



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

December 8, 2017

In Reply Refer to:
1800B3-CEG

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In re: **KJJB(FM), Eagle Lake, Texas**
Facility ID No. 171037
File Nos. BMPH-20160926ADV
BALH-20160809AAL

Informal Objections

Dear Counsel and Objector:

We have before us an informal objection (Modification Informal Objection) filed on October 6, 2016, by James B. Davis (Davis) to the above-referenced application (Modification Application) for a minor modification to the licensed facilities of station KJJB(FM), Eagle Lake, Texas (Station). We also have before us two informal objections (Assignment Informal Objections) (collectively with the Modification Informal Objection, Informal Objections) filed by Davis on September 6, 2016, and May 3, 2017, to the above-reference application (Assignment Application) to assign the Station's license from current licensee Jennifer Cremeens (Cremeens) to S Content Marketing, LLC (S Content).¹ For the reasons stated below, we deny the Informal Objections and grant the Modification and Assignment Applications.

Background. In the Informal Objections, Davis contends that the Station's license was automatically forfeited under Section 312(g) of the Communications Act of 1934 (Act), as amended (Section 312(g)) because the Station was silent longer than 12 consecutive months.² In support of this contention, Davis states that he has monitored the Station "on a regular basis" since late 2013 and that "no one I have spoken with has ever heard KJJB 95.3 on the air."³ Davis points out that Cremeens has

¹ The sole member of S Content is Roy E. Henderson (Henderson). New Beginnings Fellowship Church filed an informal objection to the Assignment Application on August 15, 2016, which it withdrew on October 4, 2016.

² Informal Objections, Exh. 1; *see* 47 U.S.C. § 312(g) ("If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness.").

³ Informal Objections, Exh. 1.

applied for and received several grants of special temporary authority (STA)⁴ since the Station was first licensed in 2012 and that a station acquired by Cremeens at the same time as the Station, DKBBB(FM), Baird, Texas (DKBBB) was cancelled in 2015 under Section 312(g).⁵ He concludes that there is no “hard evidence that the station has ever been on the air,”⁶ and urges the Commission to issue a letter of inquiry (LOI) into the matter.⁷ In a related argument, Davis claims that the Cremeens was required to comply with a statement, made in an STA request filed May 25, 2016 (May 2016 STA), that the Station would resume operation by November 1, 2016.⁸

Discussion. An informal objection may be filed at any time prior to action on the subject application⁹ and must, pursuant to Section 309(e) of the Act, provide properly supported allegations of fact which, if true, would establish a substantial and material question of fact regarding whether grant of the application in question would be consistent with the public interest, convenience and necessity.¹⁰ Davis has failed to meet this burden, as explained below.

Previous applications and STA requests. To the extent that Davis seeks to challenge the grant of the Station’s original license and/or subsequent STA and/or modification applications other than the Modification and Assignment Applications, his objections are untimely.¹¹ Moreover, we note that arguments regarding whether prolonged silences pursuant to STA may have impaired a station’s ability to meet its public interest obligations are more appropriately raised as part of the license renewal process.¹² We also clarify that the expiration date set out in an STA governs regardless of whether the STA requestor may have predicted a different resumption date in its request. In this case, although Cremeens may have stated that she anticipated being back on the air by November 1, 2016, the May 2016 STA, by its express terms, expired on December 13, 2016. Before it expired, Cremeens filed superseding STA requests in association with the Modification and Assignment Applications.¹³ Therefore, she did not violate the terms of the May 2016 STA.

Section 312(g). Davis’ Section 312(g) argument is unsupported by the evidence. First, the relevant records in the Commission’s Consolidated Database System (CDBS), including STA grants and notices of resumption of operations for the Station, do not reflect any continuous 12-month period of silence that would have caused the Station’s license to automatically expire under Section 312(g). Second, Davis provides no evidence other than hearsay and his own bare assertions to support his claim

⁴ Informal Objections, Exh. 1; *see also* BLSTA-20120709ACG; BLSTA-20131218FPA; BLSTA-20160525ACN.

⁵ *See Gary L. Graham*, Letter, Ref. No. 1800B3-VM (MB Mar. 12, 2015).

⁶ Modification Informal Objection, Exh. 1.

⁷ Assignment Informal Objection filed May 3, 2017, Exh. 1.

⁸ *See* File No. BLSTA-20160525ACN (Cremeens stating in the STA request that the Station would be back on the air by November 1, 2016).

⁹ 47 CFR § 73.3587.

¹⁰ 47 CFR § 309(e); *see also, e.g., WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986).

¹¹ *See* 47 CFR § 73.3587 (establishing that an informal objection may be filed at any time prior to grant of an application).

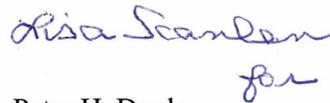
¹² *See, e.g., Roger L. Hoppe*, Memorandum Opinion and Order and Notice of Apparent Liability, 31 FCC Rcd 8790, 8793-94, paras. 11-14 (MB 2016) (issuing a short-term license renewal where the subject station had “multiple periods of silence each lasting just shy of twelve months”).

¹³ *See* BSTA-20161005ABA; BLESTA-20161209ABB; BSTA-20170406AFB.

that the Station failed to operate for 12 continuous months.¹⁴ The cancellation of Cremeens' other station, DKBBB, is not relevant to the question of KJJB's operation. Finally, although Davis repeatedly refers to the lack of evidence that the Station was operating at all relevant times, the burden in this case is on the objector to adequately substantiate his claims.¹⁵ In the absence of properly supported allegations of fact to the contrary, we rely on Cremeens' certifications in the record regarding the construction and operation dates of the Station.¹⁶ Likewise, we find that that the allegations raised in the Informal Objections do not warrant the issuance of an LOI.

Conclusion/Actions. For the reasons set forth above, IT IS ORDERED that the Informal Objections filed by James B. Davis on October 6, 2016, September 6, 2016, and May 3, 2017, ARE DENIED and the Modification Application (File No. BMPH-20160926ADV) and Assignment Application (File No. BALH-20160809AAL) ARE GRANTED.

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" followed by a stylized initial "for".

Peter H. Doyle
Chief, Audio Division
Media Bureau

¹⁴ Although Davis refers to a "satellite photo" of the KJJB transmitter site, he does not provide such a photo and, in any case, refers to it solely in the context of KJJB's original license application, File No. BLH-20120521AAN, the grant of which is long since final.

¹⁵ See *supra*, note 10.

¹⁶ See, e.g., *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000) ("The FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing."); *Leflore B/casting Co., Inc. v. FCC*, 636 F.2d 454, 461 (D.C. Cir. 1980) ("[E]ffective regulation is premised upon the agency's ability to depend upon the representations made to it by its licensees . . .").