

## Rule Violations During License Term by Insolvent Licensee

As of the beginning of 2015, Alpha & Omega Communications, LLC was the licensee of AM radio station KMRI, West Valley City, Utah, and was leasing time on the Station to AASAA Media, LLC under a Time Brokerage Agreement. On February 27, 2015, the parties entered into an Asset Purchase Agreement for AASAA Media to acquire the license and certain other assets of the Station, subject to prior FCC consent, for the sum of \$275,000 to be paid in cash at closing. An application for FCC consent was filed with the FCC in timely fashion, and granted by the agency on September 3, 2015.

Alpha & Omega called on AASAA Media to close soon thereafter, but the proposed assignee failed to perform on the designated closing date. Over the space of the next three months, this process was repeated with a new closing date, but each time AASAA Media was unable to come up with the cash required to close.

Tax and corporate considerations stemming from the sale of Alpha & Omega's television station compelled it to dissolve and exit the broadcast business by the end of 2015. Therefore, it held AASAA Media in default, and decided to surrender the license and terminate the operations of KMRI as of the end of December.

At the last minute, Alpha & Omega's counsel Barry Wood stepped in to save the station license and otherwise salvage the situation by financing approximately 86% of the purchase price. This allowed AASAA Media to close on the purchase and continue operations, subject to the obligation to make monthly payments to Mr. Wood on the note. In addition, Mr. Wood acquired the Station's transmitter and antenna tower from Alpha & Omega, and leased those items to AASAA Media for \$1,200 per month. Under the Lease, AASAA Media was obligated to maintain the Station's antenna tower.

AASAA Media broadcast a Spanish language format over KMRI as "La Raza" that was popular with many listeners. Unfortunately, the operation did not generate sufficient funds for AASAA Media to remain current with its obligations under the note and lease. Eventually, Mr. Wood was forced to initiate foreclosure proceedings and to seek the appointment of a receiver to take over the operations of the station and otherwise address AASAA Media's insolvency. The hearing on Mr. Wood's motion to appoint a receiver was set for March 22, 2020 in the Third Judicial Court of Utah.

Just a few days before, on March 18, 2020, the transmitter site was struck with a severe earthquake. As a result, the earthquake collapsed the station's antenna tower, putting KMRI off the air.

The Court then proceeded to appoint me (Jacob Hibbard) as receiver over the affairs of KMRI, and ordered the defendants to turn over all assets and documents relating to the

station to me. I filed an application for FCC consent to this involuntary transfer of control as quickly as possible. The Audio Division granted the transfer application promptly, and I assumed full control over AASAA Media in April, 2020. However, AASAA Media's owner, Nicolas Vicente, defied the Court's order requiring AASAA Media to turn over all of assets to me. Instead, he absconded with the company's bank account, contracts, studio equipment, public file and other documents.

Belatedly, Mr. Vicente demanded that the Court rescind its receivership order and that the FCC reverse its grant of the transfer application. He advanced no valid basis for these demands, and had no adequate excuse for his failure to meet the deadline for seeking reconsideration by the FCC. Accordingly, both the Court and the FCC ignored his requests. Instead, the Court issued a Sale Order prescribing procedures for the sale of the Station's FCC license and other assets of AASAA Media that might be located.

Since Mr. Vicente continue to conceal the whereabouts of the Station's physical assets, I was only able to offer the license for sale at auction. The successful bidder was Mr. Wood. At about the time of the auction sale, Mr. Vicente came in contact with the Decisis Law Firm in Salt Lake City. The firm assisted him in having AASAA Media purport to file a petition for protection under Chapter 11 of the US Bankruptcy Code. The "automatic stay" provided for in the Bankruptcy Code then blocked Mr. Wood and me from proceeding with the sale of the license.

Upon investigation, we discovered facts the drew into question the basis for the bankruptcy petition. We filed with the Bankruptcy Court a request for dismissal of the bankruptcy case for bad faith. At about the same time, we objected to the petition of the Decisis Law Firm for Court approval of its retention as counsel for AASAA Media (which was also opposed by the US Trustee's Office). Just a few days before the hearing on those motions, the Decisis Law Firm requested dismissal of the bankruptcy case.

I then immediately filed for FCC consent to the assignment of the KMRI license to Mr. Wood. Five weeks later, Ms. Lesta Simmons of the Decisis Law Firm purported to file, "*on behalf of AASAA Media*," a two-page petition to deny the application *of AASAA Media* (through me as its legally-appointed controlling party) to sell the license.

Mr. Wood and I filed a motion to dismiss the petition to deny in mid-December, 2020, pointing out that Ms. Simmons had never been approved by anyone in lawful control of AASAA Media to represent it for the purpose of filing petitions with the FCC, or indeed for any other purpose. Ms. Simmons did not oppose that petition. Mr. Vicente could not oppose it, as he had succumbed to Covid19 in August of 2020.

Nevertheless, the assignment application, petition to deny and motion to dismiss the petition to deny remain pending before the FCC.

From April, 2020 to the present, repeated requests were lodged with Mr. Vicente and Ms. Simmons to turn the equipment, accounts and papers of AASAA Media over to me as the company's Receiver. None of those requests was honored.

As a result, I have no documents of the kinds required to be placed in the Station's online public inspection file to upload to that file on the FCC's website. The radio station has been off the air since March 18, 2020, except for approximately three hours of broadcasts with an emergency antenna from the transmitter site in March of 2021. Accordingly, I have no material information with which to recreated lists of the issues to be addressed by the Station and the programming aired in response to those needs and issues.

It is possible that AASAA Media committed other violations of FCC rules during the license term, but if so, I do not know what they would have been.

Ultimately Mr. Vicente was responsible for any FCC rule infractions during the time of AASAA's ownership of the Station. The station has been on the air only briefly during the time since Mr. Vicente was stripped of control of the facility. Accordingly, I do not know the specifics of any FCC rule violations that may have occurred during the license term. Inasmuch as Mr. Vicente is dead, I cannot find out about such matters from him. To Mr. Vicente's credit, he did secure assistance in uploading documents to the online public file, and most of the issues/programs lists were submitted at that time. However, such work was not exactly at the times specified in the rule. Further, as Mr. Vicente's various problems worsened, he failed to submit such lists for the last six months of the station's operations under his leadership. Since then, the Station has only been on the air for a few hours, with a temporary antenna in order to avoid a Section 312(g) forfeiture.

In view of the circumstances, where Mr. Vicente is no longer in a place where he can be punished for FCC violations, the Commission is requested to forgive his shortcomings, and proceed to grant the instant assignment application and the pending assignment application so that the new license term will represent a new and more successful chapter in the history of this radio station.

Respectfully submitted,

s/ Jacob Hibbard

Jacob Hibbard  
Receiver