



Federal Communications Commission
Washington, D.C. 20554

March 18, 2024

Andres Serrano Ministries
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In re: KGIC-LP, Corona, CA
Facility ID No. 124903
File No. 0000157963

Dear Counsel:

The Media Bureau, Audio Division (Bureau) has received your Response¹ on behalf of Andres Serrano Ministries (ASM), licensee of Low Power FM (LPFM) station KGIC-LP, Corona, California (Station). The Response addresses questions the Bureau posed in a January 3, 2024 letter of inquiry (LOI)² in connection with the referenced application to renew the Station's license.³ For the reasons discussed below, we conclude that the Bureau granted the Station's initial license in reliance on false information provided by ASM, that the Bureau renewed the license for prior terms based on additional false certifications, and that the license also terminated as a matter of law within the most recent license term pursuant to section 312(g) of the Communications Act of 1934, as amended (Act)⁴ due to extended failure to operate from an authorized location.⁵ We, therefore, order the Station to cease operations within one day of

¹ ASM, Responses to Letter of Inquiry (Feb. 15, 2024) (Response).

² Letter of Inquiry (MB Jan. 3, 2024).

³ See File No. 0000157963 (filed Aug. 25, 2021) (Renewal Application).

⁴ 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..."). Transmissions from an unauthorized location do not constitute "broadcast signals" for purposes of section 312(g). See *Chinese Voice of Golden City v. FCC*, 2021 WL 6102191 (D.C. Cir. 2021) (transmissions from an unauthorized location do not constitute "broadcast signals" for purposes of § 312(g)); *Kingdom of God, Inc. v. FCC*, 719 Fed.Appx. 19, 20 (D.C. Cir. 2018) (Mem.) ("Kingdom's transmissions from its unauthorized location in Beech Grove do not constitute 'broadcast signals' for purposes of § 312(g)").

⁵ *Roy E. Henderson*, Memorandum Opinion and Order, 33 FCC Rcd 3385, 3385 n.3 (2018) (upholding a section 312(g) finding where the licensee had lost its licensed site and had not obtained authorization to operate at other temporary sites); *Great Lakes Community Broad., Inc.*, Memorandum Opinion and Order, 24 FCC Rcd 8239, 8257 (2009) (cancelling a station's license that was constructed at an unauthorized location); *A-O Broad. Corp.*,

this *Letter Order*, delete the Station from our database, and dismiss the Renewal Application as moot. We further determine that ASM's unauthorized operations and false certifications raise material questions about its qualifications to hold future authorizations and, therefore, require ASM, each of its principals, and any others with attributable interests to include a copy of this letter with any broadcast applications they file within five (5) years of this letter.

Background

Fundamental principles of broadcast licensing require applicants to obtain reasonable assurance of site availability prior to applying for a construction permit,⁶ to build the specified facilities prior to permit expiration, and to provide authorized service to the public. These requirements are reflected in various provisions of the Commission's rules (Rules), the Act, and caselaw. For example, section 73.3598(e) of the Rules establishes that broadcast construction permits are forfeited if the permittee does not complete construction and file an application for a covering license prior to permit expiration.⁷ Section 301 of the Act permits broadcasting only in accordance with the terms of a station license.⁸ Finally, section 312(g) of the Act, which is codified in Rules pertaining to LPFM stations as section 73.873(b), provides that broadcast licenses terminate automatically as a matter of law if the station does not transmit broadcast signals for twelve consecutive months.⁹ Transmissions from an unauthorized location do not qualify as "broadcast signals" and, thus, do not prevent license termination.¹⁰ In this manner, the Commission ensures that stations provide service to the public, as authorized.

On April 2, 2004, the Bureau issued a construction permit, granting ASM's application to build the Station at the following geographic coordinates: 33° 51' 02" N, 117° 29' 59" W (NAD 27) (Authorized Site).¹¹ The permit required completion of construction within 18 months, *i.e.*, by October 2, 2005. On July 14, 2004, ASM filed its Initial License Application, signed by Rev. Andres Serrano (Serrano), indicating that it had completed construction.¹² Serrano certified that

Memorandum Opinion and Order, 23 FCC Rcd 603, 608, 611 (2008) (equipment testing at an unlicensed location was insufficient to avoid automatic expiration).

⁶ See *South Florida Broad. Co.*, Memorandum Opinion and Order, 99 FCC2d 840, 842 (Rev. Bd. 1984).

⁷ 47 CFR § 73.3598(e).

⁸ 47 U.S.C. § 301.

⁹ 47 U.S.C. § 312(g); 47 CFR § 73.873(b).

¹⁰ *Eagle Broad. Group, Ltd. v. FCC*, 563 F.3d 543, 553 (D.C. Cir. 2009) (operation from unauthorized location no better than silence).

¹¹ File No. BNPL-20000602AID (granted Apr. 2, 2004). The construction permit application was filed in June of 2000 under the name Ministerio Palabra Viva (MPV), but the permit was issued to ASM. Records of the California Secretary of State reflect that MPV was established in 1998 and amended its articles of incorporation in 2002 to change the name to ASM. See <https://bizfileonline.sos.ca.gov/search/business> (Control No. LBA17053894, Corp. No. 2126444) (Nov. 25, 2002).

¹² File No. BLL-20040714AAZ (granted Apr. 27, 2005) (Initial License Application).

the answer to each question therein was based on review of the application instructions and specified “yes,” that the facility was constructed as authorized in the underlying construction permit.¹³ The Bureau, in reliance on these certifications, issued the Station’s license on April 27, 2005.¹⁴

Since that time, questions have arisen about whether ASM constructed and operated at the Authorized Site, as well as any assurance it may have had for the availability of that location for broadcasting. For example, ASM indicated in a January 20, 2006 application to modify its license that it had to remove a tower it had constructed at an unidentified location because local authorities had unspecified zoning issues with the tower.¹⁵ ASM sought consent to move the transmitter to coordinates 33° 50' 08" N, 117° 29' 38" W (NAD 27), over a mile from the Authorized Site, but the Bureau dismissed the Modification Application as defective on January 30, 2006. Even without Commission authorization, ASM moved to this new location sometime later because ASM erroneously identified those coordinates as its “licensed site” in an application filed for a different purpose in 2008.¹⁶ The Bureau denied that application within a week of filing.¹⁷ The only other applications ASM has filed during its stewardship of the Station have been requests for license renewal in 2005, 2013, and 2021. In each application, including the pending Renewal Application, Serrano certified that the Station had not violated any provision of the Rules or of the Act during the relevant license term and that ASM’s answers were true and correct. Based on ASM’s certifications, the Commission was under the impression that the Station operated from its sole Authorized Site for over 20 years, despite various engineering and local land use issues encountered.

After filing of the pending Renewal Application, the Commission’s Enforcement Bureau (EB) received a complaint alleging that the Station is operating from an unauthorized location. On November 30, 2023, EB agents visited the Authorized Site and determined that no transmissions were originating from that location. The agents also observed that there were no roads or power lines leading to the location, which appeared to be a mining or gravel pit. Nevertheless, the inspectors heard the Station’s signal, which they traced to a tower operated by Crown Castle, approximately six miles north of the Authorized Site. The Bureau, in the LOI, required ASM to identify the sites from which it has operated from January 2013 through present and to provide evidence concerning permissions and equipment, if any, used at the Authorized

¹³ Initial License Application, FCC Form 319, Quest. II(1), III(2).

¹⁴ File No. BLL-20040714AAZ (granted Apr. 27, 2005).

¹⁵ File No. BPL-20060120ABQ (Filed Jan. 20, 2006) (Modification Application).

¹⁶ See File No. BSTA-20080501ABX (filed May 1, 2008) (STA Request). In that filing, ASM requested Special Temporary Authority (STA) to change channels, and stated that an imminent authorization of a co-channel full power station would otherwise force it off the air. *Id.*

¹⁷ The Bureau denied the STA Request because the proposal therein was short-spaced to a vacant allotment and to a construction permit for a new FM translator. See Letter Order (MB May 6, 2008).

Site or other FCC-authorized locations. It also asked whether Serrano had reviewed the answers provided on the Renewal Application prior to certifying to their accuracy.

In the February 15, 2024 Response, ASM acknowledges that it has not been operating from the Authorized Site or from any other FCC-authorized location. Rather, it states that the Station operates from a location in Norco, California, approximately 6 miles from the Authorized Site at coordinates 33° 55' 52" N, 117° 32' 17.2" W.¹⁸ It further responds that "Station KGIC-LP has never operated from the Licensed Corona Site" and can provide no evidence of operations from any authorized location.¹⁹ Finally, ASM indicates that its technical consultant completed the Renewal Application, which Serrano did not review prior to filing.²⁰

Discussion

There are multiple reasons to find the Station's license invalid, some dating from its initial licensure and others occurring within the most recent license term. First, based on EB's finding that the Authorized Site is a gravel pit without roads or electricity, and ASM's indication in the 2006 STA Request that local authorities required removal of a tower from an unspecified location, it appears that ASM never had reasonable assurance that the Authorized Site was available to it for broadcast construction and did not, prior to the October 2, 2005 permit expiration, build facilities there capable of permanent operations. Accordingly, depending upon the timeframe considered, ASM's construction permit either was a nullity from inception, forfeited for failure to construct as authorized by the deadline, and/or formed no basis for a license grant which relied upon ASM's certification that it had constructed as authorized. That certification now appears false, given ASM's recent admission that it has never operated from the Authorized Site and inability to provide any evidence of such operation.²¹

The Bureau's subsequent renewals of the Station's license in 2006 and 2013 also relied on false certifications by ASM. Specifically, although ASM apparently continued to operate from unauthorized locations, it certified that it had not violated any provision of the Rules or Act, and to the accuracy of answers it had not reviewed. ASM's unauthorized operations, whether beginning in 2004, 2013 or another date, violated section 301 of the Act. Moreover, even if we could accept ASM's certifications as true with respect to prior license terms, we would find that

¹⁸ This is the Crown Castle location observed by the EB agents, and not one sought in any prior ASM application.

¹⁹ Response at 3.

²⁰ *Id.* at 1.

²¹ Because ASM made that statement in response to an inquiry about its operations from 2013 onward, we recognize the possibility that ASM's answer might pertain only to the eight years in the most recent license term rather than to the 20 years since initial licensure. Nevertheless, given record information about the characteristics of the Authorized Site, any construction there could only have been temporary. Construction permits associated with temporarily constructed facilities are subject to automatic forfeiture pursuant to section 73.3598(e) of the Rules. *See* 47 CFR § 73.3598(e). Temporary facilities do not satisfy the requirements for licensure. *Tango Radio, LLC*, Memorandum Opinion and Order, 30 FCC Rcd 10564, 10568 (2015).

the Station's license terminated automatically within the current license term pursuant to section 312(g) of the Act. Specifically, ASM failed to operate from an authorized location from at least 2013 through present and, thus, did not transmit "broadcast signals" for more than twelve consecutive months. The Station's license thus terminated well before it filed the Renewal Application, and that filing is moot. Accordingly, we are taking the ministerial step of updating our broadcast database to delete call sign KGIC-LP.

Future Impact

ASM's false certifications also potentially call into question the qualifications of it, its principals, and related organizations to hold any broadcast authorization.²² Accordingly, as specified in the Ordering Clauses below, we will require ASM, its principals, and related entities to alert the Commission to this matter by submitting a copy of this *Letter Order* and of the January 3, 2024 LOI with every broadcast application they file with the Commission for a period of five years from the date of this *Letter Order*.

Ordering Clauses

Accordingly, IT IS ORDERED that Andres Serrano Ministries shall cease operation of KGIC-LP, Corona, CA within one day of receipt of this *Letter Order* and notify the Bureau within one day of complying with this requirement. Notification shall be directed to the Commission's Office of the Secretary and a courtesy copy should be sent by email to Irene Bleiweiss, Attorney, Audio Division at Irene.Bleiweiss@fcc.gov.

IT IS FURTHER ORDERED that the Bureau shall update its database TO DELETE call sign KGIC-LP, Corona, CA, whose license has terminated automatically pursuant to section 312(g) of the Communications Act of 1934, as amended.

IT IS FURTHER ORDERED that the application of Andres Serrano Ministries to renew the license of KGIC-LP, Corona, CA, File No. 0000157963, IS DISMISSED AS MOOT.

IT IS FURTHER ORDERED that Andrew Serrano Ministries, its principals (Andres Serrano, Andy Serrano, and Jael Serrano Altamirano), entities they operate under any fictitious or assumed names such as Radio Impacto, as well as any other entity in which any of them holds an interest that is within the scope of the ownership and control disclosure standard set forth in 47 CFR § 1.2112, SHALL SUBMIT a copy of this *Letter Order* with every facilities application--FCC Form 301, 309, 318, 340, or 349--or any assignment of license/transfer of control

²² See generally *Policy Regarding Character Qualifications in Broadcast Licensing*, Policy Statement and Order, 5 FCC Rcd 3252 (1990), *recon. granted in part*, 6 FCC Rcd 3448 (1991), *further recon. granted in part*, 7 FCC Rcd 6564 (1992).

application--FCC Form 314, 315, or 345--it files with the Commission for a period of five years from the date of this *Letter Order*.

Sincerely,

Albert Shuldiner

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