

**Hugh W. Wyatt**  
279 East 44<sup>th</sup> Street  
Apartment 15-C  
New York, NY 10017  
[hwyatt@aol.com](mailto:hwyatt@aol.com)  
917-499-4040

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FCC Mail Room

May 20, 2014

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Ms. Dortch:

My name is Hugh Wyatt. I reside at 279 East 44<sup>th</sup> Street, New York, NY 10017. My email address is [hwyatt@aol.com](mailto:hwyatt@aol.com) and my telephone number is 917-499-4040.

I am the editor and publisher of *The Spiritual Herald*, a national newspaper focusing on healthcare and all-faiths religion. I am a former investigative reporter and health affairs editor for the *New York Daily News*, where I was on staff for 27 years. I am a Black Cherokee-Muscogee Native and I was born in Atlanta, Georgia.

I am one of a small group of black New Yorkers who founded the Inner City Broadcasting Corp. In 1969, I became a board member, and I owned three percent of the stock. Our first purchase was WLIB-AM and our second acquisition was WBLS-FM one year later. In less than four decades, we founded 19 radio stations, a cable company and a number of other properties. We also owned and revamped the famous Apollo Theater in Harlem.

As part of a minority-owned corporation, the stations became the pride of joy for people of color in New York City, as well as the nation. One of the stations, WBLS-FM, was so successful that it has frequently been the number one rated radio station in New York City—competing in a huge market of 80 radio stations in the metropolitan area.

The majority of African Americans and other people of color turned to WBLS-FM and WLIB-AM not only for entertainment, but as a champion of their political, economic, social and cultural battles. In some respects, WBLS and WLIB became an un-official arm of the Civil Rights Movement—helping to promote an agenda that greatly improved the lives of people of color. In other words, the stations provided minority New Yorkers with a friend they could count on in times of trouble.

That friend has died.

Now, thousands of New Yorkers—both black and white—are angrily and loudly mourning the loss of their only voices to corporate white America—WLIB-AM and WBLS-FM radio stations. For African Americans, it is especially painful because they see the loss as another nail in the coffin for racial progress in New York City—once the most racially progressive city in the world.

Both stations are now owned and operated by Emmis Communications, a politically conservative conglomerate with a powerful board of all white corporate men and women based in Indianapolis. Emmis purchased both radio stations in February 2014 for \$131 million. Many radio experts said that WBLS alone is worth \$300 million.

Today, for the first time ever, New York City no longer has a radio or television station that is owned by African Americans—leaving a serious void for blacks in a city that is growing more and more hostile to them. The practice of “stop and frisk,” for example, has been replaced with an increasing number of dramatic arrests of black and Latino men for simply using marijuana. Blacks and Latinos comprise more than 60 percent of the city’s population.

Therefore, the Federal Communications Commission should deny the issuance of a license to Emmis Communications because black New Yorkers are entitled to have ownership of their own radio station in order for them to express their own dreams, aspirations and, above all, their unique political concerns—not those of a conservative group of corporate whites in Indianapolis with little or no knowledge and concerns of their various needs and desires.

Simultaneously, it should immediately void the license issued to Yucaipa Companies, which was approved within the last two years. Yucaipa made numerous fraudulent claims, one of which involves Magic Johnson, the former basketball player, who reportedly owns about 20 percent of the company. The FCC originally approved the license because he was involved as a “minority.” There is no documentation available that he even owns 20 percent. What is the FCC’s rule regarding the percentage a company must have in order to qualify as a “minority?”

In addition, Pierre Sutton, present chairman of Inner City Broadcasting Corp., and his daughter, Keisha, receive a reported \$1.2 million in annual consultancy fees from Yucaipa. In a bold and arrogant display of conflict of interest, Mr. Sutton has held at the same time the various positions as chairman of ICBC, Inner City Media and other companies, respectively, all of which allegedly looted original stockholders, including me. During a recent deposition, he refused to answer basic questions and admitted to not even paying taxes, yet he is on the payroll of Yucaipa and essentially running the corporation behind the scene.

The original stockholders of ICBC in 1969 were largely poor and middle-class blacks who created the company not just to make money, but to present the company to the world as a symbol of racial progress in New York City and the United States. Today, many of us are up in age, ill and unable to fight the giant corporate forces that have descended upon us.

The FCC should also deny issuance of the license because of my on-going litigation essentially alleging that the assets of Inner City Broadcasting Corporation (ICBC) have been dissipated by Mr. Sutton; and the management of ICBC have assigned valuable intellectual property rights owned by ICBC to other entities for the profit of Sutton. The New York State Supreme Court actually ordered Mr. Sutton to

produce a number of relevant documents under threat of criminal contempt. This Order was not complied with by Mr. Sutton and this case is presently on appeal before the Appellate Division, First Department.

As you are acutely aware, the Commutations Act of 1934, which the FCC is obligated to follow, has mandated that the FCC promote diversification of programming. Minority ownership (the key word here being "ownership") was specifically mandated by Congress. Fullilove v. Klutznick, 448 U.S. 448, 472-478, 490, 491. Furthermore, "minority ownership policies serve an important governmental objective..." Metro Broadcasting, Inc. v. FCC, 497 U.S. 547 (1990). The *Metro* Court goes on to rule that minority ownership is substantially related to the goal (what the FCC is supposed to do) of promoting broadcast diversity.

Right here in our area, the Prometheus v. FCC decision specifically chastised the FCC for ignoring the mandates of diversity.

The legal concerns go even deeper than the holdings of these particular cases. While it is crystal clear that the Communications Act of 1934 and its legislative history, as well as a number of United States Supreme Court and other cases, have clearly mandated diversity in broadcast ownership, the Executive Branch may be usurping that power and authority in order to achieve a different agenda. The Executive Branch, through the actions of its agency, the FCC, are on the verge of making decisions on an administrative level that is clearly inconsistent with controlling law and essentially in violation of the doctrine of separation of powers upon which our Constitution rests.

In addition to the legal concerns and issues, there are numerous factual concerns regarding this licensing. How did Yucaipa, basically a bankruptcy claims trader, obtain permission and authority for a license under the FCC?

How did Inner City Media Corporation, the bankrupt company, come to acquire the actual broadcasting rights of ICBC? A review of the pleadings of that Chapter 11 Bankruptcy case clearly indicates that this occurred by fraud and deception. This fraud and deception was perpetrated on the founders and shareholders of ICBC by what appears to be political, monetary and insider co-mingling within the group of insiders.

A review of the pleadings of that underlying Chapter 11 case clearly indicates that ICBC opposed, by means of an Adversary Complaint, the actions of Yucaipa and Magic Johnson. This Adversary Complaint, however, was merely a sham response on the part of ICBC.

There is no demonstrable proof that the corporation complied with the requisite percentage of shareholder votes for such an action. Indeed, the Order to Show Cause demanded that ICBC show the voting and tallying of such a vote. However, by means of chicanery, ICBC was able to disregard this judicial order and proceed with its agenda to take this minority-owned group of radio broadcast stations, dedicated to black culture, music, politics, etc., and transfer it to a basically non-black entity. There is absolutely no indication of what percentage Magic Johnson owned in Yucaipa.

Indeed, if there was an invalid and voidable license issued to Yucaipa, a bankruptcy claims trader, how could Yucaipa then transfer that license to another entity if the original grant of license itself was invalid and voidable? These are questions and issues that can only be answered by a full, open and plenary hearing by your Honorable Commission.

I, myself, do not believe that this present Administration is seeking to usurp the power of the legislature and the judiciary with respect to its current handling of the licensing matter of which I have spoken. Indeed, President Barack Obama himself clearly stated the importance of minority-owned media in an article he authored in 2007. President Obama stated in that article "providing opportunities for minority-owned businesses to own media is fundamental to creating the diverse media environment that **federal law requires** and the country deserves and demands" (See "Why Minority-Owned Media Matters," Sens. John F. Kerry , and Barack Obama, October 26, 2007, *The Boston Bay Banner*).

Therefore, despite some prior chastising of the FCC by the Federal Courts for failure to comply with the mandate of the Communications Act of 1934, I firmly believe that this Administration, and its executive agencies, including the FCC, is firmly committed to carrying out the letter as well as spirit of the Act.

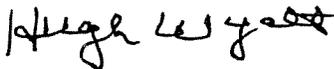
I have to believe that this Administration would not allow Yucaipa to hold on to such a prestigious license. At the same time, why would the FCC proceed to rubber-stamp the approval of Emmis Communications' application, which is undisputedly a **non-minority** entity, to assume control of an infrastructure of radio broadcast stations that were founded and run for many years pursuant to the "diversity" I speak of and the legislature and judiciary speak of?

More important, why would the FCC—an august body of government officials—ignore and disregard the strong, resoundingly clear views of minority-ownership of radio stations by the then-Senators Obama and Kerry?

Thus, I respectfully request and implore your Commission to hold full and open hearings before making any decision on this licensing request by Emmis, as well as the existing license held by Yucaipa.

Thank you.

Sincerely,



Hugh Wyatt