day that is five (5) business days after the First Bid Deadline (the "**Second Bid Deadline**" and together, with the First Bid Deadline, the "**Bid Deadlines**" and each, a "**Bid Deadline**").

5. As set forth in the Bidding Procedures, the Secured Parties shall have the right to credit bid their claims against the Debtors pursuant to and consistent with Bankruptcy Code section 363 at any time on or prior to the Second Bid Deadline and at the Auction in the form of an overbid.

6. With the consent of the Secured Parties, the Debtors are authorized to extend the deadlines set forth in this Order or adjourn, continue, or suspend the Auction or the Sale Hearing for any reason, without further order of this Court, by filing a notice with this Court and serving such notice on all Notice Parties and Potential Bidders.

7. The Debtors are authorized to take any and all actions reasonably necessary or appropriate to implement the Bidding Procedures.

### **The Auction**

8. The Auction shall commence fourteen (14) days after the Bid Deadlines, at the Robert J. Dole Courthouse, 500 State Avenue, Kansas City, Kansas 66101, in Courtroom 144, or such later date and time and place as the Debtors, in good faith, shall notify all Qualified Bidders; provided, however, in the event that no Qualified Bids are received by the applicable Bid Deadline, the Debtors shall not be required to conduct an Auction. Further, the Auction may be conducted by Gregory J. Guy of Patrick Communications LLC.

9. Notwithstanding any other provision of this Order or any other Order of this Court, no sale, transfer or assignment of any rights and interests of the Debtors in any federal license or authorization issued by the Federal Communications Commission (“FCC”) shall take place prior to the issuance of FCC regulatory approval for such sale, transfer or assignment pursuant to the Communications Act of 1934, as amended, and the rules and regulations promulgated under such statutes. The FCC’s rights and powers to take any action pursuant to its regulatory authority, including, but not limited to, imposing any regulatory conditions on such sales, transfers, and assignments, and setting any regulatory fines or forfeitures, are fully preserved, and nothing herein shall proscribe or constrain the FCC’s exercise of such power or authority to the extent provided by law.

### **Sale Hearing**

10. The Sale Hearing shall be held at the Robert J. Dole Courthouse, 500 State Avenue, Kansas City, Kansas 66101, in Courtroom 144<sup>3</sup>, at which time this Court shall (i) consider approval of the Sale to the Purchaser or other Successful Bidder; (ii) consider the entry of the proposed sale order (the “**Sale Order**”); (iii) consider any issues or objections that are timely interposed by any parties; and (iv) grant such other or further relief as this Court may deem just or proper.

11. The Sale Hearing may be adjourned by the Debtors after consultation with the Secured Parties and the Successful Bidder, as applicable, from time to time without further order of this Court, by filing a notice with this Court and serving such notice on all Qualified Bidders and counsel for the Purchaser.

#### **Notice**

12. The Notice of Auction and Sale Hearing substantially in the form attached hereto as Exhibit 2 is hereby approved.

13. Within three (3) business days after the entry of this Order, the Debtors shall cause a copy of the Bidding Procedures, the Notice of Auction and Sale Hearing, and this Order to be served upon the Notice Parties as well as the parties that conducted diligence and/or made offers for the Assets via e-mail and first-class mail if they could be located.

14. Within three (3) business days after the entry of this Order, the Debtors shall cause a copy of the Notice of Auction and Sale Hearing, and this Order to be served upon the following additional notice parties: (a) all known creditors of the Debtors; (b) all federal, state, and local regulatory agencies and taxing authorities affected by relief requested under section 1146(a) of the Bankruptcy Code; (c) via e-mail and first-class mail if they could be located.

15. The notice as set forth in the preceding paragraph shall constitute good and sufficient notice of the Motion, the Auction, the Sale Hearing, and the proposed Sale Order, and no other or further notice of the Motion, the Auction, the Sale Hearing, and/or the proposed Sale Order shall be necessary or required.

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<sup>3</sup> Such hearing may be held virtually by telephone or zoom, at the Court’s discretion.

### **Objections to the Sale**

16. Objections, if any, to the sale of the Assets or some portion of the Assets, or the relief requested in the Motion, other than with respect to the relief granted herein, shall: (a) be in writing; (b) comply with the Bankruptcy Rules; (c) be filed with this Court and served so as to be received no later than 7 days before the sale hearing (the “**Objection Deadline**”) by (a) Sandberg Phoenix, attorneys for the Debtors, 4600 Madison Avenue, Suite 1000, Kansas City, MO 64112, Attn: Sharon Stolte, sstolte@sandbergphoenix.com (b) the United States Trustee; and (c) the Notice Parties.

17. The failure of any person or entity to timely file their objection to the Motion shall forever bar any objection to the Motion or the relief requested therein, or to the consummation of the Sale with the Successful Bidder, including the transfer of the Assets free and clear of liens, claims, or interests.

### **Additional Provisions**

18. To the extent of any conflict, discrepancy, or other inconsistency or difference among the terms of this Order, the Bidding Procedures (Exhibit 1 to this Order), and/or the Motion, the terms of the Bidding Procedures shall govern.

19. Pursuant to 47 U.S.C. §310(d), no rights granted in broadcast station licenses issued by the FCC can be transferred or assigned without prior consent of the FCC. The FCC licenses of the Debtor’s radio broadcasting stations, therefore, cannot be subject to the control of the successful bidders of the assets of the radio station(s) unless and until FCC consent to the assignment of the licenses of the radio station(s) is obtained, pursuant to an application made to the FCC. The Debtors will cooperate in the preparation and filing of the requisite application for FCC consent to the assignment of the FCC licenses to the successful bidder. The expense of compliance with FCC license assignment procedures and the FCC application process will be borne by the successful bidder..

20. The Debtors are authorized and empowered to take such steps, incur, and pay such costs and expenses, and do such things as may be reasonably necessary to fulfill the notice requirements established by this Order.

21. The stays provided for in Bankruptcy Rules 6004(h) and 6006(d) are hereby waived, and this Order shall be effective immediately upon its entry.

22. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

23. Nothing in this Order derogates from or diminishes the fiduciary duties of the Debtors to act in the best interests of their estates.

24. This Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order.

####

**Order prepared by:**

SANDBERG PHOENIX & von GONTARD P.C.

/s/ Sharon L. Stolte

Sharon L. Stolte #14302

4600 Madison Avenue, Suite 1000

Kansas City, MO 64112

816-627-5543

816-627-5532 (Fax)

sstolte@sandbergphoenix.com

*Attorneys for the Debtors*



EXHIBIT 1

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS

IN THE MATTER OF:	)	
	)	Case No. 22-20242
ROCKING M MEDIA, LLC, et al.,	)	(Lead Case)
	)	Administratively Consolidated
Debtors. <sup>1</sup>	)	Chapter 11

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BIDDING PROCEDURES

These bidding procedures (the “**Bidding Procedures**”) have been approved by an order of the Court on [DATE] [Doc. \_\_\_\_] (the “**Bidding Procedures Order**”) on the docket in the above-captioned case. The Bidding Procedures set forth the process by which the jointly administered Debtors (the “**Debtors**”) are authorized to conduct the sale by Auction of the Assets.<sup>2</sup>

**ANY PARTY INTERESTED IN BIDDING ON THE ASSETS SHOULD CONTACT DEBTORS’ COUNSEL, AS FOLLOWS:**

**By Email:** Sharon Stolte - sstolte@sandbergphoenix.com; or

**By U.S. Mail:** Sandberg Phoenix  
4600 Madison Avenue, Suite 1000  
Kansas City, Missouri 64112  
Attn: Sharon Stolte or Larry A. Pittman, II

**Due Diligence**

1. Parties interested in conducting due diligence should contact Debtors’ Counsel. Prospective bidders that have executed an appropriate confidentiality agreement will be afforded access to a virtual, proprietary data room containing information relating to the Assets set for Auction. The Debtors, in consultation with the secured creditors holding perfected liens in the Assets or some portion of the Assets (the “**Secured Parties**”), maintain the right to deny access to the proprietary data room to any party, in their

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<sup>1</sup> The Debtors in these Chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Rocking M Media, LLC (“RMM”) (0260) (Bankr. Case No. 22-20242); Rocking M Media Wichita, LLC (“RMMW”) (0260)(Bankr. Case No. 22-20243); Rocking M Radio, Inc. (“RMR”) (8143)(Bankr. Case No. 22-20244); and Melia Communications, Inc. (“MCI”) (5545)(Bankr. Case No. 22-20245). The headquarters for each of the Debtors is located at 1065 S. Range Road, Colby, Kansas 67701.

<sup>2</sup> A more detailed listing of the assets, identified as the “For Sale Stations” in the Motion for an Order (A) Approving (I) Bidding Procedures and (II) Form and Manner of Notices; (B) Scheduling the Time, Date, and Place for the Auction and Hearing to Consider Final Approval of Sale; and (C) Granting Related Relief (the “Motion”) can be found in **Exhibit C** attached to the Motion.

discretion, including, without limitation, on the basis that such party might use such proprietary information in a competitive manner to the detriment of Debtors or the Successful Bidder (defined below). The Debtors shall not be obligated to furnish any due diligence information other than that information contained in the proprietary data room or after the applicable Bid Deadline (defined below) but, upon request, will provide additional information if reasonable and appropriate.

2. Each party submitting a bid (each, a “**Potential Bidder**”) and Qualified Bidder (defined below) shall comply with all reasonable requests for additional information and due diligence access by the Debtors. Failure by a Potential Bidder to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtors to determine that such bidder is not a Qualified Bidder and any such determination shall be made in consultation with the Secured Parties. Failure by a Qualified Bidder to comply with requests for additional information and due diligence access may be a basis for the Debtors to determine, in consultation with the Secured Parties, that a bid made by such Qualified Bidder is not a Qualified Bid (defined below).

### **Qualified Bid Requirements**

3. To be considered, any bid submitted by a Potential Bidder for the Assets must include language:

(a) stating that the bid is irrevocable through the Auction (defined below), provided, however, that (i) if the Qualified Bid (defined below) becomes a Successful Bid (defined below), such bid shall be irrevocable through the closing date; and (ii) and in the case of a Second Highest Bid (defined below), such bid shall remain irrevocable through the closing of the sale of the Assets to the Successful Bidder, unless the Successful Bidder fails to close and the Debtors shall have given notice to a Second Highest Bidder (defined below) that it has decided to consummate the transaction contemplated by the Second Highest Bid, in which case the Second Highest Bid shall remain open through the closing with such Second Highest Bidder;

(b) stating that the Potential Bidder (i) has had an opportunity to conduct due diligence regarding the Assets prior to making its offer and does not require further due diligence; (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its bid; and (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied, by operation of law, or otherwise, regarding the Assets, or the completeness of any information provided in connection therewith, except as expressly stated in these Bidding Procedures;

(c) stating that the Potential Bidder has obtained all necessary organizational approvals to make its competing bid and to enter into and consummate the transaction set forth in the Purchase Agreement and to acquire the Assets;

(d) stating that a buyer’s premium of five percent (5%) will be added to the final bid on the For Sale Stations to be used to pay the commission owed to the Auctioneer and any buyer’s agent; and

(e) be submitted in writing to (i) counsel for the Debtors and (ii) counsel to the Secured Parties so as to be received no later than 5:00 p.m. Prevailing Central Time on the day that is sixty (60) days from the date the ads in the advertising in select trade publications begin to run (as may be extended by the Debtors with the consent of the Secured Parties, the “**First Bid Deadline**”), except as set forth in paragraph 8 with respect to credit bids by any Secured Party.

On the day that the sixty-day (60-day) period commences, the Debtors shall notify the Secured Parties of such.

4. In addition to the foregoing, a “**Qualified Bidder**” is a Potential Bidder that delivers a binding bid (“**Qualified Bid**”) that satisfies the following:

(a) the bid must be accompanied by an executed Purchase Agreement, or if changes to the Purchase Agreement are proposed, a modified purchase agreement (the “**Modified Purchase Agreement**”) signed by an authorized representative of such bidder, along with a copy of the Purchase Agreement marked to show all proposed changes (a Word document of the Purchase Agreement will be made available for this purpose);

(b) the bid must offer to purchase some or all of the Assets and provide an allocation of the purchase price among such Assets;

(c) except with respect to a credit bid as set forth in paragraph 8, Bids must be accompanied by a deposit (the “**Bid Deposit**”) in an amount equal to at least five percent (5%) of the purchase price proposed by the Potential Bidder, in the form of a certified check or wire transfer to an escrow agent designated by Debtors’ counsel;

(d) is accompanied by sufficient information, including to demonstrate, in the Debtors’ discretion, that the Potential Bidder has the financial ability to timely consummate the Sale;

(e) is firm and unconditional and not subject to any contingencies other than those agreed to in writing by the Debtors; and

(f) acknowledges in writing that it (i) did not agree with any Potential Bidders or Qualified Bidders to control price; and (ii) agrees not to engage in any collusion that would be subject to section 363(n) of the Bankruptcy Code with respect to any bids, the Auction, or the Sale.

5. The Debtors will not consider any Bids that are not credit bids received after the First Bid Deadline. The Debtors will not consider any Bids that are credit bids received after the Second Bid Deadline (as defined below). Following entry of the Bidding Procedures Order, the Debtors, after consultation with its professionals and the Secured Parties and their professionals, may reject any bid that includes non-cash consideration (other than a credit bid by a Secured Party); is contingent on receiving uncommitted funds from a governmental authority; entitles the Potential Bidder to any break-up fee, termination fee, expense reimbursement, or similar type of payment; is not in conformity with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or the Local Bankruptcy Rules of the Bankruptcy Court; is from an entity that the Debtors, in consultation with the Secured Parties, conclude does not have the financial ability to consummate the transaction or fulfill financial commitments under their proposal; or is contrary to the best interests of the Debtors’ estates.

6. The Debtors and any Secured Party may communicate prior to the Auction or Sale Hearing with any Potential Bidder and may request any additional information reasonably required to evaluate such Potential Bidder’s bid.

7. Within three (3) business days after the applicable Bid Deadline, the Debtors shall inform each Potential Bidder that has submitted a bid whether it is a Qualified Bidder. As soon as reasonably practicable after the applicable Bid Deadline, but in any case, no later than two (2) days prior to the Auction, the Debtors shall provide all Qualified Bidders with a copy of all Qualified Bids received to date.

### **Credit Bidding**

8. To the fullest extent permitted by Bankruptcy Code section 363(k), each of the Secured Parties is entitled to credit bid its claim(s) in an amount set forth in its proof of claim(s) filed against one or more of the Debtors. Any such credit bid may take place at any time prior to the Second Bid Deadline (as defined below) and during the Auction in the form of an overbid. Notwithstanding anything to the contrary contained herein, any Secured Party that submits a credit bid (a) shall not be required to provide a Bid Deposit in order to have a Qualified Bid and (b) shall have until 5:00 p.m. Prevailing Central Time on the day that is five (5) business days after the First Bid Deadline to submit a credit bid (the “**Second Bid Deadline**” and together, with the First Bid Deadline, the “**Bid Deadlines**” and each, a “**Bid Deadline**”).

### **Failure of Auction**

9. If no Qualified Bids have been submitted by the applicable Bid Deadline the Debtors may report the same to the Bankruptcy Court and shall consult with the Secured Parties regarding any further market process or sale of the Assets.

### **Auction**

10. If two or more Qualified Bids are received by the applicable Bid Deadline, then there shall be an auction (the “**Auction**”) on a date to be determined by the Bankruptcy Court and set forth in the Bidding Procedures Order. The Debtors, in consultation with the Secured Parties, may extend the deadlines set forth in the Bidding Procedures Order and/or adjourn, continue, or suspend the Auction and/or the Sale Hearing for any reason, without further order of the Bankruptcy Court, by filing a notice with the Bankruptcy Court and serving such notice on all Potential Bidders.

11. Only a Qualified Bidder that has submitted a Qualified Bid and the Secured Parties will be eligible to participate at the Auction. The Debtors will evaluate all Qualified Bids received and, after consultation with their professionals and the Secured Parties and their professionals, will select the Qualified Bid that reflects the highest or best offer for the Assets or some portion of the Assets as the “**Starting Auction Bid.**” In considering which Qualified Bid shall be the Starting Auction Bid, the Debtors will consider, among other things, the amount of the Starting Auction Bid, the Qualified Bidder’s, or Qualified Bidders’ ability to finance and timely consummate the purchase of Assets or some portion of the Assets.

12. The following rules shall apply at the Auction: (a) the minimum initial overbid must be, in the aggregate, at least \$10,000 greater than the Starting Auction Bid and allocated among the relevant Assets and (b) subsequent overbids must be, in the aggregate, in increments of at least \$10,000 unless otherwise defined by the Debtors and allocated among the relevant Assets. From time to time, the Debtors will, in an open forum, advise Qualified Bidders participating in the Auction and the Secured Parties of their determination as to the terms of the then highest or otherwise best bid for the Assets.

13. An overbid at the Auction must comply with the conditions for a Qualified Bid set forth above, provided, however, that no Bid Deadline shall apply and any Secured Party that submitted a credit bid shall not be required to provide any Bid Deposit. Any overbid must remain open and binding on the Qualified Bidder until and unless the Debtors accept a higher or otherwise better overbid from another bidder. To the extent not previously provided, a Qualified Bidder submitting an overbid at the Auction must submit, as part of its overbid, written evidence (in the form of financial disclosure or credit quality support information or enhancement reasonably acceptable to the Debtors) demonstrating such Qualified Bidder’s ability to close the alternative transaction proposed by such overbid.

14. The Debtors, subject to the Purchase Agreement and after consultation with its professionals and with the consent of the Secured Parties may adopt other rules for the Auction at the Auction that, in its reasonable judgment, will better promote the goals of the Auction. All such rules will provide that: (a) the procedures must be fair and open, with no participating Qualified Bidder disadvantaged in any material way as compared to any other Qualified Bidder and (b) all bids shall be made and received in one room, on an open basis, and all bidders shall be entitled to be present for all bidding with the understanding that the true identity of each bidder shall be fully disclosed to all other bidders and that all material terms of each Qualified Bid shall be fully disclosed to all other bidders throughout the entire Auction. Nothing herein shall prohibit the Debtors from meeting privately with any Qualified Bidder to negotiate the terms of a bid or overbid.

15. During the Auction, the Debtors will review each bid or overbid submitted by a Qualified Bidder or a Secured Party in order to identify, after consultation with its professionals and the Secured Parties and their professionals (other than any Secured Party (and its professionals) who has submitted a bid or overbid that is the subject of such review), the bid or overbid that constitutes the highest or otherwise best bid for the Assets. The Debtors will consider, among other things, (a) the amount of consideration offered under the Qualified Bid; (b) the changes to the Purchase Agreement required by the Qualified Bid; (c) the Qualified Bidder's ability to finance and timely consummate the purchase of the Assets; and (d) the Secured Parties. The Debtors will also consider the Qualified Bid's impact on the ability to minimize the Debtors' losses incurred before the closing date based on the terms and timing provided in the bid.

16. The Auction shall continue until there is only one Qualified Bid or credit bid by a Secured Party for the Assets that the Debtors determine, in their reasonable business judgment, after consultation with its advisors and the Secured Parties and their advisors (other than any Secured Party (and its professionals) who has submitted a bid or overbid that is the subject of such review) is the highest or otherwise best Qualified Bid(s) at the Auction. The bid(s) that are selected by the Debtors as the highest or otherwise best bid(s) for the Assets or some portion of the Assets will be considered a "**Successful Bid**" and such bidder a "**Successful Bidder**." Promptly following the Debtors' selection of the Successful Bid(s) and the conclusion of the Auction (and in no event later than two (2) business days after the close of the Auction, the Debtors shall file with the Bankruptcy Court notice of the Successful Bid(s) and Successful Bidder(s).

17. The Debtors and any Qualified Bidder, in each case, along with their representatives, advisors, and counsel, and the Secured Parties and their representatives, advisors, and counsel shall be permitted to attend the Auction, and only Qualified Bidders will be entitled to make any Bids at the Auction.

18. Any bid submitted after the conclusion of the Auction shall not be considered for any purpose unless an order of the Bankruptcy Court is entered directing that such bid be considered, and neither the Debtors nor any other person shall have any obligation to seek such an order from the Bankruptcy Court.

### **Backup Bid**

19. In the case of a Successful Bid on the Assets or some portion of the Assets, the second highest or otherwise best bid on the Assets or some portion of the Assets (the "**Second Highest Bid**" and such bidder, the "**Second Highest Bidder**"), as determined by the Debtors in consultation with the Secured Parties, at the conclusion of the Auction and approved by the Bankruptcy Court at the Sale Hearing, shall remain open and irrevocable through the closing of the sale of the Assets to the Successful Bidder. In the event that, for any reason, a Successful Bidder fails to close the transaction contemplated by its Successful Bid, the Debtors, in consultation with the Secured Parties, may elect to regard the Second Highest Bid as the highest or best bid for the Assets or some portion of the Assets, and the Debtors will be authorized to

consummate the transaction contemplated by a Second Highest Bid without further order of the Bankruptcy Court.

### **The Sale Hearing and Return of Deposits**

20. The Sale Hearing will be held at a date and time established by the Bankruptcy Court in the Bidding Procedures Order. At the Sale Hearing, the Debtors will seek entry of a Sale Order, among other things, authorizing and approving the sale of the Assets if a Qualified Bid is determined by the Debtors, in consultation with the Secured Parties, after the Auction to be the Successful Bid, with the Successful Bidder pursuant to the terms and conditions set forth in the Successful Bid. Subject to the terms of the Successful Bid(s), the Sale Hearing may be adjourned or rescheduled at the Debtors' determination, in consultation with the Secured Parties, and the Debtors will notify all relevant parties of such adjournment or rescheduling in an appropriate manner, including by an announcement of the adjourned date at the Sale Hearing.

21. No offer shall be deemed accepted by the Debtors unless and until the offer is approved by the Bankruptcy Court.

22. Notwithstanding any other provision of this Bid Procedure or any other Order of this Court, no sale, transfer or assignment of any rights and interests of the Debtors in any federal license or authorization issued by the Federal Communications Commission ("FCC") shall take place prior to the issuance of FCC regulatory approval for such sale, transfer or assignment pursuant to the Communications Act of 1934, as amended, and the rules and regulations promulgated under such statutes. The FCC's rights and powers to take any action pursuant to its regulatory authority, including, but not limited to, imposing any regulatory conditions on such sales, transfers, and assignments, and setting any regulatory fines or forfeitures, are fully preserved, and nothing herein shall proscribe or constrain the FCC's exercise of such power or authority to the extent provided by law.

23. In the event the Successful Bidder fails to consummate the purchase of the Assets because of a breach or failure to perform on the part of such bidder, the bidder's Bid Deposit shall be forfeited to the Debtors' estate; provided, however, for the avoidance of doubt, Secured Parties that credit bid are not required to provide any Bid Deposit in order to have a Qualified Bid.

24. All Bid Deposits, other than the Bid Deposit of the Successful Bidder(s) and the Second Highest Bidder(s), will be returned within five (5) business days following entry of the Sale Order. The Bid Deposit of the Second Highest Bidder(s) will be returned as soon as practicable following the closing of the sale with the Successful Bidder pursuant to the Successful Bid, unless the Debtors have elected to regard the Second Highest Bid(s) as the highest or best bid(s) for the Assets, as described above. The Debtors will not be required to maintain any Bid Deposit in an interest-bearing account. Bid Deposits may only be used in accordance with the terms of these Bidding Procedures. The Debtors shall not have any liability with respect to any Bid Deposit.

### **Break-Up Fee**

25. Unless otherwise agreed to in writing by the Debtors, no party submitting an offer or bid or a Qualified Bid shall be entitled to any expense reimbursement or breakup, termination, or similar fee, or postpetition claim, including any administrative expense claim or substantial contribution claim under section 503 of the Bankruptcy Code or otherwise, and by submitting a bid, a Bidder shall be deemed to waive any right with respect thereto.



### **Jurisdiction**

26. The Bankruptcy Court shall retain exclusive jurisdiction over any matter or dispute relating to the Sale, the Bidding Procedures, the Sale Hearing, the Auction, and/or any other matter that in any way relates to the foregoing.

27. All Potential Bidders and Qualified Bidders shall be deemed to have consented to the exclusive jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating the Sale, the Bidding Procedures, the Sale Hearing, the Auction, and/or any other matter that in any way relates to the foregoing, as applicable.

28. Pursuant to 47 U.S.C. §310(d), no rights granted in broadcast station licenses issued by the FCC can be transferred or assigned without prior consent of the FCC. The FCC licenses of the Debtor's radio broadcasting stations, therefore, cannot be subject to the control of the successful bidders of the assets of the radio station(s) unless and until FCC consent to the assignment of the licenses of the radio station(s) is obtained, pursuant to an application made to the FCC. The Debtors will cooperate in the preparation and filing of the requisite application for FCC consent to the assignment of the FCC licenses to the successful bidder. The expense of compliance with FCC license assignment procedures and the FCC application process will be borne by the successful bidder..

### **Reservation of Rights**

29. By proposing these Bidding Procedures, the Debtors do not desire and do not intend in any way to derogate from or diminish the fiduciary duties of the Debtors to act in the best interests of their estates.

## EXHIBIT 2

### IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF KANSAS

IN THE MATTER OF:	)	
	)	Case No. 22-20242
ROCKING M MEDIA, LLC, et al.,	)	(Lead Case)
	)	Administratively Consolidated
Debtors. <sup>1</sup>	)	Chapter 11

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#### NOTICE OF SALE BY AUCTION AND SALE HEARING

**PLEASE TAKE NOTICE THAT** on [\_\_\_\_], the above-captioned, jointly administered Debtors filed a motion (the “**Motion**”) with the United States Bankruptcy Court for the District of Kansas requesting, among other things, (a) the approval of bidding procedures (the “**Bidding Procedures**”) in connection with the sale of the Assets, as defined in the Motion; (b) the scheduling of a bid deadline, auction date, and sale hearing (the “**Bidding Schedule**”); and (c) if necessary, the approval of procedures related to the assumption and assignment of certain executory contracts and unexpired leases. On [\_\_\_\_, 2022], the Bankruptcy Court entered an order (Doc.[\_\_\_\_]) (the “**Bidding Procedures Order**”) approving, among other things, the Bidding Procedures, and establishing the Bidding Schedule.

**PLEASE TAKE FURTHER NOTICE THAT** a copy of each of the Motion, the Bidding Procedures, and the Bidding Procedures Order may be obtained: (a) by accessing the Bankruptcy Court’s website at <https://ecf.ksb.uscourts.gov/>; or (b) contacting Debtors’ Counsel, Sharon Stolte or Larry Pittman by phone at Sandberg Phoenix, attorneys for the Debtors, at 816.627.5543 or 816.210.9680, respectively; or by email at [ssolte@sandbergphoenix.com](mailto:ssolte@sandbergphoenix.com) or [lpittman@sandbergphoenix.com](mailto:lpittman@sandbergphoenix.com). Note that a PACER password and payment is needed to access documents on the Bankruptcy Court’s website.

**PLEASE TAKE FURTHER NOTICE THAT** all interested parties are invited to make offers for the Assets in accordance with the terms of the Bidding Procedures and Bidding Procedures Order. The deadline to submit competing offers (the “**Bid Deadline**”) is [DATE] at [TIME] [a.m./p.m.] Central Standard Time. Pursuant to the Bidding Procedures Order, the Debtors may conduct an auction (the “**Auction**”) for the sale of the Assets on [DATE] at [TIME] [a.m./p.m.] Central Standard Time. The Auction may be adjourned from time to time or cancelled if no competing qualified offers are received by the Bid Deadline.

**PLEASE TAKE FURTHER NOTICE THAT** the Bidding Procedures Order further provides that a sale hearing (“**Sale Hearing**”) will be held on [DATE], at [TIME] [a.m./p.m.] Central Standard Time before the Honorable Dale Somers, United States Bankruptcy Judge, in Courtroom 144 of the Bankruptcy Court, 500 State Avenue, Kansas City, Kansas 66101. The hearing may be adjourned from time to time.

**PLEASE TAKE FURTHER NOTICE THAT** at the Sale Hearing, Debtors will request that the Bankruptcy Court enter an order, among other things, approving the highest or best bid for the Assets, pursuant to which the Debtors will transfer the Assets. In addition, Debtors will request that the Bankruptcy Court provide that the transfer of the Assets be free and clear of all liens, claims, and interests, including possessory leasehold interests.

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<sup>1</sup> The Debtors in these Chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Rocking M Media, LLC (“RMM”) (0260) (Bankr. Case No. 22-20242); Rocking M Media Wichita, LLC (“RMMW”) (0260) (Bankr. Case No. 22-20243); Rocking M Radio, Inc. (“RMR”) (8143) (Bankr. Case No. 22-20244); and Melia Communications, Inc. (“MCI”) (5545) (Bankr. Case No. 22-20245). The headquarters for each of the Debtors is located at 1065 S. Range Road, Colby, Kansas 67701.



**PLEASE TAKE FURTHER NOTICE THAT** at the Sale Hearing, the Bankruptcy Court may enter such orders as it deems appropriate under applicable law and as required by the circumstances and equities of these Chapter 11 cases. Objections, if any, to the sale of the Assets or the conduct of the Auction, as applicable, must: be in writing and filed with the Bankruptcy Court on or before [DATE]; conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court; set forth the name of the objecting party, the nature and amount of any claims or interests held or asserted against the Debtors' estate, the basis for the objection and the specific grounds therefor; and be served upon: (a) Sandberg Phoenix, attorneys for the Debtors, 4600 Madison Avenue, Suite 1000, Kansas City, MO 64112, Attn: Sharon Stolte or Larry A. Pittman, II; or (b) Richard Kear, Assistant United States Trustee with the Office of the United States Trustee for Region 20, 301 North Main Street, Suite 1150, Wichita, KS 67202.

**PLEASE TAKE FURTHER NOTICE THAT** all requests for information concerning the sale of the Assets should be directed by written request to counsel for the Debtors, Sandberg Phoenix, 4600 Madison Avenue, Suite 1000, Kansas City, MO 64112, Attn: Sharon Stolte or Larry A. Pittman, II, 816.627.5543 / sstolte@sandbergphoenix.com or 816.210.9680 / lpittman@sandbergphoenix.com, respectively.

**PLEASE TAKE FURTHER NOTICE THAT** the Debtors reserve the right to, in their reasonable business judgment and in a manner consistent with their fiduciary duties and applicable law, modify the Bidding Procedures, waive terms set forth therein, extend the deadlines set forth therein, and announce at the Auction modified or additional procedures for conducting the Auction.

Date: [\_\_\_\_], 2022

Respectfully submitted,

SANDBERG PHOENIX & von GONTARD P.C.

/s/ Sharon L. Stolte

Sharon L. Stolte, KS #14302

Larry A. Pittman, II D. Kan #78034

4600 Madison Avenue, Suite 1250

Kansas City, MO 64112

Tel: 816.627.5543

Fax: 816.627.5532

ssstolte@sandbergphoenix.com

lpittman@sandbergphoenix.com

*Attorneys for Debtors*