



Federal Communications Commission  
Washington, D.C. 20554

July 20, 2006

**DA 06-1477**

In Reply Refer to:

1800B3-JP

Released: July 20, 2006

Mr. Todd Mohr  
Synergy Media, Inc.  
PO Box 941  
Pentwater, MI 49449-0941

Mr. Thomas Olejniczak  
6780 Northland Drive  
Rockford, MI 49341

In re: Synergy Media, Inc.  
WWKR(FM), Pentwater, Michigan  
Facility ID: 7994  
File No. BRH-20040504ABM

Dear Mr. Mohr and Mr. Olejniczak:

We have before us (1) a license renewal application for Station WWKR(FM), Pentwater, Michigan, filed by Synergy Media, Inc. ("Synergy");<sup>1</sup> (2) an Informal Objection ("Objection") filed on September 1, 2004, by Thomas Olejniczak ("Olejniczak"); (3) Synergy's Opposition to Informal Objection ("Opposition"), filed on September 29, 2004; and (4) Olejniczak's Rebuttal to Synergy's Opposition, filed on October 14, 2004. For the reasons set forth below we deny the Informal Objection and grant the license renewal application for Station WWKR(FM).

*Discussion.* In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Communications Act of 1934, as amended (the "Act").<sup>2</sup> That section provides that if, upon consideration of the application and pleadings, we find, with respect to that station, that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.<sup>3</sup> In his Objection,

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<sup>1</sup> The license renewal application was timely filed on May 4, 2004.

<sup>2</sup> 47 U.S.C. § 309(k).

<sup>3</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

Olejniczak alleges that the president of Synergy, Todd Mohr, acted “unscrupulously” when acquiring Station WKGH-FM, Allegan, Michigan, from Olejniczak and misrepresented the date of consummation of the sale to the Commission.<sup>4</sup> In response, Synergy states that (1) Olejniczak’s Objection does not meet the standards of a Petition to Deny;<sup>5</sup> (2) Olejniczak’s claims are without merit; (3) the Commission is not the proper forum for Olejniczak’s claims; and (4) Olejniczak’s allegations have no bearing on Station WWKR(FM)’s license renewal.

Synergy is correct that Olejniczak’s allegations have no bearing on the license renewal application for Station WWKR(FM). Section 309(k) of the Act directs the Commission to evaluate the licensee’s actions with respect to the station which is the subject of the license renewal application, and allegations concerning potential misconduct at another station, more than ten years ago, are not relevant in the context of the WWKR(FM) license renewal application.

To the extent that Olejniczak claims that Todd Mohr has misrepresented the date of consummation of the WKGH-FM sale to the Commission, he has not provided any probative evidence. The contract attached to Olejniczak’s Objection is for a sale of shares in Spectrum, not the consummation of the WKGH-FM sale. Olejniczak claims that both transactions occurred on the same date, April 24, 1995. Although Olejniczak claims that he did not sign the Bill of Sale until April 24, 2005, the Bill of Sale for WKGH-FM provided by Olejniczak<sup>6</sup> - and ostensibly bearing his signature - is dated March 24, 1995, the date that was reported to the Commission. To the extent that Olejniczak believes he was treated unfairly during the purchase of WKGH-FM, he should seek redress in a local court of competent jurisdiction.<sup>7</sup>

We find that Olejniczak’s Objection contains neither adequate nor specific factual allegations sufficient to warrant further inquiry regarding renewal of WWKR(FM)’s license.<sup>8</sup> Furthermore, pursuant to Section 309(k) of the Act, we find that (1) station WWKR(FM) has served the public interest, convenience, and necessity during the subject license term; (2) there have been no serious violations of the Communications Act or the Commission’s rules; and (3) there have been no other violations, which taken together, constitute a pattern of abuse.

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<sup>4</sup> See File No. BALH-19950127GE (application to assign WKGH-FM from Midpoint Broadcasting – a company owned by Olejniczak and Michael Maciejewski – to Spectrum Communications, Inc.), granted on March 16, 1995. Commission records reflect the transaction was consummated on March 24, 1995. WKGH-FM is now known as WZUU(FM). Spectrum Communications, Inc. sold WZUU(FM) to Forum Communications, Inc. pursuant to Application No. BALH-19970311WV, granted July 3, 1997. This sale was consummated on August 12, 1997.

<sup>5</sup> Olejniczak submitted his letter as an Informal Objection and it will be treated as such under 47 C.F.R. § 73.3587.

<sup>6</sup> See Attachment to Olejniczak’s October 14, 2004, Rebuttal to Synergy’s Opposition.

<sup>7</sup> See *John F. Runner, Receiver (KBIF)*, 36 Rad. Red. 2d (P&F) 773, 778 (1976); *Listener’s Guild, Inc. v. FCC*, 813 F.2d 465, 469 (D.C. Cir. 1987); *Decatur Telecasting, Inc.*, 7 FCC Rcd 8622, 8624 (1992). Notably, Olejniczak filed an informal objection against the sale of WKGH-FM in 1997. That objection, which contained similar allegations to those currently presented, was considered and denied on July 3, 1997. See *Letter to Thomas Olejniczak from Linda Blair* (MMB Jul. 3, 1997).

<sup>8</sup> See *Area Christian Television, Inc.*, 60 R.R. 2d 862 (1986) (informal objections, like petitions to deny, must contain adequate and specific factual allegations sufficient to warrant the relief requested).

*Conclusions/Actions.* Accordingly, IT IS ORDERED that, the Informal Objection of Thomas Olejniczak IS DENIED and the application (File No. BRH-20040504ABM) of Synergy Media, Inc., for renewal of license for Station WWKR(FM), Pentwater, Michigan IS GRANTED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: Howard M. Liberman, Esq.  
Robert L. Olender, Esq.