

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re

PATAPHYSICAL BROADCASTING
FOUNDATION, INC., a California Non-Profit
Corporation dba KUSP 88.9 FM,

Debtor.

Case No. 16-52317 DM
Chapter 7

NOTICE OF SALE OF ASSETS AND OPPORTUNITY FOR OVERBID

TO: CREDITORS, THE UNITED STATES TRUSTEE, AND OTHER INTERESTED PARTIES

PLEASE TAKE NOTICE THAT John W. Richardson, Chapter 7 Trustee of the estate of the above Debtor, has entered into an agreement with Educational Media Foundation or its assignee (“EMF”) to sell to it certain assets of the above estate, including the Debtor’s Federal Communications Commission (“FCC”) broadcast license, all equipment at the Debtor’s transmission and translation facilities, and assignment of leases related to those four facilities (the “Purchased Assets”) for \$400,000. Excluded from the sale are studio equipment and other tangible property (including record and compact disk inventory) situated at the Debtor’s premises on Eighth Avenue in Santa Cruz (the “Excluded Assets”).

The sale to EMF is subject to Court approval and the opportunity for other interested parties to submit overbids for the Purchased Assets. The overbid process is described below. The sale is subject to FCC approval of the transfer of the broadcast license to EMF.

The Debtor operated KUSP - FM in Santa Cruz, California. KUSP was a public radio station with affiliations with the Corporation for Public Broadcasting, National Public Radio, and American Public Media, Inc. EMF is a non-profit corporation that operates stations in other parts of the United States. Based on information provided by EMF, the Trustee is informed and believes EMF intends to use the license to operate a music station.

The EMF offer is not for all assets of the estate. EMF intends to purchase the FCC broadcast license, leases relating to the transmission and translation towers at five sites and the equipment located at each of the five sites. The sale of the Purchased Assets is subject to approval of the broadcast license transfer by the FCC and successful assignment of the leases (or other rights) relating to the five transmission facilities. “Assumption” and assignment of the leases or other agreements relating to the transmission facilities will be the subject of a separate motion filed in the Bankruptcy Court naming the five parties to the real property agreements as respondents.

The Trustee has accepted EMF’s offer of \$400,000 for the Purchased Assets subject to Bankruptcy Court approval and the opportunity for other potential buyers to submit overbids for the Purchased Assets. The overbid requirement is a means of testing the fair market value of the assets being sold.

The Trustee has agreed to give EMF “overbid protection” of \$20,000. Therefore, a qualifying overbid for the Purchased Assets must be in the amount of at least \$420,000. Overbids must be in writing and submitted to the Trustee in care of his counsel at the address below no later than October 17, 2016, and must be accompanied by a cashier’s check deposit in the amount of \$40,000 made payable to “John W. Richardson, Trustee.” The required deposit is equivalent to EMF’s deposit.

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If a potential bidder wants to include the Excluded Assets in its bid, it must increase the overbid to an amount that reflects the value of the Excluded Assets and the Purchased Assets. Based on the appraisal the Trustee has obtained and filed with the Bankruptcy Court, which indicates an aggregate value of \$60,000 the tangible assets at the Debtor's station premises on Eighth Street in Santa Cruz, the Trustee is attributing a net realizable value of \$40,000 and any "overbid" for the Purchased Assets and the Excluded Assets must be at least \$460,000 (i.e., \$400,000 + \$40,000 + \$20,000 overbid protection).

If a qualifying overbid is received by the deadline, the Trustee will schedule an auction and will give notice to EMF and each overbidder. The amount of the highest overbid will be deemed to be the opening bid at the auction and the Trustee will entertain further bidding in increments of no less than \$1,000.


At the conclusion of bidding, the Trustee will exercise his discretion and business judgment in choosing the highest or best bid. He will retain the successful bidder's deposit as a credit toward the purchase price. The deposits of unsuccessful bidders will be returned promptly.

If no overbid is received, the Trustee will present EMF's offer to the Bankruptcy Court for approval.

The Debtor's assets are subject to a security interest in favor of Santa Cruz Credit Union to secure a debt in the approximate amount of \$165,000. Technically, the FCC license is not subject to the SCCU lien; however, under applicable case law, proceeds of sale of the license are subject to the security interest. The other tangible property and certain intangible property are subject to the SCCU lien. It is the Trustee's intent to pay the secured debt to SCCU in full from the proceeds of sale.

PLEASE TAKE FURTHER NOTICE THAT anyone who wishes to object to the proposed sale described above must do so in conformity with Rule 9014-1 of the Bankruptcy Local Rules for the Northern District of California. Rule 9014-1 prescribes the following procedure: (a) any objection to the requested relief, or request for hearing on the matter, must be filed and served upon the initiating party within 21 days of mailing the notice; (b) any objection or request for a hearing must be accompanied by any declarations or memoranda of law any requesting party wishes to present in support of its positions. If there is no timely objection to the request for relief or a request for hearing, the Court may enter an order granting the relief by default. In the event of a timely objection or request for hearing, the initiating party will give at least seven days written notice of the hearing to the objecting or requesting party, and to any trustee or committee appointed in the case. For purposes of filing with the Court, documents shall be filed with the United States Bankruptcy Court, 280 South First Street, San Jose, California 95113, and served on counsel for the Trustee at the address below.

DATED: September 26, 2016 DENTONS US LLP

By: 
Charles P. Maher
Counsel for John W. Richardson, Trustee

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