



Federal Communications Commission
Washington, D.C. 20554

June 24, 2021

**VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
AND E-MAIL AT GARYC@COCOLATV.COM**

Mr. Gary M. Cocola
225 Crossroads Blvd., Suite 183
Carmel, CA 93923

**Re: File No. EB-IHD-21-00032397
FM Translator K272GD, South Fresno, California
Facility ID No. 144742**

Dear Mr. Cocola:

The Enforcement Bureau is investigating potential violations of section 310(d) of the Communications Act of 1934, as amended (Act), and sections 73.3540 and 74.1231 of the Commission's rules related to the ownership and operation of FM translator K272GD (Translator), licensed to Gary M. Cocola (Licensee), which appears to broadcast an FM radio station utilizing the call sign KKDJ (KKDJ Radio).¹ This inquiry seeks information concerning the operation and ownership of the Translator as it relates to KKDJ Radio. Accordingly, we direct Licensee, pursuant to sections 4(i), 4(j), 308(b), and 403 of the Act,² to provide the information and documents requested herein within **thirty (30) calendar days** after the date of this letter of inquiry (LOI).³

In March 2018, the Commission received a complaint alleging that "new station" KKDJ, carrying noncommercial educational (NCE) station KYAF's signal via a translator or repeater on frequency 99.7, was causing interference with FM station KIOO beginning "[a]round October of 2017."⁴ The complainant alleged that the individual operating KKDJ and KYAF, Verne White, was doing so without Commission approval.⁵

According to Commission records, Licensee acquired the Translator from Big Broadcasting, Inc. on March 21, 2017.⁶ Shortly thereafter on August 7, 2017, the Commission granted Licensee a license to cover the Translator on Channel 259, frequency 99.7, to rebroadcast KYAF(FM) in Firebaugh, California

¹ 47 U.S.C. § 310(d); 47 CFR §§ 73.3540, 74.1231.

² 47 U.S.C. §§ 154(i), 154(j), 308(b), 403.

³ Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

⁴ Complaint No. 2279608 (Mar. 4, 2018) (Complaint) (on file in EB-IHD-21-00032397). This LOI does not address the complainant's allegations concerning interference.

⁵ *Id.*

⁶ Big Broadcasting, Inc., Application for Transfer of Control of a Corporate Licensee or Permittee, or for Assignment of License or Permit of TV or FM Translator Station or Low Power Television Station, File No. BALFT - 20170125AGR (filed Jan. 25, 2017), <https://enterpriseefiling.fcc.gov/dataentry/views/public/assignmentDraftCopy?displayType=html&appKey=f90ab747a40f4fda99a7c1b6063eb7&id=f90ab747a40f4fda99a7c1b6063eb7&goBack=N> (granted March 14, 2017; consummated March 21, 2017).

(94.7).⁷ In an effort to resolve an interference complaint,⁸ Licensee filed an application for a construction permit on August 13, 2019, requesting that the Commission change the Translator's frequency from 99.7 to 102.3.⁹ On January 17, 2020, the Commission granted Licensee a license to cover the new channel and frequency.¹⁰ The new authorization listed the Translator's primary station as NCE station KOAD-LP in Hanford, California, which appears to broadcast as KFUN.¹¹ On February 2, 2021, Licensee filed an application to modify its facilities to enable it to rebroadcast LPFM station KNKS,¹² which appears to broadcast as KOOL FM.¹³ The Commission dismissed the application on March 1, 2021.¹⁴

Translator Operation. Based on the station's website, it appears that KKDJ Radio broadcasts via the Translator and its primary station's licensed spectrum frequencies—102.3 and 100.7,

⁷ Gary M. Cocola, License To Cover for FM Translator Application, File No. BLFT-20170731AHF (filed July 31, 2017), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=05d17e700b804fb1a9b3c1b6063eb7&id=05d17e700b804fb1a9b3c1b6063eb7&goBack=N>.

⁸ On July 18, 2018, Bott Communications, licensee of full power FM station KCIV, initiated a proceeding against Licensee alleging that "Mr. Cocola's operation of K259CF on KCIV's first-adjacent channel (i.e., Channel 259/99.7 MHz) is causing interference to the regular listeners' reception of KCIV." Interference Complaint by Bott Communications, Inc., File No. 1800B3-KV (filed July 18, 2018), http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=87099.

⁹ Gary M. Cocola, Minor Modification of a Licensed Facility for FM Translator Application, File No. BPFT-20190813AAX (filed Aug. 13, 2019), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=00c508d4050b4ff09414c1b6063eb7&id=00c508d4050b4ff09414c1b6063eb7&goBack=N>. The Commission granted Licensee a construction permit on September 10, 2019. *Id.*

¹⁰ Gary M. Cocola, License to Cover for FM Translator Application, File No. 0000096471 (filed Jan. 10, 2020), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff36f68a34c016f7c80912801e2&id=25076ff36f68a34c016f7c80912801e2&goBack=N> (2020 Translator Application).

¹¹ *See id.*; KFUN 92.5 FM, www.kfunradio.com (last visited June 9, 2021). On November 27, 2020, Hanford Youth Services, Inc., licensee of KOAD-LP, filed an application seeking temporary authorization to go silent to remove the multiple ownership conflict created when it acquired an AM station and translator earlier that month. *See* Hanford Youth Services, Inc., Notification of Suspension of Operations / Request for Silent STA, File No. BLSTA – 20201127AAD (filed Nov. 27, 2020), https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/forms/prod/cdbsmenu_hsts?context=25&appn=101823634&formid=910&fac_num=196317. At Hanford Youth Services, Inc.'s request, the Commission cancelled KOAD-LP's license on December 9, 2020. *See* Hanford Youth Services, Inc., Cancellation Application, File No. 0000129334 (filed Dec. 3, 2020), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff37625c50d017629f718300308&id=25076ff37625c50d017629f718300308&goBack=N#sect-attachments>; Federal Communications Commission, Station Search Details for DKOAD-LP, https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/sta_det.pl?Facility_id=196317 (last visited June 9, 2021).

¹² Gary M. Cocola, Minor Modification of a Licensed Facility for FM Translator Application, File No. 0000135143 (filed Feb. 2, 2021), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff3771d0c7d01773bd0d78e08b3&id=25076ff3771d0c7d01773bd0d78e08b3&goBack=N> (Minor Modification Application).

¹³ *See* KOOL 104.5 FM, *About*, <https://koolfm104.com/about/> (last visited June 9, 2021) (station's old website); KOOL FM 100.7, <https://koolfmoldies.com/> (last visited June 9, 2021) (station's current website).

¹⁴ *See* Minor Modification Application.

respectively.¹⁵ Several news accounts,¹⁶ however, indicate that KKDJ Radio may be a separate broadcast entity that was purportedly owned and operated by Chris and Denise White until January 1, 2020, when BFA Media, Inc. began operating and managing the KKDJ signal pursuant to a lease management agreement.¹⁷

Assuming that the Translator is broadcasting as KKDJ Radio, staff's research raised questions concerning whether the Translator operates in compliance with restrictions on program origination.¹⁸ In particular, Commission staff listened to the purportedly live streams of KKDJ and KFUN on several occasions over several months via their respective websites. On each of those occasions, staff noted the Translator station was not airing the same programming as its then-designated primary station.¹⁹ Moreover, based on the information provided on the stations' respective websites, the stations had different programming schedules.²⁰ In addition, according to KKDJ Radio's website, the Translator station offers "advertising packages,"²¹ which suggests that KKDJ Radio also originates programming in which to independently place such advertisements.

Relevant to these operational concerns, we observe that section 74.1231 of the Commission's rules prohibits an FM translator station from originating local programming, except for limited fundraising purposes and emergency warnings as set forth in section 74.1231(g) of the Commission's rules.²² In particular, an FM translator station may interrupt the rebroadcast programming to: (1) solicit

¹⁵ See KKDJ America's Classic Hits, www.kkdjradio.com (last visited June 9, 2021) ("Metro Fresno FM 102.3 and Central Valley FM 100.7"). Based on Licensee's recently filed application to modify the Translator's facilities, it appears the Translator's primary station has changed from KOAD-LP to KNGS-LP. See Minor Modification Application.

¹⁶ See, e.g., Donald Promnitz, *Revived Radio Station Breaking Ground Into TV* (Aug. 24, 2018), <https://thebusinessjournal.com/revived-radio-station-breaking-ground-into-tv/> (Revived Station Article) (explaining that Chris and Denise White decided to revive KKDJ and Gary Cocola bought a translator for the station); Joshua Tehee, *KKDJ is Back on the Radio Airwaves, and Now on TV, Too* (Aug. 26, 2018), <https://www.fresnobee.com/entertainment/ent-columns-blogs/fresno-beehive/article217157990.html> (identifying Chris White as KKDJ's "CEO"); Robert Rodriguez, *One of Fresno's Favorite Radio Stations, KKDJ, is Broadcasting Once Again* (Aug. 26, 2018), <https://www.fresnobee.com/entertainment/article176236601.html> ("The station's new owner Chris White relaunched [KKDJ] after talking with friend and mentor Gary Cocola of Cocola Broadcasting."); Donald Promnitz, *Classic Rock Station Searches for Right Frequency* (Nov. 14, 2019), <https://thebusinessjournal.com/classic-rock-station-searches-for-right-frequency/> (identifying Chris White as "the head" of KKDJ).

¹⁷ Globe Newswire, *BFA Media Signs Lease Management Agreement with KKDJ Radio* (Jan. 6, 2020), <https://www.globenewswire.com/news-release/2020/01/06/1966533/0/en/BFA-Media-Signs-Lease-Management-Agreement-with-KKDJ-Radio.html> (LMA Announcement).

¹⁸ 47 CFR § 74.1231.

¹⁹ For example, on August 12, 2020 at 11:00 AM EDT, KKDJ's website live streamed the song "Kryptonite" by 3 Doors Down while KFUN's website live streamed the song "Free Bird" by Lynyrd Skynyrd. After the songs ended, KKDJ aired a CBS news report and KFUN aired another song. Similarly, on August 18, 2020 at 3:35 PM EDT, KKDJ's website live streamed the song "Red Red Wine" by UB40 while KFUN's website live streamed the song "Sweet Child O' Mine" by Guns N' Roses. More recently on December 9, 2020 at 11:57AM EST, KKDJ's website live streamed the song "Hold my Hand" by Hootie and the Blowfish while KFUN's website live streamed the song "One Night in Bangkok" by Murray Head.

²⁰ See KKDJ America's Classic Hits, *Shows*, <https://kkdjradio.com/shows/> (schedule posted as of Mar. 1, 2021); KFUN FM 92.5, *Shows*, https://kfunradio.com/?page_id=10 (schedule posted as of Mar. 1, 2021).

²¹ KKDJ America's Classic Hits, *Advertise*, <https://kkdjradio.com/advertise/> (last visited June 9, 2021).

²² 47 CFR § 74.1231.

and acknowledge funds used to maintain the translator station for up to 30 seconds each hour; and (2) broadcast an emergency warning of imminent danger.²³

Station Ownership and Control. As noted above, news reports give rise to questions concerning whether Licensee has transferred ownership and/or control of the Translator and its licensed spectrum to the Whites and/or BFA Media, Inc. in connection with station KKDJ Radio. Section 310(d) of the Act provides that:

No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.²⁴

Section 73.3540 of the Commission's rules similarly requires Commission consent prior to a voluntary assignment or transfer of control of a broadcast license.²⁵

This LOI constitutes an order of the Commission to produce the documents and information requested herein.²⁶ To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.²⁷ **Failure to respond appropriately to this LOI constitutes a violation of the Act and our rules.**²⁸

Attachment A to this letter includes filing requirements and instructions for Licensee's response and definitions for certain terms in this LOI. Requests for confidential treatment or claims of attorney-client privilege or attorney work product must strictly meet the requirements stated in the attached instructions.

If the Enforcement Bureau determines that Licensee has acted in violation of the Act and/or the Commission's rules, the continued noncompliant conduct after the receipt of this LOI may subject Licensee to additional penalties.

²³ *Id.*

²⁴ 47 U.S.C. § 310(d).

²⁵ 47 CFR § 73.3540.

²⁶ See 47 U.S.C. § 155(c)(3).

²⁷ See 18 U.S.C. § 1001; see also 47 CFR § 1.17.

²⁸ See 47 U.S.C. § 503(b)(1)(B); see also *Aura Holdings of Wisconsin, Inc.*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 3688, 3696, para. 21 (2018), *forfeiture order issued*, 34 FCC Rcd 2540 (2019) (imposing a \$19,693 penalty for failure to respond to LOI); *ABC Fulfillment Services LLC d/b/a HobbyKing USA LLC and HobbyKing.com, and Indubitably, Inc. d/b/a HobbyKing Corp., HobbyKing USA LLC, HobbyKing and HobbyKing.com*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5530 (2018), *aff'd*, Forfeiture Order, 35 FCC Rcd 7441 (2020) (imposing a \$39,278 forfeiture for failure to respond to LOI); *Net One International, Net One, LLC, Farrahtel International, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014), *recon. denied*, Memorandum Opinion and Order, 30 FCC Rcd 1021 (EB 2015) (imposing a \$25,000 penalty for failure to respond to LOI); *Conexions, LLC d/b/a Conexion Wireless*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15318, 15325, para. 22 (2013) (proposing a \$300,000 forfeiture for failure to provide timely and complete responses to an LOI); *Technical Communication Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018, 1020, para. 8 (EB 2013) (proposing a \$25,000 forfeiture for failure to provide a complete response to an LOI); *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing \$100,000 penalty for failing to submit a sworn written response).

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If you have any questions about this matter, please contact Kathryn Hinton, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, FCC, at (202) 418-0213 or Kathryn.Hinton@fcc.gov.

Sincerely,

/s/ Christopher J. Sova

Christopher J. Sova
Deputy Chief
Investigations and Hearings Division
Enforcement Bureau

Attachments A and B (Inquiries and Redacted Complaint)

cc: Michael Couzens
Attorney at Law
P.O. Box 3642
Oakland, CA 94609
cuz@well.com

ATTACHMENT A

Inquiries: Information and Documents to be Provided

You must provide the following information and documents as requested below, and in accordance with the Instructions and Definitions below.

Unless otherwise indicated, the time covered by these inquiries is August 1, 2017 to the present.

Requests for Information

1. Describe the business structure of Licensee (e.g., corporation, sole proprietorship, partnership, limited liability company, etc.). If it is a corporation, give the date and location of its incorporation and describe what type of corporation it is (e.g., public or privately held).²⁹ If it is a sole proprietorship, partnership, or limited liability company, identify each owner, partner, or member, as applicable.³⁰ In addition, identify all parent and affiliate companies of Licensee and explain their relationship with Licensee.
2. Identify Licensee's officers and directors and the positions that they held, respectively, for each year from 2017 to the present.
3. Identify the corporate headquarters address of Licensee and the States in which Licensee is authorized to do business; indicate whether it is in good standing in each such State. Identify the Tax Identification Number of Licensee.
4. Identify the registered agent of Licensee within the United States.
5. Identify the FCC Registration Number (FRN) or FRNs of Licensee and any parent and affiliate companies of Licensee.
6. Identify any licenses, permits, certificates, or other authorization, including any section 214 authorization for the resale of international long-distance service, issued by the Commission held by Licensee and/or held by any parent or affiliate companies of Licensee.
7. State whether Licensee has received any complaints or reports related to the operation of the Translator or KKDJ Radio. If so, provide full details of such complaints, including the dates the complaints or reports were received, a description of the complaint or report, and the contact information of the complainant or reporter. In addition, if Licensee has received any such complaints or reports, state what actions, if any, Licensee has taken in response.
8. Identify all "fictitious" names under which Licensee operates (e.g., all "doing business as," "also known as," trade names, etc.), and the States where Licensee is authorized or otherwise uses those names. Also, identify all web addresses used by Licensee, including those web addresses involving fictitious names.
9. Provide a detailed description of Licensee and any services it offers (directly and indirectly) including through an affiliate. Whenever Licensee offers services through an affiliate, identify

²⁹ In responding to this inquiry, note the definition below of the term "Identify" when used in reference to a non-natural Person in the Instructions to this letter.

³⁰ In responding to this inquiry, note the definition below of the term "Identify" when used in reference to a natural Person in the Instructions to this letter.

the affiliate, describe *all* services offered by the affiliate (including non-Licensee related services), and the relationship (ownership, contractual, other) that exists between Licensee and the affiliate.

Translator Operations

Commission records indicate that the Translator is licensed to Gary M. Cocola, doing business as Gary M. Cocola.³¹ According to several news articles, however, it appears that the Translator is Broadcasting as a separate business entity—KKDJ Radio.³²

10. With regard to KKDJ Radio, answer the following:

- a. Describe the business structure of KKDJ Radio (e.g., corporation, sole proprietorship, partnership, limited liability company, etc.). If it is a corporation, give the date and location of its incorporation and describe what type of corporation it is (e.g., public or privately held). In addition, Identify all parent, affiliate, and subsidiary companies of KKDJ Radio, if any, and explain their relationship with KKDJ Radio.
- b. Identify, from 2017 to the present, KKDJ Radio's (a) employees, directors, and officers; (b) the positions they hold or have held, respectively, for each year from 2017 to the present; (c) the nature of their Interest in KKDJ Radio; and (d) the day-to-day functions they perform, if any.
- c. Identify the corporate headquarters address of KKDJ Radio and the State(s) in which KKDJ Radio is authorized or has been authorized to do business. State whether, from 2017 to the present, KKDJ Radio is or has been in good standing in each such State; if not, explain why not.
- d. Provide a detailed description of KKDJ Radio, including a description of its purpose and what services and/or products KKDJ Radio provides.
- e. Identify all "fictitious" names under which KKDJ Radio operates (e.g., all "doing business as," "also known as," trade names, etc.).
- f. Does KKDJ Radio currently hold, or has KKDJ Radio previously held, an ownership Interest in any Commission licensee or permittee? If so, Identify when and the manner in which such Interest arose and the nature of the specific Interest at issue (e.g., direct *de facto* control, indirect *de jure* control, etc.).³³

³¹ 2020 Translator Application.

³² InsideRadio, *Fresno's KKDJ-FM Adds Sister KKDJ-TV* (Aug. 29, 2018), http://www.insideradio.com/free/fresno-s-kkdj-fm-adds-sister-kkdj-tv/article_1de856aa-ab4f-11e8-8b17-af6715d06596.html (explaining that KKDJ can be heard "via two FM frequencies, 94.7 in Firebaugh and 99.7 via South Fresno-licensed translator K259CF"); Revived Station Article (explaining that Gary Cocola acquired the Translator for KKDJ and that the revived station started broadcasting from its Fresno signal on April 20, 2018).

³³ *De facto* control means actual control, or control in fact, and is determined on a case-by-case basis. In evaluating *de facto* control, the "determinative question is whether the allegedly controlling party has the power to 'dominate the management of corporate affairs.'" *Fox Television Stations, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 8452, 8514, para. 154 (1995). Accordingly, examples of *de facto* control include constituting or appointing 50% or more of the board of directors or management committee; having authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or playing an integral role in management (continued....)

11. Describe the business relationship, if any, between and among Licensee and KKDJ Radio. For any identified relationship, provide the following information:
 - a. Explain the nature of and relevant dates associated with the relationship.
 - b. Identify any shared or common owners, officers, directors, members, managers, trustees, employees, consultants, contractors, or other shared position with Licensee, any person holding a direct or indirect ownership interest in Licensee, and KKDJ Radio.
 - c. A description of any physical or virtual facilities (e.g., office space, phone numbers, or servers) that Licensee shares with KKDJ Radio.
 - d. A list and description of any contracts or other business arrangements between Licensee and KKDJ Radio.
 - e. A description of any shared financial assets and obligations including banking and credit accounts, and tax filings.
12. Identify the date on which Licensee commenced initial operation of the Translator.
13. With regard to the Translator's programming:
 - a. Provide a description of the nature of the Translator's programming from August 1, 2017, to the present;
 - b. Identify the individual(s) who has/have established and/or modified the Translator's programming policies from August 1, 2017, to the present; and
 - c. Provide signed and dated copies of any written communications concerning the Translator's programming including, but not limited to, memoranda, correspondence, and programming contracts for the period August 1, 2017, to the present.
14. Has the Translator Rebroadcast programming provided by another station? If so, answer the following with respect to each such station:
 - a. Identify the station that originated the programming;
 - b. Identify the dates and times the Translator Rebroadcast the programming;
 - c. Specify the percentage of the Translator's overall program schedule that the programming constituted; and
 - d. If the Translator no longer Rebroadcasts programming from the station, explain why not and produce all Documents (and a narrative response explaining the Documents) relevant to your response hereto.
15. Has the Translator originated its own programming? If no, skip to question 16. If yes, answer the following with respect to each instance the Translator originated its own programming:

- a. Specify the date and time on which the Translator Broadcast its originated programming;
- b. Indicate the duration of each such instance;
- c. Provide a description of the programming; and
- d. Explain fully the circumstances why the Translator Broadcast originated programming.

The Commission's rules provide that a translator station may interrupt the Rebroadcast programming to solicit and acknowledge funds used to maintain the translator station for up to 30 seconds each hour.³⁴ According to its website, KKDJ Radio offers broadcast and digital advertising.³⁵

16. Describe Licensee's past and current policies for soliciting and Broadcasting advertisements over the Translator. Produce all Documents (and a narrative response explaining the Documents) relating to such policies.
17. State whether the Translator has Broadcast any advertisement originated by the Translator at any time from August 1, 2017, to the present. If so, produce all Documents relating to such advertisements, including all recordings relating to such advertisements (and a narrative response explaining the Documents) relevant to your response hereto. E-mail electronic copies of any and all such recordings to KKDJ_Ra.9hyzzqy9dwpepneo@u.box.com, pursuant to the instructions set forth below in connection with *Delivery Requirements* for submitting *Electronic Copies*, and provide a written transcript of the material contained in each recording. The audio recordings must be compatible with Windows Media Player. In addition, provide the following for each such advertisement:
 - a. State all date(s) and time(s) on which such advertisement was run;
 - b. Identify the duration of each such advertisement;
 - c. Identify each Person who paid or promised to pay Licensee and/or KKDJ Radio Consideration in exchange for the Broadcast of such advertisement;
 - d. Identify each Person who received such Consideration; and
 - e. Identify the amount of Consideration paid or promised to be paid to Licensee and/or KKDJ Radio in exchange for the Broadcast of such advertisement.

Ownership and Control of Translator

Several news articles indicate that Chris and Denise White are owners and/or officers of KKDJ Radio,³⁶ an FM station that purportedly Broadcasts via the Translator.³⁷ According to the station's website, Richard Singleton is KKDJ Radio's Senior Vice President of Corporate Operations and Sales.³⁸ As explained above, however, the Translator is currently licensed to an individual, Gary M. Cocola.

³⁴ 47 CFR § 74.1231(g).

³⁵ KKDJ America's Classic Hits, *Advertise*, <https://kkdjradio.com/advertise/> (last visited June 9, 2021).

³⁶ *See supra* n.16.

³⁷ *See supra* n.32.

³⁸ KKDJ America's Classic Hits, *Contact Us*, <http://kkdjradio.com/contact-us/> (last visited June 9, 2021).

18. Identify Chris White (also known as Verne White), Denise White, and Richard Singleton, and fully describe the nature of each such Person's business relationship with Licensee and/or KKDJ Radio, including the nature of and relevant dates associated with the relationship. Produce all Documents among Licensee and/or KKDJ Radio and each such Person that reflect or relate to any Translator matters (and a narrative response explaining the Documents) relevant to your response hereto.
19. Since 2017, has Chris White, Denise White, or Richard Singleton held an Attributable Interest in any Person³⁹ with an Attributable Interest in any Broadcast facility licensed by the Commission? If so, for each such Person, (a) Identify each associated Broadcast facility licensed by the Commission; (b) describe the scope and nature of the Attributable Interest (specifying, as applicable, any position Chris White, Denise White, or Richard Singleton held as a principal, officer, employee, consultant, director, or agent of such Person and the responsibilities associated therewith) and the manner in which it arose; and (c) specify the dates between which Chris White, Denise White, or Richard Singleton held such Attributable Interest. Produce all Documents (and a narrative response explaining the Documents) relevant to your response hereto.

On January 6, 2020, Leone Asset Management announced that its subsidiary, BFA Media, Inc., signed a lease management agreement with "KKDJ Radio 102.3 FM."⁴⁰ According to the announcement, BFA Media, Inc. began operating and managing the KKDJ signal as of January 1, 2020.⁴¹ The announcement also indicated that "KKDJ FM Fresno, KYAF FM Firebaugh, and K259CF FM South Fresno are all BFA Media leased and managed signals."⁴²

20. Has Licensee or KKDJ Radio entered into a lease management agreement or any other agreement with BFA Media, Inc. concerning the operation, ownership, programming, sales, and staffing of the Translator or KKDJ Radio? If so, then as to each such agreement:
 - a. Produce a signed and dated copy of the agreement or, if no written agreement exists, a detailed summary of any oral agreements;
 - b. Identify the parties to the agreement;
 - c. State when the agreement was executed;
 - d. State when the terms of the agreement became effective;
 - e. Describe the terms of the agreement; and
 - f. Indicate whether the agreement is of the type required to be filed with the Commission pursuant to the Commission's rules. If so, indicate when this agreement was filed with the Commission. If not, explain the basis for determining that such filing was not required.
21. Has Licensee or KKDJ Radio entered into a local marketing agreement, management agreement, time brokerage agreement, shared services agreement, or any other agreement with any Person

³⁹ As defined below, the term Person includes, among other things, a business, company, corporation, or any other entity, whether for-profit or non-profit.

⁴⁰ LMA Announcement.

⁴¹ *Id.*

⁴² *Id.*

other than BFA Media, Inc. concerning the operation, ownership, programming, sales, and staffing of the Translator or KKDJ Radio? If so, then as to each such agreement:

- a. Produce a signed and dated copy of the agreement or, if no written agreement exists, a detailed summary of any oral agreements.
 - b. Identify the parties to the agreement;
 - c. State when the agreement was executed;
 - d. State when the terms of the agreement became effective;
 - e. Describe the terms of the agreement; and
 - f. Indicate whether the agreement is of the type required to be filed with the Commission pursuant to the Commission's rules. If so, indicate when this agreement was filed with the Commission. If not, explain the basis for determining that such filing was not required.
22. With respect to the Translator, Identify the specific Person or Persons who:
- a. Control or have access to the Translator's financial records and books;
 - b. Prepare and maintain the Translator's financial records and books;
 - c. Control or have access to the Translator's bank accounts;
 - d. Pay the Translator's operating expenses;
 - e. Prepare and sign the Translator's checks;
 - f. Prepare and sign the Translator's license renewal application;
 - g. Pay rent for the studio;
 - h. Pay rent for the antenna tower site or usage;
 - i. Pay the Translator's accounts payable, including but not limited to, utility accounts, network affiliation agreements, syndicated wire service contracts, credit accounts, rent/mortgage, equipment contracts, payroll and employee compensation. Provide the following information for each such account payable:
 - i. Identify which Person paid the vendor or employees for the services or goods provided;
 - ii. Specify on which Person's bank account such payment checks were drawn;
 - iii. Identify each signatory on each such bank account and provide copies of any and all contracts or agreements forming the basis for such bills or accounts payable.
 - j. Prepare or pay the Translator's insurance, income and property taxes, withholding statements, workmen's compensation, and social security obligations;

- k. Prepare and/or file applications, Documents, reports or other submissions related to Licensee's corporate status;
 - l. Interview, hire, or fire the Translator's personnel and/or volunteers;
 - m. Establish, implement, or alter the Translator's management policy;
 - n. Obtain ownership or lease of the transmitting antenna site for the Translator;
 - o. Maintain the Translator's transmitter facilities;
 - p. Staff the Translator's transmitter facilities;
 - q. Provide monitoring and engineering services necessary to the Translator's operation; and
 - r. Perform emergency Broadcast system operations.
23. Identify in whose name the Translator's accounts receivable were listed from August 1, 2017, to the present.
24. If KKDJ Radio uses or operates the Translator (i.e., its assigned frequencies, facilities, and/or equipment) for the transmission of energy or communications or signals by radio, answer each of the questions in Inquiries 22 and 23 with respect to KKDJ Radio's operations.
25. Identify any Person with knowledge about the subjects discussed in the Inquiries above, to the extent not already Identified, and describe the nature of each such Person's knowledge.
26. Identify any other instance in which Licensee or any parent and affiliate companies of Licensee received or were issued a Letter of Inquiry, Citation, Warning Letter, Notice of Apparent Liability, Forfeiture Order, or Admonishment from the Commission, or entered into a Consent Decree with the Commission.
27. Identify any efforts by Licensee to resolve or correct any noncompliance with the Act or the Commission's rules prior to this LOI. In addition, Identify any efforts by Licensee to disclose to the Commission any noncompliance with the Act or the Commission's rules prior to this LOI.
28. Provide a description by category and location of all Documents⁴³ and tangible things that Licensee has in its possession, custody, or control that are responsive to the questions herein.

Requests for Documents

1. Provide a copy of the lease, deed, or other Document reflecting the ownership or lease of the main studio of the Translator (and a narrative response explaining the Documents) relevant to your response hereto. If no such Document exists, then explain fully the alternative basis used to establish or convey an ownership or leasehold interest, i.e., an oral agreement. If oral, then describe fully the agreement's terms, and submit any related Documents.
2. Provide a copy of the lease, deed, or other legal Document reflecting the ownership or lease of the transmitting antenna site of the Translator (and a narrative response explaining the Documents) relevant to your response hereto. If no such Document exists, then explain fully the

⁴³ In responding to this inquiry, note the definition below of the term "Document" in the Instructions to this letter.

alternative basis used to establish or convey an ownership or leasehold interest, i.e., an oral agreement. If oral, then describe fully the agreement's terms, and submit any related Documents.

3. Provide copies of correspondence, internal memoranda, agreements, publicity materials, press releases, newspaper articles, and any other Documents in the Licensee's possession that relate to the programming, personnel, financing, marketing, or engineering of the Translator or KKDJ Radio, or that relate to the current or future ownership of the Translator or KKDJ Radio (and a narrative response explaining the Documents) relevant to your response hereto.
4. Provide copies of all Documents (and a narrative response explaining the Documents) that serve as the basis for or otherwise support the responses to all the Inquiries above, to the extent not already provided.
5. Provide any additional information, including Documents, that Licensee believes may be helpful in our consideration and resolution of this matter.

Filing Requirements

Affidavit Requirement. We direct Licensee to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Licensee with personal knowledge of the representations provided in Licensee's response. The affidavit or declaration must verify the truth and accuracy of the information therein, state that all of the information requested by this letter that is in Licensee's possession, custody, control, or knowledge has been produced, and state that any and all Documents provided in its responses are true and accurate copies of the original Documents. In addition to such general affidavit or declaration of the authorized officer of Licensee described above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual rather than his or her own knowledge, and if multiple Licensee employees contribute to the response, Licensee shall provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with section 1.16 of the Commission's rules,⁴⁴ and be substantially in the form set forth therein. Failure to support your responses with a sworn affidavit could subject you to forfeiture.⁴⁵

Delivery Requirements. Licensee shall submit its response electronically via e-mail to Kathryn.Hinton@fcc.gov, Kenneth.Scheibel@fcc.gov, and Christopher.Sova@fcc.gov. The electronic response shall be produced in a format that allows the Commission to access and use it, together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source. All responses and accompanying Documents and recordings exceeding 5MB must be sent to the Commission's secure online file system by e-mailing such documents and recordings as attachments to KKDJ_Ra.9hyzzqy9dwpepneo@u.box.com, consistent with the following parameters:

- Upload Documents and recordings as e-mail attachments only. Only the attachments will be uploaded to the secure folder. **E-mails and any accompanying text used for the purpose of uploading attachments, will NOT be uploaded to the secure folder.**

⁴⁴ 47 CFR § 1.16.

⁴⁵ *SBC Communications, Inc.*, 17 FCC Rcd at 7600, para. 28 (imposing \$100,000 penalty for failing to submit a sworn written response).

- Each e-mail upload of Documents or recordings must not exceed 50MB. Multiple e-mails may be necessary to upload attached files that exceed a total of 50MB.
- Copies of e-mails containing text that are responsive to this LOI must be uploaded separately as .PDF or .ZIP file attachments.
- Both designated Commission staff and the sender will receive a notification e-mail that files were uploaded successfully.

If you need help or have questions about how to provide the response or any accompanying Documents or recordings electronically, please contact Kathryn.Hinton@fcc.gov **no later than two business days prior to the response due date to ensure timely transmission of the response.**

Instructions

Request for Confidential Treatment. In addition to providing the requested information and Documents, any request for confidentiality of certain information or Documents must strictly comply with the requirements of 47 CFR § 0.459, including a statement of the reasons for withholding the materials from inspection. The request must include a schedule of the information or Documents for which confidentiality is requested that states, individually as to each such item, the information required by section 0.459(b) of the Commission's rules including, but not limited to, identifying the specific information for which confidential treatment is sought; explaining the degree to which the information is commercial or financial, or contains a trade secret or is privileged; and explaining how disclosure of the information could result in substantial competitive harm.⁴⁶ Accordingly, a "blanket" request for confidentiality or a casual request, including simply stamping pages "confidential," will not be considered a proper request for confidentiality, and those materials will not be treated as confidential.⁴⁷

Claims of Privilege. If Licensee withholds any information or Documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item: the numbered Inquiry to which each item responds and the type, title, specific subject matter and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged.

Format of Responses. The response must be organized in the same manner as the questions asked, i.e., the response to Inquiry 1 should be labeled as responsive to Inquiry 1.

Method of Producing Documents. Licensee shall submit each requested Document in its entirety, even if only a portion of that Document is responsive to an inquiry made herein, including all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. Licensee shall not edit, cut, expunge, or otherwise take any action to modify any Document submitted in response to this LOI. In addition to any Document Licensee submits in response to any inquiry, Licensee shall also submit all written materials necessary to understand any Document responsive to these inquiries.

Identification of Documents. For each Document or statement submitted in response to the foregoing inquiries, indicate, by number, to which inquiry it is responsive and Identify the persons from whose files the Document was retrieved. If any Document is not dated, state the date on which it was prepared. If any Document does not Identify its authors or recipients, state, if known, the names of the

⁴⁶ See 47 CFR § 0.459(b).

⁴⁷ See 47 CFR § 0.459(c).

authors or recipients. Licensee must Identify with reasonable specificity all Documents provided in response to these inquiries.

Licensee shall Identify all Documents provided in response to these inquiries in accordance with this paragraph. Licensee shall include a reference label on each Document that identifies each Document in sequential and consecutive numerical order and “Bates” stamp all Documents (e.g., Licensee 01-000001, where “Licensee” is the responding entity, “01” signifying that the Document is response to Question 1 of this LOI, and “000001” indicating that the Document is the first page in a consecutively numbered range potentially reaching one hundred thousand). Elements such as these should be separated by dashes, as indicated. For each Document submitted in response to this LOI, Licensee shall provide an index indicating: the title of the Document; the date of the Document; the custodian from whose files the Document was retrieved; the author and recipient of the Document; and the corresponding reference label number assigned to the Document. If any Document is not dated, Licensee shall state the date on which it was prepared. If any Document does not Identify its authors or recipients, state, if known, the names of the authors or recipients.

Documents Already Provided. If a Document responsive to any inquiry made herein has already been provided to the Enforcement Bureau during this or any other investigation, Identify each such Document, when and how it was produced to the Bureau, and specify the Bates-number range for the Document.

Documents No Longer Available. If a Document responsive to any Inquiry made herein existed but is no longer available, or if Licensee is unable for any reason to produce a Document responsive to any Inquiry, Identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why Licensee is otherwise unable to produce it.

Retention of Original Documents. With respect only to Documents responsive to the specific Inquiries made herein and any other Documents relevant to those Inquiries, Licensee is directed to retain the originals of those Documents for sixty months from the date of this letter unless (a) Licensee is directed or informed by the Enforcement Bureau in writing to retain such Documents for some shorter or longer period of time, or (b) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, Licensee must retain all such Documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any enforcement action brought by the United States Department of Justice, or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

In accordance with *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535, 4570-71, para. 74 (2012), unless and until otherwise instructed by the Commission, the Enforcement Bureau or their representatives, we hereby direct that Licensee shall not place in its public file or upload to its online public file this letter, any supplements thereto, or any other correspondence from the Commission concerning this investigation, materials related to such inquiries, Licensee responses to these Commission inquiries, or any Documents in connection with such responses not otherwise required to be placed in the public file or uploaded to the online public file.

Continuing Nature of Inquiries. The specific Inquiries made herein are continuing in nature. Licensee is required to produce in the future any and all Documents and information that are responsive to the Inquiries made herein but not initially produced at the time, date, and place specified herein. In this regard, Licensee must supplement its responses (a) if Licensee learns that, in some material respect, the Documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive

Documents or information are acquired by or become known to Licensee after the initial production. The requirement to update the record will continue for sixty months from the date of this letter unless (a) Licensee is directed or informed by the Enforcement Bureau in writing that Licensee's obligation to update the record will continue for some shorter or longer period of time, or (b) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case the obligation to update the record will continue until the matter has been finally concluded by payment of any such monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any enforcement action brought by the United States Department of Justice, or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

Construction. The terms "any" and "all," "and" and "or," and "each" and "every" shall be construed inclusively to bring within the scope of the requests for information and Documents all information and Documents that might otherwise arguably be construed as outside the scope of the requests. Likewise, the singular of any word or defined term shall include the plural and the plural of any such word or defined term shall include the singular. The words "relating to" or "relate to" shall be construed to mean, whether directly or indirectly, in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, supporting, qualifying, confirming, contradicting, or stating.

Definitions

For purposes of this LOI, the following definitions apply. The definitions in this section apply regardless of whether the first letter of the defined term appears in upper or lower case.

"Attributable Interest" shall mean, for purposes of this inquiry, any Interest in a Broadcast licensee that is attributable (i.e., deemed cognizable) to its holder under the Commission's rules, including but not limited to any Interest arising from the existence of common officers or directors in a Broadcast licensee, or common individuals or entities that own 5% or more of the outstanding voting stock of a Broadcast licensee, or any other cognizable Interest, direct or indirect, created by virtue of common ownership as specified in the notes to 47 CFR section 73.3555, the commercial ownership attribution rules. *See* 47 CFR sections 73.3555(f) and 73.7000.

"Broadcast," when used as noun, shall mean images or sounds or language transmitted or disseminated over a station during the course of a radio or television broadcast.

"Broadcast," when used as a verb, shall mean the transmission or dissemination of radio or television communications intended to be received by the public. The verb "broadcast" may be used interchangeably with the verb "air."

"Commission" or "FCC" shall mean the Federal Communications Commission.

"Consideration" shall mean anything of value, including, but not limited to, cash, checks, salary, fees, commissions, loans, management fees, consulting fees, honoraria, per diem allowance, payment of third-party invoices, travel and/or hotel expenses, meals, gifts, bonuses, services, the purchase of, or promise to purchase, advertising time, and/or any other thing of value, from any source, or given by third parties, to another.

"Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed,

filmed, punched, computer-stored, electronically-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.

“Identify,” when used with reference to a natural Person, shall mean to state his or her full legal name, any fictitious names (e.g., all aliases, “also known as,” “doing business as”), job title (if any), current home and business address(es), home and business phone number(s), and e-mail address.

“Identify,” when used with reference to a non-natural Person, shall mean to state its name, current or last known business address, current or last known business telephone number, e-mail address, and all of its directors, members, and officers.

“Identify,” when used with reference to a Document, shall mean to state the date, author, addressee, type of Document (e.g., the types of Document, as described above), a brief description of the subject matter, its present or last known location, and its custodian.

“Identify,” when used with reference to a Broadcast station, shall mean to state its address, call sign, facility ID, community of license, service, facility type, frequency, the date its most recent license was granted or renewed, and its licensee.

“Identify,” when used with reference to anything other than a Document, Person, or Broadcast station, shall mean to state all significant details, including dates, times, Persons involved, places, terms, and any other detail necessary to provide an accurate, comprehensive, factual, informative, and specific response.

“Interest” shall mean any ownership Interest, including a partial ownership Interest, in a non-natural Person, whether held directly or indirectly, or any *de facto* or *de jure* right to control such non-natural Person.

“KKDJ Radio” shall mean the FM station located in Fresno, California that Broadcasts on frequencies 92.5, 94.7, 99.7, 100.7, and/or 102.3 under the call sign KKDJ,⁴⁸ and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners including, but not limited to, partners or principals and all directors, officers, employees, or agents, including consultants and any other Persons working for or on behalf of the foregoing at any time during the period covered by this LOI. Although this LOI refers to KKDJ Radio to collectively include each Person or entity listed in this definition, any responses must specifically detail and distinguish between the actions or responsibilities of each Person or entity.

“Licensee” shall mean Gary M. Cocola, and any predecessor-in-interest, parent company, affiliate, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this LOI.

“Person” shall mean any individual, entity, business, company, association, or organization.

“Rebroadcast,” shall mean to Broadcast again simultaneously, or at a later time, a program received from another source.

⁴⁸ KKDJ America’s Classic Hits, www.kkdjradio.com (last visited June 9, 2021).

Mr. Gary M. Cocola
June 24, 2021
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“Translator” shall mean FM translator K272GD, South Fresno, California, Facility Identification Number 144742, including all predecessors and previous call signs.

ATTACHMENT B

(REDACTED COMPLAINT)

