

February 20, 2015

2015 MAR -4 A 9: 34

Received & Inspected

MAR -2 2015

FCC Mail Room

Peter H. Doyle

Chief, Audio Division, Media Bureau

Federal Communications Commission

445 12TH Street, S.W. Washington, DC 20554

In Response to KWCR response to 1800B3-HOD

BRED-201 30603BDZ

Dear Chief Doyle,

This is a response to KWCR'S (Weber State University's) response dated February 12, 2015 to the Petition to deny their renewal by me (Donald Hullinger). I would like to start by pointing out that Weber State University took over 500 days to respond to the petition to deny and they only responded only after the commission compelled them to by issuing them a letter informing them that they had 30 days to respond. Of that 30 days, they responded on the 30th day. In My Humble Opinion these are not the actions of a group that is concerned with keeping their license. I digress however and would like to respond to KWCR's responses.

1- Emergency Alert System

KWCR acknowledges by stating in their answer "we confirm in review of the KWCR FM's radio logs that there is no record of the station airing the EAS nationwide test on November 9, 2011" they go on to state that they have no idea what the DJ that was on the air at the time said. This indicates that by their own admission their EAS system was not working at that time, which is after they were issued a Notice of violation (NOV No. V201032800017) in January of 2010 for their being no records of RMT's and after their chief engineer had stated to the commission that they had fixed the issue. I submit that this is an indicator of the station failing to serve the public interest by not doing the one thing that greatly serves the public interest: keeping their EAS In working order on a consistent basis.

2- Normal Business Hours

KWCR denies that they have an issue with being open during Normal Business Hours. Stating that they are completely in compliance with "normal Business Hours" rules. I challenge them to provide timecards of the employees that they are claiming was there to cover the times that

meet compliance requirements of being open normal business hours. My photographic records not only show that they clearly aren't open (never mind that they claim there may have been people in the back office even though the front door was closed, if the front door is closed, they are not open and people cannot come in during normal business hours and inspect the public file.) But I also took photos of their signs that they hung next to their door stating when they would be in, the majority of the time, these signs matched when they were not open.

They also contradict themselves in their own statement: "However, we confirm that during the Summer Semester, KWCR-FM is staffed by a paid student General Manager and a paid student Program Director who work a combined total of 40 hours a week, in addition to student volunteers. The Summer Semester was the period of time in which Hullinger allegedly attempted to visit the studio on thirty separate occasions but found the studio closed and unattended. **While we believe that the KWCR-FM main studio was largely open during business hours during the Summer Semesters, we are reviewing our process to ensure the station is staffed during the Summer Semester to comply with the FCC's minimum staffing and "normal business hours" requirements.**"

They said that they confirm that the main studio is staffed during the summer hours by the general manager and program director however in the next sentence they say they "believe that the main studio is largely staffed during normal business hours." What does this mean? That they (the faculty advisor) doesn't pay attention as to whether they are staffing the main studio during normal business hours? How can they claim then that they know they are meeting normal business hours requirements?

I submit that it is highly unlikely they can prove that, (unlike I who took photographic proof and can produce other witnesses to cooperate the allegation) until they were forced to answer these allegations, can prove that they were maintaining normal business hours.

3- Public File

1. Ownership Report

While it is possible that the ownership report was in the public file, I may have missed it because the public file was such a mess, I do know that there was a copy of the 2005 ownership report was the only copy that I found in the file.

2. Sponsorship Lists

The last date that I inspected the public file, on January 26, 2015, there were now Donor Lists in the public file that were listed as "KWCR Sponsors 2011- Sept. 2013" "KWCR Sponsors Sept. 2013 – Apr. 2014" and "KWCR Sponsors Apr. 2014 – Oct 2014" as well as the sponsorship list dated July 2009 – July 2010 which is the one (and only one) that was in the file when I inspected it before I filed the Petition to Deny. Other Inconsistencies are that there are donors that are not on the donors list. Three I can think of off the top of my head are Beehive Self-Storage, The Weber Morgan Health Dept. and the sustainable building center. (These would be older than 2 years, but goes to demonstrate their inability to maintain proper sponsorship lists)

I submit to the commission, if their donor lists were up to date, why is there a list of donors spanning 2 years on one paper? Would not their donor lists be more frequent if they were keeping them updated regularly? This looks like an attempt to appear to have been maintaining the public file.

3. The Public and Broadcasting

KWCR's Public file now contains a current copy of "the public and broadcasting." KWCR's Claim that they do not retroactively update the file is a disingenuous claim that I would imagine if the commission asked the right people, could testify otherwise.

4. Pertaining to complaints

KWCR's response maintains that my claim was that the information pertaining to the open investigation of underwriting violations are false. I acknowledged in the petition that the LOI's were in the file. My allegations were that not all of the material regarding that investigation is in the file.

5. Issues/Programs Lists

KWCR admits that there were no issues/programs lists dating back to 2010 and that before 2010 they were not keeping them on a quarterly basis. I pose to the commission this question. Why would they be keeping up with donors lists and not Issues/Programs lists? It is possible – Indeed Likely, that combined with the fact that some of the donors lists being a record of a 2 year period on one paper, that the donors lists were also not kept up and were retroactively updated in the file.

4- Station Logs

KWCR admits that for the last 2 years that they have not even been attempting to keep station logs. Their justification for this violation is that they are not able to monitor that information from the temporary site they have been broadcasting from. The fact that they are now keeping these logs as required by the commission based only on the fact that these allegations were made, makes this an egregious and willful violation and does not make up for the fact that they have been ignoring the commission's rules for 2 years.

5- Pre and Post-filing announcements

KWCR is again admitting to having broken Rules set forth by the Commission. They admit that they did not air any of the pre-filing announcements that are required as part of the process of renewing their license. I will admit, that after I delivered a copy of the Petition to deny to the broadcaster, I did learn that they had aired some post filing announcements, but none were broadcast during the times that the commission has set forth as a requirement (Which is why I did not hear any) which is still a violation of the requirements of applying for renewal of their license. As a side note, Might I point out that it is possible that none of the announcements were made during the prescribed times (like between 4-6 pm) because no one was staffing the main studio at those times?

6- Response to KWCR's other claims

In KWCR's response, they brilliantly attempt to deflect the conversation from their misdeeds by filling a page and a quarter of their response with talking about me. I'm not really sure why they

spend 1.25 pages rambling on about me as it does not seem relevant to responding to the specific charges that I have leveled. However, I will respond to the statements made by Mr. Hatch and Mr. Orquiz.

First, Mr. Hatch is getting his stories mixed up. Then encounter in which he is claiming that I intimidated him in his office was not me delivering a filing against their temporary license, it was when I delivered the petition to deny their license renewal. (I had also mailed a copy, but wanted to be sure they could not claim they did not receive it.) When I approached he was in the office where all of KWCR's broadcasting equipment is stored. I greeted him, handed him the petition to deny, and asked him if he knew if there was any documentation he knew of their having been any pre or post-filing announcements.

He told me he knew where the post filing announcement documentation was and that he would take me to it. He took me to his office where he showed me the documentation (it was in a binder in his office instead of in the public file where it should have been.) I asked a couple of more questions pertaining to pre and post-filing announcements and informed him that they had not followed the FCC's schedule for them. He told me that the advisor never told them when they needed to be. I told him that it could be found on the FCC's website. I thanked him for his time and left. The whole interaction took place in under 3 minutes and thirty seconds and I have it on video, in which he never gave the slightest clue that he found this interaction "forceful and intimidating" and that he was required to read the petition. This is either his own interpretation of the situation, and in no way my responsibility or they are putting on a dog and pony show for the commissions benefit.

Second, where they note that I was lingering outside the studio, under the stairs during spring semester of 2014, they are correct, there was a lot of time that I was sitting there, but they neglected to tell the commission why I was doing when I was setting there. The answer was generally, eating lunch. That semester I was working as an assistant for one of the professors at Weber State and that was generally the place I went to eat my lunch because it was away from the hustle and bustle of the students and I could eat and work at the same time.

Third, did I listen to their broadcasts while I was setting there? Yes. The reason? They broadcast their music in that hallway and it's a bit hard not to hear if you don't have headphones. As to them stating that I at one time asked their Spanish programming hosts a question, the answer to that is also yes. I don't understand a great deal of Spanish but what I had heard, I thought I had heard them offering their listeners coupons for free/discounted food at a local restaurant to encourage them to go there. I did ask them if that's what they had said and they did confirm that's what they had said. They should just be glad I was gracious enough not to file another complaint with the commission as this was an obvious violation of enhanced underwriting rules.

I will not even address the nonsense that I called their offices over and over, this is just a flat out made up.

In his declaration Mr. Orquiz said that one time he was leaving the premises of KWCR and that he saw me "hovering" outside the studio, but I was "abruptly" gone when he came back out of the bathroom. Did it ever occur to him that maybe I was passing through the area as one of the elevators I used in that building is just east of their studio? He also says that one time he stepped out the doors and that the paper stating their normal business had been torn down, and they attributed that to me, but he does not say that I had been seen "hovering" in the area at that time.

It sounds like to me that there is a lot of paranoia running ramped in that organization. They state that my "lingering presence" puts stress on the staff and the DJ's. Why would this cause the staff and the DJ's stress, unless they know they are breaking the commission's rules and are trying to hide it which my presence does not allow? (Also, Please take note of the statement that one of their normal business hours papers had been torn down, so they cannot later that they never put any of the signs up that I have photos of.)

They claim I may have waited for them to leave temporarily so I could obtain proof of them not being open. I pose this question, no matter how long "temporarily" is, is it not the station being closed during normal business hours? Also, In this same subject, they claim that it is likely that on the occasions that I have documentation of them being closed, someone was probably in the back offices, but if the front door is closed and locked and no one is visible, does that not mean that the public is not going to be able to inspect the public file? The average citizen is not going to knock on the door and wait to see if someone answers, they are just going to assume they are closed and leave, which is the same as being closed during normal business hours.

In conclusion, KWCR has admitted to being in violation of several policies, I can prove violation of more than they are admitting to, AND all this talking about me in an attempt to make me look bad, only goes to show that the public interest is not being served by this station continuing to operate as an over the air station.

If you contact me I will be more than happy to share any of the additional proof that I have. I request that the commission assign this for a hearing and hear testimony if they don't have enough to not renew the license of KWCR as it stands. Feel free to contact me via Email: polypal@hotmail.com, by USPS: 50 N. 600 W. #222 Salt Lake City, UT 84116 or by phone 8016642075

Thank You

Donald Lynn Hullinger Jr.

A courtesy copy of this response was served on KWCR – FM’s staff on 2/23/2015 by Hand Delivery by Donald Hullinger.

A handwritten signature in blue ink that reads "Donald Lynn Hullinger Jr". The signature is written in a cursive style with a large initial "D".

Donald Lynn Hullinger Jr