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FIFTH DISTRICT COURT
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WASHINGTON COUNTY

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Attorneys for Plaintiff US Capital, Incorporated

IN THE FIFTH JUDICIAL DISTRICT COURT

IN AND FOR WASHINGTON COUNTY, STATE OF UTAH

US CAPITAL, INCORPORATED, a
Colorado corporation,

Plaintiff,

v.

LEGACY MEDIA CORPORATION, a
Nevada corporation, **TRI-STATE MEDIA
CORPORATION**, a Utah corporation,
AM RADIO 1400, INC., a Utah corporation,
AM RADIO 1440, INC., a Utah corporation,
AM RADIO 1470, INC., a Utah corporation,
AM RADIO 1490, INC., a Utah corporation,
and **E. MORGAN SKINNER, JR.**, an
individual,

Defendants.

**ORDER APPOINTING RECEIVER
FOR CORPORATE DEFENDANTS,
TO SERVE WITHOUT BOND**

Case No. 090500982

Judge: The Honorable Eric A. Ludlow

The matter before the Court is *Emergency Motion For Appointment Of Receiver For Corporate Defendants, To Serve Without Bond* (the “**Receivership Motion**”) filed by US Capital, Incorporated (“**US Capital**”). Based upon the Receivership Motion, the pleadings and papers submitted in support thereof, the other pleadings and papers on filed in this case, and the argument and evidence presented in support of the Receivership Motion, and good cause otherwise appearing, it is hereby **ORDERED, ADJUDGED AND DECREED** that the Receivership Motion is **GRANTED**, and as follows:

APPOINTMENT OF RECEIVER

1. Pursuant to Rule 66(a)(1), (a)(4) and (a)(5) of the Utah Rules of Civil Procedure, Derk G. Rasmussen, who is the founder and President of Sage Forensic Accounting, Inc., and whose office is located at 136 East South Temple, Suite 2220, Salt Lake City, Utah 84111, Telephone: (801) 531-0400; Facsimile: (801) 328-0400; Email: derk@sagefa.com, is hereby appointed as the Receiver in this action, to serve without bond, for on Defendants Legacy Media Corporation, Tri-State Media Corporation, AM Radio 1400, Inc., AM Radio 1440, Inc., AM Radio 1470, Inc., and AM Radio 1490, Inc. (collectively, the “**Corporate Defendants**”), on further terms and conditions of this Receivership Order. Unless otherwise stated, all future references herein to the “**Corporate Defendants**” shall mean all of the Corporate Defendants, and/or to any one or more of them, as the circumstances may require.

THE RECEIVERSHIP ESTATE

2. Except as otherwise provided by this Court, the Receiver, as an officer of this Court, shall have and take possession, custody and control either physically or constructively as

determined by the Receiver in his sole and absolute discretion, of any and all of the Corporate Defendants' real and personal property, income, profits, contractual rights, licenses, and claims of any kind and character, both tangible and intangible and both choate and inchoate, whether now existing or after-acquired in the possession of, owned by and arising out of or related to the business and affairs of the Corporate Defendants, all management of the Corporate Defendants' business and affairs, and all of the Corporate Defendants' books, records, agreements, and reports (collectively, the "**Receivership Estate**").

3. The Receivership Estate includes, but is not in any way limited to the following property of the Corporate Defendants or in which the Corporate Defendants hold an interest:

- A. any and all cash and/or cash equivalents;
- B. any and all inventory;
- C. any and all cash and non-cash proceeds, including whatever is received upon the use, rental, lease, sale license, exchange, collection, liquidation or other utilization or disposition of any property of the Receivership Estate;
- D. any and all insurance policies and insurance proceeds;
- E. any and all furniture, computers, computer equipment, computer software, office equipment;
- F. any and all fixtures;
- G. any and all accounts, chattel paper, deposit accounts, balances on deposit, investment accounts, securities accounts, investment property, letter-of-credit rights, documents, goods, instruments, and/or general intangibles;

H. any and all FCC licenses and/or permits, and any and all rights associated with or related to such licenses and/or permits;

I. any and all contracts and contract rights;

J. any and all claims and/or causes of action that have been asserted by the Corporate Defendants and/or which may be asserted by the Corporate Defendants;

K. any and all books and records (including any and all invoices, receipts, licenses, instruments, documents, account ledgers and journals (both due and payable), minutes, resolutions, correspondence, bank records, bank checks, tax returns, receipts, financing statements, contracts, agreements, accounting work product, legal work product, reports, and any other books and records maintained in the ordinary course of business), whether (a) such books and records are photocopied, Photostatted, reduced to film images or others, or encoded into electronic or mechanical impulses in or upon computer tapes, programs, software, and data banks associated therewith and/or accounting or recording machines, or the like, and (b) without regard to whether such books and records are maintained at the Corporate Defendants' place(s) of business or elsewhere; and

L. any and all other property owned by the Corporate Defendants and/or in which the Corporate Defendants have an interest.

POWERS AND DUTIES OF THE RECEIVER

4. The Receiver is granted the following powers and shall have the following duties with respect to the Receivership Estate:

A. to investigate the nature and extent of the Receivership Estate, and to make written reports to the Court and to the parties related thereto, including US Capital, when deemed necessary by the Receiver, when requested by US Capital, or when ordered by the Court;

B. to enter upon and take possession, custody and control of the Corporate Defendants, their assets and their businesses, and to operate the same so as to preserve and maximize the value of the assets and the businesses;

C. to seize any and all funds or other assets which constitute rents, income, or profits of the Corporate Defendants, including any bank accounts, other cash accounts or cash equivalents, and lock box funds, and to change the signatory authority on such accounts;

D. to present for payment any checks, money orders, or other forms of payment made payable to any Corporate Defendant which constitute rents, profits, income, or proceeds of any of the Corporate Defendants, endorse the same and collect the proceeds thereof, such proceeds to be held, used and maintained as elsewhere provided herein;

E. to open and utilize bank accounts for receivership funds relating to the Receivership Estate, and the Receiver shall have no obligation to have any funds on deposit in amounts in excess of \$250,000 separately bonded or insured;

F. to evaluate all contracts or agreements to which any one of the Corporate Defendants is a party, including but not limited to any or all FCC licenses or permits, and

upon either written consent of US Capital or by order of the Court after notice and a hearing, (i) modify or terminate such contracts or agreements, and/or (ii) take whatever other action he reasonably deems necessary and prudent with regard to such contracts or agreements to preserve and protect the value of the Receivership Estate; and

G. to collect rents, income, or other profits generated by or from the Receivership Estate, and to deposit the same into one or more accounts controlled by the Receiver;

H. to take any and all other actions with respect to the Corporate Defendants and the Receivership Estate, including their management, employees, assets, vendors, creditors, debtor, rents, income and profits, as the Receiver reasonably deems necessary and prudent to preserve and protect the Receivership Estate, and to maximize the rents, income and profits and value of the Corporate Defendants and the Receivership Estate, which may include, but is not limited to, the following:

- i. expending any cash or other income generated from the Receivership Estate necessary to preserve and protect the property of the Receivership Estate;
- ii. paying for maintenance, operating expenses, and taxes;
- iii. prosecuting and defending, and when appropriate, settling legal actions in respect of the Corporate Defendants and the Receivership Estate;
- iv. upon consultation with US Capital, employing those person(s) or firm(s) necessary to collect, manage, maintain, improve, process, prosecute, sell

or lease real or personal property, with the costs of such employment to be paid out of the Receivership Estate;

v. upon consultation with US Capital, employing attorneys, accountants, investigators, consultants, and any other persons or entities deemed necessary to assist the Receiver in the discharge of the Receiver's duties under this Receivership Order, with the costs of such services to be paid out of the Receivership Estate, so long as the fees charged for such services are usual and customary and any compensation for such employment in excess of \$10,000 is subject to subsequent review and approval of this Court;

vi. purchasing merchandise, materials, supplies, and services as the Receiver deems necessary and advisable to assist him in performing his duties hereunder and to pay therefore the ordinary and usual rates and prices;

vii. transferring, disposing of, selling and/or abandoning any tangible and intangible assets of the Corporate Defendants and of the Receivership Estate, including licenses, accounts, inventory, equipment, real property, leasehold interests, trade secrets, trade processes and business lines, *provided, however*, that the Receiver shall be required to (a) consult with US Capital as to the procedures that the Receiver intends to employ in marketing the property and conducting the disposition of the property, and (b) obtain US Capital's written consent to the disposition of the property, *provided further, however*, that if an agreement cannot be reached related to the Receiver's proposed procedures and/or to the

disposition of the property, the Receiver must obtain prior approval of the proposed procedures from this Court after notice and a hearing, *provided further, however*, that in any disposition of property of the Receivership Estate, US Capital has an absolutely unqualified right to credit bid its claims, in whole or in part, against the Corporate Defendants;

viii. investigating the nature and value of assets and liabilities of the Corporate Defendants and, when deemed necessary by the Receiver, when requested by US Capital, or when ordered by the Court, preparing a report or reports of the same to the Court and parties in interest, including US Capital;

ix. entering into or modifying contracts affecting any part or all of the operation of the Corporate Defendants and the Receivership Estate, including, without limitation, employment contracts, independent contractor agreements, leases, and service agreements, *provided, however*, that the Receiver shall consult with US Capital and obtain US Capital's consent with respect to any such actions taken with respect to contracts where the aggregate costs of the contracts or the modifications over their term are reasonably expected by the Receiver or US Capital to be greater than \$10,000.00, *provided further, however*, that to the extent that the Receiver seeks to take any actions with respect to the FCC Licenses or any contracts related to the FCC Licenses, the Receiver must consult with US Capital and obtain its prior consent to such actions, *provided further, however*, that if US Capital's consent cannot be obtained as to any actions

contemplated in this Section, the Receiver must obtain an order of the Court approving such actions after notice and a hearing;

x. paying and discharging out of funds coming into the Receiver's hands all of the costs and expenses of this receivership relating to the Corporate Defendants and the Receivership Estate, *provided, however*, that, absent prior approval of the Court, any such individual expense or cost does not exceed \$10,000, including all taxes, governmental assessments and charges lawfully imposed upon the Receivership Estate;

xi. applying for, obtaining, and paying any reasonable fees for lawful license, permit or other governmental approval relating to the Corporate Defendants and the Receivership Estate;

xii. confirming the existence of and, to the extent permitted by law, exercising the privileges of any existing license or permit; and doing all things necessary to protect and maintain such licenses, permits and approvals, subject to the further provisions of this Receivership Order;

xiii. upon consultation with US Capital and after receiving an order of the Court after notice and a hearing authorizing the act, filing any petition under title 11 of the United States Code that the Receiver, as authorized management, reasonably deems necessary and prudent with regard to protecting property of the Receivership Estate;

xiv. hiring, firing, selecting and retaining employees and independent contractors of the Corporate Defendants as the Receiver deems reasonable or necessary to preserve and maintain the value of the Corporate Defendants and the Receivership Estate; and

xv. presenting a certified copy of this Receivership Order as proof of the Receiver's authority hereunder.

I. Nothing in this Receivership Order shall preclude the Receiver, after consultation with US Capital, from hiring professionals and third-party providers or vendors to assist the Receiver in the performance of the Receiver's duties under this Receivership Order, so long as the fees charged for such services are usual and customary in the locality where the services are to be found, and any compensation for such services in excess of \$10,000.00 is subject to subsequent review and approval of this Court.

J. The Receiver shall:

i. be compensated at the rate of \$300 per hour with shareholder or staff assistance at standard hourly rates ranging from \$50 to \$300 per hour, plus actual out of pocket expenses, for services as Receiver herein, *provided, however*, that whenever possible, the Receiver will employ his staff and/or other shareholders whose hourly standard rates are lower than his rate of \$300 per hour, *provided further, however*, that the Receiver shall submit to US Capital monthly invoices itemizing his fees and expenses, as well invoices itemizing the fees and expenses of any and all professionals employed by him in this case, and US

Capital shall have twenty (20) business days to object to the amounts invoiced, *provided further, however*, in the event that any objection by US Capital to the invoices cannot be resolved, the Receiver must file an application seeking approval of the objectionable fees and expenses, *provided further, however*, that no payments shall be made to the Receiver or any professional employed by him on account of any fees and expenses unless and until such fees and expenses have been approved by US Capital, or in the case of unresolved and disputed fees and expenses, approved by this Court after notice to the parties in interest;

ii. prepare reports regarding the administration and/or finances of the Receivership Estate when so requested by US Capital or when otherwise ordered by this Court;

iii. retain originals and/or legible copies of all writings and other documents which were used or referenced in order to prepare the statements under the foregoing paragraphs of this Receivership Order, including, but not limited to, checks, contracts, agreements, and invoices; and

iv. record a copy of this Receivership Order in the County Recorder's Offices of Washington and Weber Counties and any other County where the Receiver determines real property belonging to the Receivership Estate is located.

J. The Receiver is further empowered and authorized to generally do such other things as may be necessary or incidental to the specific powers, directions, and general authorizations set out in this Receivership Order, including any actions permitted

by Utah Code Ann. §§ 16-10a-101 *et seq.*, Utah Rules of Civil Procedure 66, and/or any other applicable law, and further may take actions relating to the Receivership Estate beyond the scope contemplated by the provisions set forth above, *provided, however*, that the Receiver obtains prior approval from US Capital and this Court for any actions beyond the scope contemplated herein.

FURTHER ORDERS

5. The Receiver or the parties hereto may at any time apply to this Court for any further orders or other instructions and powers necessary to enable the Receiver to perform the Receiver's duties properly.

NON-INTERFERENCE WITH RECEIVER

6. It is hereby further ordered that the Corporate Defendants, Defendant E. Morgan Skinner, and any other parties with actual or constructive notice of this Receivership Order who are subject to the jurisdiction of this Court, including, without limitation, the Corporate Defendants' managers, officers, directors, employees, agents, creditors, shareholders, representatives, attorneys and consultants, and all persons or entities for or acting in concert with them, are enjoined and restrained from:

A. interfering, directly or indirectly, with the Receiver's custody and control of the Corporate Defendants and the Receivership Estate;

B. interfering, directly or indirectly, with the Receiver's effort to collect or take possession of the Corporate Defendants and the Receivership Estate, or the rents, income, profits or proceeds thereof;

C. collecting or attempting to collect the Receivership Estate, or the rents, income, profits or proceeds thereof, other than at the written direction of the Receiver;

D. extending, dispersing, transferring, assigning selling, conveying, devising, pledging, mortgaging, creating a security interest in or disposing of the whole or any part of the Corporate Defendants' assets, of the Receivership Estate or the rents, income, profits or proceeds thereof, without the prior written consent of the Receiver; and

E. doing any act which will, or which will tend to, impair, defeat, divert, prevent or prejudice the preservation of the Receivership Estate and the rents, income, profits or proceeds thereof, or this Court's jurisdiction over the Receivership Estate.

TURN-OVER AND COOPERATION

7. It is hereby further ordered that the Corporate Defendants, and any other parties with actual or constructive notice of this Receivership Order who are subject to the jurisdiction of this Court, including, without limitation, the Corporate Defendants' managers, officers, directors, employees, agents, representatives, attorneys and consultants, and all persons or entities acting for or in concert with them, shall:

A. turn over to the Receiver the Receivership Estate, the rents, income, profits and proceeds therefrom, and all other property incidental thereto or that is or may be necessary or useful to allow and assist the Receiver in operating the Corporate Defendants or in collecting the Receivership Estate, including, but not limited to, all mail and other correspondence, all post office boxes, all keys to all locks, and the contracts, records, books of account, ledgers, files and all business records for the Corporate

Defendants and the Receivership Estate or the rents, income, profits or proceeds thereof, wherever located and whatever mode maintained (including, without limitation, information contained on computers and any and all software relating thereto as well as all banking records, statements and canceled checks);

B. turn over to the Receiver all documents which constitute or pertain to all contracts, leases, subleases, royalty payments, assignments, insurance policies, liens, security interests, licenses, permits or governmental approvals, or other agreements of any kind whatsoever, whether currently in effect or lapsed, which relate to the Corporate Defendants or to the Receivership Estate or any interest therein, or to the rents, income, profits or proceeds therefrom; and

C. Cooperate in all other and future respects with the Receiver in the performance of his duties pursuant to this Receivership Order.

WINDING UP BUSINESSES AND LIQUIDATION

8. Nothing contained in this Receivership Order shall require or imply that the Receiver has any duty or obligation to wind-up or liquidate the business and financial affairs of the Corporate Defendants, but nothing contained herein shall prevent the Receiver from doing so, subject only to obtaining prior written approval of US Capital and by order of the Court after notice and a hearing upon a showing a just cause.

SUBORDINATION OF LIENS AND CLAIMS

9. The rights and claims of any creditors of or interests in the Corporate Defendants shall be subordinate to the rights and powers of the Receiver provided for herein, and to the costs and expenses of the Receivership.

10. Within thirty (30) days after entry of this Receivership Order, the Receiver shall serve on US Capital and all known creditors of the Corporate Defendants:

A. a copy of this Receivership Order; and

B. a copy of a proposed interim six-month budget (the “**Interim Budget**”), approved first by US Capital or, if such approval cannot be obtained, as approved by the Court after notice and a hearing, respecting the operation of the Receivership and corresponding use of US Capital’s cash collateral during the period commencing with the entry of this Receivership Order.

11. At least thirty (30) days prior to the end of the term of the Interim Budget, the Receiver must obtain approval of US Capital, or if such approval cannot be obtained, approval by the Court after notice and a hearing, of any subsequent budget that may be required by US Capital. Such subsequent budgets need not be served on any other creditors or parties in interest, unless expressly requested in a written notice to the Receiver and US Capital.

12. Any sale, disposition, further pledge or other transfer of US Capital’s collateral (a) shall require either (i) written consent from US Capital, or absent such consent (ii) entry of a prior Order from the Court, after appropriate notice to US Capital and after affording US Capital any and all rights to object and/or to credit bid all or any portion of its claims against the

Corporate Defendants, and (b) liens of all secured creditors shall attach to the proceeds from any such sale, disposition, pledge, or transfer to the same extent as such liens attached to the collateral, subject to Section 9 above.

INTERIM DISTRIBUTION OF NET PROCEEDS OF THE RECEIVERSHIP ESTATE

13. After prior consultation with US Capital and obtaining approval of the Court, upon notice to US Capital and any other parties in interest that the Court may direct, the Receiver may, in his sole discretion, make an interim distribution of the net proceeds from the liquidation of the Receivership Estate to the person or persons entitled thereto in the order of their priorities under applicable Utah law. Nothing in this Section requires the Receiver to make such an interim distribution, and the Receiver is authorized to maintain a cash reserve in an amount up to \$15,000.00 to pay future costs of administering the Receivership Estate.

FINAL DISTRIBUTION OF NET PROCEEDS OF THE RECEIVERSHIP ESTATE

14. After prior consultation with US Capital and obtaining approval of the Court upon notice to US Capital and any other parties in interest that the Court may direct, and after paying all obligations of the Receivership Estate, the Receiver shall pay the net proceeds from the liquidation of the Receivership Estate, which shall exclude any burdensome property that is abandoned by the Receiver in accordance with the Receivers' powers under this Order, to the person or persons entitled thereto in the order of their priorities under applicable Utah law.

EFFECTIVE DATE

15. This Receivership Order shall become effective immediately upon its entry and the filing by the Receiver of the Receiver's Oath.

DATED this 29 day of May, 2009

BY THE COURT:

A handwritten signature in black ink, appearing to be "Eric A. Ludlow", written over a horizontal line.

The Honorable Eric A. Ludlow
Utah State District Court Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of May, 2009, a true and correct copy of the foregoing **ORDER APPOINTING RECEIVER FOR CORPORATE DEFENDANTS, TO SERVE WITHOUT BOND** was served via First Class U.S. Mail, postage prepaid, upon the following:

Legacy Media Corporation
E. Morgan Skinner, Jr., President
210 North 1000 East
St. George, UT 84771

Tri-State Media Corporation
E. Morgan Skinner, Jr., Registered Agent
210 North 1000 East
St. George, UT 84771

AM Radio 1400, Inc.
E. Morgan Skinner, Jr., Registered Agent
210 North 1000 East
St. George, UT 84771

AM Radio 1440, Inc.
E. Morgan Skinner, Jr., Registered Agent
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AM Radio 1470, Inc.
E. Morgan Skinner, Jr., Registered Agent
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St. George, UT 84771


AM Radio 1490, Inc.
E. Morgan Skinner, Jr., Registered Agent
210 North 1000 East
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210 North 1000 East
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Michael E. Olmstead
Barney McKenna
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St. George, UT 84770

Annette W. Jarvis
Peggy Hunt
Benjamin J. Kotter
Dorsey & Whitney, LLP
136 South Main Street, Suite 1400
Salt Lake City, Utah 84101

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Deputy Clerk