

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554

In re Application of	)	
	)	
W. Lawrence Patrick, Receiver, Assignor	)	
	)	
VCY America, Inc., Assignee	)	LMS Application File No.
	)	0000130216 (the “Application”)
	)	
Application for Consent to Assignment of	)	LMS Pleading File No. 0000136637
Radio Stations	)	
KFRH(FM), North Las Vegas, NV (FIN: 19062)	)	
KREV(FM), Alameda, CA (FIN: 36029)	)	
KRCK-FM, Mecca, CA (FIN: 52908)	)	
(“Stations”)	)	

To: Chief, Audio Division, Media Bureau

**Reply to “Supplement” to Petition to Deny**

W. Lawrence Patrick, Receiver (“Mr. Patrick” or “Receiver”) hereby replies to the unauthorized “Supplement to the Petition to Deny” (the “Supplement”) filed by Royce International Broadcasting Corporation and Silver State Broadcasting, Inc. (together, “Petitioner” or “Royce”) on February 19, 2021 in the above-captioned matter.

The Supplement, which is not permitted by the FCC’s rules and was not authorized by any order, is so outlandish and devoid of any legal basis that it hardly deserves the dignity of a response.<sup>1</sup> While Royce’s allegations, lodged against Mr. Patrick are spurious, they highlight the need for prompt action by the Commission to dismiss or deny Royce’s Petition to Deny and grant

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<sup>1</sup> See *New Life Broadcasting*, Letter, 25 FCC Rcd 7293, 7294, n.5 (MB 2010) (declining to consider unauthorized pleadings pursuant to Section 1.45 of the Rules).

the assignment application to prevent Royce from abusing the FCC's process to interfere with the receivership.

In the court hearing on Friday, February 19, 2021, counsel for the Receiver asked for and was granted the opportunity to brief the court on whether or not the Court could order Stolz to cease obstructing the Receiver's efforts to sell the stations in defiance of the court's direct order by ordering Stolz to withdraw or dismiss the Petition to Deny.<sup>2</sup> While counsel for the Receiver is well versed in *Radio Station WOW, Inc. v. Johnson*<sup>3</sup> and its progeny, the Receiver does not believe that decision controls the instant case, where Royce is not the licensee of the stations being assigned and the stations are part of a receivership.<sup>4</sup> In any event, disagreement regarding the scope and meaning of a legal precedent is the very foundation of jurisprudence and briefing the Judge on the matter is entirely appropriate.<sup>5</sup> The district court did not issue a proscriptive order preventing Stolz from participating in the FCC proceeding – he merely allowed briefing on a point of law in contention.

What is not appropriate is the *ad hominem* attack by Stolz's counsel on Mr. Patrick and his counsel by way of the unauthorized Supplement. The briefing requested by the district court judge falls squarely within the jurisdiction of the judicial branch. By complaining to the FCC about a judicial briefing process, Stolz is undermining the very separation of powers that he professes to protect. At the same time, Stolz's veiled threat to belabor this proceeding through frivolous appeals<sup>6</sup> underscores the need for expeditious resolution of the underlying application. Given

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<sup>2</sup> A copy of the transcripts of the hearings held on February 19, 2021 can be provided to the Commission upon request once received from the court reporter.

<sup>3</sup> 326 U.S. 120, 130 (1945).

<sup>4</sup> See *Percy Squire Esq.*, Letter Order, DA 09-1796 (Vid. Div. Aug. 11, 2009) (“[I]t is well-established that the Commission will accommodate court decrees, such as the appointment of the Receiver for the Stations, unless a public interest determination compels a different result.”).

<sup>5</sup> Cite.

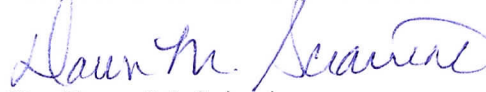
<sup>6</sup> “The FCC’s determination in this case will *presumably* be in the form a decision on the merits by the Bureau, and if necessary, appealed with that appeal resolved in the form of a decision by the Commission itself or eventually by the United States Court of Appeals.” Supplement at 4 (emphasis added).

Stolz's long and infamous history with the Commission, the Commission should promptly act on the Application and allow the judgement creditors to finally be awarded the justice due.<sup>7</sup>

WHEREFORE, THE PREMISES CONSIDERED, Patrick requests that the Commission dismiss the Petition and Supplement and grant the Application promptly.

Respectfully submitted,

**W. Lawrence Patrick, Receiver**



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His Attorney

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February 23, 2021

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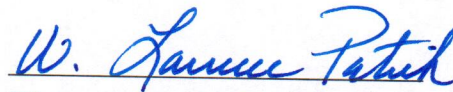
<sup>7</sup> *c.f.*, *Edward R. Stolz, II v. FCC*, Stolz, 882 F.3d 234 (D.C. Cir. 2018), Stolz litigated this matter for nearly two decades from state court breach of contract suit through the FCC and US Court of Appeals for the DC Circuit to seeking a *Writ of Certiorari* from the US Supreme Court. Not unlike the present matter, there Stolz was directed by the California state court to sign an application to be submitted to the FCC assigning a station owned by Stolz to Entracom upon the court's finding in a breach of contract suit. Stolz refused. Ultimately, the Court of Appeals for the DC Circuit found, *inter alia*, that the Court could order Stolz to sign the application and that the order did not impinge on the FCC's jurisdiction. Specifically, the Court stated that "[t]he disposition of that application was left within the exclusive province of the FCC."

**Declaration of W. Lawrence Patrick, Receiver**

I, W. Lawrence Patrick, Court appointed Receiver and Licensee of Radio Stations KFRH(FM), North Las Vegas, NV (FIN: 19062), KREV(FM), Alameda, CA (FIN: 36029) and KRCK-FM, Mecca, CA (FIN: 52908) (the "Stations"), hereby state as follows:

1. I have read the foregoing **Reply to Supplement to Petition to Deny** the application for Commission consent to the assignment of the Stations to VCY America, Inc.
2. The facts stated therein are true and correct to the best of my knowledge and belief.

Stated under penalty of perjury this 23<sup>rd</sup> day of February 2021.



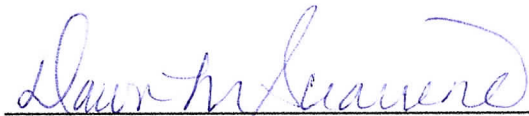
W. Lawrence Patrick, Receiver

CERTIFICATE OF SERVICE

I, Dawn M. Sciarrino, an attorney in the law firm of Sciarrino & Shubert, PLLC, hereby state under penalty of perjury that the forging Reply to Supplement to Petition to Deny will be emailed to the following on this 23rd day of February 2021:

Dan J. Alpert  
Counsel to Royce International Broadcasting Company  
And Silver State Broadcasting, Inc.  
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