GUGGENHEIM KILLED BLACK NEWS: How a $250 Billion Dollar Hedge Fund Silenced the Last Black Owned Independent Media Network

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Foreword by Leroy Jones, Jr., President of Sheridan Radio and Digital Division - Sheridan Broadcasting Corporation (SBC)

From drums to storytellers, our community has always found our ways to communicate. Nowadays, the advent of social media has made everyone into personal media brands. With your mobile phones you can now go live at the event. You can scoop any major news outlet on any story that happens in your world. The losses and the struggles of so many of our iconic media brands are real and it is not going to stop until we fight back. Some of the inflictions have been self-made. Other issues have come with the changing media landscape and what it takes to stay both solvent and relevant in the business of communications.

The story of Sheridan Broadcasting Corporation is the reality of black business both old and new in 2018. We, like other minority companies, have been forced to take on these large and well capitalized entities in life and death struggles. Both the business and personal tolls have been devastating. Lives altered and lost. Some losses can never be recouped. We know we are not alone. Every community of color who has built up and created a service that reflects the values and traditions of their communities are under attack.

Many of our companies have been replaced by shell companies set up to run these going concerns. The key is making sure that no one knows that they are not minority owned any longer. We don't even attack the folks forced to work for these created shell companies, because they have families and obligations to meet.

In 2018, the need for our voices has never been more needed and missed. Sheridan is far from perfect and the company is beginning the long road back to recovery, but we are not done yet. The thought of burying both the company and the good name of Ron Davenport, Sr. and his family who built this company with sweat, tears, and faith cannot be tolerated. The philanthropy and good works are too numerous to mention. The fact that a two hundred fifty-billion-dollar business entity feels comfortable enough to try and wipe out a lifetime of good works for profit is despicable. The story of how this behemoth took American Urban Radio Networks (AURN) from black family ownership was more like a mob gangster hit job than a corporate takeover.

Regardless of what happens to our company, I will be formally requesting the appropriate Congressional Committees with oversight of venture capitalists, hedge funds, media companies and their practices to both investigate and hold hearings on the actions of these well-funded companies that have quietly silenced the voices of both our community and other vulnerable communities of color one by one. We are not afraid to call attention to the actions of these bad actors. We know our fight is with Goliath. I don't know if we are David, but we will not be afraid to fight this fight.

So please read our white paper on the strong-arm tactics of Guggenheim Capital Partners and their taking of AURN from the Sheridan Broadcasting Corporation.

WHITE PAPER

I. Introduction

Sheridan Broadcasting Corporation ("Sheridan") is a radio broadcasting company. Sheridan has been in business for over 40 years and has owned and operated radio stations and radio networks.

As a result of actions taken by an over-zealous former partner, Sheridan discontinued its network operations in 2017 and was forced to sell off all but one of its radio stations. Sheridan's network operations represented the last African-American owned network radio operations in the US. Sheridan currently owns WIGO-AM located in Atlanta, Georgia.

II. Background

American Urban Radio Networks ("AURN") was formed as a partnership in 1991 between two competing networks: Sheridan Broadcasting Networks ("SBN") and National Black Network ("NBN"). SBN (owned by Sheridan) owned 51% and NBN (owned by Unity Broadcasting (which subsequently changed its name to Access.1 Communications Corporation ("Access.1")) owned the remaining 49%. The bulk of AURN's programming was supplied by SBN and Sheridan; NBN ceased providing any programming to AURN in 1998.

Access.1 borrowed over $96 million from Guggenheim Capital Partners ("Guggenheim" – a $250 billion hedge fund) between 2004 and 2006 and used the proceeds to purchase radio stations. Access.1 was in technical default under the terms of the loans in 2007. In January 2008 Guggenheim declared Access.1 to be in default to the tune of $106 million (including penalties and interest). After a legal battle and protracted settlement negotiations, Guggenheim foreclosed on Access.1's assets in February 2013 and took a majority share of Access.1's stock.

In 2008, Access.1 began liquidating assets to repay Guggenheim. This liquidation began as the market collapsed and as radio station valuations fell. Prior to 2008, radio stations traded on 16 times multiple of cash flow (i.e., if a station had $1 million of cash flow then it was worth $16 million). After the market collapse, radio stations traded on a 5 to 6 times cash flow. Access.1 purchased 18 radio stations and 1 TV station between 2000 and 2005. In 2008, Access.1 sold 5 radio stations for almost one half of what it purchased them for. In 2013, Access.1 sold its TV station for 75% of what it purchased it for. In 2014, Access.1 sold 9 stations for less than ⅓ of what it purchased them for.

Guggenheim/NBN tried to liquidate NBN's 49% interest in AURN. Sheridan first learned of Guggenheim's desire to liquidate NBN's interest in AURN in 2008 and negotiated a letter of intent only to learn that Guggenheim wasn't able to convey the asset. In 2011, Sheridan learned (unofficially) that Guggenheim was shopping the notes for the entire Access.1 obligation for $10 million (Access.1 at that time consisting of 15 radio stations, 1 TV station, NBN, and a second syndication radio network).

Sheridan made several additional attempts to purchase NBN's 49% interest in AURN to no avail, including having friends reach out to the president of Guggenheim. Rather than sell to Sheridan, Guggenheim instead chose to starve Sheridan.

SBN and NBN had been fierce competitors prior to coming together to form AURN. The partnership was formed in 1991 and, after a quiet few years, the litigation began in 1995. In 2001, SBN obtained a permanent injunction preventing NBN and anyone acting in concert with NBN from interfering with the decisions of the AURN management committee.

Under the terms of the AURN partnership agreement, each partner's services to the partnership were to be reimbursed at cost. By 2011, SBN's services, consisting of its news, sports and entertainment products, cost around $250 thousand per month; NBN, having eliminated its operations in 1998, had $0 costs. In 2011, NBN (effectively controlled by Guggenheim) refused to pay the cost of SBN's services notwithstanding a decision by AURN's management committee.

In August 2011, SBN sued to enforce the permanent injunction and NBN relented.
In March 2012, however, NBN (effectively controlled by Guggenheim) filed claims for breach of fiduciary duty in federal court in Pennsylvania claiming that the SBN's monthly fees (which SBN had received since the inception of the partnership) were excessive and sought over $20 million in damages (notwithstanding the fact that NBN would only receive 49% of any damages awarded to AURN).

Sheridan continued to try to reach a settlement with Guggenheim for NBN's interest in AURN since Guggenheim had much deeper pockets than Sheridan. Sheridan's offers were met with replies that Sheridan's offers were insufficient. Sheridan's requests for counter-offers were met with silence.

The 2012 litigation didn't pick up until 2015 when the parties had a status conference with the judge. The parties agreed to get 3 valuations for AURN. Sheridan insisted that the valuations be market valuations and both parties, and the judge agreed. Soon thereafter, NBN (controlled by Guggenheim) changed the valuation method from market valuation to asset valuation in order to get a higher value despite Sheridan's protests and NBN's earlier agreement.

In July 2015, the 3 valuations were completed: one for $5 million to $6 million (market valuation), one for $15 million (asset valuation) and one for $19.3 million (asset valuation). It should be noted that both of the asset valuations included the value of SBN's programming.

In October 2015, the trial began. On October 24, 2015, the litigation was settled; the terms of the settlement for the entire litigation provided that SBN purchase NBN's 49% interest in AURN for $9.5 million by March 1, 2016 and do so in 3 tranches: $500,000 by October 30, 2015; $1,500,000 by December 31, 2015; and $7,500,000 by March 1, 2016.

SBN paid the first 2 tranches and sought an extension of time to pay the final tranche. NBN (controlled by Guggenheim) refused the extension of time request. SBN (not SBC) filed for Chapter 11 relief to buy additional time. The bankruptcy court granted SBN 60 days. SBN presented a plan to pay $3 million in cash and $4.5 million in paper. NBN (Guggenheim) rejected the proposal.

On May 8, 2016, SBN conveyed its 51% partnership interest in AURN to NBN. SBN and SBC retained their businesses; on June 2, 2016, SBN emerged from bankruptcy and the bankruptcy filing was dismissed. SBN continued operations (funded by the Davenport family) until August 29, 2017.

AURN has been on the market since 2008.

III. Conclusion
Due to the greed of an over-zealous hedge fund, the last African American owned radio network was forced out of business.

This result was not necessary and occurred not because of Sheridan's hubris or anything that Sheridan did, but because Access.1 (NBN's parent) borrowed too much and was only able to pay back one third of the amount due, leaving Guggenheim $70 million short. Guggenheim foreclosed on Access.1 and took a controlling interest in Access.1 and, knowing that Sheridan was the only party interested in buying NBN's 49% interest, took steps to weaken Sheridan with protracted litigation to force Sheridan to pay an exorbitant price.

Sheridan compromised and worked off of the highest market valuation of $19.3 million even though: (1) no third party was prepared to pay anything close to $19 million for AURN, (2) the parties had previously agreed to market valuation rather than asset valuation; (3) the $19.3 million figure included SBN's programming (so Sheridan was paying Guggenheim/NBN for the value of SBN's programming which Sheridan already owned); and (4) Guggenheim/NBN were not prepared to pay Sheridan $9.8 million ($19.3 million multiplied by 51%) for SBN's majority interest and SBN's programming.

Therefore, even though NBN's 49% interest (before minority discount) was worth between $2.5 million and $3 million (on a market valuation) and Sheridan had already paid Guggenheim/NBN $2 million, and Sheridan was prepared to pay Guggenheim an additional $3 million cash plus a note for $4.5 million for a total of $9.5 million or between 3 and 4 times what NBN's interest was worth, this amount was insufficient and Guggenheim chose instead to put the last African American owned radio network out of business.

Created and Written by

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