

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

In re Application of)	
)	
Jacob Hibbard, Receiver for AASAA Media, LLC)	File No. 0000149459
)	
for renewal of the licensee for AM)	
radio broadcast station KMRI)	FCC Facility ID 25405
West Valley City, Utah)	

**RECEIVER’S PETITION FOR RECONSIDERATION
OF TRUNCATED LICENSE RENEWAL TERM FOR STATION KMRI**

AASAA Media, LLC (“ASA”), by its court-appointed Receiver Jacob Hibbard, hereby petitions for reconsideration of the decision by the Audio Division to limit the term for renewal of the license for AM radio broadcast station KMRI, West Valley City, Utah (“KMRI” or “the Station”) to a mere one year as opposed to the eight year term normally contemplated by the Communications Act of 1934, as amended.

As will be shown herein, this decision is not consistent with Commission precedent. It is nonsensical in light of the special circumstances regarding this station and the limited role of a Receiver under state law. Further, the letter decision fails to acknowledge the Audio Division’s own contribution to the delay in restoring regular broadcast service over this facility. Finally, the decision is contrary to the public interest in supplying the stability necessary to encourage long-term investment in broadcast facilities, especially those with troubled pasts.

By letter dated April 21, 2022 (the “Renewal Letter,” announced by public notice issued on April 26, 2022), the Audio Division:

1. Denied the “petition to deny” that was “purportedly filed by Lesta Simmons of Decisis Law PLLC (Simmons) on December 2, 2020” against the application (FCC File No. BAL-20201028AAU, the “Assignment Application”) for assignment of the license for station KMRI from me, Jacob Hibbard as Receiver for ASA, to Barry

Wood dba KRGO, LLC, the purchaser of the Station license pursuant to a court-ordered foreclosure sale that had been held in July, 2020;

2. Granted the Assignment Application, and
3. Granted my application (FCC File No. 0000149459) for renewal of the Station license, but only for a one-year term.

My stewardship over this station arose out of a foreclosure case brought in Utah District Court on April 3, 2019 against AAS. The suit flowed from AAS's default on its obligations under the Promissory Note that had financed its purchase of the Station on December 31, 2015. The suit (Case No. 190902715) named Nicolas Vicente (who was ostensibly the sole owner of AAS) and Guarantor of AAS' debt under the Note, as an additional Defendant.

Mr. Vicente had struggled with a heart condition throughout the period of ASA's ownership of the Station, prior to the my appointment as Receiver, including several heart surgeries. In consideration of his health condition, the Note holder gave him numerous extensions on ASA's payment obligations. However, in the end a lack of communication from Mr. Vicente compelled the Note holder to proceed with his motion for a judgment against AAS on its debt to the plaintiff, and judgment for an amount in excess of \$317,000 was granted by the Court.

The details of the state court Complaint are not germane to the FCC's purposes here, except to note that the Plaintiff, as part of his prayer for relief in that case, requested the appointment of a receiver to "manage, protect, and preserve the Collateral...and to sell the collateral..." as are the customary purposes of a Receiver under Utah law.

Even after the filing of the suit, the plaintiff attempted to resolve the matter amicably, without taking up the time of the Court. Thus, for some ten months after the filing of the Complaint, the Plaintiff forbore from setting his request for appointment of a receiver for hearing. Finally, in February, 2020, when such forbearance had proven fruitless, the plaintiff requested a hearing on his request to appoint me as the Receiver to assume control over KMRI. The Court held a hearing on the matter for March 23, 2020, at which Judge Matthew Bates of the Third Judicial District Court in Salt Lake County, Utah made the Receivership appointment. I then proceeded to act as Receiver over the affairs of AAS as best I could. However, Mr. Vicente failed to comply with the terms of the Receivership Order. Whereas the Court's order required

him to turn over all station equipment, accounts and files to me, I received nothing from him whatsoever.

Nevertheless, I proceeded with auction sale of the FCC license for the Station, and completed such auction on July 17, 2020. Unfortunately, by this time the Station was off the air – the victim of the Magna Earthquake that rocked the vicinity of the Station’s tower on March 18, 2020, causing the collapse of the tower and damaging the station’s transmitter.

A few days after the sale, Mr. Vicente made arrangements to place ASA in a Chapter 11 bankruptcy, and the petition was filed near the end of July. By this time, Mr. Vicente was already suffering from the effects of an infection with the Covid19 virus. He succumbed to the virus the following month. Simmons, the attorney who had filed the bankruptcy petition, nevertheless tried to proceed with the case, including an attempt to have the FCC assign the station license to the Chapter 11 entity as debtor in possession. These efforts were unsuccessful as she made conflicting representations to the bankruptcy court as well as other missteps. Ultimately, the United States Trustee, the note holder and I sought dismissal of the bankruptcy case. Shortly before the scheduled date for the hearing on the dismissal motions, Simmons requested dismissal of the bankruptcy. That request was granted.

The trip through the maze of a misbegotten bankruptcy imposed a state of uncertainty over the affairs of the Station for three months, but by late October I was ready to proceed with the filing of the Assignment Application. Simmons, reluctant to let the matter go, filed a two-page “Petition to Deny” the Assignment Application on or about December 2, 2020. The note holder and I opposed it in a timely fashion, and began to wait for Commission action on the Assignment Application.

We waited some 16 months from the filing of the Petition to Deny for resolution of the matter. I understand that the Audio Division is short-staffed, and that many other contested cases no doubt stood in line for consideration before this one. However, the extreme delay in FCC action on the assignment application was not my fault, or the fault of ASA.

Under the circumstances, I had no means of returning the station to permanent operation. I had zero funds (Mr. Vicente having absconded with funds in the station’s bank account upon my appointment) with which to finance reconstruction of the station’s tower or to hire staff. The

station did resume operation twice, briefly, in order to avoid the strictures of Section 312(g) of the Communications Act, but that was done with a temporary “long wire” setup at the transmitter site, funded by the proposed purchaser.

The Renewal Letter recites some of the above unique circumstances, but it fails to account for them in its analysis of the short term renewal decision. It states that the Station “was silent for 36% of its license term, starting on March 18, 2020....” The precise basis for this calculation is not disclosed, but it seems plainly erroneous. The license term in question began on October 1, 2014. At that time, the Station was owned by a different party, so possibly the Division chose to ignore the service rendered by under that ownership -- but ASA was actually operating the station during 2014 and all of 2015 under a Time Brokerage Agreement with the licensee, so logically it should receive some credit for that. Even starting the term of service from the beginning of ASA’s formal ownership (which started on January 1, 2016), ASA operating the station continuously throughout 2016, 2017, 2018, 2019 and the first part of 2020, until the tower collapsed. That, plus the one day of operation in 2021, equals 1540 days of operation. The total time elapsed in the license term under ASA’s ownership was 2097 days. That means that the period of silent was only 557 days, or just 26.6% of the license term, not the 36% mentioned in the Renewal Letter.

None of the cases cited in the Renewal Letter support the grant of only a one year renewal term for a period of silence of that nature. The Letter cites a pronouncement about where a station “has remained silent for MOST OR ALL of the prior license term.” However, 26% is not MOST, much less “ALL.”

Further, the Letter fails to take into account the fact that, if the Division had acted promptly on the Assignment Application, the station would have been placed into the hands of a permanent owner, and returned to full operation before the end of the expiring license term. Consequently, it behooves the Division to reconsider its action, and grant license renewal for the full eight-year license term. Anything less could have the effect of discouraging the sort of investment in this facility that is needed for a full return to the station’s potential to serve West Valley City and the surrounding area.

I hereby verify, under penalty of perjury under the laws of the United States, that the factual allegations set forth in this pleading are true and correct to the best of my personal

knowledge and information; that this pleading is well grounded in law and is warranted by existing law, that it is being submitted in good faith, and that it is not interposed and not for the purpose of delay or any other improper purpose.

Respectfully submitted,

s/ Jacob Hibbard

Jacob Hibbard

Receiver for AASAA Media, LLC

May 26, 2022