

I hereby certify that the annexed instrument is a true and correct copy of the original on file in the Office of the Bankruptcy Clerk.

ORDERED.

Dated: September 2, 2014



Dated 9/8/14 [Signature]
Authorized Deputy Clerk

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[Signature]
Eileen W. Hollowell, Bankruptcy Judge

6 Attorney for Chapter 7 Trustee

7 IN THE UNITED STATES BANKRUPTCY COURT
8 FOR THE DISTRICT OF ARIZONA

9 In re:

10 GEORGE W. KIMBLE and
11 PATRICIA J. ANDERSON KIMBLE,
12 husband and wife,

13 Debtors.

) Chapter 7 Proceeding

) Case No. 4:09-bk-33058-EWH

) ORDER AUTHORIZING AND
) APPROVING: (1) THE EXERCISE OF
) AN OPTION TO PURCHASE AND THE
) SALE OF THE ASSETS OF THE FLRG
) GROUP AND THE REMAINING
) ASSETS OF ROI BROADCASTING,
) INC., FREE AND CLEAR OF LIENS
) AND CLAIMS;
) (2) TRANSFER OF LEASE AND
) CONTRACT RIGHTS AS PART OF
) THE AUTHORIZED AND
) APPROVED SALE;
) (3) PAYMENT TO A LIEN CREDITOR
) LYONS NATIONAL BANK IN
) RETURN FOR A RELEASE OF ITS
) LIEN AT THE CLOSING OF AN
) APPROVED SALE; and
) (4) CLOSING OF A PREVIOUSLY
) APPROVED SETTLEMENT
) AGREEMENT WITH SHAREHOLDER
) ALAN BISHOP

23 On August 18, 2014, there came on for hearing (the "Hearing") before the Court the Motion
24 of the Chapter 7 Trustee Gayle E. Mills to Authorize and Approve: (1) the Exercise of an Option
25 to Purchase and a Sale of the Assets of the FLRG Group and the Remaining Assets of ROI
26 Broadcasting, Inc., Free and Clear of Liens and Claims; (2) a Transfer of Lease and Contract Rights
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1 as Part of the Authorized and Approved Sale; (3) Payment to a Lien Creditor in Return for a
2 Release of its Lien at the Closing of an Approved Sale; and (4) Closing of a Previously Approved
3 Settlement Agreement with Shareholder Alan Bishop (the "Sale Motion"). The Sale Motion and
4 a Notice of Hearing were served on all creditors and parties in interest as set forth in the Certificate
5 of Service on file with the Clerk of Court. The Trustee announced at the Hearing through her
6 attorney that the terms of the sale had been published electronically in trade journals in an effort
7 to attract bidders for the assets being sold. No objections to the Sale Motion were filed and no one
8 made an objection at the Hearing. Appearing at the Hearing were the Trustee and her counsel and
9 Seller, Shareholder and Creditor Alan Bishop and representatives of the Buyer, Hoosier AM/FM,
10 LLC or its assignee (the "Buyer"), Bruce Danziger and B. Eric Sivertsen. Also appearing was
11 creditor Tower Investment through its attorney, Fred Petersen and principal Bill Brothers. Creditor
12 Donna Kimble also appeared through her attorney Dennis Breen. A call was made for higher and
13 better offers and bids and counterbids were made by Mr. Bishop and the Buyer.

14 Based on the entire file and a call for higher and better offers after publication, the Court
15 finds that the Notice of Sale was served on all parties required by law, the requirements of §363(f)
16 are satisfied with the payment described below that is to be made to the Lyons National Bank, the
17 Buyer is a good faith purchaser entitled to the protections of §363(m), from the record neither the
18 Seller nor the Buyer engaged in conduct prohibited by §363(n), fair consideration and reasonably
19 equivalent value is being paid for the assets being sold, the Trustee has demonstrated good, sound
20 and proper business judgment in the sale of the Assets,¹ the Buyer is not a successor of the Seller
21 and the Buyer is not liable for any debts or obligations of the Seller except for performance of the
22 assigned agreements which performance is adequate assurance of performance under Sections
23 365(b)(1) and 365(f)(2) of the Bankruptcy Code. Good cause appearing for the relief requested in
24 the Sale Motion it is hereby

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26 _____
27 ¹Capitalized terms not defined herein shall have the meanings ascribed to them in the Sale Motion.

1 **ORDERED ADJUDGED AND DECREED** that:

2 1. The Sale Motion is granted.

3 2. The sale of the Assets pursuant to the Asset Purchase Agreement is authorized under
4 Section 363(b) of the Bankruptcy Code. The Asset Purchase Agreement is amended by this Order
5 to reflect that the Purchase Price to be paid by the Buyer is increased to \$3,375,000.00. The Sellers
6 are authorized to consummate the transactions contemplated by the Asset Purchase Agreement,
7 including the exercising and payment of the option for the WFLK-FM assets. The Sellers are
8 authorized to perform their obligations under the Asset Purchase Agreement without further order
9 of this Court. The Chapter 7 Trustee, Gayle E. Mills, is authorized to sell the Assets described in
10 the Asset Purchase Agreement filed with the Sale Motion to Approve Sale on the terms and
11 conditions set forth in that Agreement except as they are changed by this Order. The assignment
12 by the Sellers at a Closing of their interest in all lease agreements is authorized and approved and
13 shall be effective at the Closing of a Sale without the need for the approval of any Lessor or any
14 other documentation by a Lessee although the Trustee and Sellers can execute the same to comfort
15 the Buyer or a Lessor.

16 3. The Buyer is a purchaser in good faith of the Assets and is entitled to all of the
17 protections afforded by Section 363(m) of the Bankruptcy Code.

18 4. The Purchase Price of \$3,375,000.00 for the Assets is fair and reasonable and may
19 not be avoided under Section 363(n) of the Bankruptcy Code. The Asset Purchase Agreement and
20 any related agreements, documents, or other instruments may be modified, amended or
21 supplemented by the parties thereto in accordance of the terms thereof without further order of this
22 Court, provided that any such modification, amendment or supplement is not material and does not
23 change the economic substance of the transactions contemplated thereby.

24 5. Pursuant to Section 363(f) of the Bankruptcy Code, the sale of the Assets shall be
25 free and clear of any and all liens, encumbrances, claims or interests with any such liens,
26 encumbrances, claims and interests to attach to the proceeds of sale of such Assets with the same
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1 validity, scope and priority as they attached to such Assets.

2 6. The Assets include certain leases and other agreements as set forth in the schedules
3 to the Asset Purchase Agreement. The Sellers are current on the payments due under the leases and
4 agreements and will remain current through the Closing of the sale. The leases and agreements are
5 in full force and effect and have not been terminated by operation of law, their own terms, or
6 otherwise. Subject to and conditioned on the Closing, the Sellers are authorized pursuant to
7 Section 365(a) of the Bankruptcy Code to assume and assign the leases and agreements. Upon
8 Closing, the assigned leases and agreements shall be transferred to, and remain in full force and
9 effect for the benefit of, the Buyer in accordance with their terms, notwithstanding any provision
10 in the assigned leases and agreements that prohibits, restricts, or conditions such assignment or
11 transfer.

12 7. The Buyer is not a successor to the Sellers by reason of any theory of law or equity
13 and Buyer shall not assume or in any way be responsible for any liability, obligation, commitment
14 or responsibility of the Sellers, or any debts, liabilities, responsibilities or commitments in any way
15 relating to the Assets or the Seller's use of the Assets prior to the closing of the sale of the Assets
16 to the Buyer. Neither the purchase of the Assets by the Buyer nor the subsequent operation by the
17 Buyer of any business previously operated by the Sellers, shall cause the Buyer to be deemed a
18 successor in any respect to the Seller's business or any liability of the Seller within the meaning
19 of any law, rule or regulation, including but not limited to any revenue, pension, ERISA, tax, labor,
20 products liability or environmental law, rule or regulation, or under any doctrine of successor
21 liability under state or federal law. Any real estate and personal property tax claims that exist by
22 operation of law will be brought current by the Sellers at Closing, pro-rated to the date of Closing.

23 8. The Escrow Agent for this sale Stewart Title & Trust of Tucson, 3939 East
24 Broadway Boulevard, Tucson, AZ 85711-4551, Michelle Jolly, Escrow Officer, is authorized to
25 pay, as part of a Closing, as if paid directly by the Chapter 7 Trustee, all costs and charges
26 necessary to close the sale that are approved by the Chapter 7 Trustee including but not limited to:
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1 1. A payment to Lyons National Bank, c/o James King, 399 Exchange Street,
2 Geneva, NY 14456, in that amount needed to pay the Lyons National Bank
3 ("Lyons") debt in full. As of May 28, 2014, Lyons has presented it is owed
4 \$723,759.16 and the Sellers do not dispute that is the amount owed. This payment
5 at Closing shall serve to completely release any and all claims or liens held or
6 asserted by Lyons in and against the Assets being sold to Buyer, those owned by
7 Chadwick Bay Broadcasting, Inc. or in or to the case and account receivables not
8 being sold. The filing and/or recording of a Certified Copy of this Order shall serve
9 to effectuate such release of lien and claim by Lyons. Nevertheless Lyons shall
10 provide the Escrow Agent with a duly executed release of lien used by Lyons.

11 2. The \$450,000.00 option payment for the WFLK-FM assets.

12 3. Any credits available to the Buyer as are described and set forth in the Asset
13 Purchase Agreement.

14 4. The cost for standard title insurance policies on the Real Property being
15 conveyed, any fees or charges related to this conveyance and transfer, the amount
16 needed to bring current to the date of Closing real estate taxes/assessments against
17 this Real Property and the cost for obtaining, certifying and recording documents.

18 5. The Sellers portion of the fee of the Escrow Agent, which fee is authorized
19 and approved, and the Sellers share of costs incurred by the Escrow Agent in
20 Closing the sale.

21 9. In the event that the Buyer does not Close timely or otherwise defaults, its Earnest
22 Money Deposit shall be forfeited and the Court authorizes and approves of a sale of the Assets to
23 Alan Bishop or his assignee on the same terms and conditions as described in the Asset Purchase
24 Agreement filed with the Court as part of the Sale Motion, except that the \$450,000.00 payment
25 to acquire the WFLK-FM assets can be on terms acceptable to the parties and the Purchase Price
26 to be paid shall be \$3,300,000.00. Mr. Bishop shall make the same Earnest Money Deposits as
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1 were required to be made by the Buyer.

2 10. The Trustee is authorized to take all actions and execute all documents necessary
3 to consummate and close the transfer of the Chadwick Bay Broadcasting stock to Alan Bishop once
4 the subject sale of the FLRG assets closes.

5 11. Under the circumstances presented, good cause also exists for the waiver of any
6 applicable time restraints for this Order to be effective and the Order shall be entered by the Clerk
7 of Court as a Final Order to be effective immediately.

8 12. This Court retains jurisdiction with respect to all matters arising from or related to
9 the implementation of this Order.

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11 DATED SIGNED AND ORDERED ABOVE
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