



Federal Communications Commission
Washington, D.C. 20554

April 12, 2017

Michael Couzens, Esq.
Michael Couzens Law Office
6536 Telegraph Avenue, Suite B201
Oakland, CA 94609

Re: K43AG-D, Edwards, CA
Facility ID No. 34284
File No. BRDTL-20140731ARX

Dear Counsel,

This letter refers to the above captioned UHF digital low power television station, licensed to Iglesia Jesucristo Es Mi Refugio, Inc. (JEMIR), and the associated application for renewal. On October 31, 2014, Jose Gonzalez, by his attorney, filed an informal objection against granting JEMIR's application for renewal. On March 24, 2016, Jose Gonzalez, by his attorney, requested withdrawal of his informal objection. In his request, Jose Gonzales states that his withdrawal complies with the requirements of Section 73.3588 of the Commission's rules¹ and that he has neither received nor will he receive any consideration in connection with the request for withdrawal.

Accordingly, we **GRANT** the request for withdrawal and **DISMISS** the informal objection.

Sincerely,

A handwritten signature in black ink, appearing to read "Hossein Hashemzadeh".

Hossein Hashemzadeh
Deputy Chief, Video Division
Media Bureau

Cc:
Iglesia Jesucristo Es Mi Refugio, Inc.
2929 S. Westmoreland Rd.
Dallas, TX 75233-1315

Dan J. Alpert, Esq.
The Law Office of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201

¹ 47 C.F.R. 73.3588.

MICHAEL COUZENS

ATTORNEY AT LAW

6536 TELEGRAPH AVENUE, SUITE B201

OAKLAND, CALIFORNIA 94609

TELEPHONE (510) 658-7654

FAX NO. (510) 654-6741

ADMITTED IN
CALIFORNIA AND IN THE
DISTRICT OF COLUMBIA

MAILING ADDRESS
POST OFFICE BOX 3642
OAKLAND, CALIFORNIA 94609
e-mail cuz@lptv.tv
www.lptv.tv

Accepted / Filed

March 24, 2017

MAR 24 2017

Federal Communications Commission
Office of the Secretary

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street S.W.
Washington, D.C. 20554

Re: **Withdrawal of Petition to Deny**

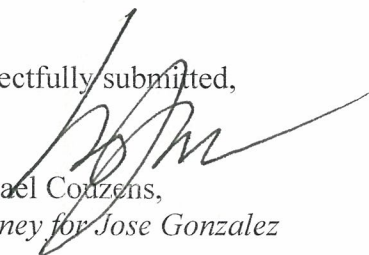
BRDTL-20140731ARX
K43AG-D, Edwards, CA
Facility ID No. 34284

Dear Ms. Secretary:

Jose Gonzalez, by his attorney, hereby dismisses the petition to deny the renewal referenced above, submitted on October 31, 2014.

In conjunction with this dismissal and pursuant to Section 73.3588 of the Rules and Regulations, the petitioner certifies in Attachment A that no money or other consideration has been promised or will be paid in exchange for this dismissal.

Respectfully submitted,


Michael Couzens,
Attorney for Jose Gonzalez

cc. Hossein Hashemzadeh
Evan Morris

CERTIFICATION

I, Jose Gonzalez, make the following declaration.

1. As an individual party I submitted informal objections at the Federal Communications Commission, with respect to the following applications:

BALDTL-20160301ABS
BALDTL-20160301ABT
BALDTL-20160209ABU
BALDVL-20160526ACZ

Additional I filed a petition to deny the following application:

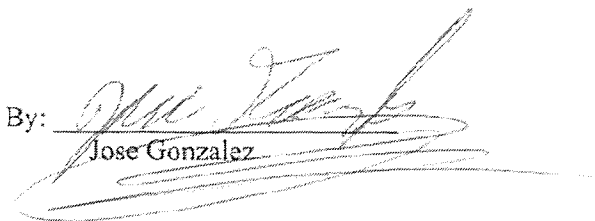
BRDTL-20140731ARX.

2. I have instructed my attorney to dismiss the petition and all such objections. I certify that I have not received nor been promised any money or other valuable consideration in exchange for the dismissal of these items.

The foregoing is certified, under the penalties for perjury provided in the laws of the United States.

Dated: March 23, 2017

By:


Jose Gonzalez

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re: application of

IGLESIA JESUCRISTO ES MI REFUGIO, INC.) BRDTL-20140731ARX
NETWORK, INC.)
)
for renewal of license of K43AG-D,) Facility ID 34284
Edwards [or Victorville], CA)
)

To: Chief, Video Division, Media Bureau

PETITION TO DENY

Jose Gonzalez (Petitioner), by his attorney, here petitions to deny the application for renewal of K43AG. This petition is filed pursuant to Section 309(d) of the Communications Act, 47 U.S.C. Sec. 309(d) and Section 1.939 or 73.3584(b) of the Commission's Rules and Regulations.

Unauthorized and undisclosed assignment. Petitioner is a plaintiff in a law suit filed in Superior Court for the County of Los Angeles, *Jose Gonzalez et al. v. Iglesia Jesucristo Es Mi Refugio, Inc.* (IJMR”), *et al.*, No. BC 501 688. As alleged in the verified second amended complaint filed on March 14, 2014, IJMR and Hispanic Christian Community Network, Inc. (“HCCN”) and their principals entered into an agreement to sell two low power television broadcast stations, K43AG and KSSY-LP, to a group of Hispanic ministers in Southern California. The sale was materially based on false representations made by the the sellers that they would be able to move these stations to Mount Wilson and secure effective television broadcast coverage throughout Los Angeles.

Attachment A herewith includes an accounting furnished during discovery by defendant HCCN or Antonio Cesar Guel. It shows payments for the purchase of Channel 43, Ridgecrest, from November 15, 2006, through April 24, 2007, totaling \$420,500. Petitioner does not agree that this constituted the total amount remitted by him and others in the purchase, and intends at trial to show additional payments. But this is is a record produced by defendants and should be credited as probative evidence. It raises a substantial and significant qualification issue as to whether or not the licensee was violating Section 310(d) of the Communications Act, 47 U.S.C. Sec. 310(d), by making a sale of a license, or of rights in K43AG, without application to the Commission, and without Commission approval therefor. Commission records show that no application for assignment has been filed, nor any other notification to the Commission given that the station was being sold, during 2006, or 2007, or after.

The stations were not moved to Los Angeles and, as related in the complaint, the pastors became increasingly frustrated by the lack of progress. They held two meetings with the defendants in Dallas, Texas, and finally secured a specific pledge: Attachment B. This written agreement, on letterhead of licensee and renewal applicant here IJMR, dated February 11, 2011, promised that at least one station¹ would be moved to Los Angeles by January 1, 2012. Otherwise the money advanced for the stations (as alleged in the complaint, approximately \$1,200,000) would be refunded. The stations were not moved. No money has been refunded to this day. And the Commission can determine from its own records that it was not informed of any assignment of license or of any rights to a licensed station. The complaint alleges, among other things, breach of contract and fraud.

Plaintiffs in the law suit are not seeking specific performance, indeed they seek rescission of any contract that may be in existence. The prices for these stations were an order of magnitude above what the defendants had very recently paid for them. Punitive damages are being sought, based on evidence that will be produced to show that the defendants continually misrepresented the progress of their station moves, and never intended to refund the monies taken. The entire unauthorized "sale" was a scheme to defraud. The Commission should designate this application for hearing to determine whether or not IJMR made disqualifying misrepresentations and non-disclosures with respect to this station sale. At a minimum the Commission should stay action on this renewal until the allegations in Superior Court have been fully litigated. The case is set for final status conference on March 12, 2015, with a jury trial to follow beginning on March 26, 2015.

False certification of rule compliance. In this renewal application IJMR certified that, with respect to the station for which renewal is requested "there have been no violations by the licensee of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term." Section II, Question 4, answered "Yes."

Attachment C hereto is a copy of a staff letter, dated August 13, 2009, with Notice of Apparent Liability for Forfeiture. The letter found, p. 2, that "Iglesia improperly certified in its license application that the station was constructed and operating consistently with the terms and condition of its construction permit." It also operated the station "at variance from its authorization," for three months, until it got caught, Id. The staff held that the "false certification" was "willful." Although the staff ruled that a substantial question of qualification had not been raised, requiring a hearing, that

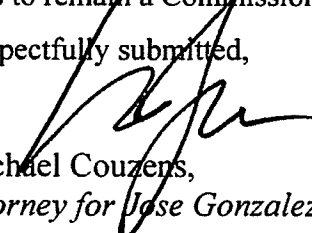
¹ The other station, KSSY-LP Facility ID 19734, had been dark for more than a year, and the license was canceled and call sign deleted, pursuant to 47 U.S.C. Sec. 312(g), by staff letter to IJMR, copy to regulatory counsel, dated August 6, 2010. So by the time of the February 2, 2011, promise to the investors, the defendants knew that only K43AG could be offered to move or to do anything.

finding might have been quite different had the staff known that the licensee had previously accepted \$420,500.00 in a "sale" of the station without informing the Commission. And indeed, plaintiffs allege that the purpose of the phantom move in 2008, where IJMR got caught not constructing, was to create for the buyers a false impression of progress toward moving the station to Mount Wilson. Incredibly, Guel paid the \$5,000 fine for IJMR, then billed it to the plaintiffs as a cost of the project, and got reimbursed by them. Documentation of this reimbursement will be supplied to the Commission upon request.

It would be futile to assume or argue that that the response here to Section II, Question 4, was anything but a knowing and deliberate falsehood. The NAL there started with a demand for information, by certified letter dated February 12, 2009. Counsel for IJMR made a detailed response in writing. The NAL was forwarded to Roberto Gomez, President of IJMR, by certified letter with copy to counsel. And as mentioned, the fine was paid. If these facts do not establish a pattern of knowing false statements to the Commission under oath, it is hard to see what would.

Conclusion. For the reasons set forth, this application to renew the license of K43AG should be designated for hearing, to determine (a) whether the licensee made or attempted a sale of the station, receiving and refusing to return at least \$420,500, and disclosing nothing of this to the Commission; (b) whether the licensee knowingly failed in the renewal application to disclose an adjudicated instance of willful misrepresentation to the Commission; and (c) based on the facts adduced, whether licensee IJMR possesses the qualification of character and other qualifications to remain a Commission licensee.

Respectfully submitted,


Michael Couzens,
Attorney for Jose Gonzalez

Michael Couzens Law Office
6536 Telegraph Avenue, Suite B201
Oakland, CA 94609

Tel. (510) 658-7654
Fax (510) 654-6741
cuz@well.com

October 31, 2014

Attachment A.

DECLARATION OF MICHAEL COUZENS

I am an active member of the bar of State of California and of the District of Columbia. I am counsel for plaintiffs in the case of *Jose Gonzalez et al. v. Iglesia Jesucristo Es Mi Refugio, Inc. et al.*, Los Angeles County Superior Court No. 501688. In the course of that litigation, I served a document demand on defendants Hispanic Christian Community Network, Inc. and Antonio Cesar Guel. In response to that demand, I received, among other things, the attached accounting of purchase money for the sale of Station K43AG, Ridgecrest, California. The number "26" on the document is a notation by defendants (or counsel) in their document return. The sticker, Exhibit 8, was affixed by the reporter when counsel for the defendants produced the item again, at the deposition of Jose Gonzalez, identified it, and had it included in Mr. Gonzalez' deposition transcript.

The foregoing is sworn to under the penalties for perjury provided in the laws of the United States.

Dated: October 31, 2014

By: _____


Michael Couzens

MICHAEL COUZENS
ATTORNEY AT LAW
POST OFFICE BOX 3642
OAKLAND, CA 94609
510-458-7854

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for Ricardo Escobedo

Lakewood - Del Amo

(aparte del down pymnt)

\$230,000.00 = 1/1/07
25 pagos de 10,000.00
1ero de cada mes

EXHIBIT 8
3 Pages / 11
7/30/14 / 8769

AL 43	RIDGECREST, CA				\$550,000.00				
DATE	DESCRIPTION OF TRANSACTION	C	DEBIT(-)	CREDIT(+)	BALANCE				
					\$550,000.00				\$550,000.00
11/15/2006	Wire Transfer - Wachovia	PAID		\$70,000.00	\$480,000.00				\$480,000.00
2/20/2007	Wire Transfer - Compass	Paid		\$13,000.00	\$467,000.00				\$467,000.00
2/5/2007	Wire Transfer - Compass (David Gomez)	Paid		\$30,000.00	\$437,000.00				\$437,000.00
3/8/2007				\$10,000.00	\$427,000.00				\$427,000.00
3/9/2007				\$20,000.00	\$407,000.00				\$407,000.00
3/9/2007				\$10,000.00	\$397,000.00				\$397,000.00
3/9/2007				\$10,000.00	\$387,000.00				\$387,000.00
3/20/2007				\$10,000.00	\$377,000.00				\$377,000.00
3/23/2007				\$2,500.00	\$374,500.00				\$374,500.00
4/4/2007	Wire Transfer - Compass	Paid		\$10,000.00	\$364,500.00				\$364,500.00
4/9/2007	Wire Transfer - Compass	Paid		\$10,000.00	\$354,500.00				\$354,500.00
4/24/2007	Wire Transfer - Compass	Paid		\$225,000.00	\$129,500.00				\$129,500.00
				\$420,500.00					\$420,500.00

IGLESIA JESUCRISTO ES MI REFUGIO, INC.

2929 S Westmoreland Rd, Dallas, TX 75233
214-330-8700

Dallas, February 2, 2011

To:
INVESTORS
COMIZION T.V.

Through this letter we direct to the Investors of Comizion TV


The down signatories by common consent through the present we declare our desire to comply with the negotiation that have with you with regard to the channels 20 Arroyo Grande, CA and 43 Ridgecrest, CA.

By this means, we request, the following proposal:

0. We request an extension of one year or less to resolve this negotiation.
1. During this period of time, we will pursue that at least one of the TV channels arrive to Los Angeles, CA., as been agreed.
2. At the same time, we are putting for sale, channel 18 KPFW-LP in Dallas, TX and several other television channels frequencies that belong to us in the state of Texas, in order to refund the money, in case of failure to achieve the movements of the channels mentioned above by January 1, 2012.
3. Another option is an exchange of any channel that arrives at Los Angeles, CA, belonging to our company HFCN, Inc., that will be subject to previews negotiation and agreement with you.
4. We are sending this letter in good faith, declaring our desire of solving and concluding with this negotiation.

Cordially,


Pastor Roberto Gomez


Antonio C. Guel



Federal Communications Commission
Washington, D.C. 20554

DA 09-1785
Released: August 13, 2009

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Roberto Gomez, President
Iglesia Jesucristo Es Mi Refugio, Inc.
2929 S. Westmoreland Rd.
Dallas, Texas 75233

Re: K43AG, Ridgecrest, CA
File No. BTTL-20081222ABE
Facility ID No. 34284
NAL/Acct. No. 0941420011
FRN: 0013086228

Dear Licensee:

This letter constitutes a NOTICE OF APPARENT LIABILITY FOR A FORFEITURE against Iglesia Jesucristo Es Mi Refugio, Inc. (Iglesia), licensee of the above-captioned station, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"), under authority delegated to the Chief, Media Bureau, by Section 0.283 of the Commission's Rules, 47 C.F.R. §0.283. As set forth herein, we find and Iglesia admits that it engaged in unauthorized construction and operation of K43AG in violation of Section 73.1745 of the Commission's Rules and made false certifications in violation of Section 73.1015 of the Commission's Rules.

On December 22, 2008, Iglesia filed the above-captioned application for a license to cover construction of facilities.¹ That application was granted on January 12, 2009. However, after receiving a complaint that the station was not constructed, on February 12, 2009, we rescinded the grant of the license application and directed the licensee to provide more specific information concerning the alleged construction and operation of the station.

On March 6, 2009, Iglesia responded to the staff's inquiry. Therein, it relates that on or about December 16, 2008, a tower crew working on its behalf went to the coordinates specified in the construction permit, but did not find a pre-existing 60-meter tower upon which the station's antenna was to be placed. According to Ray Cantu, one member of the tower crew whose Declaration was submitted with Iglesia's response, there was no existing tall tower at the specified coordinates, but rather a number of smaller towers approximately 30 meters in height he later learned were cell phone towers. Mr. Cantu further states that he believed that the specification of an existing sixty meter tower was a mistake, and assumed that an unidentified tower nearby was the correct location. Overall construction of the facilities took place over two days, and the station's antenna was placed at a height of approximately 20 meters on the tower

¹ See BPTTL-20080114ACV.

on the existing tower selected by Mr. Cantu.² Moreover, Mr. Cantu states that after his crew completed construction, they confirmed that the station was operating properly.³ Mr. Cantu states that he informed Iglesia that the station was operating from the new location, but that he did not inform the licensee of the tower discrepancy.

Based on the belief that the station legally commenced broadcast operations, a license application was prepared and filed with the Commission. Iglesia states that the station operated intermittently from December 2008 until receipt of the Commission's February 12, 2009 letter, when operations from that location were permanently discontinued, and the station was moved back to the site specified in its outstanding license.⁴

Iglesia further reports that it subsequently learned that the 60-meter tower specified in the modification application was never built by its owner because terms could not be reached for the use of the land. Therefore, although the station was constructed and placed in operation at the location specified in the subject construction permit, it was not constructed on the proper tower or at the proper height.

Finally, Iglesia states that because the tower specified in the subject construction permit is no longer available, that facility will not be constructed. It therefore requests that the outstanding construction permit be cancelled and the above-captioned application for a license to cover construction be dismissed.⁵

Discussion. Based on the above admissions, it is now apparent that Iglesia improperly certified in its license application that the station was constructed and operating consistently with all the terms and conditions of its construction permit. Section 73.1015 of the Commission's Rules requires, in pertinent part, that "[n]o applicant . . . shall . . . in any application, pleading, or report or any other written statement submitted to the Commission, make any misrepresentation or willful omission bearing on any matter within the jurisdiction of the Commission."⁶ In addition, it is also apparent that Iglesia operated the subject station at variance from its authorization between December 2008 and February 2009. Section 73.1745 of the Commission's Rules states that no broadcast station shall operate at times, or with modes or power, other than those specified and made part of the license.⁷

² Mr. Cantu also states that it is his normal practice to take pictures of the construction of the station. Those pictures were submitted in the Iglesia's March 6, 2009 submission.

³ Mr. Cantu states that he confirmed that the station's signal was being received by local residents by turning on a television set to Channel 43. Iglesia has also provided letters from area residents confirming that the station was operating as represented.

⁴ BLTTL-20071206AAM.

⁵ Iglesia further advises that an application for a new site for modification of K43AG will be filed shortly.

⁶ See also Section 1.17(a)(2) of the Commission's Rules, 47 C.F.R. §1.17(a)(2).

While the false certification of the subject license application and unauthorized operation of K43AG was willful (as discussed more fully below), Iglesia's actions in this regard do not rise to the level of a pattern of misconduct so as to warrant exploration of its conduct in an evidentiary hearing. In this regard, we find that a substantial and material question of fact has not been raised with respect to Iglesia's qualifications to remain a Commission licensee. We believe, however, that Iglesia should be sanctioned for its false certification, and that a monetary forfeiture should be imposed for the apparent violation of Section 73.1015 of the Commission's Rules. Moreover, we also believe that Iglesia should also be sanctioned for its operation of K43AG at variance from its authorized parameters without prior Commission approval between December 2008 and February 2009 in violation of Section 73.1745 of the Commission's Rules. Because K43AG did not exceed authorized parameters with its reduced facilities during that time, and because Iglesia took prompt corrective action when it learned of such unauthorized operation, we find that admonishment of the licensee is appropriate for the station's brief operation at variance.

Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80(a) of the Commission's Rules each state that any person who willfully or repeatedly fails to comply with the provisions of the Communications Act or the Commission's rules shall be liable for a forfeiture penalty. Iglesia's conduct in this regard was both "willful" and "repeated" within the meaning of Section 503(b)(1)(B) of the Communications Act and Section 1.80(a)(2) of the Commission's Rules. As the Commission has held, an act or omission is "willful" if it is a conscious and deliberate act or omission, whether or not there is any intent to violate the rule. *See Southern California Broadcasting Company*, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3453 (1992). Further, a continuing violation is "repeated" if it lasts more than one day. *Id.* at 4388.

In *Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission's Rules*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999), the Commission adopted guidelines for assessing forfeitures. However, these guidelines do not enumerate a base forfeiture amount for a willful material omission. Under these circumstances, the forfeiture amount must be assessed, taking into account the relevant statutory factors in Section 503(b)(2) of the Communications Act, including "the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require." Based on our assessment of these factors, we conclude that Iglesia's apparent violation of Section 73.1015 with respect to both K43AG's constructed facility warrants this Notice of Apparent Violation for Forfeiture in the amount of \$5,000 for this violation. *See WRKL Rockland Radio, L.L.C.*, 14 FCC Rcd 1042 (MMB 1999). In this case, we believe that this amount is appropriate given the circumstances in which the violations arose, as well as our admonishment for the brief unauthorized operation of K43AG, as discussed above.

⁷ Moreover, Section 73.1635 provides that special temporary authority (STA) must be sought to permit the operation of a broadcast facility for a limited period at variance from its authorization, and that authority must be received prior to the commencement of such operation.

Based on our review of the facts and circumstances as set forth above, IT IS HEREBY ORDERED, That pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.283, and 1.80 of the Commission's Rules, Iglesia Jesucristo Es Mi Refugio, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the total amount of five thousand dollars (\$5,000) for willfully and repeatedly violating Section 73.1015 of the Commission's Rules.

IT IS FURTHER ORDERED, That pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this Notice, Iglesia Jesucristo Es Mi Refugio, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank-Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).

The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau, and MUST INCLUDE the NAL/Acct. No. referenced above.

The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.⁸

Sincerely,

James J. Brown
Deputy Chief, Video Division
Media Bureau

cc: Dan J. Alpert, Esquire

⁸ See 47 C.F.R. § 1.1914.

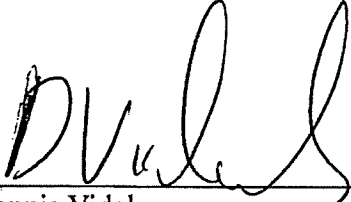
K43AG

CERTIFICATE OF SERVICE

I, Dennis Vidal, certify that copies of the foregoing Petition to Deny were served by First Class Mail, with postage fully prepaid, on October 31, 2014, to the following:

Barbara A. Kreisman, Chief
Video Division, Media Bureau
Federal Communications Commission
445 Twelfth Street S.W.
Washington, D.C. 20554

Dan J. Alpert
Law Office of Dan J. Alpert
2120 N. 21st Rd
Arlington, VA 22201


Dennis Vidal