

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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| In re Application of |) | |
| |) | |
| W. Lawrence Patrick, Receiver, Assignor |) | |
| |) | |
| VCY America, Inc., Assignee |) | LMS Application File No. |
| |) | 0000130216 |
| |) | |
| Application for Consent to Assignment of |) | LMS Pleading File Nos. 000035212, |
| Radio Stations |) | 0000135211 and 00001302216 |
| KFRH(FM), North Las Vegas, NV (FIN: 19062) |) | |
| KREV(FM), Alameda, CA (FIN: 36029) |) | |
| KRCK-FM, Mecca, CA (FIN: 52908) |) | |

To: Chief, Audio Division, Media Bureau

Status Report

W. Lawrence Patrick, Receiver (“Mr. Patrick” or “Receiver”) and VCY America, Inc. (“VCY” and, together with Mr. Patrick, the “Applicants”), by counsel, hereby jointly submit this Status Report with respect to the above-referenced application for assignment of KFRH(FM), KREV(FM) and KRCK-FM (the “Stations”) from Patrick to VCY (the “Application”).

The Applicants filed their Application for consent to assign the Stations from Mr. Patrick to VCY eleven months ago, on December 30, 2020. The Stolz parties filed a Petition to Deny the Application and have repeatedly sought to delay its grant. Following the October video status meeting with the Audio Division Staff, and realizing Commission action was imminent, the Stolz

parties accelerated their efforts to challenge the Receiver's authority in numerous jurisdictions. What they have not done, however, is satisfied the conditions for terminating the receivership.

Below, the Applicants provide the Commission with pertinent information regarding developments in the ongoing judicial proceedings since the last meeting between the parties and Media Bureau staff on October 6, 2021.

The Receivership Case

- ***WB Music Corp. v. Royce Int'l Broad. Co., 5:16-cv-00600-JGB-SP (C.D. Cal.)***

In this case, U.S. District Court Judge Jesus Bernal appointed Mr. Patrick as the Receiver of the Stations in July 2020 and directed Mr. Patrick to sell the Stations to VCY. At an August 23, 2021 hearing, Judge Bernal reiterated his intention that the stations would be sold within the next two months.

Following the October 6, 2021 meeting between the parties and FCC staff and the subsequent e-mail from Audio Division Chief Albert Shuldiner to counsel for the parties about the status of the Applications, the Stolz parties filed an Ex Parte Application for Order Directing Receiver to Submit Final Accounting. In the accompanying Memorandum of Point and Authorities, the Stolz parties cited the potential imminent action by the Commission as the basis to request that U.S. District Court Judge Jesus Bernal direct the Receiver to prepare an accounting to establish “a dollar-figure, which, if paid, would end this case and return the Radio Stations.” Dkt. No. 492.

Judge Bernal denied the Stolz parties’ Motion, writing:

[T]he Court has already rejected the argument that the receivership should have ended. This Application is simply another attempt by Defendants to terminate the receivership without satisfying the conditions the Court imposed for terminating the receivership.

Dkt. No. 498.

The Stolz parties have not, as of this writing, made any further filings in the Federal District Court matter – likely due to their filings in the United States Bankruptcy Court for the District of Nevada, as discussed below.¹

The Bankruptcy Cases

- ***In Re Silver State Broadcasting, LLC, 21-14978-abl (Bankr. D. Nev.)***
- ***Jointly Administered with:***
 - o ***In Re Golden State Broad., LLC, 21-14979-abl (Bankr. D. Nev.)***
 - o ***In Re Major Market Radio LLC, 21-14980-abl (Bankr. D. Nev.)***

On October 19, 2021, Golden State Broadcasting, LLC, Major Market Radio LLC, and Silver State Broadcasting, LLC (collectively, the “Debtors”)² each filed a voluntary petition (collectively, the “Bankruptcy Cases”) for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).³ The sole purpose of the bankruptcy filing was to forestall the FCC’s imminent action regarding the Application, stymie the sale of the Stations from Mr. Patrick to VCY, and yet again, further frustrate the administration of the receivership estate. Accordingly, Mr. Patrick requested and Judge Bernal granted Mr. Patrick permission to hire special bankruptcy counsel on November 9, 2021.

¹ In addition, the Stolz parties are challenging various orders of Judge Bernal establishing and administering the Receivership in the 9th Circuit. *WB Music Corp. v. Royce Int’l Broad. Co., 21-55264 (9th Cir.)* On November 4, 2021, the United States Court of Appeals for the Ninth Circuit granted Mr. Patrick’s request for an extension of time to file his Answering brief until January 31, 2022 to provide time for Judge Landis to rule on the Receiver’s motion in the Bankruptcy Cases. The pendency of this appeal does not vitiate Judge Bernal’s orders directing the sale of the Stations to VCY.

² Golden State Broadcasting LLC is the former licensee of KREV(FM), Alameda, CA (Fac. ID 36029); Major Market Radio LLC is the former licensee of KRCK-FM, Mecca, CA (Fac. ID 52808); Silver State Broadcasting LLC is the former licensee of KFRH(FM), North Las Vegas, NV (Fac. ID 19062).

³ The bankruptcy court subsequently entered an order jointly administering the bankruptcy cases under the lead case captioned *In re Silver State Broadcasting, LLC*, Case No. 21-14978-abl (Bankr. D. Nev.).

The Debtors and Receiver have filed cross-motions regarding the status of the receivership assets. The Debtors filed a motion to require the Receiver to turn over assets of the receivership estate to the Debtors, pursuant to § 543 of the Bankruptcy Code. The Receiver filed a consolidated motion to excuse the Receiver from the turnover requirements of § 543(d)(1). The Receiver's motion additionally requests that the Bankruptcy Court either dismiss the Bankruptcy Cases as filed in bad faith, under § 1112(b) of the Bankruptcy Code, or abstain from exercising jurisdiction over the Bankruptcy Cases (and in favor of the receivership), under § 305(a) of the Bankruptcy Code. The Receiver's motion also requests alternative relief in the form of relief from the automatic stay to proceed with the assignment of the Stations' assets to VCY, under § 362(d)(1) of the Bankruptcy Code, or entry of an order converting the Bankruptcy Cases to cases under chapter 7 of the Bankruptcy Code (in which a chapter 7 trustee would be appointed). The Debtors and the Receiver both requested that the Bankruptcy Court consider the relief requested in their motions on shortened notice. On November 24, 2021, the Bankruptcy Court granted Debtor's Motion and issued an Order shortening the time for hearing on Debtors' Motion for Turnover.⁴ The Bankruptcy Court has yet to set a hearing on the Receiver's motion, however, the Receiver anticipates the hearing will also take place in early December 2021.

The Applicants acknowledge that the filing of the Bankruptcy Cases will temporarily delay the assignment of the Stations from Mr. Patrick to VCY. However, the Applicants expect the Bankruptcy Court will rule in favor of the Receiver's pending motion and excuse the Receiver from turnover and dismiss the Bankruptcy Cases.

⁴ The hearing is scheduled for December 10, 2021.

Mr. Patrick and VCY will continue to update the Commission and file any amendments that may be necessary based on further developments in the judicial proceedings.

Respectfully submitted,

W. Lawrence Patrick, Receiver

/s/ Dawn M. Sciarrino

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November 24, 2021

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 **STATUS REPORT** was mailed to the following on this 24th day of November 2021:

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/s/ Dawn M. Sciarrino

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