



Federal Communications Commission
Washington, D.C. 20554

February 27, 2024

In reply refer to: 1800B3-VM

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Martin Broadcasting, Inc.
4638 Decker Drive
Baytown, TX 77520
darrellemartin@yahoo.com

Re: **KZZB(AM), Beaumont, TX**
Facility ID No. 40485

K298CB, Beaumont, TX
Facility Id. No. 156318

Operational Status Inquiry

Dear Licensee:

It has come to our attention that AM Station KZZB and FM Translator Station K298CB, Beaumont, Texas (collectively, Stations), licensed to Martin Broadcasting, Inc. (MBI), may have been silent or operating with unauthorized facilities for more than a year. However, Commission records show that the Stations are licensed and operating. Pursuant to section 73.1015 of the Commission's rules (Rules), MBI is required to clarify this matter in writing within thirty days of the date of this letter.

On July 26, 2023, Mr. Chris Boone filed a complaint against the Stations.¹ The Complaint alleges that KZZB has not operated for an extended period, but that K298CB at times had operated as a standalone station, in apparent violation of section 74.1231 of the Rules.² In addition, an FCC field inspector confirmed that the Stations were silent on August 15, 2023 and found that the Stations' transmitter facilities are on the same site. The agent contacted MBI's counsel and was told that the Stations would not allow an inspection, claiming that the Stations had been vandalized, but counsel did not produce a police report. MBI did not respond to the agent's attempt to contact MBI, but an MBI representative left a message later. The agent was not able to determine when the Station(s) went silent.

Based on this information, it appears that the Stations may have been silent (or failed to operate with authorized facilities) for more than one year. Pursuant to Section 312(g) of the Communications Act of 1934, as amended, **if a broadcast station fails to transmit broadcast signals with its authorized facilities 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 to promote equity and fairness.**³

¹ See CGB Complaint No. 6361245 (Jul. 26, 2023) (Complaint).

² Pursuant to section 74.1231(b) of the Rules, a translator station cannot originate local programming, except as allowed in sections 74.1231(f) (requesting financial support), (g) (notifying of imminent danger), or (h) (FM translator for AM daytime-only station may continue to transmit programming when the AM station is off the air for the night). See 47 CFR § 74.1231.

³ 47 U.S.C. § 312(g). The Commission has exercised its discretion under section 312(g) to extend or reinstate a station's expired license "to promote equity and fairness" only in limited circumstances where a station's failure to transmit a broadcast signals for 12 consecutive months is due to compelling circumstances that were beyond the licensee's control. See e.g., *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27

MBI is directed to provide evidence documenting each Station's operational status since January 1, 2023. This evidence must indicate the location, effective radiated power and antenna height above ground level for **all periods of operation** from January 1, 2023, to the present. For K298CB, the submission must indicate each day that K298CB either: (a) broadcast original programming that was not authorized by section 74.1231 of the Rules, as indicated in note 2 *supra*; or (b) retransmitted the programming of a radio station other than KZZB. Also include copies of all leases, personnel records (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station records, including EAS logs, programming agreements and retransmission agreements, and all correspondence (including emails and text messages) relating to the Stations for that period of time. In addition, MBI must provide copies of all invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to each Station's operation.⁴ Finally, MBI **must also include pictures** of each Station's facilities during this timeframe, and provide exact coordinates for each Station's transmitter site.

We also note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the Stations' tower(s) shall be maintained.⁵

All submissions must be addressed to Marlene S. Dortch, Secretary, FCC 45 L Street N.E., Washington, DC 20554, and **sent via email ONLY**, to Victoria.McCauley@FCC.gov.⁶

Failure to respond to this letter within the specified time will result in adverse actions jeopardizing both the Stations' licenses and call letters. If you have any questions concerning the content of this letter, please contact Victoria McCauley, Attorney, by phone at (202) 418-2136 or via e-mail at the address above.

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

cc: (by electronic mail only)

Barry Friedman, Esq. (Counsel to Martin Broadcasting, Inc.)
barry.friedman@thompsonhine.com

(2008) ("This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited").

⁴ In addition, if the Stations use accounting software to maintain financial records, provide printouts of the data recorded for this period.

⁵ See 47 CFR §§ 17.6 and 73.1740(a)(4).

⁶ In the event that a submission would exceed 5 MB, you must first contact Ms. McCauley to explain the nature of the documentation and seek guidance as to whether the submission should be provided in multiple e-mails or reduced by providing representative documents, rather than all documents, of a particular nature.