

**Statement  
of  
FCC Commissioner James H. Quello  
Dissenting-in-Part**

**In re:** Application of Macfadden Acquisition Corporation  
for Commission Consent to a Transfer of Control of  
John Blair & Company.

I agree with my colleagues that the request made by Macfadden Acquisition Corp. for the issuance of a special temporary authority to a trustee should be denied. Clearly, Macfadden's proposal to elect a completely new board consisting of Macfadden's principals, Mr. Callahan and Mr. Boylan, and Macfadden's designated trustee is inconsistent with our Policy Statement addressing tender offers. See, Tender Offers and Proxy Contests, 59 R.R. 2d 1536, 1581-83 (1986). Furthermore, the Policy Statement addresses the issue of insulation between the trustee and the offeror. See, "Policy Statement," 59 R.R. 2d at 1579. The reason for this insulation is to assure that the offeror does not control or direct the operation of the targeted company prior to the review of the long-form application. Macfadden's failure to insulate sufficiently the offeror from the trustee would be inconsistent with the public interest.

I dissent to the extent the Order reaffirms what I consider to be the Commission's prior error in establishing a "trustee" concept pertaining to tender offers and proxy contests. As I have indicated in my prior dissents on this topic, the use of a trustee does not comport with the express requirement of Section 309 of the Communications Act. 47 U.S.C. Section 309. Specifically, Section 309 requires that any application for the transfer of rights under a station license involving a "substantial change in ownership or control" must be preceded by a 30-day holding period and by an opportunity for the filing of petitions to deny. See, 47 U.S.C. Sections 309(b), 309(c)(2)(B), and 309(d)(1). Macfadden is proposing a substantial change in ownership and control and therefore should be subject to Section 309 provisions. For further discussion of this matter, I refer the reader to my dissent in One Two Corporation (McCarthy), and the Policy Statement on Tender Offers and Proxy Contests. See, McCarthy, 58 R.R. 2d 924, 937 (1985), and "Policy Statement," 59 R.R. 2d at 1584-86.

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