

MCUSA, Inc.
375 East 790 South
Pleasant Grove, Utah 84062

05/23/2011

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Attention: Hossein Hashemzadeh

In re: 1800E1-CLR | KPDR-LD, Park City, Utah
Facility ID No.128361
File No. BALTT-20091201ASO

Dear Mr. Hashemzadeh:

MCUSA, Inc. ("MCUSA") is responding to your letter of February 15, 2011 (copy attached). MCUSA has attempted to resolve the issues with Craig Caples ("Caples") through his attorney James C. Lewis of the law firm, Lewis, Hansen, Waldo & Pleshe in Salt Lake City, Utah. Efforts by MCUSA to resolve Caples' issues have not been successful.

The letter of February 15, 2011, assumes that there is a contract dispute with MCUSA, when in fact there is no evidence, declaration or statement personally signed by William "Trip" Mitchell ("Mitchell") on file with the Federal Communication Commission ("Commission") that substantiates a contract dispute exists between MCUSA and Mitchell. Mitchell, then 50% partner of KPDR was the recipient of funds on behalf of MCUSA including a \$500.00 payment on June 18, 2010 for the extension of time to file Notice of Consummation that was signed by Mitchell's communication attorney, Dan J. Alpert and filed late with the Commission on August 10, 2010.

Attorneys Peter Tannenwald and Aaron Shainis have made filings with the Commission on behalf of Caples representing incorrect Commission CDBS records, which have not been restored to the time of about August 18, 2010.

MCUSA also agrees in part with Mr. Shainis' legal position (Counsel for Caples) on partnership actions in his filing with the Commission on January 13, 2011¹, and Caples statement that "In a general partnership, any partner can bind the other partners". Mitchell's representation of new owners and transfer of the equipment of KPDR on June 19, 2010 was binding on the partners of KPDR and that MCUSA has repeatedly stated this fact to the Commission.

¹ Response to Objection to Notification of Non-Consummation. January 13, 2011, Aaron P. Shainis
MCUSA, Inc. 375 East 790 South, Pleasant Grove, Utah 84062

The Commission should at the very least, send a Letter of Inquiry to Mitchell requesting that he submit a detailed declaration under penalty of perjury. Mitchell has direct knowledge of the activities of KPDR since the day of Mitchell's acquisition, more specific:

1. The misrepresentation of Caples to the Commission outlined in MCUSA's Informal Complaints.
2. The location of the equipment of KPDR when Caples represented to the Commission that KPDR was on the air for 4/21/2008 to 9/1/2008.
3. The courtesy provided on untimely filing for Special Temporary Authority and operation of KPDR without authority in 8/29/2009 through 10/14/2009 and failure to disclose this fact to MCUSA when Mitchell signed the Letter of Intent on 9/23/09.
4. Mitchell's receipt of funds and representations to MCUSA.
5. How Caples was able to alter MCUSA's FRN in the CDBS to file a modification of the displacement construction permit on 11/1/2010.
6. Filings with Commission signed by communication attorney, Dan J. Alpert and not the Licensee.

Mitchell's response should be with such candor to details that there is no question of doubt, no omission of facts or use of legal tactics by his attorney to communicate misdirected accountability to the Commission.

In addition, MCUSA received an email communication on Monday, January 10, 2011 from Caples' attorney James C. Lewis of his intent to commence an action in Third District Court, State of Utah, if the Commission determines that in fact, Caples misrepresentation to the Commission results in a cancellation or compromise of the license (copy attached). When an attorney knowingly states intent to commence a civil action against a complainant before the Commission for reporting a pattern of misrepresentation by his client, the Commission should consider that such communication is an attempt to tamper with and intimidate witnesses.

MCUSA respectfully requests that you recuse yourself from rendering any decision on this matter, as you were included in email communications with Alan Aronowitz, Konrad Hearling and Ruben Rodriguez Jr. in August of 2010 regarding MCUSA's computerized records and Notice of Consummation. As a potential witness, it would be prudent to remain neutral on this matter.

MCUSA, Inc.

375 East 790 South
Pleasant Grove, Utah 84062

MCUSA respectfully requests that the Commission reinstate MCUSA's license for KPDR to the date of August 18, 2010 and restore MCUSA's FRN that was associated with the KPDR license. Absent the full restoration and reinstatement of MCUSA's license for KPDR and FRN associated with the license by the Commission, MCUSA requests that the Inspector General of the Federal Communication Commission commence an independent inquiry or investigation into the Commission's handling of MCUSA's computerized records, Notice of Consummation filed with the Commission in August, 2010, MCUSA's revoked license, MCUSA's altered FRN associated with license, Caples misrepresentations to the Commission that have been outlined in MCUSA's complaints and take what action that it deems necessary with regards to James C. Lewis' email communication of civil action to MCUSA, known complainant before the Commission.

If further information is required, please contact me directly.

Sincerely



Rubin Rodriguez Jr.

Director

801-557-1322

CC: Donald Winters, MCUSA, Inc.
Aaron P. Shainis, Counsel for Craig Caples

Enclosure: Hossein Hashemzadeh's Letter of February 15, 2011.
James C. Lewis email communication on Monday, January 10, 2011.



Federal Communications Commission
Washington, D.C. 20554

February 15, 2011

In reply refer to:
1800E1-CLR

Aaron P. Shainis, Esq.
Shainis & Peltzman, Chartered
1850 M Street, NW
Suite 240
Washington, DC 20036

Rubin Rodriguez, Jr.
MCUSA, Inc.
375 East 790 South
Pleasant Grove, UT 84062

Re: KPDR-LD, Park City, UT, ID No. 128361,
File No. BALTT-20091201ASO.

Gentlemen:

This letter concerns the above-referenced application to assign the license of low power television station KPDR-LD, Park City, Utah, from Craig and Marilyn Caples and William Mitchell ("Caples/Mitchell") to MCUSA, Inc. ("MCUSA").

According to our records, the Commission granted the application on March 9, 2010. On August 10, 2010, Caples/Mitchell filed a request for extension of consummation authority, and MCUSA electronically filed a consummation notice two days later. Subsequently, however, on December 22, 2010, Caples/Mitchell filed a notification of non-consummation. We also have received an Informal Complaint and Request for Response and an Objection to Notification of Non-Consummation, filed by MCUSA on December 7, 2010, and January 4, 2011, respectively, and the responsive pleadings thereto.

On the basis of the record before us, it is evident that the parties disagree as to whether the assignment of the station's license has, in fact, been consummated. It is long-standing Commission policy that such private contractual matters fall within the purview of local courts of competent

jurisdiction.¹ Accordingly, we are providing you with ninety (90) days to resolve your dispute and report back to us.

Sincerely,

A handwritten signature in black ink, appearing to read "Hossein Hashemzadeh". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Hossein Hashemzadeh
Associate Chief, Video Division
Media Bureau

¹ See, e.g., *Estate of Peggy Haley, N.C.M.*, 23 FCC Rcd 12687, 12688 & n.3 (MB 2008).

James C. Lewis Email Communication on Monday, January 10, 2011.

From: James L <jlewis@lhwplaw.com>
To: Donald Winters <aulawyer79@yahoo.com>
Cc: jlewis@lhwplaw.com
Sent: Mon, January 10, 2011 9:23:07 AM
Subject: RE: KPDR

Don:

It has been a few weeks since we last communicated. When I last heard from you, you indicated that you and Rubin were not interested in meeting as you had concluded that the best approach for MCUSA would be to make filings with the FCC. (See your email below). Given this communication, and the subsequent filings with the FCC, I had concluded that you were no longer interested in meeting to address the issues between the parties.

Prior to your last communication, you articulated various concerns regarding the status of the license, and specifically referenced certain matters that needed to be attended to very quickly so as to not jeopardize the license. My clients were aware of many of these issues and promptly undertook necessary efforts to protect the license, much of which was consistent with your concerns.

I am assuming you are aware that Rubin Rodriguez has submitted several filings with the FCC on behalf of MCUSA. I have also assumed that you were involved in these submittals; please correct me if I am wrong. (When we last spoke, you indicated that Rubin was not formally a principal of MCUSA but that would likely change). I am confused, however, by what MCUSA and Rubin are seemingly attempting to accomplish. MCUSA is challenging the validity of the license. While we believe the license is valid and will ultimately be determined by the FCC to be valid, if MCUSA's challenge were successful, it would seem that MCUSA would be causing damage not only to Caples and Mitchell but to itself as well by taking action to invalidate the license – the only asset of any value and the subject of dispute between my clients and MCUSA. (An FCC lawyer with whom I am conferring shares that perception and has the same confusion). Am I missing something, or is MCUSA really willing to pursue a course that could result in substantial damages to all concerned?

As indicated, we do not believe these efforts will be successful. However, in the unlikely event MCUSA's actions result in the termination or compromise of the license, this will serve as notice that my clients will commence an action in Third District Court, state of Utah, for all of the damages suffered by them as a result of this conduct. You and Rubin should keep this in mind as you proceed.

I am happy to discuss this at anytime.

Thank you.

Regards,
James C. Lewis
Attorney at Law
Lewis, Hansen, Waldo & Pleshe
8 East Broadway, Suite 410
Salt Lake City, Utah 84111
Phone: (801) 746-6300
Fax: (801) 746-6301

jlewis@lhwplaw.com



James C. Lewis Email Communication on Monday, January 10, 2011.

To comply with IRS regulations, we inform you that any U.S. federal tax advice contained in this communication, including attachments, is not intended or written to be used and cannot be used for the purpose of avoiding penalties under the Internal Revenue Code or for promoting, marketing or recommending to another party any transaction or matter addressed herein.

This email was sent by a law firm and contains information that may be privileged and confidential. Any unauthorized use is prohibited. If you are not the intended recipient, please delete this email, any attachments and notify the sender immediately.

From: Donald Winters [mailto:aulawyer79@yahoo.com]
Sent: Monday, November 15, 2010 12:07 PM
To: James L
Cc: Rubin Rodriguez
Subject: KPDR

Dear Jim:

Rubin and I are prepared to meet but feel that based on the newly discovered actions by your clients a FCC opinion or Letter of Inquiry on the validity of the license would be a reasonable course of action. It would also be far less costly than either party jumping straight into court.

MCUSA has already received corrected documents at the FCC on our complaint filed in August.

We shall prepare our FCC letter and supporting evidence by Wednesday and provide you with a copy as attorney.

Sincerely,

Don
Donald W. Winters, Esq.
Attorney at Law
375 East 790 South
Pleasant Grove, Utah 84062
(801) 796-3437
fax: (801) 796-8521