



**Federal Communications Commission
Washington, D.C. 20554**

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In Reply Refer to:
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Dawn M. Sciarrino, Esq.
Sciarrino & Shubert, PLLC
5425 Tree Line Dr
Centreville, VA 20120

Ernest T. Sanchez, Esq.
The Sanchez Law Firm, P.C.
1155 F Street, NW, Suite 1050
Washington, DC 20004

David C. Kifuri
701 Lava Point Dr
Saint George, UT 84770

In re: **KEGH(FM), Woodruff, Utah**
Facility ID No. 21607
File No. BALH-20150713ABQ

KEGH-FM1, Ogden, Utah
Facility ID No. 197795
File No. BALFTB-20150713ABR

KEGH-FM2, Bountiful, Utah
Facility ID No. 197794
File No. BALFTB-20150713ABS

KEGH-FM3, Salt Lake City, Utah
Facility ID No. 197793
File No. BALFTB-20150713ABT

KEGH-FM4, Provo, Utah
Facility ID No. 197792
File No. BALFTB-20150713ABU

**Applications for Assignment of Licenses
Informal Objections**

Dear Counsel:

We have before us the above-referenced applications (Applications) for consent to the proposed assignment of the licenses for FM station KEGH(FM), Woodruff, Utah, and four associated FM booster stations, from SLC Divestiture Trust II (Jim Burgoyne, Trustee) (SLC Trust) to AASAA Media LLC

(AASAA). Also before us are informal objections filed by: (1) Mario Ramirez (Ramirez), on September 28, 2015 (Ramirez Objection); (2) Manuel Aguayo (Aguayo), on September 28, 2015 (Aguayo Objection); (3) Adriana Espinoza (Espinoza), on September 28, 2015 (Espinoza Objection); (4) Geovanna Martinez (Martinez), on September 29, 2015 (Martinez Objection); and (5) David C. Kifuri (Kifuri), on October 28, 2015 (Kifuri Objection) (collectively, the Objections). On December 14, 2015, AASAA filed an opposition to the Kifuri Objection (Opposition), to which Kifuri filed a reply on the same day (Reply). For the reasons set out below, we deny the Objections and grant the Applications.

Background. The proposed assignee, AASAA, is a limited liability company organized under the laws of the state of Nevada. Its managing member is Nicolas Vicente (Vicente), with 70 percent of the equity and voting interest in the company.¹ The remaining members are Jorge Copado, Luis Copado, and Jose Soto, each with 10 percent of the equity and voting interest in AASAA.

Each of the Objectors describe making a personal loan to Vicente for a substantial sum of money, generally in connection with an investment in a radio property, which was never repaid.² The Objectors oppose the Applications on the ground that Vicente is “not a loyal or faithful person,” a “crook, thief and liar,” “not very honest,” and “not a good person [who] has not been ethical in his dealings.”³ Espinoza and Ramirez state that they have unsatisfied court judgements against Vicente and provide case numbers to identify these proceedings.⁴ In addition, Kifuri claims that Vicente, as the principal of licensee Inca Communications, Inc. (Inca), has been operating cancelled station DKXOL, Brigham City, Utah (DKXOL), “on a continuous basis since its license cancellation, in flagrant violation of FCC rules.”⁵

In its Reply, AASAA states that none of the Objections were timely filed or served on other parties, in violation of Section 309(d) of the Communications Act of 1934, as amended (Act).⁶ It also argues that the Kifuri Opposition does not meet the requirement under Section 309(d) that a petition to deny be supported by affidavit of a person with personal knowledge of the facts alleged. Regarding Kifuri’s substantive objections, AASAA contends that the Commission is not the proper forum to resolve private disputes, which must be dealt with in a court of competent jurisdiction.⁷ AASAA claims that “[t]he Commission has stated that it will not even consider non-adjudicated, non-FCC related conduct in

¹ Applications at Section III, Question 4.

² Ramirez Objection at 1 (describing that he made a loan to Vicente of “over \$60,000 . . . Mr. Vicente said that I would be an owner of 1660 [DKXOL] and receive 20% of the revenue from the station in Ogden and there is no license that I can find now”); Martinez Objection (“[U]ntil this day he still owes me money”); Espinoza Objection (“Many years ago Nicolas came to me and said that he wanted to buy [KXOL] and that he wanted me to be his partner . . . He got the station and never made me a partner . . . He took all of my life savings . . . The judge awarded me \$210,000 but Nicolas cannot be found. There are many other people he has done this to.”); Aguayo Objection (“Nick Vicente owes me money from May 2008 in the amount of \$40,000 . . . [he] has no intentions of paying me back the money . . . he has the custom of asking for loans and disappearing.”).

³ Aguaya Objection at 1; Martinez Objection at 2; Ramirez Objection at 1; Kifuri Objection at 2, respectively.

⁴ Espinoza Objection, Attachment; Ramirez Objection, Attachment.

⁵ Kifuri Objection at 2. Kifuri also makes the unsupported assertion that an earlier STA request by Inca was not due to interference concerns, as stated, but actually because station KXOL was “not financially viable.” *Id.*

⁶ Opposition at 1-3; 47 U.S.C. § 309(d) (Section 309(d)).

⁷ Opposition at 3 (citing *John R. Runner, Receiver*, Memorandum Opinion and Order, 36 RR 2d 773, 778 (1976); *Decatur Telecasting, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 8622 (1992)).

assessing a licensee's qualifications."⁸ AASAA also disputes Kifuri's claim of unauthorized operations at station DKXOL.

Discussion. Procedural issues. The Objections were filed after the deadline for filing a petition to deny the Applications⁹ and are therefore procedurally unacceptable as petitions to deny.¹⁰ However, we will consider them as informal objections to the Applications pursuant to Section 73.3587 of the Rules.¹¹

Substantive issues. Section 309(d)(1) of the Act provides a two-step analysis for judging the adequacy of the Objections.¹² We must first determine whether the Objections contain specific allegations of fact that, if true, would demonstrate that grant of the Applications would be *prima facie* inconsistent with the public interest.¹³ If so, we next examine and weigh all the evidence presented, to determine whether "a substantial and material question of fact" is presented,¹⁴ *i.e.*, "whether the totality of the evidence arouses a sufficient doubt on the point that further inquiry is called for."¹⁵ We also determine whether grant of the Applications would serve the public interest.¹⁶

Although the Objections contend that Vicente, the managing member of AASAA, has defaulted on personal debts, and provide some support for this claim, we find that this conduct does not fall within one of the enumerated categories that we consider when assessing a potential licensee's character qualifications. For non-FCC-related misconduct—*i.e.*, conduct that does not violate Commission rules and policies—we consider only adjudications relating to: (1) fraudulent statements to government agencies; (2) certain criminal convictions; and (3) violations of broadcast-related anti-competitive and antitrust statutes.¹⁷ None of these categories apply here. We also find that the alleged unpaid debts owed by Vicente as an individual do not necessarily affect the financial qualifications of AASAA, a limited liability company, to purchase and operate the Station. Therefore, we accept at face value AASAA's certification that "sufficient net liquid assets are on hand or are available from committed sources to consummate the transaction and operate the station(s) for three months."¹⁸ Regarding Kifuri's contention that Vicente, through a separate corporate licensee, Inca, has been illegally operating cancelled station DKXOL, we find that this issue is more appropriately addressed in the context of Inca's pending appeal

⁸ Opposition at 2 (citing *WQED Pittsburgh*, Memorandum Opinion and Order, 15 FCC Rcd 202, 205-6 (1999)).

⁹ The Assignment was filed on July 13, 2015, and placed on public notice on July 16, 2015. See *Broadcast Applications*, Public Notice, Report No. 28532 (MB Jul. 16, 2015). Petitions to deny were thus due on August 17, 2015. 47 CFR § 73.3584(a) (requiring petitions to deny an assignment application to be filed 30 days after issuance of a public notice of the acceptance for filing of the applications).

¹⁰ Because we find that the Objections were untimely, we need not address other possible procedural infirmities.

¹¹ 47 CFR § 73.3587 (permitting informal objections to be filed, signed by the objector, at any time prior to grant of the relevant application).

¹² 47 U.S.C. § 309(d)(1).

¹³ *Id.*; See also *Citizens for Jazz on WRVR v. FCC*, 775 F.2d 392, 395 (D.C. Cir. 1985) (*Citizens for Jazz*).

¹⁴ 47 U.S.C. § 309(d)(2).

¹⁵ *Citizens for Jazz*, 775 F.2d at 395.

¹⁶ 47 U.S.C. § 309(a); see also *Astroline Communications Co. v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988).

¹⁷ *Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, 102 FCC 2d 1179, 1195, para. 34 (1986) (*Character Qualifications Policy Statement*).

¹⁸ Applications, Section III, Question 10.

of the cancellation of the DKXOL license.¹⁹ For these reasons, we will deny the Objections and grant the Applications.

Conclusion/Actions. We find that the Objectors fail to provide the necessary specific allegations of fact to make a *prima facie* case that grant of the Applications would be inconsistent with the public interest. We further find that the Objectors have not raised a substantial and material question of fact warranting further inquiry, and that grant of the Applications is consistent with the public interest, convenience, and necessity. Accordingly, IT IS ORDERED, that the Objections filed by Mario Ramirez on September 28, 2015, Manuel Aguayo on September 28, 2015, Adriana Espinoza on September 28, 2015, Geovanna Martinez on September 29, 2015, and David C. Kifuri on October 28, 2015, ARE DENIED.

IT IS FURTHER ORDERED, that the Applications to assign the licenses of stations (1) KEGH(FM), Woodruff, Utah (File No. BALH-20150713ABQ); (2) KEGH-FM1, Ogden, Utah (File No. BALFTB-20150713ABR); (3) KEGH-FM2, Bountiful, Utah (File No. BALFTB-20150713AB); (4) KEGH-FM3, Salt Lake City, Utah (File No. BALFTB-20150713ABT); and (5) KEGH-FM4, Provo, Utah (File No. BALFTB-20150713ABU), from SLC Divestiture Trust II (Jim Burgoyne, Trustee) to AASAA Media LLC, ARE GRANTED.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

¹⁹ See File No. BR-20130603AMT (petition for reconsideration filed by Inca on Sept. 16, 2015).