

AMENDMENT

The instant application, requesting consent to the transfer of control of the licensee, is hereby amended by submission of the licensee's following submissions to the Commission: (A) the Request for Confidential Treatment ("Request"), filed on January 4, 2022, and supplements incorporating by reference the Request, as filed on February 7, 2022, March 14, 2022, and April 7, 2022; (B) a January 20, 2022 Memorandum submitted to the Commission describing why, in the licensee's opinion, Commission decisions supported the licensee's contention that personal documents, such as trust instruments, are entitled to confidential treatment under the Freedom of Information Act and FCC Rules applying it; and (C) redacted Declarations of the transferee submitted on January 4, 2022 and March 14, 2022.

January 4, 2022

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: **Request to Withhold Submissions from Public Inspection and
For Treatment as Confidential, Pursuant to Sections 0.457 and
0.459**

File Nos. 0000162712, 0000162825, 0000162865, 0000162867,
0000162872, 0000162897, 0000162899, 0000162892, 0000162882,
0000162894, 0000162912, 0000162902, and 0000162886

Dear Ms. Dortch:

This office is counsel to the licensees who are parties to the above-referenced applications for transfer of control (the "Licensees"). It is also counsel to the Transferee, Mr. Jacob Silberberg, in his capacity as Transferee and as the Trustee of the following trusts: The Northeast Digital Trust, The MBI Trust, The Oregon Trail Trust, and The Steven A. Silberberg Irrevocable Trust (collectively, "Trusts"). The above-referenced applications are pending before the Commission.

Counsel for the Transferee has recently been contacted by Commission staff and asked to submit a Declaration dealing with the transfer of control, to submit unredacted copies of the trust instruments for the Trusts, and to place unredacted copies of the trust instruments on file with the above-referenced applications, by and through which Transferee has sought Commission consent to the transfer of the controlling equity of the Licensees, previously held by Mr. Steven A. Silberberg, pursuant to his post-mortem estate plan, to Transferee, in his capacity as Trustee of the Trusts.

Transferee has agreed to submit the requested Declaration and to tender the unredacted trust instruments, which are confidential instruments that have only been in the possession and control of the applicable trustees and have never been provided to any Court or other entity, provided that the submission of the Declaration and the trust instruments are pursuant to applicable FCC confidentiality provisions. This request for confidential treatment of the Declaration and trust instruments is intended to seek and secure such confidentiality relief.

In support of confidential treatment, Transferee first wishes to make note that the Declaration contains detailed financial information and information concerning confidential

Ms. Marlene H. Dortch
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commercial relationships. The Declaration also discusses confidential negotiations with commercial counterparties. These matters are ones that are not publicly known and relate to financial matters that are confidential to the Licensees and directly impact on the business they are involved with.

Transferee also wishes to inform the Commission that the trust instruments are not public records, requiring that confidential treatment be applied to the Commission's handling of them, as they contain financial and other proprietary information concerning the post-mortem estate planning of the decedent. In fact, one of the reasons that the decedent chose to place his equity interests into these trust vehicles was to avoid the probate process, whereby information as to assets would have been placed on the public record.

Pursuant to provisions of the Freedom of Information Act, 5 U.S.C. 552, 18 U.S.C. 1905, and 47 CFR 0.457(d), information of the nature being provided by Transferee and Licensees should be withheld from public inspection owing to it containing confidential financial information.

Considering the nature of the trust instruments and the Licensees' financial information, Transferee and Licensees further submit that the instant request is in compliance with the withholding standards contained in Section 0.459(b) of the Commission's Rules. The preceding information is responsive to Items (1) – (3) of Section 0.459(b). In regard to Items (4) and (5), Transferee wishes to note that the matter relates to trust instruments and commercial relationships, which are customarily confidential documents as they relate to the disposition of a party's assets that do not bear any relevance to the Commission's regulatory functions.

Transferee and Licensees further wish to note that the broadcasting industry in markets where the stations subject to the transfers of control are located are highly competitive and that actual information as to the Licensees' commercial relationships and financial information could place the radio station entities at a significant competitive disadvantage with their competitors' audience and advertisers. Items (6) and (7) are also complied with owing to the fact that Transferee and Licensees have not disclosed information as to any of the terms and conditions of the trust instruments or the commercial relationships to any party other than the parties involved and Transferee's fellow trustees and advisers. As for Item (8), withholding is justified by virtue of the fact there is no public need for disclosure of the trust instruments and loan negotiations except in connection with the Media Bureau's staff consideration of the pending transfer of control applications.

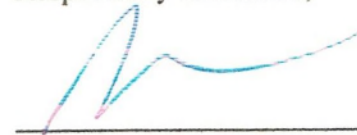
Pursuant to Section 0.459(e) of the Commission's Rules, Transferee requests, should the Commission deny this confidentiality request, that the information being provided herewith first be returned to the undersigned and not disclosed to the public.

Ms. Marlene H. Dortch
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Based on the foregoing, Transferee hereby asks that the attached submission being provided to the Media Bureau be withheld from public inspection pursuant to Section 0.457 of the Commission's Rules.

Should there be any questions in regard hereto, please communicate with the undersigned.

Respectfully submitted,



Barry A. Friedman
Thompson Hine LLP
Suite 700
1919 M Street, N.W.
Washington, D.C. 20036

Enclosures

cc: Ms. Kim Varner, FCC Audio Division

February 7, 2022

Kim Varner, Esq.
Audio Division
Media Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: **Submission of Further Information and Request to Withhold
Submission from Public Inspection and For Treatment as
Confidential, Pursuant to Sections 0.457 and 0.459**

File Nos. 0000162712, 0000162825, 0000162865, 0000162867,
0000162872, 0000162897, 0000162899, 0000162892, 0000162882,
0000162894, 0000162912, 0000162902, and 0000162886

Dear Ms. Varner:

This office is counsel to the licensees that are parties to the above-referenced applications for transfer of control (the "Licensees"). It is also counsel to the Transferee, Mr. Jacob Silberberg, in his capacity as Transferee and as a Trustee of the Northeast Family Trust ("Trust"). The above-referenced applications are pending before the Commission.

In response to your request of February 4, 2022, the Transferee is hereby providing an unredacted copy of the trust instrument of the Trust. Transferee hereby advises the Commission that the unredacted trust instrument is a confidential instrument that has only been in the possession and control of the Trust's trustees and has never been provided to any Court or other entity. It is delivering the trust instrument pursuant to applicable FCC confidentiality provisions. A request for confidential treatment for other trust instruments involved in this transfer of control proceeding was submitted on January 4, 2022 and the Transferee incorporates by reference that request in seeking confidentiality treatment for the trust instrument being tendered.

Should there be any questions in regard hereto, please communicate with the

Kim Varner, Esq.
February 7, 2022
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undersigned.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Barry A. Friedman', is written above a horizontal line.

Barry A. Friedman
Thompson Hine LLP
Suite 700
1919 M Street, N.W.
Washington, D.C. 20036

Enclosure

March 14, 2022

Kim Varner, Esq.
Audio Division
Media Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: **Submission of Further Information and Request to Withhold
Submission from Public Inspection and For Treatment as
Confidential, Pursuant to Sections 0.457 and 0.459**

File Nos. 0000162712, 0000162825, 0000162865, 0000162867,
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Dear Ms. Varner:

This office is counsel to the licensees that are parties to the above-referenced applications for transfer of control (the "Licensees"). It is also counsel to the Transferee, Mr. Jacob Silberberg, in his capacity as Transferee and as a Trustee of the Northeast Family Trust and other trusts that are described in the applications. The above-referenced applications are pending before the Commission.

In response to your email request of March 3, 2022, the Transferee is hereby providing redacted and unredacted versions of a Declaration that responds to the inquiries you have made.

The Transferee hereby advises the Commission that the unredacted Declaration contains confidential information that includes both confidential business information dealing with the Licensees and the parties to the applications and private personal information that have only been in the possession and control of the individual parties to the applications and have never been provided to any Court or other entity, the release of which would constitute an invasion of their personal privacy.

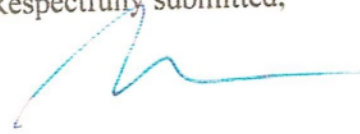
The Transferee is delivering the unredacted Declaration to you pursuant to applicable FCC confidentiality provisions that deal with confidential business information and the protection of personal privacy. A request for confidential treatment for other information and documents involved in this transfer of control proceeding was submitted on January 4, 2022 and was supplemented by a Memorandum, submitted on January 20, 2022, that dealt with how the Commission has applied its privacy protections in other matters and why the Commission should apply such protections to this proceeding. The Transferee incorporates by reference that request

Kim Varner, Esq.
March 14, 2022
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and the Memorandum in seeking confidentiality treatment for the Declaration being hereby tendered.

Should there be any questions in regard hereto, please communicate with the undersigned.

Respectfully submitted,



Barry A. Friedman
Thompson Hine LLP
Suite 700
1919 M Street, N.W.
Washington, D.C. 20036

Enclosures

From: Friedman, Barry

Sent: Thursday, January 20, 2022 6:42 PM

To: 'Kim Varner' <Kim.Varner@fcc.gov>

Subject: Silberberg Transfer of Control Applications

Ms. Varner:

Attached please find a Statement that responds to your request below for a discussion as to how the Commission, including the Media Bureau, has treated requests for confidentiality of such personal documents as trust instruments.

Should you have any questions, please contact the undersigned.

Barry A. Friedman

Thompson Hine LLP

Suite 700

1919 M Street, N.W.

Washington, D.C. 20036

202-973-2789 (Direct Dial)

202-331-8800 (Office Number)

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202-615-9827 (Mobile)

STATEMENT

The transferors and transferees to the transfer of control applications ("Parties") are responding to the staff request that the Parties provide examples of "other cases where the Commission has granted confidentiality to entire trust agreements, preferably from the Media Bureau."

Initially, the Parties wish to note that the trust agreements are not required to be submitted as part of the transfer of control application process and, in the absence of such a required submission, one would not expect, as the Parties have found, that there are Commission or Media Bureau decisions that either provide or reject confidentiality for the entirety of a trust agreement.

In this proceeding, the Parties were first asked to provide redacted versions as amendments to the applications. The Parties were then asked to deliver to the staff unredacted versions, together with a request for confidentiality. The Parties submit that there is no basis upon which to deny the confidentiality previously requested.

In seeking to respond to the request dealing with confidentiality, the Parties are confronted by the fact that, at no time, have the Parties been informed as to the staff's reasoning in support of the requested submission. The Parties have revealed the names of the trustees, which is the relevant matter for the consideration of the transfer of control. There are no attribution issues and no other evident concerns that arise from the trust agreements in the context of a transfer of control application. Other than that information, the Parties have no idea what the relevancy of the request is except to glean any available information.

Our review of publicly reported Commission decisions has not revealed any assignment or transfer of control application proceeding, where the parties were seeking consent prior to

consummation, in which a trust, as an assignee or transferee applicant or equity holder, has either voluntarily placed its trust agreement on the public record or been requested by the Commission to do so, whether redacted or unredacted. Consequently, there has not been, to the best of our knowledge, any instance where the Commission or the Media Bureau has had to apply Section 0.459 of its rules, in order to render a decision as to the issue of whether there should be the full disclosure of a trust instrument voluntarily tendered to the Commission. Here, of course, the Parties have provided redacted versions, which are the “special” remedy that the Commission has applied in instances where confidentiality concerns are implicated. *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, 13 FCC Rcd 24816, 24823 (1998). Considering that, the Parties’ confidentiality request must be treated within the context of decisions dealing with redacted documents and the issue of full document disclosure put aside.

The disclosure of the trust agreements provided, except as redacted by the Parties, would be contrary to Exemptions 4 and 6 of the Freedom of Information Act (5 U.S.C. 552). Exemption 4, as recognized by the Commission, protects commercial or financial information that is privileged or confidential and, in the case of information voluntarily provided, as here, information that would customarily not be released to the public by the person from whom it was obtained.¹ *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, *supra* at 24819-24820. See also *Critical Mass Energy Project v. Nuclear Regulatory Commission*, 975 F. 2d 871 (D.C. Cir. 1992), cert. denied, 307 U.S. 984 (1993). In their confidentiality request, the Parties evidenced that release of the trust agreements, which are not public documents and are not part of the probate of Mr. Silberberg’s estate, would

¹ The trust agreements have never been provided to any Court or government agency other than the Commission.

provide the public with a window into Mr. Silberberg's assets at the time of his death, how he sought to dispose of them, and his mandates for the administration of the assets placed in trust, all in what he expected to be a confidential manner. These are matters of information that could prejudice the trusts in their present or future dealings, with lenders, competitors, and potential buyers and sellers of assets, which the full Commission has recognized should not be publicly disclosed. *Percy Squire*, 26 FCC Rcd 14930, 14938 (2011).

The full Commission considered the extent of information disclosure in *Joseph A. Sofio Application for AWS-3 Licenses in the 1695-1710 MHz and 2155-2180 Bands*, 32 FCC Rcd 1781 (2017). The matter at issue, about the confidentiality of information in connection with a spectrum auction, involved loan agreements and promissory notes between the applicant and individuals, business entities and two trusts. The Commission agreed with a staff decision that the agreements themselves need not be disclosed owing to confidential financial information contained therein but required that the names of Parties be disclosed on the basis that the public interest required disclosure of Parties involved in the process of securing a Commission authorization.

The Parties submit that the reasoning in *Sofio* should apply in this instance. There is no need for public disclosure of the substance of the trust agreements, which contain confidential information as in the documents in *Sofio*, and which have not been placed in issue in the applications by the Parties. The Parties do not object to the disclosure of the grantor of the trusts, the procedures for the appointment of trustees, and the names of the trustees who have already been disclosed in the various applications. This information serves to enable the Commission to make its public interest determination as to whether to consent to the requested transfers of control. The public disclosure sum and substance of the trust agreements do not, in and of

themselves, provide information of a nature that would otherwise have been available to the public had the staff not requested the trust agreements. Consequently, there is no basis for disclosing them in their entirety.

Further, Exemption 6, which protects the “disclosure of which would constitute a clearly unwarranted invasion of personal privacy...” Contained in the Agreement are the names and identities of individuals who are actual or potential beneficiaries of the trust agreements, who are not parties to the transfer of control applications. They are not described in any public document. Making these trust agreements available to the public which disclose this information and will only lead to the discovery of their identities and invasion of their protected personal privacy. The Commission has recognized that such an invasion of personal privacy should not occur. *Percy Squire, supra* at 14939.

In sum, the trust agreements, which are not customarily even filed with the Commission in instances where a trust is a transferee or an equity holder in a transferee, contain information that is private, confidential, and of a highly personal nature for the trust and the individuals described in the agreements. All the Media Bureau requires for its determination under Section 309(a), as to whether the public interest, convenience and necessity will be served by a grant of the applications, is the names and positions held by the trusts’ trustees and that these trustees derive their positions by virtue of the trusts’ operative provisions. Thus information has been fully disclosed and there is no reason for any further disclosures. *Percy Squire, supra* at 14940. Consequently, confidentiality protection under Section 0.459 should be applied in this case.

Strictly Confidential

DECLARATION OF JACOB SILBERBERG

I, Jacob Silberberg, declare under penalty of perjury as follows:

My father, Steven Silberberg, died on January 13, 2021, shortly after being diagnosed with an incurable form of cancer. At the time of his death, my father had two children, myself and my sister, Hattie Danziger. My father was not married at the time of his death.

I am one of three co-executors of my father's Estate, along with my sister and Ms. Lisa Burgess, a long-time business associate of my father's enterprises. We three were named in the Last Will of Steven A. Silberberg, dated as of January 8, 2021, just five days prior to his death. As a co-executor, I have the authority to act alone in executing documents on behalf of the Estate of Steven A. Silberberg.

I am also a Trustee of various trusts created as part of my father's post-mortem estate planning in early 2021. They are The Northeast Family Trust, The MBI Trust, the Northeast Digital Trust, and The Oregon Trail Trust.

At the time of my father's death, he was the controlling owner of Northeast Digital and Wireless, Inc., Montpelier Broadcasting Company, Inc. and Oregon Trail Broadcasting, LLC (the "Companies"). My father held controlling equity interests in each of the Companies (the "Equity Interests"). Since the time of my father's death, the Equity Interests have been held in suspense and continue to be held in suspense. The reason the Equity Interests have been held in suspense is that, as my father told me shortly before he died, we had to make sure that both the lenders to the Companies and the FCC agreed to the transfer of control.

[REDACTED]

Before my father died, he formed a trust to hold the Equity Interests. The trust, the Northeast Family Trust, was formed on January 8, 2021 (the "Family Trust"). My father has been in the radio business for about forty years. Throughout our lives, my sister and I have been immersed in my father's business and we have assisted him whenever and wherever we could. I know it was my father's wish to carry over his radio station ownership to the next generation of Silberbergs.

[REDACTED]

Strictly Confidential

[REDACTED]

Hattie and I are the only beneficiaries of the Family Trust and we share equally in it. We are also my father's only heirs at law. The Family Trust needed a third, independent trustee and so my father selected his longtime business associate, Ms. Burgess, as the third trustee. We three (Hattie, Lisa and I) are also the co-executors of my father's Estate [REDACTED]. As the trustees of the Family Trust we have broad authority to manage the Family Trust and its assets as we deem fit.

The formation of the Family Trust was the result of a plan that included the transfer of my father's Equity Interests. [REDACTED]

As a longtime broadcaster with nearly 40 years of experience with the FCC, my father knew well that he could not complete the transfer of the Equity Interests to the Family Trust without the FCC's prior consent. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. We started from the drafts my father had requested be undertaken at the time he formed the Family Trust and have worked to quickly gather the necessary information on all of the Companies' stations.

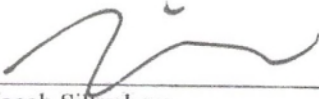
[REDACTED]

I want to emphasize that at all times I understood, and I know that my father believed, that his initiation of the transfer of the Equity Interests to the Family Trust meant that the Family Trust would be the holder of his Equity Interests on the day he died, subject to securing the needed consents and that by initiating such transfer, the Equity Interests would not pass to his Estate following his death, a result he did not wish to occur and which has not occurred.

I can confirm that the Equity Interests are not an Estate asset and that counsel has advised the co-Executors that the Equity Interests should not become Estate assets.

Strictly Confidential

Executed at Bedford, New Hampshire on the 4th day of January, 2022.



Jacob Silberberg

Strictly Confidential

DECLARATION OF JACOB SILBERBERG

I, Jacob Silberberg, declare under penalty of perjury as follows:

I am taking this opportunity to respond to questions posed to our counsel by the staff of the Federal Communications Commission in order to enable the Commission to understand better the terms and conditions of the pending transfer of control applications for the group of radio station licenses owned and controlled by my father, Steven A. Silberberg, at the time of his untimely passing on January 13, 2021.

First, I would like to set out the applicable timeline of what has transpired in order to provide the FCC staff with a fuller understanding of the actions that have taken place and which we seek to take in connection with this proposed transfer of control of my father's radio broadcast station ownership interests.

1. On January 8, 2021 [REDACTED]

[REDACTED]
[REDACTED] he commenced the process that he expected would lead to the transfer of his stock and membership interests in three broadcasting companies, Northeast Digital and Wireless, Inc., Oregon Trail Broadcasting, LLC and Montpelier Broadcasting, Inc. (together, the "Equity Interests"), [REDACTED] The consummation of such equity transfers was subject to [REDACTED] (the "Required Consents").

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

2. On January 13, 2021, my father passed away. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. On March 17, 2021, [REDACTED], [REDACTED]
[REDACTED] the Northeast Digital Trust, the Oregon Trail Trust and The MBI
Trust (the new "Applicant Trusts") [REDACTED]
[REDACTED], I became the sole trustee of the Applicant Trusts and so I alone will, if and
when the Required Consents are all secured, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

7. As the sole trustee of the Applicant Trusts, [REDACTED]
[REDACTED] I arranged for the
filing of the applications requesting the consent of the FCC to the transfer of control of the
Equity Interests from my father to me, as the sole Trustee of the Applicant Trusts.

8. At present, I, as the sole Trustee of the Applicant Trusts, continue to seek to complete the Required Consent process. If the Required Consents are granted, then the Equity Interests will be transferred directly to the Applicant Trusts as the Applicant Trusts hold the Expectancy. In turn, I as the sole Trustee of the Applicant Trusts will control the Equity Interests and the broadcast licensees.

9. [REDACTED]

[REDACTED]

With all of that as background, I will now respond to the questions posed by the FCC staff:

Question: As I understand it, prior to January 8, 2021, Mr. Steven A. Silberberg held the following "Equity Interests": 51% of Northeast Digital and Wireless, Inc (as well as a 37.2% interest as Trustee of the Steven A. Silberberg Irrevocable Trust in which only the Trustees changed after his death); 50.5% of Montpelier Broadcasting, Inc.; and 68.2% of Oregon Trail Broadcasting, LLC.

Response: Yes, that is correct.

Question: [REDACTED]

Response: [REDACTED]

Question: [REDACTED]

Response: [REDACTED]

Question: [REDACTED]

Response: [REDACTED]

Question: On January 13, 2021, Mr. Steven Silberberg dies.

Response: Yes, that is correct.

Question: On March 17, 2021, the following trusts are created: Oregon Trail Trust, MBI Trust, and Northeast Digital Trust. Exhibit A, Schedule of Trust Property to each trust states that the trust property is "All of the shares of [Northeast Digital and Wireless, Inc., Montpelier Broadcasting, Inc., or Oregon Trail Broadcasting, LLC] held by Steven A. Silberberg on January 9, 2021."

Response: Yes, that is correct. The Applicant Trusts were formed on March 17, 2021 [REDACTED]
[REDACTED]
[REDACTED] As of March 17, 2021, [REDACTED]
because the Required Consents had not yet been obtained.

Question: [REDACTED]

Response: [REDACTED]

Question: [REDACTED]

Response: [REDACTED]

Question: Given the above what Equity Interests did Mr. Steven Silberberg hold on January 9, 2021 [REDACTED]

Response: My father held the Equity Interests in his own name on January 9, 2021. [REDACTED]

Question: [REDACTED]

Response: [REDACTED]

Question: [REDACTED]

If this correct, then please revise the pending transfer applications accordingly. If this is not, correct, please clarify how the Equity Interests transferred on January 8, 2021, January 9, 2021 (if applicable); and after January 13, 2021.

Response: [REDACTED]

Executed at Bedford, New Hampshire on the 14th day of March, 2022.



Jacob Silberberg