

SJR**Radio History/Frank Absher**

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The proposed sale of St. Louis' KFUE-FM "Classic 99" is now in the hands of the Federal Communications Commission, along with three petitions to deny the transaction. The likelihood of such a denial, says a noted communications attorney, depends on the ability of the buyer and seller to address two specific complaints.

As was ably reported by Sarah Bryan Miller of the St. Louis Post-Dispatch on stltoday.com, the four petitioning groups are The Committee to Save KFUE-FM, the Radio Arts Foundation, and two local citizens' groups. All four petitions question the ability of the proposed buyer, Gateway Creative Broadcasting, Inc., to raise the capital necessary to complete the purchase. Financial information provided to the FCC by Gateway shows a deficit in the past two years of operations for its current radio stations, and the group has recently resorted to direct mail pleas for donations to fund its proposed purchase of KFUE-FM.

Gateway, as Joy FM, operates two smaller stations and broadcasts Christian music. Gateway certified in its FCC filing that it is financially qualified to make the KFUE purchase. Gateway's president, Sandra B. Brown, signed the paperwork attesting to the organization's financial qualifications.

Bryan Miller of the Post reported that Gateway says it has \$350,000 in hand after a fundraising effort, over \$1 million in donor pledges, and a commitment from Cass Commercial Bank for a loan of \$1.7 million. Involved in the fundraising have been former Cardinals pitcher Andy Benes and slugger Albert Pujols and their wives, Bryan wrote.

Another aspect of the proposed sale that could raise some eyebrows at the FCC is the provision that the classical music format now heard on KFUE-FM would be moved to the station's HD2 channel, which Gateway would lease to KFUE's current owners, the Lutheran Church-Missouri Synod. However, there are rules against a seller using the station's facilities once the sale is completed, and such a lease would be in vio-

Four petitions challenge KFUE sale



lation of these FCC rules. This lease-back has the potential to being considered by the FCC to be a violation of Section 73.1150 of the FCC's rules which prohibits the seller from reserving "the right to use the facilities of the station for any period whatsoever."

So the question now becomes one of how the Commission will react to these two major problem areas within the sales agreement. It is obvious from the texts of the petitions-to-deny that they are all efforts to derail the sale. John Garziglia, a communications attorney with the Washington, DC, law firm of Womble, Carlyle, Sandridge and Rice, thinks the petitions will almost certainly delay the sale.

In response to questions from SJR, Garziglia wrote: "Any petition to deny filed against an application has the potential to delay the FCC's action on the application for in excess of six months and often much longer." This would not be the case if the objections were deemed frivolous, he noted, and he also wrote that recently the FCC has made efforts to speed up the process.

A statement released by one citizens' petition group took note of the fact that the slowing of the process was one of the goals: "It is hoped that between the comments filed by the public during the 'public comment period' and the various other filed petitions to deny the transfer of license of KFUE-FM from the Lutheran Church-Missouri Synod to Gateway Creative Broadcasting, Inc., that the FCC will investigate the transaction and not simply rubber stamp the deal."

As for the seriousness of the problems addressed in the petitions, Garziglia said the promised usage of the HD channel for classical music could simply be deleted from the agreement. This would mean that a promise the seller made to St. Louis' arts community would be broken, but it would keep the agreement legal.

Thus, it appears FCC approval will hinge on the questions surrounding the financial problems of Gateway. One petitioner goes so far as to note that Gateway failed to provide the FCC with any evi-

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RADIO HISTORY

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dence of a promissory note or a security agreement surrounding the deal's financing. Another raises the question of what would happen to the station if Gateway were unable to meet its payment schedule.

SJR attempted to get comments from Gateway's president, but no response was received.

Garziglia addressed the two problem areas pointed out by the petitioners. "The FCC's staff will probably request that the proposed promissory note, and any security documents for the promissory note, be filed as part of the FCC application," he said. The funding problem may not be so easy to overcome, however.

A review of Gateway's recent federal tax returns shows a heavy reliance on public support and underwriting for income—in excess of 90 percent coming from such donations. The organization's IRS Form 990 from 2007 shows revenues of \$1.5 million and an operating deficit of over \$107,000. In 2008, the revenue was comparable, but the loss had risen to over \$172,000.

But Garziglia said he was not aware of any assignment of license application being denied on the basis of a lack of a buyer's financial qualifications. "Only if a petitioner could conclusively prove that the above certification was false would there be a possibility that the FCC might deny the application. For such to occur," he said, "it would likely require that the person who signed the buyer's portion of the application, Sandra B. Brown, the president of Gateway Creative Broadcasting, to state in an affidavit or declaration under penalty of perjury that she falsely certified the financial qualifications of Gateway Creative Broadcasting, Inc. Since that is highly unlikely to occur, it is likewise equally highly unlikely that the application would be denied by the FCC based upon the buyer's lack of financial qualifications."

And if the application for ownership transfer were delayed, there's slim chance it might help consummate the sale, since it would give Gateway more time to raise money. ■

SPORTS AND MEDIA

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will Wolfner, who owned the team, and her husband, St. Louisan Walter Wolfner, who ran it. Coach Frank (Pop) Ivy, Stuber and team publicist

Eddie McGuire also were there. So were several copies of the Street & Smith Football Magazine and similar publications, from which we learned about players that Stuber had not seen in person. Other clubs used equally primitive scouting tactics, and it was rather weird, but among the Big Red draft choices that year were Larry Wilson, Jackie Smith, Mike McGee and Charley Johnson, all of whom had successful NFL careers. McGee's time was shortened by injury, but he returned to his alma mater, Duke, and a lengthy tenure as athletic director.

I was fortunate—or unfortunate—enough to be part of the NFL during the first decade of the Pete Rozelle years, when the NFL became the biggest money-maker of all professional sports, thanks to the genius of Rozelle, the rise of television's technical excellence (like instant replay) and the Colts-Giants title game. When I went to work for the Cardinals, in 1961, and attended my first NFL public relations meeting, there were 15 attendees, representing 14 teams. By my last, in 1972, teams sent so many people representing marketing, halftime directors, assistants and assistants to assistants that we had to go into executive sessions of one p.r. staffer for each team to get anything accomplished.

The NFL was growing into a corporate structure of monolithic size and solidity. Individuals were being phased out in favor of committees. I found it unbearable. All the free spirits whom I had admired or learned from were gone.

Georgia Frontiere was a free spirit. Maybe her children have inherited that admirable quality. ■

AD/PR

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gious views and external influences. People with liberal political and religious views and people working in larger agencies scored higher in moral development.

Some conclusions from the study:

— These public relations professionals are good ethical thinkers, showing similarity to other professionals with comparable levels of education. . . . This is good news for a profession that is often characterized as engaging in unethical practices.

— Public relations professionals see their role as connecting clients to the larger world, primarily through journalists or the news

media. To accomplish this function, they need to maintain the trust of both parties, but particularly the trust of journalists who are already skeptical of both their institutional role and their individual motives. Consequently, honesty and a lack of willingness to deceive those who receive information are critical in effective public relations practice.

— The fact that higher levels of ethical reasoning correlated with self-reported liberal bias is again consistent with other DIT studies, both empirically and philosophically. The DIT is a test of social ethics, hence the American version of political liberalism which finds a role for government intervention on various social issues such as "what is good for society," is one element of principled ethical thinking.

— These public relations professionals also scored as predicted when religion was the issue. Those who characterized themselves as more fundamentalist regardless of religious sect scored significantly lower in moral reasoning. This finding is consistent with many other DIT studies. Again, because high levels of ethical thinking demand critical analysis that allows individuals to question both rules and authority, such a finding is empirically consistent with the literature on the subject.

Some of the unethical communications practices that plague current public discourse come from the political realm rather than the public relations profession, she said. "The people in the business of political campaign tactics are not public relations practitioners. Their loyalty is not to the body politic, it is to their candidate and winning. Too many of those folks get involved in a lot of money and power and those things can be quite seductive." ■

GLOBE-DEMOCRAT

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the money is coming from to support the startup—and the benefactors include the names of well-known conservatives in the media and in business.

Rositano wouldn't answer the main question. Who is putting money up for the startup and who are the Web site's backers?

"They don't want to be named," Rositano said. ■

(Some information for this story was contributed by Roy Malone.)

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