

## LICENSEE'S EXHIBIT 9

### Adverse Findings

On October 12, 2004, the Federal Communications Commission ("FCC") released a Notice of Apparent Liability for Forfeiture ("NAL") against 169 television stations that broadcast programming from the Fox television network, including Tribune Television Northwest, Inc. ("Tribune"), licensee of KCPQ(TV), Tacoma, Washington.<sup>1</sup> In the NAL, the FCC concluded that the broadcast of the reality show, "Married by America" on April 7, 2003 violated the FCC's rules regarding the broadcast of indecent material. The FCC imposed a fine of \$7,000 on each station that broadcast the program.

Tribune joined with the Fox Network and other Fox affiliates to oppose the FCC's finding. In an Opposition dated December 3, 2004, Tribune and the other parties argued that the broadcast of "Married by America" did not involve indecent material and did not violate the FCC's rules and regulations.<sup>2</sup> Furthermore, the parties argued that the FCC's indecency regulations are unconstitutional in violation of the First Amendment. Finally, the parties argued that, in any event, the affiliates of the Fox network, such as KCPQ, should not be held responsible for the broadcast in question because they had not been afforded an opportunity to review its content before it was broadcast.

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<sup>1</sup> *Complaints Against Various Licensees Regarding Their Broadcast Of The Fox Television Network Program "Married By America" On April 7, 2003*, Notice of Apparent Liability For Forfeiture, 19 FCC Rcd. 20191 (2004).

<sup>2</sup> *Complaints Against Various Licensees Regarding Their Broadcast Of The Fox Television Network Program "Married By America" On April 7, 2003*, Opposition to Notice of Apparent Liability For Forfeiture, File No. EB-03-IH-0162 (filed Dec. 3, 2004).

On March 15, 2006, the Commission released its *Omnibus Order* addressing several outstanding indecency complaints.<sup>3</sup> In three separate instances in the *Omnibus Order* – and in a manifest departure from the approach taken by the Commission in issuing the NAL for “Married by America” – the Commission proposed a forfeiture only against the station that in each case “was actually the subject of a viewer complaint to the Commission.”<sup>4</sup> The Commission adopted this approach even though the broadcast under review in each instance was provided by the network, and therefore likely was broadcast on other network affiliates.

As a result of this change in approach, on March 30, 2006, Fox filed a Supplement to its Opposition to the “Married by America” NAL, requesting that the NAL be rescinded with respect to all stations except WTVT(TV), Tampa, Florida, the only station which was actually the subject of a complaint by a viewer who claimed to have watched the “Married by America” episode in question.<sup>5</sup> No complaint was received in connection with the broadcast of “Married by America” on KCPQ.

The “Married by America” NAL remains pending before the FCC.

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<sup>3</sup> *Complaints Regarding Various Television Broadcasts Between February 2, 2002 and March 8, 2005*, 21 FCC Rcd. 2664 (2006) (“*Omnibus Order*”).

<sup>4</sup> *See id.* at ¶ 32 (proposing a fine against the only station about which a viewer complained about network-provided programming, “recogniz[ing] that this approach differs from that taken in previous Commission decisions”); *see also id.* at ¶ 42 (“Although other stations may have broadcast the material at issue here between 6 a.m. and 10 p.m., we propose a forfeiture against only the licensee and station whose broadcast of the material was actually the subject of a viewer complaint to the Commission.”); *id.* at ¶ 86 (“in the absence of complaints concerning the program filed by viewers of other stations, it is appropriate that we sanction only the licensee of the station whose viewers complained about that program.”).

<sup>5</sup> *Complaints Against Various Licensees Regarding Their Broadcast Of The Fox Television Network Program “Married By America” On April 7, 2003*, Supplement to Opposition, File No. EB-03-IH-0162 (filed March 30, 2006).