

Description of the Transaction

Infinity Radio Inc. (“Infinity”), licensee of radio stations KBAY(FM), Gilroy, California, Facility ID No. 35401 and KEZR(FM), San Jose, California, Facility ID No. 1176 (together, the “Stations”) hereby seeks consent to the assignment of the Stations’ licenses and assets to Elliot B. Evers, as trustee of the San Jose Trust (“Trust”). Under the proposed trust agreement, Mr. Evers would be an independent trustee directed to sell the Stations to a third party and pending a sale to operate the Stations as an independent voice and competitor in the San Francisco / San Jose market.

Purpose of the Trust.

Infinity currently owns five FM radio stations in the San Francisco / San Jose market, the maximum permitted under the FCC’s local radio ownership rule. Infinity has filed an application to acquire KEAR(FM), which is in the same market. *See* FCC File No. BALED-20050418AFR. In that application, Infinity committed to divest one of its San Francisco / San Jose FM stations prior to closing the KEAR acquisition. Until recently, Infinity had an agreement in principal to sell both of the Stations to a third party, however the buyer changed its mind.

The Stations would cease to be attributed to Infinity for purposes of the local radio ownership rule upon transfer to a properly insulated trust, allowing Infinity to acquire KEAR(FM). The Commission has approved such trusts in the past, affirming that such trusts can be “a legitimate means to avoid attribution of a broadcast interest under the Commission’s multiple ownership rules.” *Shareholders of AMFM, Inc.*, 12 FCC Rcd 16062, 16072 (2000); *see also Shareholders of American Radio Systems Corp.*,

13 FCC Rcd 12430 (1998); *Stockholders of Infinity Broadcasting Corp.*, 12 FCC Rcd 5012 (1996); *Twentieth Holdings Corp.*, 4 FCC Rcd 4052 (1989).

Structure of the Trust.

The Trust proposed in this instance has been intentionally structured to comport with the requirements established by Commission precedent to qualify as a properly insulated trust designed to avoid attribution under the local radio ownership rule. Indeed, the provisions of the Trust are identical in all material respects with the trusts the Commission approved in *Shareholders of AMFM, Inc.* and *Shareholders of American Radio Systems Corp.*

Pursuant to the Engagement and Assignment Agreement, dated June 10, 2005, between Infinity and Mr. Evers (a copy of which is attached to this Exhibit), Infinity will assign the licenses and assets associated with the Stations to the Trust. A copy of the San Jose Trust Agreement is attached as Attachment A to the Engagement and Assignment Agreement.

Mr. Evers is not a 1% or greater shareholder, director, officer or employee of Infinity or any of its affiliates and does not have any business, personal or extra-trust relationship with Infinity or any of its affiliates or with any 1% or greater shareholder, director, officer or employee of Infinity or their affiliates. At all times, Mr. Evers will have the sole and exclusive power and authority to operate the Stations. Neither Infinity nor any of its officers, directors, employees, shareholders or affiliates may communicate with Mr. Evers regarding the management of the Stations.

Pursuant to the Trust, Mr. Evers is directed to sell the Stations to a third party in the following instances:

- 1) If Infinity has entered into an agreement to Sell the Stations to a third party prior to the transfer of the Stations to the Trust, Mr. Evers shall perform Infinity's obligations under that agreement;
- 2) If Infinity has not entered into an agreement to Sell the Stations to a third party prior to the transfer of the Stations to the Trust, Mr. Evers shall have the authority and shall be directed to sell one or both of the Stations to a third party; and
- 3) Infinity shall have the right to request Mr. Evers to sell one or both of the Stations to a third party.

In the event that only one of the two Stations is sold to a third party, Mr. Evers will be directed to seek authority to transfer the other Station to Infinity.

The Trust will be irrevocable by Infinity, subject to early termination if:

- 1) Infinity gives notice to Mr. Evers that the purchase agreement to acquire KEAR(FM) has been terminated; or
- 2) due to a change in the local radio ownership rule, disposition by Infinity of another FM radio station in the San Francisco / San Jose radio market, or for any other reason, it becomes lawful for Infinity to own, operate and control the Stations and KEAR(FM).

Conclusion.

In sum, Infinity as grantor/beneficiary will relinquish (a) the unrestricted power to revoke the Trust, (b) the unrestricted power to replace Mr. Evers at will, and (c) the sole power to sell the Stations. The Trust thus qualifies as an insulated trust under 47 C.F.R. § 73.3555, Note 2(d). Accordingly, consistent with Commission precedent, the proposed assignment of the Stations into the Trust will reduce the number of FM radio stations attributed to Infinity in the San Francisco / San Jose market and permit Infinity to consummate its proposed acquisition of KEAR(FM).