

The Law Office of  
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March 16, 2017

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, DC 20554

**Re: Station KTSN(FM)**  
**Facility No. 174329**  
**Blowout, TX**

**KCTI-FM**  
**Facility No. 91220**  
**Gonzales, TX**

Dear Ms. Dortch:

Sun Radio Foundation ("Sun Radio"), by its attorney, hereby submits its **Response to the opposition filed by Texas Public Radio ("TPR")** to the Main Studio Waivers filed by Sun Radio Foundation, licensee of Station KCTI-FM and Station KTSN. With respect thereto, the following is stated:

Sun Radio filed a request for Main Studio Waivers with respect to Stations KTSN(FM) and KCTI-FM. Sun Radio has shown that its request is in accord with Commission precedent, and is in the public interest. TPR has provided no information indicating that Sun Radio is not eligible for grant of the Main Studio Waiver.

Instead, TPR raises an irrelevant matter that currently is pending before the Television Branch with regard to the assignment of Call Sign KCTI-FM. As established in the proceeding before the Television Branch (i) the request for the call sign "KCTI-FM" was appropriately requested on behalf of the President of Maranatha Church of Laredo, who was at that time (February 29, 2016) the licensee of Facility No. 91220 (ii) that prior licensee received *written permission* to request the call sign change from a representative of Gonzales Communications which, at the time (February 29, 2016) Gonzales Communications was still the licensee that possessed rights to convey permission to share use of the underlying call sign "KCTI"<sup>1</sup>; (iii) the request for change of the call sign to "KCTI-FM" thereafter was submitted (March 1, 2016) by

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<sup>1</sup> See Attachment 1.

Maranatha Broadcasting of Laredo<sup>2</sup> and was assigned (on March 8, 2016) even before Sun Radio became licensee of the Station on May 11, 2016, and before TPR became licensee of KCTI(AM) (September 28, 2016); (iv) *Public Notice* of the Commission action granting the call sign assignment request was issued on April 7, 2016<sup>3</sup>; and (v) no opposition was timely filed requesting reconsideration of the call sign assignment. Consequently, that call sign assignment now is final.<sup>4</sup> Insofar as TPR was not the owner of KCTI(AM) at the time the call sign change was requested, TPR was not a party to the conversations or to the consent given for the call sign. Moreover, TPR has failed to provide any affidavits, or else Declarations under penalty of perjury contesting these facts, or questioning the legal authority under Texas State Law for Mr. Oakes or Gonzales Communications to have granted the consent. Therefore, TPR has presented no first-hand knowledge or legal opinion sufficient to validly call into question the adequacy of the call sign consent. Moreover, there was an agreement that was reached between Gonzales Communications (the former licensee of KCTI(AM)) and TPR, whereby TPR was given a reduction of purchase price for Station KCTI(AM). The reason for the reduction? TPR specifically recognized and *acknowledged* in writing that the consent for use of the call sign “KCTI-FM” was indeed already given to Maranatha Church of Laredo/Sun Radio by Gonzales Communications before TPR became licensee!<sup>5</sup>

All of this, however, has absolutely nothing to do with the Main Studio Waiver. Regardless of the call sign under which Sun Radio ultimately operates, under Commission precedent Sun Radio is entitled to grant of the requested Main Studio Waivers, and the ongoing dispute should not delay processing of that request.

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<sup>2</sup> See Attachment 2.

<sup>3</sup> *Public Notice*, Report No. 589 (April 7, 2016) (“Media Bureau Call Sign Actions”). Attachment 3.

<sup>4</sup> TPR claims that Commission action assigning the call sign was a “ministerial error.” TPR’s claim is contrary to Commission precedent and the Commission’s definition of “ministerial error.” As the Commission has stated:

[The] authority to revisit final actions is limited. It extends only to the correction of clerical or administrative errors that underlie or occur in the process of taking an action, such as a mathematical miscalculation, or a license that omits or misstates a frequency, or a document that omits an intended party or provision. The taking of an erroneous action, itself, is not generally a ministerial error that can be corrected after the 30-day period has elapsed under 47 C.F.R. §1.113(a).

*County of San Mateo, California*, 16 FCC Rcd 16501, 16503-04 ¶¶ 7-8 (2001) (footnotes omitted). No actionable “ministerial error” is present in this case to be corrected.

<sup>5</sup> See Attachment 4 (email from Joyce Slocum dated July 27, 2016, acknowledging that it was her interpretation that Gonzales Communications had “given away the call sign” and therefore TPR deserved “an adjustment to the purchase price”); Attachment 5 (email from Steven Oakes dated October 4, 2016, acknowledging that the purchase price was reduced for the sale of Station KCTI(AM) by “\$10,000 to give [Maranatha and Sun Radio] permission to use KCT[I] FM”).

For all of these reasons, the request of Sun Radio Foundation for grant of its Main Studio Waivers should be granted expeditiously.

Very truly yours,

Dan J. Alpert

*Counsel for Sun Radio Foundation*

cc: Michael Wagner, Esq., Media Bureau, Audio Division (via e-mail)  
Ms. Karen Workeman, Media Bureau, Audio Division (via email)

## ***Attachment 1***

**From:** Steven Oakes [<mailto:scoakes29@gmail.com>]  
**Sent:** Monday, February 29, 2016 1:54 PM  
**To:** [itellezsr@sbcglobal.net](mailto:itellezsr@sbcglobal.net)  
**Cc:** [dja@commlaw.tv](mailto:dja@commlaw.tv); Daryl O'Neal <[daryl@sunradio.com](mailto:daryl@sunradio.com)>  
**Subject:** KCTI AM Call Letters

To whom it may concern,

My name is Steven Oakes and I represent KCTI AM radio in Gonzales Texas. The ownership of KCTI AM has no intentions of using the KCTI call letters for an FM signal and therefore would not oppose the Sun Radio Foundation from using KCTI for their FM signal at 88.1 in Gonzales.

Steven C Oakes  
Mobile (512) 492-5417

## ***Attachment 2***



# Federal Communications Commission

## CHANGE REQUEST FORM

CALL SIGN	KITG	FACILITY ID	91220	SERVICE	FM
LICENSEE NAME	MARANATHA CHURCH OF LAREDO INCORPORATED				
MAILING ADDRESS	2707 PINE ST				
CONTINUED ADDRESS					
CITY	LAREDO	STATE	TX	ZIP	78046-
REQUESTED CALL SIGN	KCTI-FM	SERVICE	FM	EFFECTIVE DATE	03/08/2016
<input checked="" type="checkbox"/> The applicant submitting this request is authorized to certify that neither the licensee nor any shareholder, officer, or director thereof, is subject to a denial of federal benefits, including FCC benefits, pursuant to section 5301 of the ANTI-DRUG ABUSE ACT of 1988, 21 U.S.C. section 853(a).					
<input checked="" type="checkbox"/> The applicant submitting this request has obtained consent from the primary call sign holder to use the requested call sign.					

## APPLICANT/REPRESENTATIVE

NAME	Dan Alpert				
<input checked="" type="checkbox"/> Check here if applicant address is same as licensee (if you don't want to fill in below).					
ORGANIZATION	The Law Office of Dan J. Alpert				
STREET ADDRESS	2120 N. 21 Rd.				
CONTINUED ADDRESS					
CITY	Arlington	STATE	VA	ZIP	22201
PHONE	703	243	8690	E-MAIL ADDRESS	dja@Commlaw.tv
FRN: 0017023557			PASSWORD: .....		

[SUBMIT REQUEST](#)[RESET](#)[HELP](#)



**Federal Communications Commission**

**FCC CALL SIGN REQUEST RESULT**

CALL SIGN REQUEST #43099 has been submitted.

A change notification will be sent to the LICENSEE, the APPLICANT/REPRESENTATIVE , and the PRIMARY CALL SIGN HOLDER within 2-3 business days.

[HELP](#)



## ***Attachment 3***



# PUBLIC NOTICE

Federal Communications Commission  
445 12th St., S.W.  
Washington, D.C. 20554

News Media Information 202-418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

Report No. 589

Media Bureau Call Sign Actions

04/07/2016

During the period from 03/01/2016 to 03/31/2016 the Commission accepted applications to assign call signs to, or change the call signs of the following broadcast stations.

## Call Signs Reserved for Pending Sales Applicants

Call Sign	Service	Requested By	City	State	File-Number	Former Call Sign
KSMA	AM	AGM CALIFORNIA, INC.	SANTA MARIA	CA	BAL-20160302AES	KSMX

## New or Modified Call Signs

Row Number	Effective Date	Call Sign	Service	Assigned To	City	State	File Number	Former Call Sign
1	03/01/2016	KDMM	FM	RIVER RAT RADIO, LLC	PARKER STRIP	AZ	20150911AHR	New
2	03/01/2016	KKUT	FM	SANPETE COUNTY BROADCASTING CO.	MOUNT PLEASANT	UT		KUTC
3	03/01/2016	WSIQ	AM	NRG LICENSE SUB, LLC	SALEM	IL		WJBD
4	03/03/2016	KADM	FM	HOUSTON CHRISTIAN BROADCASTERS, INC.	ALPINE	TX	20071018AJM	New
5	03/03/2016	KINC-LP	FL	MULTICULTURAL EXPO CENTER	LITTLE ROCK	AR	20131114ANU	New
6	03/03/2016	KXZL-LP	FL	EMPOWERING KIDS	SAN ANTONIO	TX	20131114AAK	New
7	03/03/2016	WDYS	FM	GEOS COMMUNICATIONS	DUSHORE	PA		WNKZ
8	03/03/2016	WIAH-LP	FL	MOTHER OF THE REDEEMER RADIO	EVANSVILLE	IN	20131114AHR	New
9	03/03/2016	WVYS	FM	GEOS COMMUNICATIONS	RIDGEBURY	PA		WZKN
10	03/04/2016	KWCP-LP	FL	JOHN BARROW NEIGHBORHOOD ASSOCIATION	JOHN BARROW	AR	20131113AOI	New
11	03/07/2016	KHSV	DT	CHANNEL 33, INC.	LAS VEGAS	NV		KVMY

12	03/08/2016	KCTI-FM	FM	MARANATHA CHURCH OF LAREDO INCORPORATED	GONZALES	TX	KITG
13	03/08/2016	KDMD- LD	LD	DENVER DIGITAL TELEVISION, LLC	Cle Elum	WA	K06QH-D
14	03/09/2016	KCYM- LD	LD	DTV AMERICA CORPORATION	FORT DODGE	IA	K45MM-D
15	03/09/2016	KJAP-LP	FL	EDINGBURG TEMPLO BIBLICO PALABRA VIVIENTE	EDINGBURG	TX	20131113ABK New
16	03/09/2016	KJCD-LP	FL	RESTORATION RADIO MINISTRIES, INC	PINE RIDGE	SD	20131028AAR New
17	03/09/2016	KTIM	FM	AUSTIN AIR WAVES, INC.	ELLINGER	TX	20071015AID New
18	03/09/2016	WDTL	FM	DELTA RADIO NETWORK, LLC	INDIANOLA	MS	WNOU
19	03/09/2016	WEXI-LP	FL	THE TRUTH WILL SET YOU FREE INC.	HALLANDALE	FL	20131113AEU New
20	03/09/2016	WNOU	FM	FUSS, FENTY L	DREW	MS	WDTL
21	03/09/2016	WYCI	DT	CROSS HILL COMMUNICATIONS, LLC	SARANAC LAKE	NY	WNMN
22	03/10/2016	KYCW- LD	LD	GRAY TELEVISION LICENSEE, LLC	SPRINGFIELD	MO	K15CZ-D
23	03/10/2016	WCIS-FM	FM	FAMILY LIFE MINISTRIES, INC.	CLYDE	NY	WCOV-FM
24	03/10/2016	WWWO- LP	FL	POWER ONE MINISTRIES, INC.	MIAMI	FL	20131113BGK New
25	03/11/2016	KJTZ-LP	FL	ALAMEDA UNIFIED SCHOOL DISTRICT	ALAMEDA	CA	20131113BML New
26	03/11/2016	KOWO-LP	FL	WIMBERLEY TEXAN RADIO	WIMBERLEY	TX	20131114AVE New
27	03/11/2016	WLPZ-LP	FL	CITY OF LEOMINSTER	LEOMINSTER	MA	20131113ABW New
28	03/11/2016	WTOD	AM	CUMULUS LICENSING LLC	TOLEDO	OH	WLQR
29	03/11/2016	WXBU	DT	HSH LANCASTER (WLYH) LICENSEE, LLC	LANCASTER	PA	WLYH-TV
30	03/14/2016	KKSE	AM	KSE RADIO VENTURES, LLC	PARKER	CO	BAL- 20151217AGP KRWZ
31	03/14/2016	WRUB	FM	CITICASTERS LICENSES, INC.	SARASOTA	FL	WLTQ-FM
32	03/14/2016	WTNX	FM	RADIO 7 MEDIA, LLC	LAWRENCEBURG	TN	WKSJ-FM
33	03/15/2016	WBKM	FM	RADIOACTIVE, LLC	DANNEMORA	NY	WNMR
34	03/15/2016	WDCH- FM	FM	CBS RADIO EAST INC.	BOWIE	MD	WNEW-FM
35	03/15/2016	WIRY-FM	FM	RADIOACTIVE, LLC	PLATTSBURGH WEST	NY	WPLB

36	03/15/2016	WLEE	AM	BRANTLEY BROADCAST ASSOCIATES, LLC	WINONA	MS	WONA
37	03/15/2016	WNEW-FM	FM	CBS RADIO EAST INC.	NEW YORK	NY	WWFS
38	03/15/2016	WONA	AM	DAVIDSON MEDIA STATION WREJ LICENSEE, LLC	RICHMOND	VA	WLEE
39	03/16/2016	KVRQ	FM	SEATTLE FCC LICENSE SUB, LLC	SEATTLE	WA	KLCK-FM
40	03/17/2016	KTFJ-LP	FL	SKAGIT VALLEY FAMILY RADIO	BURLINGTON	WA	20131114ALK New
41	03/17/2016	WCID	FM	FAMILY LIFE MINISTRIES, INC.	LAPORTE	PA	WCOV-FM
42	03/17/2016	WCOV-FM	FM	FAMILY LIFE MINISTRIES, INC.	FRIENDSHIP	NY	WCID
43	03/21/2016	KGID	FM	RF SERVICES INC.	GIDDINGS	TX	20120530AAD New
44	03/21/2016	KYWY	FM	CITICASTERS LICENSES, INC.	WARREN AFB	WY	20160107AAZ KOLT-FM
45	03/21/2016	WONH-LP	FL	PEQUENAS LIGAS HISPANAS DE NEW HAVEN INC	NEW HAVEN	CT	20131114BFR New
46	03/21/2016	WPYA	FM	SM-WZNN, LLC	GARDENDALE	AL	WEZZ-FM
47	03/21/2016	WTHQ	AM	BIG RIVER RADIO, INC.	POINT PLEASANT	WV	WBGS
48	03/22/2016	WYBO	FM	JOHN SMITH	WAYNESBORO	GA	20060309ADH New
49	03/25/2016	KPER	FM	ALPHA MEDIA LICENSEE LLC	PEARSALL	TX	20151013AIL New
50	03/25/2016	KWNK-LP	FL	RENO BIKE PROJECT	RENO	NV	KRBP-LP
51	03/25/2016	KZAH	FM	ALPHA MEDIA LICENSEE LLC	HARPER	TX	20151013AIN New
52	03/28/2016	KWIE	FM	POINT FIVE LLC	BARSTOW	CA	KCEQ
53	03/28/2016	KZWC	AM	RIVERFRONT BROADCASTING OF IOWA, LLC	WEBSTER CITY	IA	KQWC
54	03/28/2016	WLEH-LD	LD	DTV AMERICA CORPORATION	MOUNT VERNON	IL	W48EH-D
55	03/28/2016	WODK-LD	LD	DTV AMERICA CORPORATION	SPRINGFIELD	IL	W45DK-D
56	03/28/2016	WXRG	FM	DEVON BROADCASTING COMPANY, INC.	CONCORD	NH	WWHK
57	03/29/2016	KPKN-LD	LD	DTV AMERICA CORPORATION	TYLER	TX	K33KN-D
58	03/29/2016	WLLJ-LP	FL	GET A LIFE! FOUNDATION, INC.	CAPE CORAL	FL	20131114BVI New
59	03/29/2016	WNWW	AM	UNIVERSITY OF NORTHWESTERN-ST. PAUL	WEST HARTFORD	CT	BAL-20160119ADS WCCC
60	03/30/2016	KOLT-FM	FM	CITICASTERS LICENSES, INC.	CHEYENNE	WY	KOLZ

## ***Attachment 4***

From: **Joyce Slocum** <[joyce@tpr.org](mailto:joyce@tpr.org)>

Date: Wed, Jul 27, 2016 at 2:22 PM

Frank -- I'm surprised that your client would consider filing bankruptcy, meaning they would receive little or no proceeds from the license, or risk a possible substantial cost of litigation with either Sun or TPR (or both), rather than consider an adjustment to the purchase price that would fairly reflect the reduction in value they are able to convey, having given away the call sign and attendant goodwill. The latter would provide them a still substantial sum without risk of legal proceedings and relieve them quickly from the headaches of running the station.

In the many years I practiced law, the most costly decisions I observed folks make were when they were preceded by the words, "It's the principle of the thing . . . ."

**Joyce D. Slocum** | President & CEO

Texas Public Radio | 8401 Datapoint Dr Ste 800 | San Antonio TX 78229

[joyce@tpr.org](mailto:joyce@tpr.org) | [www.tpr.org](http://www.tpr.org) | [\(210\) 614-8977](tel:(210)614-8977)

## ***Attachment 5***



Tue 10/4/2016 9:43 AM

Steven Oakes <scoakes29@gmail.com>

Re: Resolution to your problem

To: Daryl Oakes

Daryl,

The station finally sold. It only cost me \$10,000 to give you permission to use KCT FM. I sincerely hope your station is thriving and doing well.

Steven

Steven C Oakes  
Mobile (512) 492-5417