

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Trinity International Foundation, Inc.,)	File No. BALED-20070928ADQ
Assignor)	Facility ID No. 68118
)	
and)	
)	
American Public Media Group,)	
Assignee)	
)	
For Assignment of License of Non-Commercial)	
Educational FM Broadcast Station WKCP(FM))	
(formerly WMCU(FM)))	
Miami, Florida)	

MEMORANDUM OPINION AND ORDER

Adopted: September 7, 2012

Released: September 10, 2012

By the Commission:

1. The Commission has before it an Application for Review filed on April 10, 2008, by several listeners (collectively, "Petitioners") of noncommercial educational Station WKCP(FM) (formerly WMCU(FM)), Miami, Florida ("Station"). Petitioners seek review of the Media Bureau's ("Bureau") March 12, 2008, decision¹ which denied their Petition to Deny² ("Petition") and granted the above-captioned application filed by Trinity International Foundation, Inc. ("Trinity") for consent to assign the Station's license³ to American Public Media Group ("APMG"). In the *Staff Decision*, the Bureau reviewed each argument of the Petitioners and found that none raised a substantial and material question of fact warranting further inquiry.

¹ *Dennis Kelly, Esq.*, Letter, 23 FCC Rcd 4000 (MB 2008) ("*Staff Decision*").

² Petitioners argued in the Petition to Deny that the assignment application was defective because Trinity had allegedly (1) failed to comply with the Commission's public notice requirements; (2) failed to file an ownership report for its parent organizations; (3) failed to disclose the entire agreement between itself and APMG; (4) failed to provide hourly station identifications during a three-week period in October 2007; (5) engaged in the fraudulent solicitation of donations; and (6) changed the Station's format from Christian programming to classical music. The *Staff Decision* also addressed complaints raised in several hundred postcard-style informal objections that Trinity failed to provide access to the Station's public inspection file and found these allegations unsubstantiated. Petitioner seeks review of enumerated issues (1), (2), (3) and (5) only.

³ FM Translator Station W270AD, West Palm Beach, Florida, was also assigned to APMG as part of the transaction. See File No. BALED-20070928ADQ.

2. Upon careful review of the Application for Review and the entire record, we conclude that Petitioners have failed to demonstrate that the Bureau erred.⁴ The Media Bureau properly decided the matters raised, and we uphold its decision for the reasons stated in its *Staff Decision*.

3. ACCORDINGLY, IT IS ORDERED that, pursuant to section 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(5), and section 1.115(g) of the Commission's rules, 47 C.F.R. § 1.115(g), the Application for Review ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴ In particular, we note that the Bureau correctly determined that Petitioners' complaint about Trinity's solicitation of donations asserts a claim under state law (*i.e.*, a claim for breach of contract or breach of fiduciary duty) that is beyond the scope of this proceeding and therefore must be resolved in a local court of competent jurisdiction. Although adjudicated civil misrepresentations may be considered on a case-by-case basis under Commission precedent, *Staff Decision*, 23 FCC Rcd at 4007 n. 63, citing *Policy Regarding Character Qualifications in Broadcast Licensing*, Memorandum Opinion and Order, 6 FCC Rcd 3448, 3448-49 para. 6 (1991), the Bureau was faced here with a pending claim that since has been dismissed. See *Gary Mathews and Lillian S. Delgado v. Trinity Int'l Univ., Inc.*, Order Granting Summary Judgment in Case 07-22928-CIV-Hoeveler (S.D.Fla. Sept. 4, 2009).