



Federal Communications Commission
Washington, D.C. 20554

February 12, 2015

CBS Broadcasting, Inc.
1800 K Street NW
Suite 920
Washington, DC 20006

Mr. Gavin McKiernan,
1891 Oregon Ave
Long Beach, CA 90806

Re: KCBS-TV, Los Angeles, CA
File No. BRCT-20060810AIP
Facility ID No. 42124

Dear Petitioner/Licensee:

On October 30, 2006, Gavin McKiernan ("Petitioner") filed a petition to deny opposing the license renewal of Station KCBS-TV, Los Angeles, California, licensed to CBS Broadcasting, Inc. ("Licensee"). For the reasons set forth below, we deny the petition to deny.

Background. Petitioner contends that Station KCBS-TV violated community standards of decency, citing a March 15, 2006, *Notice of Apparent Liability for Forfeiture* ("NAL") issued against all CBS stations that aired the December 31, 2004, episode of the program "Without a Trace."¹ Petitioner contends that airing this program indicates that the Licensee has not acted in the public interest and lacks the character qualifications to be a Commission licensee.

Section 309(k)(1) of the Communications Act of 1934 (the "Act") states that the Commission shall grant a license renewal application if it finds that (a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations of the Communications Act or Commission rules and regulations; and (c) there have been no other violations by the licensee of this Act or the rules or regulations of the Commission which, taken together, would constitute a pattern of abuse.² The Commission will designate a hearing pursuant to Section 309(d)(1) of the Act if (a) the petitioner provides specific allegations of fact sufficient to show that such a grant would be prima facie inconsistent with the public interest;³ and (b) the allegations, taken together with any opposing evidence before the Commission, raise a substantial and material question of fact as to whether grant would serve the public interest.⁴

Discussion. Petitioner's allegation concerning the December 31, 2004, episode of "Without A Trace" was mooted by the NAL, in which the Commission found certain CBS affiliated and owned-and-

¹ *Complaints Against Various Television Licensees Concerning Their December 31, 2004, Broadcast of the Program "Without a Trace,"* Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 2732 (2006).

² 47 U.S.C. § 309(k)(1).

³ 47 U.S.C. § 309(d)(1); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988) ("Astroline").

⁴ *Astroline*, 857 F.2d at 1561.

operated stations, including Station KCBS-TV, apparently liable in the amount of \$32,500 per station for violation of the Commission's indecency prohibition.⁵ Although the Commission determined at the time that the airing of the material in question justified imposition of a forfeiture, we cannot find that the apparent violation was "serious" or evidenced a "pattern of abuse" that justifies denial or designation of the license renewal application.⁶

We therefore conclude that the petition does not allege violations that raise substantial and material questions of fact concerning the Licensee's qualifications or would otherwise justify designation of the Station KCBS-TV license renewal application for hearing pursuant to section 309(k) of the Act.⁷ Accordingly, it is ordered that the petition to deny filed by Gavin McKiernan **IS DENIED**.

Sincerely,



Barbara Kreisman
Chief, Video Division
Media Bureau

cc:

John W. Bagwell
CBS Broadcasting, Inc.
51 West 52nd Street
New York, NY 10017

⁵ David P. Fleming, Esq., Letter Decision, 23 FCC Rcd 9957, 9959 (Vid. Div. 2008).

⁶ *Id.*

⁷ *Id.*; 47 C.F.R. § 309(k).