

ORIGINAL

Before the
Federal Communications Commission
Washington, DC 20554

In re: Application of:

NPG of Missouri, LLC

) File No. BRC DT-20130925AHF

KMIZ (TV)

) Facility ID # 63164

Columbia, MO

)

Accepted/Files

For Renewal of License

)

JAN 23 2014

To: Secretary

Federal Communications Commission
Office of the Secretary

Attn: Hossein Hashemzadeh
Deputy Chief, Video Division, Media Bureau

RESPONSE TO INFORMAL OBJECTION

NPG of Missouri, LLC, licensee of KMIZ (TV) (hereafter “KMIZ” or “Station”), hereby submits this Response to the “Informal Objection,” dated December 31, 2013 (“Objection”), by Goodrich Quality Theaters, Inc., owner and operator of multi-screen “Capitol 8 Theater,” in Jefferson City, MO¹ (hereafter “Theater”).²

Not only does the Theater’s pleading contain factual errors, it lacks any substantive basis for the FCC even to delay the grant of KMIZ’s pending license renewal application -- much less, as the Theater asks, for the FCC to “admonish” the Station.³

Indeed, it challenges one’s memory to recall *any* Objection, ever filed against *any* TV station’s license renewal in the FCC’s eight-decade history, that is based on a more bizarre, perverse and disquieting factual record than is revealed in this matter. In short, this Objection

¹ The actual name of the theater is “Capital 8 Theater.” See Appendix A, emphasis added.

² FCC Counsel for Theater has consented to an extension of time within which KMIZ might file this Response to the Objection (to the extent that KMIZ’s request herein for such an extension is deemed required).

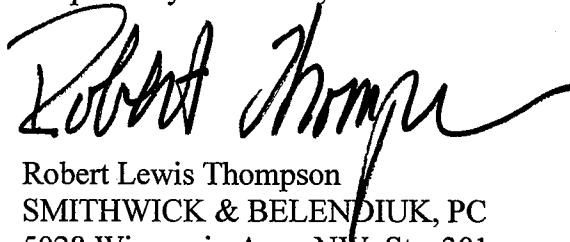
³ See Objection at 3.

was of the *local police force's* subsequent training exercise—only one week *after* the Theater's staged armed attack--about which local police had advised KMIZ *in advance* was being held on May 9, 2013, to train for any future shooting incident at a local theater; in fact, local police had expressly invited KMIZ to record video of this training exercise if the Station desired. *Id.* In sum, and even assuming that the subject "ABC 17 News at 6" broadcast on May 9, 2013 had contained the subject "footage" about which the Theater complains, KMIZ's brief use of contemporaneous video of the local police force responding to a shooting incident does not constitute a "deliberate falsification of a *purported* news event," as alleged by the Theater.¹³

CONCLUSION

In such bizarre and disquieting circumstances as are presented in this unusual case, it is decisively noteworthy that the Objection expressly concedes that the subject KMIZ broadcast¹⁴ may NOT be "in violation of the Communications Act or the [FCC's] Rules and Regulations."¹⁵ Indeed, the Objection should be summarily dismissed or denied.¹⁶

Respectfully submitted,



Robert Lewis Thompson
SMITHWICK & BELENDIUK, PC
5028 Wisconsin Ave., NW, Ste. 301
Washington, DC 20016
(202) 363-4409 (direct)

Counsel for NPG of Missouri, LLC

January 23, 2014

¹³ KMIZ's General Manager has instructed the KMIZ news department that, going forward and out of an abundance of caution, *any* such use of previously or subsequently recorded video must be clearly so identified. *Id.*

¹⁴ See Note 7, *supra* (the May 9th broadcast on KMIZ at 6PM did NOT contain the allegedly misleading "footage").

¹⁵ See Objection at 3.

¹⁶ Although the Theater cites a "Complaint" filed with the FCC (*Id.* at 2, citing "#13-C00502696-1"), KMIZ has never been provided with a copy of such Complaint. See Appendix A. In any event, the Theater concedes that *the Complaint "was summarily rejected" by the FCC* (Objection at 2, emphasis added).

Transcript of Jefferson City movie theater scare- May 9, 2013- 9pm/10pm

On Cam Anchors:

IMAGINE WATCHING A MAN WALK INTO A MOVIE THEATER IN FULL TACTICAL GEAR, CARRYING A GUN.

TONIGHT MANAGEMENT AT THE CAPITAL 8 THEATER IN JEFFERSON CITY IS SPEAKING OUT FOR THE FIRST TIME SINCE POLICE WERE CALLED FOR WHAT THEY WERE TOLD WAS AN ACTIVE SHOOTER SITUATION.

IT HAPPENED THIS PAST WEEKEND DURING THE OPENING OF THE NEW IRON MAN 3 MOVIE...IT TURNED OUT TO BE NOTHING BUT A PUBLICITY STUNT.

ABC 17'S DANIEL WINN SPOKE WITH POLICE, WITNESSES, AND MANAGEMENT.

DANIEL, IT SOUNDS LIKE POLICE WERE NOT TOO HAPPY, THEY WEREN'T HAPPY, BUT THE THEATER IS STANDING BY THE PROMOTION...

[TAKE LIVE]

{***LIVE***}

[CG DANIEL]

YEAH, THEY DEFINITELY ARE, THEY SAY THEY ARE THERE TO DO A JOB, AND THAT'S ENTERTAIN AND THEY WOULD DO THAT AGAIN.

BUT, POLICE AND MOVIE GOERS ARE QUESTIONING THAT LOGIC AFTER INCIDENTS LIKE NEWTOWN, CONNECTICUT AND AURORA, COLORADO.

[TAKE PKG

DURATION:1'45"]

{***PKG***}

<"WE HAD JUST FINISHED WATCHING IRON MAN 3"

JOHN MORLOCK IS A RETIRED ARMY WAR VETERAN.

HE SUFFERS FROM POST TRAUMATIC STRESS SYNDROME.

A TRIP TO THE MOVIES LAST WEEKEND TRIGGERED MEMORIES HE NEVER WANTED TO RELIVE.

MORLOCK "WE'RE JUST GETTING INTO THE CAR WHEN I SPOTTED A MAN IN FULL ASSAULT GEAR. CARRYING WHAT APPEARED TO BE A MODIFIED M-4 AND A NINE MILLIMETER ON HIS SIDE WALKING TOWARD THE THEATER."

HE DIDN'T CALL POLICE...BUT SEVERAL OTHERS DID

SHOEMAKER: "WE RECEIVED THE CALL, A SERIES OF 911 CALLS STATING THAT A MAN DRESSED IN ALL BLACK WITH WHAT APPEARED TO BE BODY ARMOR WITH A RIFLE WAS WALKING INTO CAPITAL 8 THEATERS"

IT WAS A FULL RESPONSE... POLICE THOUGHT THEY WERE WALKING INTO AN ACTIVE SHOOTER SITUATION... SHOEMAKER "EVERYTHING'S IN PLACE, IT'S THE OPENING OUT OF A SUPERHERO MOVIE, IT'S SOMEBODY WALKING IN ALL DARK CLOTHES, IT'S CARRYING A RIFLE, IT'S EVERYTHING POINTS TO BAD THINGS THAT ARE ABOUT TO HAPPEN, THERE'S REALLY NO GOOD THAT CAN COME OF THAT

"

BUT THANKFULLY IT WASN'T BAD.... IT WAS ALL PART OF A MOVIE OPENING....

WILKINS: "DID YOU TAKE INTO CONSIDERATION WHAT HAPPENED IN COLORADO WHEN YOU WERE THINKING ABOUT PUTTING THIS TOGETHER?....

CERTIFICATE OF SERVICE

I, Robert Lewis Thompson, Of Counsel to Smithwick & Belendiuk, P.C., certify that on January 23, 2014, a copy of the foregoing "Response" of NPG of Missouri, LLC to the Informal Objection, filed by Goodrich Quality Theaters, Inc. was served on the below-named counsel for the only other party to the foregoing proceeding by prepaid, First Class US mail.:

James A. Koerner, Esq.
Koerner & Olender, P.C.
11913 Grey Hollow Court
North Bethesda, MD 20852


Robert Lewis Thompson