



Federal Communications Commission
Washington, D.C. 20554

June 26, 2012

In Reply Refer to:
1800B3-SS

Mr. Robert King
1705 West Bloomington Road
Apartment 204-L
Champaign, IL 61821

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Washington, DC 20005

In re: **KFTE(FM), Abbeville, LA**
Fort Collins/Lafayette Divestiture Trust
Facility ID No. 276
File No. BRH-20120131AAZ

Application for Renewal of License

Petition to Deny

Gentlemen:

We have before us: (1) the application of The Fort Collins/Lafayette Divestiture Trust ("Licensee") for renewal of its license ("Application") for Station KFTE(FM), Abbeville, Louisiana ("Station"); and (2) a March 16, 2012, "Petition to Deny Renewal of All Licenses for B.M.T. as Regent Trustee for Louisiana Radio Station"¹ filed by Robert King (the "King Objection").² For the reasons set forth below, we deny the King Objection in part and dismiss it in part, and we grant the Application.

Background. Licensee timely filed the Application on January 31, 2012. On March 16, 2012, King filed his Objection, directing it to the Investigations and Hearings Division of the Commission's

¹ On March 1, 2010, Regent Communications, Inc., together with its various subsidiaries (the "Regent Entities"), filed voluntary petitions for bankruptcy under Chapter 11 of the U.S. Bankruptcy Code. *See In Re Regent Broadcasting, Inc., et. al.*, Case No. 10-10632 (KG) (Chapter 11) (Bankr. District of Delaware). Regent's emergence from bankruptcy was accomplished in three steps. First, the court approved the assignment of the licenses from the Regent Entities to various Regent Entities as Debtors-in-Possession. *See, e.g.* File No. BAL-20100303AEN, granted March 18, 2010. Second, the Regent licenses were assigned from the debtors-in-possession to an independent trust, the Regent Trust. *See, e.g.*, BALH-20100323AGA, granted April 7, 2010. Finally, the licenses were assigned to a "reconstituted" Regent, under new controlling shareholder Oaktree Capital Management, LP *see* File No. BALH-20100323ADD, granted on June 30, 2010. Regent shortly thereafter changed its name to Townsquare Media, LLC ("Townsquare"). However, because the "reconstituted" Regent Communications, *i.e.*, Townsquare, would have been above the current allowable radio ownership limits for the Fort Collins and Lafayette Arbitron Metro markets, the Station and Station KARS-FM, Laramie, Wyoming, were assigned to Licensee. *See, e.g.*, File Nos. BALH-20100323AIA and BALH-20100323AIF, granted on June 30, 2010. Jay Meyers is the CEO and President of Broadcast Management and Technology, LLC ("BMT") and was the Trustee for the Regent Trust and is the Trustee for Licensee.

² Despite its title, the King Objection references only the Station and KARS-FM. Because KARS-FM does not have a pending license renewal application – Wyoming station renewal applications are not due until June 1, 2013, pursuant to 47 C.F.R. § 73.1020 -- we will dismiss the King Objection as it pertains to this station.

Enforcement Bureau. In the Objection, King states that: (1) BMT was the trustee for all Regent stations until a permanent licensee could be put into place; (2) during that period, BMT also was the licensee of three Regent Radio stations in Texas (the “El Paso Stations”), although Townsquare was running those stations pursuant to a Local Marketing Agreement.³ King requests that the Commission deny the Application because Townsquare’s officers and employees are responsible for civil and criminal violations in its operation of the El Paso Stations King argues, *inter alia*, that Townsquare prematurely assumed control of the El Paso Stations, broadcast indecent material and cigarette advertisements,⁴ and received “payola” for running announcements without identifying the sponsor.⁵ King argues that BMT and Townsquare are “co-conspirators” in these violations.

Discussion. Procedural Issue. Under Section 309(d) of the Communications Act of 1934, as amended (the “Act”), a party has standing to file a petition to deny if grant of an application would result in, or be reasonably likely to result in, some injury of a direct, tangible or substantial nature.⁶ The Commission also accords party-in-interest status to a petitioner who demonstrates that he/she listens to or views the station regularly and that such listening or viewing is not the result of transient contacts with the station.⁷ In his pleading, King does not provide any allegation raising a specific injury that would be caused to him by grant of the Application, nor does he, as a resident of Champaign, Illinois, attempt to establish listener/residence status as a basis for standing. The King Objection also fails to provide an affidavit to support its factual allegations, as required by Section 309(d)(1) of the Act.⁸ Accordingly, we will dismiss the King Objection as a petition to deny. We will, however, treat the pleading as an informal objection pursuant to Section 73.3587 of the Commission’s Rules (the “Rules”).⁹

Substantive Issues. This case concerns an application for renewal which must be evaluated under Section 309(k) of the Act. Section 309(k) provides that we are to grant a broadcast station’s license renewal application if, upon consideration of the application and pleadings, we find *with respect to that station* that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules with respect to that station; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.¹⁰ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”¹¹ Section 309(k) precludes consideration of allegations of misconduct at any station but that for which a renewal application is before

³ King Objection at 2. KLAQ(FM), KROD(AM), and KSII(FM) are owned by Townsquare Media of El Paso, Inc., a subsidiary of Townsquare. See, e.g., File No. BALH-20100323ACI, granted on June 30, 2010 (authorizing assignment of the El Paso Stations’ licenses from the Regent Trust to Regent Broadcasting of El Paso, Inc., subsequently renamed Townsquare Media of El Paso, Inc.). It is unclear why King believes that the El Paso Stations were owned by BMT and operated by Townsquare pursuant to an LMA.

⁴ See 47 C.F.R. § 73.4055; 15 U.S.C. § 1335.

⁵ See 47 C.F.R. §§ 73.1212, 73.4180.

⁶ See, e.g., *Telesis Corp.*, Memorandum Opinion and Order, 68 FCC2d 696 (1978).

⁷ See *Tabback Broadcasting Company*, Memorandum Opinion and Order, 15 FCC Rcd 11899, 11900 n.3 (2000); *Chet-5 Broadcasting, L.P.*, Memorandum Opinion and Order, 14 FCC Rcd 13041 (1999).

⁸ 47 U.S.C. § 309(d)(1). The King Objection does contain an indication that it was served on the law firm, although not the specific attorney listed as the contact in the Application.

⁹ 47 C.F.R. § 73.3587. See *Letter to Michael Lazarus, Esq. et al.*, 26 FCC Rcd 5966, 596 n.2 (MB 2011); *Letter to Geraldine R. Miller and George Borsari, Esq.*, 24 FCC Rcd 11814, 11815 (MB 2009) (procedurally defective petitions to deny treated as informal objections).

¹⁰ 47 U.S.C. § 309(k)(1) (emphasis supplied).

¹¹ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

the agency. This position is reflected in the broadcast license renewal form and instructions.¹² Because the misconduct alleged in the King Objection took place at stations, *i.e.*, the El Paso Stations, other than the station whose renewal application is before us, we may not consider those allegations in connection with our evaluation of the Application.¹³

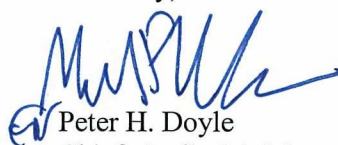
Conclusion/Actions. For the foregoing reasons, we find that King has failed to raise a substantial and material question of fact calling for further inquiry regarding the propriety of granting the Application. We therefore deny the King Objection as it relates to the Application.

Additionally, we have evaluated the Application and find that there have been no “serious violations” and no evidence of violations that, when considered together, evidence a pattern of abuse warranting designation for evidentiary hearing. Further, we find that the Station served the public interest, convenience, and necessity during the subject license term. We therefore grant the Application.

Accordingly, IT IS ORDERED, that March 16, 2012, “Petition to Deny Renewal of All Licenses for B.M.T. as Regent Trustee for Louisiana Radio Station” filed by Robert King, when treated as an informal objection, IS DISMISSED to the extent indicated above and IS DENIED in all other respects.

IT IS FURTHER ORDERED that the license renewal application for Station KFTE-FM, Abbeville, Louisiana, IS GRANTED.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Peter H. Doyle', with a stylized flourish at the end.

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Fort Collins/Lafayette Divestiture Trust

¹² See FCC Form 303-S, Section II, Item 4 and concomitant instructions.

¹³ See 47 U.S.C. § 309(k)(1); see also *Clear Channel Broadcasting Licenses*, Letter, 23 FCC Rcd 5105, 5107 (MB 2008), citing *Letter to Rick Morrison*, 21 FCC Rcd 2193 (MB 2006).