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August 17, 2004

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554  
Attention: Ownership Section

RECEIVED

AUG 17 2004

Federal Communications Commission  
Office of Secretary

Re: State of Wisconsin – Educational Communications Board  
Report on Adverse Adjudication  
FRN: 0002711455

Dear Ms. Dortch:

On behalf of State of Wisconsin – Educational Communications Board (“ECB”), pursuant to Section 1.65(c) of the FCC’s rules and in connection with ECB’s recent radio station license renewal applications, we submit herewith in duplicate a Report on Adverse Adjudication.

ECB is the licensee of the following noncommercial educational broadcast stations, all in Wisconsin: WLBL(AM), Auburndale (Facility ID No. 63138); WERN(FM), Madison (63030), WHAD(FM), Delafield (63091), WHHI(FM), Highland (63056), WHLA(FM), La Crosse (63055), WHRM(FM), Wausau (63083), WHSA(FM), Brule (63089), WHWC(FM), Menomonie (63078), WHBM-FM, Park Falls (63058), WHND(FM), Sister Bay (83612), WHDI(FM), Sister Bay (83611), WPNE-FM, Green Bay (63060), WLBL-FM, Wausau (63031), WHLA-TV, La Crosse (18780), WHRM-TV, Wausau (73036), WHWC-TV, Menomonie (18793), WLEF-TV, Park Falls (63046), and WPNE(TV), Green Bay (18798). ECB is also the applicant for new noncommercial educational FM stations at Superior (FCC File No. BPED-19971211MC; Facility ID No. 89432), Platteville (FCC File No. BPED-19980909ML; 91616) and Adams, Wisconsin (FCC File No. BPED-19980826MH; 91555). The enclosed information was also reported in the recently-filed license renewal applications for each of the above-listed licensed radio stations.

Should any questions arise concerning this matter, kindly contact this office.

Very truly yours,

  
Barry S. Persh

## Annual Adverse Adjudications Report

The State of Wisconsin – Educational Communication Board (“ECB”), on behalf of its above-listed noncommercial educational broadcast stations, reports that, within the last year, an adverse finding was made against a former board member and officer of the licensee.

On October 17, 2003 ECB Board Chairman, Gary George, left the ECB Board. On November 19, 2003, Mr. George was indicted by a federal grand jury in the U.S. District Court for the Eastern District of Wisconsin in Milwaukee, Wisconsin, Case File No. 03-CR-259, on two counts of conspiracy to receive kickbacks, one count of receipt of kickbacks, one count of theft of federal funds in connection with the rigging of bids for state contracts, and one count of money laundering. On January 22, 2004, Mr. George pled guilty to a single count of conspiracy to accept kickbacks based on his actions during the 1997-2002 time period. The other four charges against Mr. George were dropped pursuant to the plea agreement.

This conviction relates to Mr. George's misuse of his position as a State Senator, attorney, and citizen, but not to his role as a Board member or officer of the ECB Board. The ECB is governed by a 16-member Board, five members of which are appointed by the Governor of Wisconsin, and the rest appointed according to statute, including two members appointed from within each body of the Wisconsin state legislature. Mr. George was appointed as a representative of the Wisconsin State Senate; when he lost his seat in the state Senate as a result of a legislative recall election, he lost his ECB Board seat and officer position. While Mr. George was serving on the ECB Board and/or as an officer of the ECB Board during the time he committed the acts for which he pled guilty, he left the Board and his officer position before the grand jury indicted him and before he pled guilty to conspiracy.

ECB submits that this adverse adjudication against its former board member and officer does not in any way reflect adversely on ECB's qualifications as a broadcast station licensee. The finding was based on actions that did not involve the ECB, nor the ECB's broadcast stations, nor any FCC-licensed facility or FCC-regulated functions, nor any employees that ran or continues to run the day-to-day operations of the ECB's broadcast stations. The Commission has made it clear that “the extent of the [convicted] individual's involvement in the operations of the station would be a relevant factor in considering the effect of the misconduct on the licensee's qualifications.” See *In re Policy Regarding Character Qualifications in Broadcast Licensing*, Memorandum Opinion and Order, 7 FCC Rcd 6564, n. 45 (Rel. Oct. 9, 1992).

ECB submits that Mr. George's conviction is not a reflection upon the character of the ECB Board as a whole nor on ECB's character as a broadcast licensee, for two reasons. First, the criminal acts for which Mr. George was convicted are wholly unrelated to his service and position on the ECB Board. Second, Mr. George relinquished any authority that he might have had over station operations when he left his Board seat before he was charged with the crime to which he eventually pled guilty.

The Commission has refused to impute criminal behavior of a licensee principal to the licensee when the principal's activities were unrelated to the licensee and the principal was later convicted of a felony. For example, in *In re Petroleum v. Nasby*, 9 FCC Rcd 6072 (ALJ 1994), *aff'd*, 10 FCC Rcd 1069 (Rev. Bd. Decision), *pet. for recon. granted in part and denied in part*, 10 FCC Rcd 9964 (MO&O 1995), *aff'd in part and remanded in part*, 11 FCC Rcd 3494 (MO&O 1996), *aff'd and proceeding terminated*, 13 FCC Rcd 13538 (ALJ 1997), the principal

shareholder of the licensee engaged in criminal activities connected with his separate private law practice. The ALJ noted that the shareholder's crimes provided "no basis for imputing his criminal activities to the innocent [licensee]." 9 FCC Rcd at 6075. In *Nasby*, the licensee demonstrated that after the principal shareholder resigned his position on the station's Board and transferred his interests to other members of his family, he exercised no further control or influence on the operation of the station either on his own or through his family connections. The Commission granted the licensee's application for renewal accordingly. *Id* at 13541.

For these reasons, ECB submits that this disclosure should not affect its character as an FCC licensee. Mr. George's appointment to the Board was made in accordance with state statute and as a result of his legislative service, and his recall from office at the behest of the voters of Wisconsin relieved him of his legislative service before his conviction. Therefore, Mr. George had no influence upon nor any duty to perform in connection with the ECB Board or its stations since November 2003, when he left the Board, which was prior to his indictment and conviction. Accordingly, ECB believes that its former board member's subsequent conviction has no bearing on its stewardship of its broadcast stations.