

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington D.C. 20554

2015 JUN 22 A 10:14

In re Application of)	
)	
AMFM BROADCASTING LICENSES,)	File No. BR-20130731AGT
LLC)	Facility ID # 10145
)	
For Renewal of Broadcast Station License)	

Accepted / Filed

JUN 19 2015

*Federal Communications Commission
 Office of the Secretary*

To: The Secretary, Federal Communications Commission
 Attn: The Chief, Audio Division, Media Bureau

OPPOSITION TO INFORMAL OBJECTION

AMFM Broadcasting Licenses, LLC, a licensee subsidiary of iHeartMedia, Inc. (“iHM”), by its attorneys, hereby submits this Opposition to the “Informal Objection” (“Objection”) apparently filed by Harry Cowan (“Cowan”) on or about October 31, 2013 against the above-captioned application for renewal of the license of radio station KFBK(AM), Sacramento, California (Facility ID No. 10145) (“KFBK” or “the Station”).

¹ As shown below, the Objection does not establish a failure by iHM to meet the standard for renewal of the Station’s license under Section 309(k) of the Communications Act of 1934, as amended.² Accordingly, the Petition should be dismissed or denied and KFBK’s license promptly renewed.

¹ The Objection does not indicate that it was served on iHM, the Station, or their counsel. iHM first became aware of the Objection in June 2015 after receiving a call from FCC staff advising iHM of its existence. The copy of the Objection provided to iHM bears a date of October 11, 2013 but also bears an “FCC Mail Room” date stamp of October 31, 2013.

² 47 U.S.C. § 309(k). Section 309(k) requires the Commission to grant a license renewal application if it finds that (a) the station has served the public interest, convenience, and necessity, (b) there have been no serious violations of the Communications Act or Commission rules, and (c) there have been no other

The primary basis upon which Cowan challenges KFBK's license renewal application is the Station's public file. Cowan alleges that he sent a letter to the Station on November 22, 2011. He asserts that when he visited the Station "the following year," he could not find his letter in KFBK's public file. Without more information, the Station is unable to determine whether it received the letter or whether it was properly placed in its public file.³ For example, Cowan does not indicate the date or time on which he visited the Station to inspect its public file or the "attendant" or anyone else with whom he dealt while at the Station.⁴ Furthermore, as "proof" of his having sent the letter, Cowan encloses an email he sent to his wife with an unsigned copy of the November 22, 2011 letter. Given these vague allegations and Cowan's lack of specificity, the Station can neither confirm nor deny—and Cowan fails to prove—that it received Cowan's letter and placed it in its public file.⁵

KFBK specifically, and iHM generally, take the Commission's public file rules very seriously. The Station has a designated Public File Director who is responsible for

violations by the licensee of the Act or Commission rules which, taken together, constitute a pattern of abuse.

³ Additionally, the individual to whom the November 2011 letter is addressed – Jeff Holden – is no longer with the Station or iHM.

⁴ Cowan does state that he accessed KFBK's public file via an "old computer that could not perform basic functions ... such as a search for my name or the subject of the letters on file." Going above and beyond what is required by the Commission's rules, iHM has established an electronic public file for each of its stations. These electronic public files can be accessed quickly and easily by members of the public via a designated computer "kiosk" located in each station's main studio. As to the computer kiosk used by KFBK during the 2011-2013 timeframe, the Station would not characterize the computer as "old." Although not "new," the computer functioned as necessary and was maintained in good working order by Station engineers. Furthermore, the Commission's rules do not require public files to be searchable. 47 C.F.R. §73.3526.

⁵ Cowan's 2011 letter is not required to be in the Station's public file today. The FCC's rules require stations to retain letters and emails from the public for a period of three years from the date of receipt. 47 C.F.R. §73.3526(e)(9). KFBK regularly purges letters and emails from its public file three years after they are received in accordance with the FCC's rules.

the maintenance and upkeep of its public file. The Public File Director generally uploads letters and emails from the public the same day she receives them⁶ and sends quarterly reminders to Station staff asking them to send her any relevant letters or emails they may have received. In addition, iHM has established a group dedicated to ensuring the completeness of its stations' public files. The group, known as "Public File Help," conducts periodic audits of stations' public files and alerts stations to any deficiencies it identifies. Stations can also reach the group to ask questions via email.

Cowan asserts an additional basis for challenging KFBK's license renewal application: that the Station airs certain programming that Cowan finds objectionable. Specifically, Cowan alleges that "the local airwaves are essentially being used as a political tool of the Republican Party in Sacramento." Such an allegation is insufficient to demonstrate that renewal of KFBK's license would be inconsistent with Section 309(k).

KFBK's programming consists of news and conservative talk programming, including local morning and afternoon newscasts, Rush Limbaugh, and Pat Walsh. As the Commission has long recognized, its "role in overseeing programming content is very limited." The deference that the FCC affords to the editorial discretion of broadcast licensees is founded on the First Amendment and section 326 of the Act, which "prohibit the Commission from censoring program material and from interfering with broadcasters' freedom of expression." Moreover, the prohibition on censorship is applied most strenuously to "news and comment programming"—the very type of programming at

⁶ Program Directors and other station personnel who are likely to receive correspondence are instructed to forward letters and emails to the Public File Director.

issue here—because it lies “at the core of speech which the First Amendment is intended to protect.” As the Bureau has explained:

The Commission will not take adverse action on a license renewal application based upon the subjective determination of a listener or group of listeners as to what constitutes appropriate programming. Licensees have broad discretion—based on their right to free speech—to choose, in good faith, the programming they believe serves the needs and interests of their communities. This holds true even if the material broadcast is insulting to a particular minority or ethnic group in a station’s community. Indeed, as we have held in earlier decisions, “if there is to be free speech, it must be free for speech that we abhor and hate as well as for speech that we find tolerable and congenial.”⁷

Although Cowan objects to the nature of KFBK’s programming, the Commission has made clear that it will intervene only where a licensee has abused its discretion. iHM has not done so here.

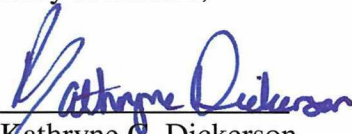
⁷ *Citicasters Licenses, L.P.*, 22 FCC Rcd 19324, 19331 (2007) (footnotes and citations omitted); *see, e.g., Greater Boston Radio, Inc.*, 19 FCC Rcd at 13064-65 (rejecting complaints alleging that station should be subject to enforcement action due to talk show host’s statements that “advocated dropping bombs in the Middle East to kill Muslims”); *Anti-Defamation League of B’nai B’rith*, 4 FCC 2d 190, 191 (1966) (denying Petition to Deny alleging that station aired anti-Semitic material, stating that “[t]he issue presented here is not whether the broadcasts in question were proper, or were false and defamatory, or were anti-Semitic,” because those “are not legal issues that are properly before the Commission,” and that any other result would have the agency “becom[e] the censor of broadcasting, which it is forbidden to do”), *aff’d sub nom. Anti-Defamation League of B’nai B’rith v. FCC*, 403 F.2d 169 (D.C. Cir. 1968), cert. denied, 394 U.S. 930 (1969).

As established above, neither of Cowan's allegations are sufficient to demonstrate any violations of the Communications Act, the FCC's rules, or otherwise raise a question under section 309(k) as to the grantability of KFBK's license renewal application. Accordingly, the Commission should dismiss the Objection and promptly grant the application.

Respectfully submitted,

Dated: June 19, 2015

By:



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DECLARATION OF JOHN GEARY

I, John Geary, do hereby declare under penalty of perjury that:

1. I am the Market President for radio station KFBK(AM),
Sacramento, California.

2. I have read the foregoing "Opposition to Informal Objection"
responding to the Informal Objection filed by Harry Cowan. The facts contained within
the Opposition are, to the best of my knowledge, information and belief formed after
reasonable inquiry, true and correct.

June 18, 2015

A handwritten signature in green ink, appearing to read "John Geary", is written over a horizontal line.

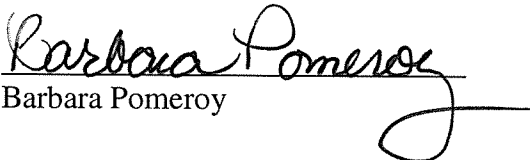
John Geary

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Certificate of Service

I, Barbara Pomeroy, a secretary in the law firm of Wiley Rein LLP, do hereby certify that I have on this 19th day of June 2015, caused a copy of the foregoing "Opposition to Informal Objection" to be served by First Class U.S. Mail, postage prepaid, upon the following:

Harry Cowan
Box 212
Mount Aukum, CA 95656


Barbara Pomeroy