



Federal Communications Commission  
Washington, D.C. 20554

April 27, 2016

*In Reply Refer to:*  
1800B3-CEG

Kasa Family Limited Partnership  
121 Cotton Square  
Lufkin, Texas 75904

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In re: **KRBA(AM), Lufkin, Texas**  
Facility ID: 63326  
File No. BR-20130430AFG

**KSML(AM), Diboll, Texas**  
Facility ID: 18106  
File No. BR-20130430AFE

**KSML-FM, Huntington, Texas**  
Facility ID: 33394  
File No. BRH-20130430AFD

**KYBI(FM), Lufkin, Texas**  
Facility ID: 63327  
File No. BRH-20130430AFF

Dear Licensee and Counsel:

We have before us the above-referenced applications (Applications) for the license renewals of stations KRBA(AM), Lufkin, Texas; KSML(AM), Diboll, Texas; KSML-FM, Huntington, Texas; and KYBI(FM), Lufkin, Texas (Stations), all filed by Kasa Family Limited Partnership (Kasa) on April 30, 2013. For the reasons set forth below, we admonish Kasa for violation of Section 1.65(c)<sup>1</sup> of the Commission's Rules and grant the Applications.

*Background.* On August 22, 2011, Kasa notified the Commission that Stephen Yates (Yates), a principal of Quadcom Communications, Inc., Kasa's general partner, had been convicted of the third degree felony of driving while intoxicated in March 2007 (Yates Conviction).<sup>2</sup> Because Yates had been convicted for the same offense 25 years earlier, the 2007 offense was considered a felony.<sup>3</sup> According to the Yates Declaration, Yates paid a fine of \$2,500, performed 160 hours of community service, had his driver's license suspended for a year, served ten days in the Polk County Jail, and attended a state

<sup>1</sup> 47 CFR § 1.65(c) (Section 1.65(c)).

<sup>2</sup> Applications, Exh. 5 (Yates Declaration).

<sup>3</sup> Yates Declaration at 1.

program for repeat driving while intoxicated offenders.<sup>4</sup> Yates states that he “had no intention of concealing the matter from the FCC” but mistakenly believed that the FCC “was interested in and wished to be notified of broadcast related misconduct rather than non-broadcast improprieties.”<sup>5</sup> In 2011, after Yates learned that his offense was reportable, he submitted the Yates Declaration to the Commission. On April 30, 2013, Kasa filed the Applications for renewal of the Stations, also appending the Yates Declaration.

*Discussion.* In evaluating an application for license renewal, the Commission’s decision is governed by Section 309(k) of the Communications Act of 1934, as amended (Act).<sup>6</sup> Section 309(k)(1) provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Commission’s Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.<sup>7</sup> If, however, the licensee fails to meet that standard, the Commission may deny the application—after notice and opportunity for a hearing under Section 309(e) of the Act—or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”<sup>8</sup>

Section 1.65(c) of the Rules requires that broadcast licensees must “report annually to the Commission any adverse finding or adverse final action taken by any court or administrative body that involves conduct bearing on the permittee’s or licensee’s character qualifications and that would be reportable in connection with an application for renewal as reflected in the renewal form.”<sup>9</sup> If such a report is required, it must be filed on the anniversary of the date that the licensee’s renewal application is required to be filed, except that licensees owning multiple stations with different anniversary dates need file only one report per year on the anniversary of their choice, provided that their reports are not more than one year apart.<sup>10</sup> Because conviction for a felony “raises questions of whether an applicant or licensee has the requisite propensity to obey the law,” all felony convictions, whether or not they are broadcast-related, are considered in assessing the character qualifications of broadcast licensees and applicants.<sup>11</sup> However, the Commission also considers mitigating factors, including the willfulness of the misconduct, the frequency of the misconduct, the currentness of the misconduct, the seriousness of the misconduct, the nature of the participation (if any) of managers or owners, efforts made to remedy the wrong, overall record of compliance with Commission rules and policies, and rehabilitation.<sup>12</sup> Thus, applicants and licensees are permitted to demonstrate that the misconduct should not result in disqualification.

In this case, we take into account that the Yates Conviction occurred nine years ago, and was Yates’ only such offense in the past 25 years. It appears that other managers or owners of Kasa were not involved in the incident, and that Yates paid his fine, served his jail sentence, and completed his community service. The Yates Conviction did not involve fraud or misrepresentation, and was apparently considered to be a felony only because of the much older convictions. The conduct at issue was not

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<sup>4</sup> Yates Declaration at 1.

<sup>5</sup> Yates Declaration at 1.

<sup>6</sup> 47 U.S.C. § 309(k) (Section 309(k)).

<sup>7</sup> 47 U.S.C. § 309(k)(1).

<sup>8</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

<sup>9</sup> 47 CFR 1.65(c). Such report is to be filed on the anniversary of the date that the licensee’s renewal application is required to be filed. *Id.*

<sup>10</sup> 47 CFR 1.65(c).

<sup>11</sup> *Character Qualifications Policy*, Policy Statement and Order, 5 FCC Rcd 3252, 3252, paras. 4-5 (1990) (*Character Qualifications Policy Statement*).

<sup>12</sup> *Character Qualifications Policy Statement*, 5 FCC Rcd at 3252, para. 5.

broadcast related and did not involve fraud, deception, or misrepresentation.<sup>13</sup> Finally, we take note of Kasa's overall record of compliance with Commission rules and policies. On careful review of the record, and taking all of these factors into account, we find that the Yates Conviction has minimal value as an indicator of Kasa's future compliance with the Commission's rules and thus should not result in disqualification of Kasa as the licensee of the Stations.

We find, however, that ignorance of the Commission's rules does not excuse Kasa's failure to report the Yates Conviction on the Stations' renewal anniversary date as required by Section 1.65(c).<sup>14</sup> Moreover, under Section 1.65(c), licensees bear the obligation to make diligent, good faith efforts to become knowledgeable of any such reportable adjudicated misconduct. Nonetheless, we find that Kasa's failure to report the Yates Conviction does not constitute a "serious violation" of the Rules warranting designation for evidentiary hearing under Section 309(k).<sup>15</sup> Furthermore, we find no evidence of violations that, when considered together, evidence a pattern of abuse. Finally, we find that the Stations served the public interest, convenience, and necessity during the subject license terms. We therefore grant the Applications but admonish Kasa for violating Section 1.65(c).

*Conclusion/Actions.* For the reasons stated above, Kasa Family Limited Partnership IS HEREBY ADMONISHED for its apparent violation of Section 1.65(c) of the Rules.

IT IS FURTHER ORDERED that, pursuant to Section 309(k) of the Act, the Applications filed by Kasa Family Limited Partnership (File Nos. BR-20130430AFG, BR-20130430AFE, BR-20130430AFD, and BR-20130430AFF) for renewal of the licenses for Stations KRBA(AM), Lufkin, Texas; KSML(AM), Diboll, Texas; KSML-FM, Huntington, Texas; and KYBI(FM), Lufkin, Texas, ARE GRANTED.

Sincerely,



Peter H. Doyle   
Chief, Audio Division  
Media Bureau

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<sup>13</sup> Cf. *Desert Broadcasting Corporation*, Hearing Designation Order and Notice of Apparent Liability, 11 FCC Rcd 14860 (1996) ("The convictions regarding fraud clearly raise questions about Desert's qualifications in that they have a direct bearing on the licensee's propensity to be truthful with this agency.")

<sup>14</sup> See Yates Declaration at 2. We note that there is no evidence in the record that this omission was deliberate.

<sup>15</sup> For example, we do not find here that the Kasa's operation of the Stations "was conducted in an exceedingly careless, inept and negligent manner and that the Licensee is either incapable of correcting or unwilling to correct the operating deficiencies . . ." See *Eli and Harry Daniels*, Decision, 32 FCC 2d 196, 198 (1971). Nor do we find that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate these stations in the future in accordance with the requirements of its licenses and the Commission's Rules." See *id.* at 200.