

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

IN RE:)	Bankruptcy Nos. 02-70079
)	through 02-70081 Inclusive
BRILL MEDIA COMPANY, LLC;)	
BRILL MEDIA MANAGEMENT, INC.;)	Bankruptcy Nos. 02-70280
BMC HOLDINGS, LLC; et al.,)	through 02-70350 Inclusive
)	
Debtors.)	Consolidated for Administration
)	at Case No. 02-70079
)	
)	Chapter 11

ORDER (A) AUTHORIZING THE SALE OF CERTAIN RADIO STATION ASSETS OF THE DEBTORS TO REGENT COMMUNICATIONS, INC. FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES; (B) APPROVING THE ASSET PURCHASE AGREEMENT; (C) AUTHORIZING AND APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (D) APPROVING THE PLAN FOR DISTRIBUTION OF STOCK CONSIDERATION; (E) APPROVING SUBLEASES OF CERTAIN CONTRACTS; AND (F) GRANTING RELATED RELIEF

Upon the Motion, dated August 23, 2002 (the "Motion") of the above-captioned debtors and debtors-in-possession (the "Debtors") For An Order (A) Authorizing the Sale of Certain Radio Station Assets of the Debtors Free and Clear of All Liens, Claims and Encumbrances; (B) Approving the Asset Purchase Agreement; (C) Authorizing and Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; (D) Approving the Plan for Distribution of Stock Consideration; (E) Approving Subleases of Certain Contracts; and (F) Granting Related Relief, whereby the Debtors request that this Court enter an order under 11 U.S.C. §§ 105(a), 362, 363 and 365 (i) authorizing the sale of substantially all of the radio station assets owned by the Debtors as described in the Asset Purchase Agreement and/or listed on

Rec # 517

DOCUMENT NO. 528 KHC

Exhibit C (the "Sellers") of the Motion (the "Radio Station Assets")¹, free and clear of all liens, claims and encumbrances; (ii) approving the Asset Purchase Agreement including its exhibits (including the Time Brokerage Agreement), the Sellers' Disclosure Letter, and the addenda thereto (the "Asset Purchase Agreement") by and between the Debtors and the Purchaser, which is the entity identified by the Debtors, through Anthony H. N. Schnelling, the Bankruptcy Administrative Officer (the "BAO"), as Regent Communications, Inc., the highest and best bidder after approved bidding procedures have taken place (referred to herein as "Regent" or the "Purchaser"); (iii) authorizing and approving the assumption and assignment of the certain executory contracts and unexpired leases (the "Assigned Contracts"); (iv) approving a plan for the distribution of Stock Consideration; (v) approving subleases of certain contracts; and (vi) granting related relief as is just and appropriate under the circumstances; and upon the record of the hearing on the Motion held on August 26, 2002 ("Sale Hearing"); and upon the record of these cases; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their respective estates, and creditors and other parties in interest; and good cause appearing therefor, it is hereby

FOUND AND DETERMINED THAT:²

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and

¹Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Motion, the Asset Purchase Agreement and/or the Bid Procedures Order.

²Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

1334. Venue is appropriate in this matter in accordance with 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding as defined under 28 U.S.C. § 157(b)(2).

2. The statutory predicates for the relief sought in the Motion are sections 105, 363 and 365 and 1146(c) of 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), and Fed. R. Bankr. P. 2002, 6004, 6006, and 9014.

3. As evidenced by the certificates of service previously filed with the Court, and based on the representations of counsel at the Sale Hearing, (i) proper, timely, adequate and sufficient notice of the Motion, the Sale Hearing, the sale of the Radio Station Assets (the “Sale”), and the assumption and assignment of the Assigned Contracts, has been provided in accordance with 11 U.S.C. §§ 102(1), 363 and 365 and Fed. R. Bankr. P. 2002, 6004 and 9014, and any order previously entered by this Court in these cases, (ii) such notice was good and sufficient, and appropriate under the particular circumstances, and (iii) no other or further notice of the Motion, the Sale Hearing, or the assumption and assignment of the Assigned Contracts is or shall be required.

4. The Radio Station Assets are property of the Sellers’ estates, within the meaning of 11 U.S.C. § 541, and the Sellers have the power to convey the Radio Station Assets to the Purchaser as described in the Asset Purchase Agreement.

5. On June 13, 2002, this Court granted the Debtors’ Motion For An Order Approving Bidding Procedures and other related relief by an Order (the “Bid Procedures Order”). The Bid Procedures Order was subsequently modified by an Order entered July 26, 2002.

6. The Debtors, through Anthony H.N. Schnelling of Bridge Associates, LLC, the Bankruptcy Administrative Officer (the "BAO"), (i) have full power and authority to execute the Asset Purchase Agreement and all other documents contemplated thereby, and the Sale has been duly and validly authorized by all necessary action, (ii) have all of the corporate power, and upon entry of the Sale Order, the authority necessary to consummate the transactions contemplated by the Asset Purchase Agreement, and (iii) have taken all actions necessary to authorize and approve the Asset Purchase Agreement and the consummation by the Debtors of the transactions contemplated thereby.

7. The BAO has complied with all requirements imposed on it by any order of this Court relating to the sale of the Radio Station Assets.

8. The Radio Station Assets have been reasonably marketed. The auction process set forth in the Bid Procedures Order ("Auction") was followed, and the BAO's and the Committee's determination that the Purchaser's bid is the highest and best bid received for the Radio Station Assets was appropriate and correct. Therefore, it is in the best interest of the Sellers' estates and their creditors that the Sale of the Radio Station Assets as set forth in the Motion be approved.

9. No consents or approvals, other than those expressly provided for in the Asset Purchase Agreement (including the entry by this Court of this Sale Order), are required for the Debtors to consummate such transactions.

10. Approval of the Asset Purchase Agreement and the consummation of the Sale on or prior to the Closing (as defined in the Asset Purchase Agreement) are in the best interests of the Debtors, their creditors, their estates, and other parties in interest.

11. The Debtors have demonstrated both (i) good, sufficient, and sound business purpose and justification and (ii) circumstances for the Sale, pursuant to 11 U.S.C. § 363(b), which justify the sale prior to, and outside of, a plan of reorganization of the Debtors in that, among other things, absent the sale of the Radio Station Assets as and when proposed, the value of the Radio Station Assets may be harmed.

12. The competitive bidding in connection with the Bidding Procedures and sale of the Radio Station Assets has been non-collusive and the Sale may not be set aside under Section 363(n) of the Bankruptcy Code.

13. Appropriate notice and a reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to all interested persons and entities, including: (i) all parties listed on the Tenth Updated Master Service List; (ii) counsel for the Qualified Bidders; (iii) all entities known to have asserted any security interest, pledge, mortgage, lien (including without limitation environmental and tax liens), option, right of first refusal, right of first offer, right to acquire or sell, preemptive right, encumbrance, restriction of any kind on the use, voting, transfer or receipt of income or other adverse claim of any kind whatsoever in or upon the Radio Station Assets; and (iv) all parties to the Assigned Contracts.

14. The Asset Purchase Agreement was negotiated, proposed, and entered into by the Debtors, through the BAO and the Purchaser without collusion, in good faith, and from arm's-length bargaining positions. None of the Debtors, the BAO nor the Purchaser has engaged in any conduct that would cause or permit the Asset Purchase Agreement or any sale, transfer or other transaction thereunder to be avoided under or would otherwise constitute a violation of the provisions of 11 U.S.C. § 363(n).

15. In negotiating, proposing, and entering into the Asset Purchase Agreement, the Debtors, the BAO and the Purchaser fully complied in all respects with the Radio Bidding Procedures and properly conducted an Auction in full accordance with such Bidding Procedures.
16. The Purchaser is a good faith purchaser under 11 U.S.C. § 363(m) and, as such, is entitled to all of the protections afforded thereby. The Purchaser will be acting in good faith within the meaning of 11 U.S.C. § 363(m) in closing the transactions contemplated by the Asset Purchase Agreement at all times after the entry of this Sale Order.
17. The consideration provided by the Purchaser for the Radio Station Assets, pursuant to the Asset Purchase Agreement: (i) is fair and reasonable, (ii) is the highest and best offer for the Radio Station Assets, (iii) will provide a greater recovery for the Debtors' creditors than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.
18. The Sale (including the assumption and assignment of the Assigned Contracts) to the Purchaser must be authorized and approved under 11 U.S.C. §§ 363 and 365 and consummated promptly in order to preserve the value of the Debtors' Radio Station Assets.
19. Upon the Closing of the Sale, the Sale shall be a legal, valid, and effective sale of the Radio Station Assets, and will vest the Purchaser with all right, title, and interest of the Debtors to the Radio Station Assets free and clear of all Encumbrances, other than Permitted Encumbrances with respect to Real Property, with all such Encumbrances (but not Permitted Encumbrances with respect to Real Property) attaching solely to the proceeds of the sale, other than as provided for under the Asset Purchase Agreement.

20. The Purchaser would not have entered into the Asset Purchase Agreement and would not consummate the transactions contemplated thereby, thus potentially adversely affecting the Debtors, their estates and their creditors, unless from and after the date hereof (i) the Debtors are precluded from exercising their rights to terminate the Asset Purchase Agreement except pursuant to Article VIII thereof, (ii) the Sale is made free and clear of any and all Encumbrances, except the Permitted Encumbrances with respect to Real Property, with all such Encumbrances (but not Permitted Encumbrances with respect to Real Property) attaching solely to the proceeds of the sale, (iii) the assignment of the Assigned Contracts to the Purchaser is made free and clear of any and all Encumbrances, except the Permitted Encumbrances with respect to Real Property, with all such Encumbrances (but not Permitted Encumbrances with respect to Real Property) attaching solely to the proceeds of the sale and (iv) the Asset Purchase Agreement is authorized and approved in its entirety.

21. Upon entry of this Sale Order, the Debtors shall sell the Radio Station Assets free and clear of any and all Encumbrances, other than Permitted Encumbrances with respect to Real Property, with all such Encumbrances (but not Permitted Encumbrances with respect to Real Property) attaching solely to the proceeds of the sale, other than as provided for under the Asset Purchase Agreement, because, in each case, one or more of the standards set forth in 11 U.S.C. § 363(f)(1)-(5) has been satisfied.

22. Those (i) holders of an Encumbrance and (ii) non-debtor parties to the Assigned Contracts who did not object, or who withdrew their objections, to the Sale or the Motion are deemed to have consented pursuant to 11 U.S.C. § 363(f)(2). Those (i) holders of an Encumbrance and (ii) non-debtor parties to the Assigned Contracts who did object fall within one

or more of the other subsections of 11 U.S.C. § 363(f) and are adequately protected by having their Encumbrances, if any, attach to the cash proceeds of the Sale ultimately attributable to the property against or in which they claim an Encumbrance.

23. The Sale, including the assumption and assignment of the Assigned Contracts, to the Purchaser will not, in any case, subject the Purchaser to any liability whatsoever with respect to the operation of the Radio Station Assets prior to the Closing Date or by reason of such transfer under the laws of the United States, any state, territory or possession thereof, or the District of Columbia, based, in whole or in part, directly or indirectly, on any theory of law or equity, including, without limitation, any theory of equitable law, including, without limitation, any theory of antitrust or successor or transferee liability.

24. The Sale, including the assumption and assignment of the Assigned Contracts to the Purchaser, is essential to the Debtors' ability to ultimately confirm and consummate a plan of reorganization and, accordingly, it is found to be a transfer, pursuant to 11 U.S.C. § 1146(c), which shall not be taxed under any law imposing a stamp tax or similar tax.

25. The Debtors have demonstrated that it is an exercise of their sound business judgment to assume and assign the Assigned Contracts to the Purchaser in connection with the consummation of the Sale, and the assumption and assignment of the Assigned Contracts are in the best interests of the Debtors, their estates and their creditors. The Assigned Contracts being assigned to the Purchaser are integral parts of the Radio Station Assets being purchased by the Purchaser, and, accordingly, such assumption and assignment of the Assigned Contracts are reasonable and enhance the value of the Debtors' estates.

of a publicly held corporation whose securities are registered pursuant to Section 12(g) of the Securities and Exchange Act of 1934 as amended. The Purchaser is obligated to file a shelf registration statement with the Securities and Exchange Commission covering the re-sale of the common stock within 5 business days of the Closing.

30. All of the provisions of this Order and the Asset Purchase Agreement are nonseverable and mutually dependent.

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

General Provisions

1. The Motion is granted in its entirety.
2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, hereby are overruled on the merits.

Approval of the Asset Purchase Agreement

3. The Asset Purchase Agreement, including all of the terms and conditions thereof, is hereby approved. The Debtors are permitted to incorporate the terms of the addenda to the Asset Purchase Agreement into the Asset Purchase Agreement and execute a fully integrated document.
4. Pursuant to 11 U.S.C. § 363(b) and pursuant to and in accordance with the Asset Purchase Agreement, the Debtors are authorized and directed to consummate the Sale.
5. The Debtors through the BAO are authorized and directed to execute and deliver, and empowered to perform under, consummate and implement, the Asset Purchase Agreement,

26. There are no defaults under any of the Assigned Contracts and the Deferred Contracts, as defined in the Motion, other than those monetary defaults set forth in Exhibit E to the Motion (the "Cure Amounts"). For those Assigned Contracts, including Deferred Contracts or Deferred Leases, set forth in Exhibit E to the Motion, the Purchaser is responsible for those payments up to an amount of \$134,000.00 and for contractual rejection damages up to an amount of \$337,000.00.

27. The Debtors have (i) cured, or have provided adequate assurance of cure of, any default existing prior to the date hereof under the Assigned Contracts, within the meaning of 11 U.S.C. § 365(b)(1)(A), and (ii) provided compensation or adequate assurance of compensation to, or adequate assurance that the Debtors will promptly compensate any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under the Assigned Contracts, within the meaning of 11 U.S.C. § 365(b)(1)(B), and the Purchaser has provided adequate assurance of its future performance of and under the Assigned Contracts, within the meaning of 11 U.S.C. § 365(b)(1)(C) and (f)(2)(B).

28. The Purchaser has provided adequate assurances of future performance under each of the Assigned Contracts pursuant to 11 U.S.C. § 365(f)(2)(B) by demonstrating the financial ability to perform its obligations under the Assigned Contracts. The proposed assignment of the Assigned Contracts will also benefit the estate by relieving the Debtors of any liability under the Assigned Contracts.

29. In the event that the Purchaser elects not to pay all cash consideration and elects to pay up to one-half of the Purchase Price in Stock Consideration, such Stock Consideration being paid to the Debtors by the Purchaser as set forth in the Asset Purchase Agreement is stock

together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Asset Purchase Agreement, and to take all further actions as may be requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Debtors or reducing to possession, the Radio Station Assets, or as may be necessary or appropriate to the performance of the obligation as contemplated by the Asset Purchase Agreement.

Transfer of the Radio Station Assets

6. Pursuant to 11 U.S.C. §§ 105(a) and 363(f), the Radio Station Assets shall be transferred to the Purchaser upon consummation of the Asset Purchase Agreement ("Closing") free and clear of all Encumbrances, except Permitted Encumbrances with respect to Real Property, with all such Encumbrances (but not Permitted Encumbrances with respect to Real Property) to attach to the net proceeds of the Sale in the order of their respective priorities, with the same validity, force and effect which they now have as against the Radio Station Assets.

7. Except as may be provided by subsequent Order of the Court, immediately upon the Closing of the Sale, the proceeds payable to the Debtors' estates in respect of such Sale shall be paid free and clear into an account of the Debtors, designated by the Debtors prior to the Closing of the Sale (as to the cash proceeds) and the Stock Consideration shall be issued as described in the Motion.

8. From and after the Closing, except as expressly permitted or otherwise specifically provided by the Asset Purchase Agreement, this Sale Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, claiming to hold an Encumbrance

against or in the Debtors or the Radio Station Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated, arising under or out of, in connection with, or in any way relating to, the Debtors, the Radio Station Assets prior to the Closing or the Sale) are forever barred, estopped and permanently enjoined from asserting such persons' or entities' Encumbrances, except Permitted Encumbrances with respect to Real Property, against the Purchaser, its successor or assign, its property, or the Radio Station Assets.

9. The Sale pursuant to the Asset Purchase Agreement constitutes a legal, valid and effective transfer of the Radio Station Assets, and shall vest the Purchaser with all right, title and interest of the Debtors in and to the Radio Station Assets free and clear of any and all Encumbrances, except Permitted Encumbrances with respect to Real Property.

10. Further, the Sale is exempt from transfer taxes pursuant to 11 U.S.C. § 1146(c).

Assumption and Assignment to Purchaser of Assigned Contracts and Approval of Subleases

11. Pursuant to 11 U.S.C. §§ 105(a) and 365, and subject to and conditioned upon the Closing of the Sale and the Purchaser's rights as to the Deferred Contracts and the Deferred Leases, the Debtors' assumption and assignment to the Purchaser, and Purchaser's assumption in accordance with the Asset Purchase Agreement, of the unexpired leases and unexpired contracts as set forth in Sections 1.1(k) and 1.1(q)(ii) of the Seller Disclosure Letter which was attached to the Motion as Exhibit B together with any of the Deferred Contracts or the Deferred Leases designated to be assumed and assigned to the Purchaser pursuant to Sections 1.9 and 3.3 of the Asset Purchase Agreement (collectively, the "Assigned Contracts") are HEREBY

AUTHORIZED AND APPROVED, and the requirements of 11 U.S.C. § 365(b)(1) with respect thereto are hereby deemed satisfied. The Purchaser has provided adequate assurance of future performance pursuant to section 365(f)(2)(B) of the Bankruptcy Code as to the Assigned Contracts and any other executory contract, including the Deferred Contracts and Deferred Leases, assumed by the Debtors and assigned to the Purchaser. All Assigned Contracts, including but not limited to Deferred Contracts and the Deferred Leases, are assumable and assignable pursuant to 11 U.S.C. § 365. Any and all Deferred Contracts that are assumed and assigned to the Purchaser shall be deemed Assigned Contracts for all purposes under the Asset Purchase Agreement and this Order.

12. The Debtors are hereby authorized and directed in accordance with 11 U.S.C. §§ 105(a) and 365 to (a) assume and assign to Purchaser, effective upon the Closing of the Sale, the Assigned Contracts, including any such Deferred Contract and/or Deferred Lease which the Purchaser directs the Debtors to assume and assign to it as provided in the Asset Purchase Agreement, free and clear of any and all Encumbrances, except Permitted Encumbrances with respect to Real Property, and (b) execute and deliver to Purchaser such documents or other instruments as may be necessary to assign and transfer the Assigned Contracts, including any designated Deferred Contracts and/or Deferred Leases, to Purchaser.

13. The Assigned Contracts shall be transferred to, and remain in full force and effect for the benefit of, Purchaser in accordance with their respective terms, notwithstanding any provision in the Assigned Contracts (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts or conditions such assignment or transfer

and, pursuant to 11 U.S.C. § 365(k), the Debtors shall be relieved from any liability with respect to the Assigned Contracts after such assignment to and assumption by Purchaser.

14. The Purchaser is responsible for contractual rejection damages up to an amount of \$337,000.00 and Cure Amounts up to an amount of \$134,000.00. Other than the Cure Amounts set forth in Exhibit E to the Motion, there are no other defaults under any of the Assigned Contracts, including any Deferred Contracts and/or Deferred Leases which the Purchaser directs the Debtors to assume and assign to them.

15. Each non-Debtor party to the Assigned Contracts, including any Deferred Contracts which the Purchaser directs the Debtors to assume and assign to it, is hereby forever barred, estopped, and permanently enjoined from asserting against the Debtors or the Purchaser, or the property of either of them, any default existing as of the date of the Sale Hearing.

16. The Debtors are authorized to enter into the Subleases as described in the Asset Purchase Agreement and Motion and provide the Purchaser with the benefits of the Subleases.

Approval of Stock Consideration Distribution Plan

17. Regent has reserved its right to increase the allocation of the Purchase Price to increase the cash component and decrease the Stock Consideration as provided in the Asset Purchase Agreement. To the extent that the Purchaser elects not to pay the purchase price in cash as provided in the Asset Purchase Agreement, as set forth in Section 1.6 of the Asset Purchase Agreement, the Stock Consideration being paid to the Debtors by the Purchaser is stock in a publicly held company whose securities are registered pursuant to Section 12(g) of the Securities and Exchange Act of 1934 as amended. Regent's common stock is listed on the NASDAQ National Market. The Purchaser is obligated to file a shelf registration statement with

the Securities and Exchange Commission covering the re-sale of the shares comprising the Stock Consideration within 5 business days of the Closing.

18. As part of the conditions to the purchase of the Debtors' assets, the Purchaser has required that the Stock Consideration be distributed only to certain creditors of the Debtors who are "accredited investors" as defined in Rule 501(a) of the Securities Act of 1933 ("Securities Act") as amended ("Accredited Creditors"). Notwithstanding the requirements for creditors who are distributed the Stock Consideration (the "Stock Distribution Criteria"), the Purchaser and Sellers will use their reasonable best efforts to structure the distribution of the Stock Consideration in a manner such that additional creditors of the Sellers may receive such distribution without regard to the Stock Distribution Criteria, provided, that, notwithstanding any such expansion of the class of creditors eligible to receive distributions of the Stock Consideration, the distribution will be exempt from the registration requirements of and will not violate the Securities Act or any state or local securities laws, provided, further, that prior to any such inclusion of additional creditors, Purchasers and Sellers will use their reasonable best efforts to agree to require that any creditor receiving distributions of the Stock Consideration will have a claim of sufficient size that equates to the distribution of a reasonable minimum number of shares such that Purchaser's expense and administration of permitting sales of Common Stock pursuant to its Shelf Registration described in Section 6.5 of the Asset Purchase Agreement will not be unduly burdensome.

19. In order to permit the distribution of the Stock Consideration as contemplated by the Asset Purchase Agreement, the Court finds that it would be necessary and appropriate for the Stock Consideration to be distributed only to the Accredited Creditors. The value of the Stock

Consideration being distributed to the Accredited Creditors under the terms set forth below for the purposes of any distribution made to them under a plan of reorganization or otherwise shall be calculated at the actual fair market value of the stock at the time of confirmation of the Debtors' plan as that price is determined by this Court, after appropriate notice and hearing.

20. The Court finds that the Stock Consideration Distribution Plan is fair and reasonable to all creditors of this estate, as it permits the transfer of the Stock Consideration to Accredited Creditors without having to issue small amounts or fractional shares to every creditor in these cases.

21. The Stock Consideration Distribution Plan to the Accredited Creditors is hereby authorized and approved.

22. The distributions under the Stock Consideration Distribution Plan to Accredited Creditors shall be calculated upon motion at the fair market value of the Stock Consideration at the time of the confirmation of the Debtors' plan of reorganization. This Court shall retain jurisdiction to determine the fair market value of the Stock Consideration being distributed to the Accredited Creditors, under either a plan of reorganization or otherwise.

23. The Stock Consideration Distribution Plan shall be, and hereby is, binding on the Debtors in any subsequently-filed plan of reorganization or on any subsequently-appointed trustee (whether in a Chapter 11 or Chapter 7 case).

24. The Court finds that the Stock Consideration Distribution Plan is in the best interests of the estates and their creditors and it is approved. The Court has the power to grant this relief under 11 U.S.C. § 105, which permits Bankruptcy Courts to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title" so long as it

does not circumvent the plain provisions of statutory law. See Fischer v. Apostolou, 155 F.3d 876 (7th Cir. 1998); In re Carlson, 126 F.3d 915 (7th Cir. 1997); 11 U.S.C. § 105.

Additional Provisions

25. The consideration provided by the Purchaser for the Radio Station Assets under the Asset Purchase Agreement shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory possession, or the District of Columbia.

26. The Asset Purchase Agreement was negotiated, proposed, and entered into by the Debtors, through the BAO, and the Purchaser without collusion, in good faith and from arm's-length bargaining positions and the consideration provided by the Purchaser for the Radio Station Assets under the Asset Purchase Agreement is fair and reasonable. None of the Debtors, the BAO, nor the Purchaser has engaged in any conduct that would cause or permit the Asset Purchase Agreement to be avoided under or would otherwise constitute a violation of the provisions of 11 U.S.C. § 363(n) and thus the Sale of the Radio Station Assets (including the assumption and assignment of the Assigned Contracts) to the Purchaser may not be avoided under section 363(n) of the Bankruptcy Code.

27. The consideration provided by the Purchaser for the Radio Station Assets under the Asset Purchase Agreement is fair and reasonable and may not be avoided under section 363(n) of the Bankruptcy Code.

28. From and after the date hereof, the Debtors are precluded from exercising their right to terminate the Asset Purchase Agreement except pursuant to the terms of the Asset Purchase Agreement.

29. Upon Closing of the Sale, each of the Sellers' creditors is authorized, directed and ordered to execute such documents and take all other actions as may be necessary to release their respective Encumbrances, except Permitted Encumbrances with respect to Real Property, in or upon the Radio Station Assets, if any, as such Encumbrances may have been recorded or may otherwise exist.

30. This Sale Order (a) shall be effective as a determination that upon Closing, all Encumbrances, except Permitted Encumbrances with respect to Real Property, existing on the Radio Station Assets prior to the Closing have been unconditionally released, discharged and terminated, and that the conveyances described herein have been effected, and (b) shall be binding upon and shall govern the acts of all entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials, and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Radio Station Assets; and each of the foregoing persons or entities is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase Agreement, and a certified copy of this Order, if filed, shall be sufficient to release all Encumbrances.

31. If any person or entity that has filed financing statements or other documents or agreements evidencing Encumbrances, except Permitted Encumbrances with respect to Real Property, on the Radio Station Assets of the Debtors shall not have delivered to the Debtors prior

to the Closing (in proper form for filing and executed by the appropriate parties), termination statements, instruments of satisfaction, releases of all Encumbrances, except Permitted Encumbrances with respect to Real Property, that the person or entity has with respect to such Radio Station Assets, the Purchaser hereby is authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to such Radio Station Assets. The foregoing notwithstanding, the provisions of this Order authorizing the Sale of the Radio Station Assets (including the assumption and assignment of the Assigned Contracts) to the Purchaser free and clear of Encumbrances, except Permitted Encumbrances with respect to Real Property, shall be self-executing, and notwithstanding the failure of the Debtors, the Purchaser or any other party to execute, file or obtain releases, termination statements, assignments, consents or other instruments to effectuate, consummate and/or implement the provisions hereof or the Asset Purchase Agreement with respect to the Sale of the Radio Station Assets (including the assumption and assignment of the Assigned Contracts), all Encumbrances, except Permitted Encumbrances with respect to Real Property, on such Radio Station Assets shall be deemed released.

32. Each and every federal, state and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase Agreement, all without imposition of payment of any stamp tax, transfer tax or similar tax pursuant to Section 1146(c) of the Bankruptcy Code.

33. All entities who presently are, or upon Closing may be, in possession of some or all of the Radio Station Assets are hereby directed to surrender possession of the Radio Station

Assets to Purchaser as described in the Asset Purchase Agreement and as contemplated by any Time Brokerage Agreement entered into between Debtors and Purchaser.

34. The Purchaser shall have no liability or responsibility for any liability or other obligation of the Debtors arising under or related to the Radio Station Assets, other than as expressly set forth in the Asset Purchase Agreement.

35. Under no circumstances shall the Purchaser be deemed a successor of or to the Debtors for any Encumbrances, except Permitted Encumbrances with respect to Real Property against or in the Radio Station Assets. The sale, transfer, assignment and delivery of the Radio Station Assets shall not be subject to any Encumbrances, except Permitted Encumbrances with respect to Real Property, shall remain with, and continue to be obligations of the Debtors. All persons holding Encumbrances, except Permitted Encumbrances with respect to Real Property, against or in the Radio Station Assets shall be, and hereby are, forever barred, estopped and permanently enjoined from asserting, prosecuting or otherwise pursuing such Encumbrances against the Purchaser, its property, its successors and assigns, or the Radio Station Assets with respect to any Encumbrances, except Permitted Encumbrances with respect to Real Property, such person or entity had, has or may have against or in the Debtors, their estates, officers, directors, shareholders, or the Radio Station Assets. Following the Closing, no holder of an Encumbrance, except Permitted Encumbrances with respect to Real Property, against or in the Radio Station Assets shall interfere with the Purchaser's title or use and enjoyment of the Radio Station Assets based on or related to such Encumbrance, or any actions that the Debtors may take in their Chapter 11 cases.

36. As provided for in the Motion, this Court retains jurisdiction to enforce and implement the terms and provisions of the Asset Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith in all respects, including, but not limited to, retaining jurisdiction to (a) compel delivery of the Radio Station Assets to the Purchaser, (b) compel delivery of the Purchase Price or performance of other obligations owed to the Debtors by the Purchaser under the Asset Purchase Agreement, (c) resolve any disputes arising under or related to the Asset Purchase Agreement, except as otherwise provided therein, (d) interpret, implement and enforce the provisions of this Sale Order, (e) resolve any dispute related to the Assigned Contracts, and (f) protect the Purchaser against Encumbrances, except Permitted Encumbrances with respect to Real Property, in or upon the Radio Station Assets, attaching to the proceeds of the Sale or any claim by any party against the Purchaser arising out of or related to the operation of the Radio Station Assets prior to the closing date.

37. The transactions contemplated by the Asset Purchase Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale to the Purchaser, unless such authorization is duly stayed pending such appeal. The Purchaser is a purchaser in good faith of the Radio Station Assets including, without limitation, all of the Assigned Contracts, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

38. The terms and provisions of the Asset Purchase Agreement and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates,

and their creditors, and the Purchaser, and their respective affiliates, successors and assigns, and any affected third parties including, but not limited to, all persons holding an Encumbrance in or upon the Radio Station Assets, notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, as to which trustee(s) such terms and provisions likewise shall be binding. The Asset Purchase Agreement and the transactions contemplated thereby, shall be specifically performable, enforceable against, binding upon and not subject to rejection by, the Debtors or any trustee subsequently appointed under any chapter of the Bankruptcy Code.

39. The failure specifically to include any particular provision of the Asset Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Asset Purchase Agreement be authorized and approved in its entirety.

40. The Asset Purchase Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

41. To the extent that the Purchaser elects not to pay the Purchase Price in cash pursuant to the Asset Purchase Agreement, the Stock Consideration shall be distributed to the Debtors by a single stock certificate which shall be issued to "Anthony H.N. Schnelling, Bankruptcy Administrative Officer of the administratively consolidated bankruptcy cases of Brill Media Company, LLC, et al., consolidated for administration at case no. 02-70079, in trust for

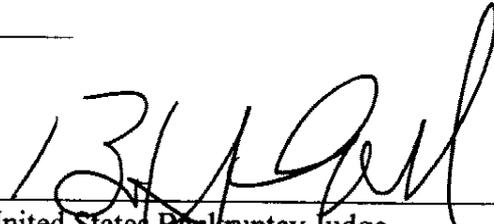
the administratively consolidated bankruptcy cases of the Debtors and for those Debtors as set forth on the attached Exhibit A to the Stock Certificate.” The “Exhibit A” to the stock certificate will be those Debtors that are selling the Radio Station Assets as set forth on Exhibit C of the Motion.

42. The cash consideration component of the Purchase Price shall be paid to the Debtors and held in a separate escrow account subject only to the control of the BAO and such funds shall not be disbursed without further order of the Court concerning its distribution.

43. As provided by Rules 6004(g) and 6006(d) of the Federal Rules of Bankruptcy Procedure, this Order shall not be stayed for 10 days after the entry of the Order and shall be effective immediately upon entry. The automatic stay provisions of section 362 are vacated and modified to the extent necessary to implement the terms and conditions of the Asset Purchase Agreement and the provisions of this Order, and this Order shall not be stayed for 10 days under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure but shall be effective immediately upon entry.

44. The provisions of Bankruptcy Rule 7062 are not applicable to this proceeding.

Dated: 8-26-02


United States Bankruptcy Judge

*Hand delivered
to C.R. Bowler
on 8/26/02 in Court
for distribution*