

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:

Digital TV of Orlando, LLC
Licensee of Station WHDO-CA
Orlando, Florida

)
)
)
)
)
)

Facility I.D. No. 10521
NAL/Acct. 201441420035
FRN: 0016748303

Accepted/Files

To: The Secretary
ATTN: Evan Morris, Attorney Advisor, Video Division, Media Bureau

OCT 31 2014
Federal Communications Commission
Office of the Secretary

REQUEST FOR CANCELLATION OR DEFERRAL OF FORFEITURE

Digital TV of Orlando, LLC ("Digital TV"), licensee of station WHDO-CD (the "Station"), and WP Stations LLC, proposed assignee of the Station, pursuant to Section 1.80(f)(3) of the Commission's rules hereby requests cancellation or deferral of the forfeiture (the "Forfeiture") proposed in the above-captioned Notice of Apparent Liability for Forfeiture (DA 14-1420, the "NAL") released on October 1, 2014. As detailed below, the Station is currently in receivership and the parties who controlled the licensee at the time of the alleged violations referenced in the NAL are no longer associated with the Station. Moreover, the Receiver lacks funds with which to pay the Forfeiture and in any event, requiring payment by the Receiver would punish innocent creditors of Digital TV and would disserve the public interest.

As the Commission is aware, Digital TV is currently operating in receivership. A receiver was appointed by the Florida State Court in September 2012, and directed to sell all assets of the Station at a public sale. Commission approval for transfer of control to the Receiver was granted on August 24, 2012 (*See* BTCTTA-20120810ABP). Until a sale of the Station is approved by the Commission and consummated, the Receiver has continued to operate the Station.

At the time the violations described in the NAL were alleged to have occurred, Digital TV was under the control of Mr. John Salov, who was Digital TV's sole member. In addition to the alleged failure to comply with FCC requirements, Digital TV under Mr. Salov's control also defaulted on a number of tower leases held by entities controlled by Richland Towers ("Richland"), the ultimate parent entity of WP Stations, LLC. Richland obtained judgments in Florida State Court (*i.e.*, the Circuit Court of the Thirteenth Judicial Circuit In and For Hillsborough County) against Digital TV on or about November 11, 2011 and petitioned that Court for appointment of the Receiver as the only available remedy to protect its rights as a creditor. With the appointment of the Receiver in 2012, all of Mr. Salov's continuing interest in Digital TV was extinguished.

The Florida State Court ordered the Receiver to sell the Station assets at a public sale, which was conducted in January 2013. The prevailing party at that public sale was WP Stations, LLC, a subsidiary of Richland. Shortly after the public sale, an assignment application was filed with the Commission requesting approval for the assignment of the Station licenses to WP Stations, LLC (BALDTA-20130226AGO, the "Assignment Application"). That application remains pending. During the time that application has remained pending, the Receiver has operated the Station in full compliance with the Commission's rules in order to preserve the Station assets. The Receiver, however, does not possess sufficient funds to pay the Forfeiture.

The Commission has previously held that requiring payment of a forfeiture by a receiver, where the parties responsible for the violations at issue no longer held any interest in the station, would not serve the public interest. For example, in the case *Spirit of Alaska Broadcasting, Inc.*, 26 FCC Rcd 10418 (EB 2011), it was determined that no forfeiture was warranted where the assets of the licensee had been placed into receivership, and a receiver had been appointed to

assume control of the licensee. In reaching that decision, the Bureau cited a long string of earlier decisions, including *Diamond Broadcasting of California, Inc.*, 11 FCC Rcd 7388, 7390 (1996) (rescinding a \$25,000 forfeiture issued against a licensee in receivership); *David Ryder, Receiver*, 23 FCC Rcd 10499 (EB 2008) (rescinding a \$12,000 forfeiture proposed against an entity that had been turned over to a receiver); and *Multimedia Development Corp.*, 17 FCC Rcd 22649 (WTB 2002) (rescinding four proposed forfeitures totaling \$80,000 where receiver replaced offending licensee; receiver had “no role in the violations at issue”; and forfeiture would harm innocent creditors). *Spirit of Alaska*, 26 FCC Rcd at 10419 n.12. A nearly identical situation is presented here, where the party responsible for any violations, Mr. Salov, no longer has any continuing interest in the Station, and the Receiver had no role in the violations. Moreover, as the Commission reasoned in *Multimedia Development Corp.*, 17 FCC Rcd 22649, 22653 n.28 (WTB 2002), such a result also is consistent with other cases involving forfeitures for entities that were in bankruptcy or receivership, citing *Dennis Elam, Trustee*, 11 FCC Rcd 1137 (1996) (forfeiture rescinded after bankruptcy trustee was appointed and the violator was no longer associated with the subject radio stations) and *ISI Telecommunications*, 12 FCC Rcd 2934, 2936 (CCB 1997) (forfeiture rescinded where trustee was appointed in Chapter 7 liquidation, removing violator from operating as a common carrier and from involvement in dissolution or distribution of assets).

Consistent with precedent, the Commission should therefore cancel and rescind the proposed Forfeiture.

In the alternative, Digital TV and the proposed assignee of the Station, WP Stations, LLC, request deferral of the payment of the Forfeiture until after the grant of the Assignment Application has become a final order and has been consummated. As noted above, and as

explained in more detail in previous filings related to the Assignment Application, the only avenue available to Richland to recoup any of the losses it sustained as a result of Digital TV's default was to petition for appointment of the Receiver and to participate in the public sale. No other assets have been made available to the Receiver with which to pay the debts of Digital TV, and during the term of the Receivership, there have been no revenues. To protect its interests, and to allow the possibility of some recovery of its losses, Richland is willing to agree to payment of the Forfeiture on behalf of Digital TV, contingent on the grant and consummation of the pending Assignment Application.¹ If for some reason the Commission does not cancel the Forfeiture outright consistent with precedent, Digital TV requests that the Commission defer enforcement of the NAL until such time as WP Stations, LLC has become licensee of the Station.

Respectfully submitted,

WP STATIONS, LLC

By: 
Its Attorneys

*M. Scott Johnson
Daniel A. Kirkpatrick
Fletcher Heald & Hildreth, PLLC
1300 North 17th St.
11th Floor
Arlington, VA 22209-3801*

Respectfully submitted,

DIGITAL TV OF ORLANDO, LLC

By: 
Its Attorney

*Dan J Alpert
The Law Office of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201*

October 31, 2014

¹ WP Stations, LLC has joined in this pleading for purposes of confirming its agreement to pay a deferred Forfeiture.