



Federal Communications Commission
Washington, D.C. 20554
May 21, 2019

In Reply Refer To:
1800B3-ALV

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In re: **KJJB(FM), Eagle Lake, TX**
Facility ID No. 171037
File No. BALH-20181005ABW

**Application for Assignment of License
Informal Objection**

Dear Applicants, Counsel, and Mr. Davis:

We have before us the above referenced application (Application) for Commission consent to the proposed assignment of the license for KJJB(FM), Eagle Lake, Texas (KJJB or the Station), from Jennifer Cremeens (Cremeens) to Centro Cristiano de Vida Eterna (CCVE). We also have before us an Informal Objection (Objection) to the Application, filed on October 18, 2018, by James B. Davis (Davis).¹ For the reasons set forth below, we deny the Objections and grant the Application.

Background. On October 5, 2018, Cremeens filed the subject Application, seeking Commission consent to assign the Station's license to CCVE. Cremeens subsequently notified the Commission that KJJB was silent and requested permission for the Station to remain silent² pending action on the assignment Application. In his Objection, Davis claims that KJJB was never constructed and that "there is reason to suspect that false information was attested to on many KJJB Applications."³ In support of its allegations, Davis submits a list of previous modification applications and requests to remain silent, filed

¹ On December 11, 2018, Davis filed a second Informal Objection to the Application. CCVE submitted an "Opposition to the Objection and Request for Expedited Action," dated March 13, 2019. Davis filed a Reply on March 25, 2019.

² See FCC File No. BLSTA-20181012AAU, Exhibit 1 ("the station is silent pending the completion of the process of changing ownership").

³ See Objection, filed October 18, 2018.

with the Commission from 2007 to the present.⁴ Davis also notes that Cremeens previously filed an application to assign the Station's license to S Content Marketing LLC (S Content),⁵ but the assignment was never consummated.⁶ Davis claims that he "personally spoke with the President of S Content Marketing to find out reasons why the sale of KJJB 95.3 did not go through. He stated KJJB had never been constructed or built out."⁷ Accordingly, Davis urges the Commission to investigate his allegations, issue a Letter of Inquiry "to be sure its rules are being observed," and delay action on the Application.⁸ In its Opposition, CCEV asserts that "the sole inquiry in this proceeding is the qualifications of the proposed assignee to become licensee of Station KJJB(FM)" and that Davis has not provided facts sufficient to show that grant of the Application would be *prima facie* inconsistent with the public interest, convenience, and necessity.⁹

Discussion. Section 310(d) of the Communications Act of 1934, as amended (the Act)¹⁰ requires the Commission to determine whether the proposed assignment of a broadcast license would be in the public interest. Informal objections, like petitions to deny, must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity.¹¹ Davis has not satisfied this threshold requirement.

In his Objection, Davis does not argue that CCVE is not qualified to become a Commission licensee, nor has Davis provided any evidence that the proposed assignment violates the public interest. Rather, the central issue raised here relates to Davis's belief that the Station was never constructed and that Cremeens has not been truthful and forthcoming. Davis, however, neglects to submit concrete evidence to support his suspicions. Rather, Davis's "evidence" consists solely of a list of applications previously filed with the Commission and a hearsay account of a conversation with the President of S Content, the former proposed assignee of the Station.¹² Allegations based on speculation and hearsay do not establish a *prima facie* case requiring further investigation.¹³

We, therefore, find that Davis has failed to raise a substantial and material question of fact calling for further inquiry. We also find that Cremeens is qualified to assign the Station, CCVE is qualified to

⁴ *Id.* (stating that the Station "filed for emergency STAs several times and numerous construction permits which were never constructed.").

⁵ See FCC File No. BALH-20160809AAL.

⁶ On July 27, 2018, Cremeens filed a notice of non-consummation.

⁷ Objection, filed December 11, 2018.

⁸ *Id.*

⁹ Opposition at 1.

¹⁰ 47 U.S.C. § 310(d).

¹¹ 47 U.S.C. § 309(d). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197, n.10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864, para. 6 (1986).

¹² The Commission has found accounts of conversations with third parties to be inadmissible hearsay. See, e.g., *Living Proof*, Letter, 24 FCC Rcd 2382, 2385, n.29 (MB 2009) (declining to credit hearsay accounts of third party); *Excellence in Education Network*. Memorandum Opinion and Order, 8 FCC Rcd 6269, 6272, n.9 (1993) ("a party attesting to another person's assertions is hearsay and as such has no probative value under Section 309(d).").

¹³ Allegations that consist of "ultimate conclusionary facts or more general allegations on information and belief, supported by general affidavits, are not sufficient." *Gencom, Inc.*, 832 F.2d 171, 180, n.11 (1987); see also *Beaumont Brach of the NAACP v. FCC*, 854 F.2d 502, 507 (D.C. Cir. 1988).

hold the Station's license, and that grant of the Application is consistent with the public interest, convenience, and necessity

Conclusion/Actions. Accordingly, IT IS ORDERED that the Informal Objections, filed October 18, 2018, and December 11, 2018, by James B. Davis ARE DENIED.

IT IS FURTHER ORDERED, that the Application for the Assignment of License for Station KJJB(FM), Eagle Lake, Texas (File No. BALH-20181005ABW), from Jennifer Cremeens to Centro Cristiano de Vida Eterna IS GRANTED.

Sincerely,


Albert Shuldiner
Chief, Audio Division
Media Bureau