



Federal Communications Commission
Washington, D.C. 20554

March 25, 2019

In Reply Refer to: 1800B3-KV

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In re: K229DD, San Francisco, CA
File No. BLFT-20170519AAW
Facility ID No. 144139

Informal Objection-Interference Complaint

Dear Counsel:

This letter refers to: (1) the referenced license application (License Application) filed by Hispanic Family Christian Network, Inc. (HFCN or Licensee)¹ for FM Translator Station K229DD, San Francisco, California; and (2) the "Objection to License to Cover Application, Complaint of Interference and Request for Order to Terminate Operations" (Objection-Complaint), filed on July 11, 2017, by Lazer Licenses, LLC (Lazer), licensee of Station KXZM(FM), Felton, California.² For the reasons set forth

¹ The Station is currently licensed as K267BO, Channel 267, at South Lake Tahoe, California. *See* File No. BLFT-20151031AAP. Because our review concerns the proposed move to Channel 229 at San Francisco we will refer to the Station as K229DD.

² Also, before us are the following pleadings: (1) a "Response to Interference Complaint" filed by HFCN on September 29, 2017 (First Response); (2) a "Reply to Response to Interference Complaint Response of Hispanic Family Christian Network, Inc. and Supplemental Complaint of Interference and Request for Order to Terminate Operations by Lazer Licenses, LLC" filed by Lazer on October 20, 2017 (Supplement); (3) a "Response to Interference Complaint" filed by HFCN on November 21, 2017 (Second Response); and (4) a "Response to Interference Complaint" filed by HFCN on January 18, 2018 (Third Response).

below, we grant the Objection-Complaint; and require HFCN to immediately cease operation of FM Translator Station K229DD.

Background. The Station is a translator for Station KVTO(AM), Berkley, California, licensed to Pham Radio Communication, LLC. On May 19, 2017, HFCN filed the License Application to, *inter alia*, implement a move of the Station to Channel 229 at San Francisco, California.³

On July 11, 2017, Lazer filed the Objection-Complaint, alleging that K229DD is interfering with the reception of cochannel Station KXZM(FM) which broadcasts in Spanish. Lazer reports that “on or about May 16, 2017, KXZM’s employees were alerted of a signal interference with [KXZM] . . . and the interfering signal . . . identified itself as KVTO(AM) . . . [which] broadcasts in the Chinese language.”⁴ Lazer determined the interference was from Station K229DD and “attempted to work with HFCN to . . . remediate the interference, but its attempts were unavailing.”⁵ Thereafter, Lazer filed the Objection-Complaint attaching six listener complaints, dated June 16 – 28, 2017, with each reporting interference to their KXZM(FM) reception in their homes, vehicles and/or offices.⁶

On August 28, 2017, the Media Bureau (Bureau) sent HFCN a letter requiring it to respond within 30 days to the listener complaints reporting interference to their reception of KXZM(FM).⁷ Specifically, the Bureau directed HFCN to submit a detailed report addressing the listener complaints including: “(1) the name and address of each complainant; (2) specific devices receiving the interference (i.e. type of device, manufacturer’s name, model number, and serial number); and (3) any assistance it provided for each device allegedly receiving the interference and whether such interference persists.”⁸ The Bureau further noted that failure to correct *all* complaints within this time may require the Station to suspend operation pursuant to sections 74.1203(e) and 74.1232(h) of the Commission’s Rules (Rules).⁹

On September 29, 2017, HFCN responded that all complaints had been resolved because the specific listener was either unreachable; unresponsive, or uninterested in pursuing the complaint. Specifically, HFCN reported that:

- Alejandro, in response to HFCN’s text message, requested no further contact;¹⁰

³ The License Application implements construction permit (File No. BMPFT-20160920ACP) granted on November 21, 2016.

⁴ Objection-Complaint at 2.

⁵ *Id.* at 3.

⁶ *Id.* at Exh. A, Listener Complaints from: Axel Alejandro (Alejandro); Melissa Alatorre (Alatorre); Adriana Torres (Torres); Olivia Cortez (Cortez); Catalina de Gonzalez (Gonzalez); and Sonia Ochoa (Ochoa). Collectively, these listeners will be referred to as “Original Complainants.”

⁷ See Letter from James D. Bradshaw, Deputy Chief, Audio Division, Media Bureau to Hispanic Family Christian Network, Inc. (dated Aug. 28, 2017), (*Bureau Letter*).

⁸ *Id.* at 1.

⁹ *Id.* at 2, citing 47 CFR §§ 74.1203(e) and 74.1232(h).

¹⁰ First Response, Attachment 1. HFCN attached the original Spanish text message exchange with Alejandro along with an English translation:

I am sorry I cannot help you. I write that no one contact me for that precise reason. Please do not contact me. [Alejandro].

- Alatorre was unreachable via certified letter¹¹ as the United States Post Office stated her address “did not exist”; she also did not respond to a voicemail message and a September 27, 2017, email;¹²
- Torres was unreachable via certified mail with the August 2017 Letter stamped “Return to Sender, Attempted – Not Known, Unable to Forward”; she also did not respond to a voicemail message;¹³
- Cortez was unreachable via certified mail with the August 2017 Letter stamped “Return to Sender, No Such Number, Unable to Forward”; she also did not respond to a voicemail message and September 27, 2017 email;¹⁴

A thousand apologies and I understand. We are forced to fix this problem . . . If we don’t talk we might need to go to court to declare [sic] between the judge. So the only way is that you cancel your complaint so I can stop the process. That is why I need this. [HFCN representative].

Id.

¹¹ HFCN’s letter, dated August 24, 2017, stated:

This letter is in response to the complaint that you filed to the FCC (Federal Communications Commission) stating that our signal on K267BO 93.7 FM Facility ID 144139 San Francisco, California was interfering with the programming on KXZM 93.7 FM Felton, California.

We sincerely apologize for the inconvenience if such interference is occurring. We assure you that Hispanic Family Christian Network will attend to this matter as soon as possible.

This letter is to reach out to you as part of the undergoing investigation, Hispanic Family Christian Network is conducting, regarding your declaration letter filed to the FCC. We recommend scheduling an appointment as soon as possible with our engineer to see where if such interference is occurring.

We would greatly appreciate your cooperation and it will be in the best interest of both parties to resolve the situation in this manner. If no resolution is reached on [sic] next 30 days, then the next step would involve legal litigation and court.

To make an appointment please contact our Chief Engineer Homero Lozano or Assistant Engineer Armando Quintero at 214-331-2800.

Thank you.

Sincerely,

Ana Karen Guel

Id., Attachments 1-6 (August 2017 Letter).

¹² *Id.*, Attachment 2.

¹³ An HFCN representative stated “I tried to contact Ms. Adriana Torrez [sic] at [her] phone number . . . I also left a voicemail explaining who I was and that I wanted to resolve the problem with the interference she was receiving. I did not received [sic] a called [sic] back . . .” *Id.*, Attachment 3, “Declaration of Maria Guel” (undated).

¹⁴ *Id.*, Attachment 4.

- Gonzalez received the certified August 2017 Letter¹⁵ and requested, in a July 18, 2017, call to HFCN, no further contact and to close her complaint;¹⁶ and
- Ochoa did not respond to the certified August 2017 Letter which was delivered on August 28, 2017; she also did not respond to a voicemail message.¹⁷

In an October 20, 2017, Supplement, Lazer disputed that the listener complaints were resolved arguing that HFCN “sought to intimidate the listeners into dropping their interference complaints . . . by falsely stating [in the August 2017 Letter] that their continued pursuit of their complaints could result in litigation.”¹⁸ In support, Lazer states that:

- Alejandro received a text message from HFCN stating he would have to go before court if he did not drop his complaint;¹⁹
- Torres, in an October 9, 2017, handwritten letter, reported feeling “harassed” by HFCN’s calls requesting dismissal of her complaint;²⁰

¹⁵ HFCN does not state when the August 2017 Letter was delivered. *Id.*, Attachment 5.

¹⁶ HFCN reported:

On July 18, 2017, we called [Gonzalez] and left a message . . . in which we specified that we were contacting her to fix the problem with the interference on her radio, after two hours she called us back and apologized for not being able to answer the phone call since she was at work at the time, then she told us that she was not interested in continuing with the complaint . . . and mentioned that she was just helping out a friend who worked on that radio [station] and she said that she had no interest in moving forward with it. We told her if she could please send us a letter or email of what she was telling us which she said she had neither time nor interest and to please not contact her any more of [sic] this matter. Also we send a certified letter as well to the address she had wrote down on the complaint letter.

Id. Attachments 5, “Declaration of Ana Guel” (dated Sep. 21, 2017).

¹⁷ An HFCN representative stated “I tried to contact Ms. Sonia Ochoa at [her] phone number . . . I also left a voicemail explaining who I was and that I wanted to resolve the problem with the interference she was receiving. I did not received [sic] a called [sic] back . . .” *Id.*, Attachment 6, “Declaration of Maria Guel” (undated).

¹⁸ Supplement at 3.

¹⁹ Lazer claims that an “correct” translation of HFCN’s text message to Alejandro, states, in pertinent part:

A thousand apologies and I understand. We are forced to fix this problem . . . If we don’t talk, you will be made to go, by power of the court to declare . . . before a judge, the only way . . . is to cancel your complaint so I can stop the process. For this reason, I need to know what . . .”

Id., Exh. B, “Declaration of Steve Robles” (dated Oct. 17, 2017), 1-2. (Robles Declaration).

²⁰ *Id.*, Exh. G, “Letter from Adriana Torres,” (dated Oct. 9, 2017) (Torres Letter). Lazer includes Torres’s original letter, written in Spanish, along with an English translation:

My name is Adriana Torres. I am a frequent radio listener of Radio Lazer 93.7 FM and around the end of April beginning of May I couldn’t listen [to] the radio, [I] am hearing a lot of interference or like a “Chinese Station.” I communicated with the offices of the Radio in San Jose and let them know I couldn’t listen to them. Later, I was receiving calls from persons that I believe were from Texas or away from California.

At first, they were telling me that they wanted to fix the problem and could replace my stereo in my car. I did not accept, and they continued insisting to call me and pressure me to say that I

- Gonzalez, in an October 11, 2017, handwritten letter, reported feeling “scared” by HFCN’s calls;²¹
- Ochoa, in an October 18, 2017, declaration, stated “I felt intimidated into no longer pursuing my Interference Complaint”;²²
- Alatorre, in an undated declaration, reported not being contacted by HFCN;²³ and
- Steve Robles, KXZM’s marketing manager, in an October 17, 2017, declaration, stated that “several” listeners reported being “intimidated” by HFCN into dropping their complaints.²⁴

Lazer also submitted three new listener complaints from Alejandro Sanchez (Sanchez); Isain Pena (Pena); and Cristopher Zarate (Zarate).²⁵ Lazer also claims that the interference reduced KXZM’s ability to broadcast to its listeners,²⁶ and that the Station is operating with unauthorized facilities due to the placement of the Station’s antenna.²⁷

In its November 21, 2017, Second Response, HFCN reiterated that the Initial Complainants were either unreachable, non-responsive, or dropped their complaints. HFCN also noted that its representatives are “non-lawyers” who informed listeners that if “an appointment could not be made and the interference resolved (or alternatively, that the complaint were to be dropped), that HFCN would be forced to go to court (in this case the FCC) for the matter to be resolved (by the FCC) and that their

don’t have any problems listening to the radio. They continued to call me until I decided to answer, or answer anyone [call’s] because I felt harassed.

For any questions or if you need more information I am at your service.

²¹ *Id.*, Exh. I, “Letter from Catalina De Gonzalez,” (dated Oct. 11, 2017) (Gonzalez Letter) which states:

My name is Catalina De Gonzalez. I am a Radio Lazer listener since a few month[s] back I have not been able to listen Radio Lazer since there is interference and bad signal. Oh and another language. I have done my part and called the Station and informed [them] of [the] issue. A bit after I was contacted by people whom I never gave consent to bother or call me & they keep calling me stating I would have to show up to court. I was scared and stopped calling. Until today I still don’t hear the Station’s frequency.

²² *Id.*, Exh. C, “Declaration of Sonia Ochoa,” (dated Oct. 18, 2017).

²³ *Id.*, “Declaration of Melissa Alatorre” (undated).

²⁴ *Id.*, Exh. B, Robles Declaration.

²⁵ *Id.*, Exh. A. Collectively, these listeners will be referred to as “New Complainants.”

²⁶ In support, Lazer includes declarations and showings from its chief operating officer and two engineering consultants. *See Id.*, Exhs. D–F.

²⁷ *Id.*, Exh. H, “Second Declaration of Lloyd of M. Moss,” (dated Oct. 19, 2017) and Attachments 1–4. Moss, a Lazer engineering consultant, reported finding, on October 10, 2017, visit to the Station’s tower cite, a single vertically polarized Jampro J3YF antenna installed, rather than the authorized vertically and horizontally polarized Jampro SLANT antenna. *Id.* at 2 para. 7. He stated that the tower site supervisor, Erick Dausman confirmed that the antenna belonged to the Station. Moss also claimed that “antenna pattern for the [Station’s] . . . antenna exceeds the authorized pattern . . . in [the Station’s] Modified Construction Permit.” *Id.* at para. 8.

information would be reviewed at that time.”²⁸ HFCN regretted “any confusion generated by its representatives’ terminology”²⁹ With respect to Ochoa, Alatorre, Gonzales, and Torres, HFCN reported sending new certified letters³⁰ and making calls, but only Gonzales scheduled a future appointment. HFCN pledged to report the results of Gonzales’ appointment and continue, “within reason,” to reach out to Ochoa, Alatorre, and Torres. Regarding the New Complainants, Sanchez, Pena and Zarate, HFCN reported mailing certified letters³¹ and making calls, but none made an appointment. HFCN stated that it would continue, “within reason,” to reach out to Sanchez, Pena and Zarate. As for the Station’s facilities, HFCN declared that “it is operating in full and complete compliance with its construction permit”³² and would submit support in a future filing.

On January 18, 2018, HFCN declared that all listeners were either non-responsive, or uncooperative. HFCN reported mailing, on October 31, 2017, a certified letter dated October 26, 2017, (the October 2017 Letter), that did not include any reference to court³³ to Ochoa, Alatorre, Gonzales, Torres, Sanchez, Pena, and Zarate. HFCN reported that:

- Ochoa did not respond to the October 2017 Letter, delivered on November 6, 2017, and she did not respond to further phone calls;³⁴
- Alejandro was not re-contacted based on his previous request not to be contacted;³⁵
- Alatorre did not respond to the October 2017 Letter, delivered on November 3, 2017. In a November 20, 2017, phone call, however, Alatorre reported being “busy and that a return call should be made. Such a call was made. Ms. Alatorre has not responded.”;³⁶
- Cortez was not re-contacted because HFCN’s August 2017 Letter was returned due to an incorrect address and she did not respond to previous phone calls and an email;³⁷
- Gonzalez was unreachable via certified mail with the October 2017 Letter, stamped “Return to Sender, Unclaimed, Unable to Forward.” A previously reported appointment never occurred as “HFCN’s Consultant Jamie Arbona, called her on November 22, 2017, to set up an appointment She indicated she would call back. She never called back. Since that time, she was

²⁸ Second Response at 2.

²⁹ *Id.*

³⁰ *Id.*, Attachment 1 (HFCN submitted only certified mail receipts and not copies of the letters or return receipts).

³¹ *Id.*

³² *Id.* at 4.

³³ Third Response, Attachment D. The October 2017 Letter stated, in pertinent part: “We would greatly appreciate your cooperation and it will be in the best interest of both parties to resolve this situation. We are required to find a solution to this matter as soon as possible.” *Id.*

³⁴ *Id.*, “Declaration of Maria Guel” (dated Jan. 15, 2018) at 2 (2018 Maria Guel Declaration), and Attachment D, “Sonia Ochoa.”

³⁵ *Id.*, 2018 Maria Guel Declaration at 2.

³⁶ *Id.* at 2-3 and Attachment D, “Melissa Alatorre.”

³⁷ *Id.* at 3.

recontacted, and stated she did not have time for an appointment . . . There has been no further contact. . . .”,³⁸

- Torres was unreachable via certified mail with the October 2017 Letter stamped “Return to Sender, Unclaimed, Unable to Forward.” She also did not respond to a “late November voicemail.” HFCN consultant Jamie Arbona (Arbona) further reported that Torres³⁹ was “initially very cooperative . . . exchanging a number of emails with me. . . sending video recordings . . . of interference and citing exact locations (all of which I verified to be accurate). After the K229DD antenna was moved to its present location . . . the interference stopped (per my investigation). I have emailed . . . to confirm that assessment but she has not responded.”;⁴⁰
- Sanchez did not respond to the October 2017 Letter, delivered on November 4, 2017. In a November 29, 2017, phone call, however, Sanchez said “he did not have time for . . . [an appointment] . . . and that he would call back. No return call was received.” On December 16, 2017, Sanchez told Arbona “he was too busy to speak and would call me back. He did not . . . I have left messages . . . and he has not returned my calls.”;⁴¹
- Pena responded to the October 2017 Letter, delivered on November 3, 2017, by commenting on the enclosed “Declaration Letters”: “None of the above options help to describe my situation, I still hear interference in some other language. Thank you.” In an October 30, 2017, phone call, Pena agreed to make an appointment. In a November 22, 2017, phone call Arbona reported Pena as stating “he heard interference from ‘la emisora China’ along Hesperian Blvd. in Hayward. He did not specify when. I rode Hesperian . . . and could hear none. Beginning on November 29, 2017, I called and left messages to try and set up an appointment Pena never responded.” HFCN states that it also sent a second letter, dated November 28, 2017, and written in Spanish (November 2017 Letter), which was delivered on December 18, 2017, but Pena did not respond to it;⁴² and
- Zarate responded to the October 2017 Letter, delivered on November 21, 2017, by commenting in Spanish on the enclosed “Declaration Letters,” per HFCN, that: “he was still receiving interference.”⁴³ HFCN states that it then sent the November 2017 Letter to Zarate, which was delivered on December 5, 2017, but Zarate did not respond to the November 2017 Letter or subsequent phone calls.⁴⁴

³⁸ *Id.* at 3 and Attachment D, “Catalina de Gonzalez.”

³⁹ Although Arbona states “[a]nother early complainant, a Ms. Adriana Pacheco . . .” he appears to be referring to Torres who is the only listener with the first name Adriana and she is also an Initial Complainant. *Id.*, Attachment C, “Declaration of Jamie Arbona (dated Jan. 15, 2015) (Arbona Declaration) at 2 para 5.

⁴⁰ *Id.*, 2018 Maria Guel Declaration at 3-4 and Attachment D, “Adrianna Torres.”

⁴¹ *Id.* at 4, and Attachment D, “Alejandro Sanchez.”

⁴² *Id.*, and Attachment D, “Isain Pena.”

⁴³ *Id.*, and Attachment D, “Cristopher Zarate.”

⁴⁴ *Id.*

Regarding the Station's facilities, HFCN states that it is in compliance with its permit, but it has twice moved the antenna to eliminate interference. Specifically, HFCN attaches a letter from the Tower and Facilities Maintenance Manager, reporting, in pertinent part:

The K229DD antenna was originally located at 370 feet AGL on the east face of Level 3 in vertical orientation. This height caused reflection off the metal side of the tower at Level 3, which may have been the cause of the initial interference reports from late June 2017. In early July 2017 . . . the K229DD antenna was dropped down away from the metal siding of Level 3, still in a vertical orientation, to allow more projection of the signal to the west.

When [more] interference reports were received. . . the K229DD antenna [was moved] to the middle (vertically speaking) of the NW face of Level 3 . . . (approximately 375 foot elevation AGL) . . . [with] a special mount that put the K229DD antenna on a 45 degree angle (neither vertical nor horizontal). This last move put the K229 antenna approximately 50 feet to the North northwest of its original position. Importantly, due to the structural siding and steel of the tower at Level 3, the current location of the antenna blocks all RF emissions from the K229DD antenna to the Southeast, which is the direction from which interference were momentarily reported. The antenna has been at this location since November 14, 2017.

In all three locations the antenna has remained on a 40 degree azimuth. . . ."⁴⁵

HFCN's consulting engineer, Arbona, also reports that "K229DD's signal was reflected into the Hayward area at one point, it is my conclusion that relocating its [K229DD's] antenna to a new segment on Sutro tower clearly resolved this issue in November."⁴⁶

On December 21, 2018, Commission staff granted the License Application without acting on the Objection-Complaint.⁴⁷

Discussion. Section 74.1203(a) provides, in pertinent part, that an FM translator station "will not be permitted to continue to operate if it causes any actual interference to . . . the direct reception by the public of off-the-air signals of any authorized broadcast station"⁴⁸ The rule places no geographic or temporal limitation on complaints, and we have long held that mobile receivers, such as automobile radios, should not be subject to interference resulting from the operation of an FM translator or booster station.⁴⁹ The FM translator rules strictly prohibit interference by these secondary service stations, and an interfering FM translator station must remedy the interference or suspend operation.⁵⁰

⁴⁵ *Id.* at Attachment A, "Letter from Shane Best, Tower and Facilities Maintenance Manager", (dated Jan. 16, 2018). See also *Id.* at 1 and Attachment B.

⁴⁶ *Id.*, Attachment C, Arbona Declaration at 1, para. 4.

⁴⁷ See "Broadcast Actions," Report No. 49391, (dated Dec. 27, 2018). Because we are granting the Objection-Complaint and ordering the Station to cease operations, we find the grant of the License Application before acting on said pleading to be harmless error with no effect on the substantive outcome of this proceeding.

⁴⁸ 47 CFR § 74.1203(a).

⁴⁹ See, e.g., *Forus FM Broad. of New York, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 7880, 7882, para. 16 (MB 1992) (because of the secondary nature of FM booster stations, and the resulting requirement that they provide interference-free service, such stations will not be permitted to cause interference to mobile receivers).

⁵⁰ 47 CFR § 74.1203(b).

The Commission has interpreted “direct reception by the public” to limit actionable complaints to those that are made by *bona fide* listeners.⁵¹ Thus, it has declined to credit claims of interference⁵² or lack of interference⁵³ from station personnel involved in an interference dispute. More generally, the Commission requires that a complainant “be ‘disinterested,’ *e.g.*, a person or entity without a legal stake in the outcome of the translator station licensing proceeding.”⁵⁴ The staff has routinely required a complainant to provide his or her name, address, location(s) at which FM translator interference occurs, and a statement that the complainant is, in fact, a listener of the affected station. Moreover, as is the case with other types of interference complaints,⁵⁵ the staff has considered only those complaints of FM translator interference where the complainant cooperates in efforts to identify the source of interference and accepts reasonable corrective measures.⁵⁶ Accordingly, when the Commission concludes that a *bona fide* listener has made an actionable complaint⁵⁷ of uncorrected interference from an FM translator, it will notify the station that “interference is being caused” and direct the station to discontinue operations.⁵⁸

The issue before us is whether HFCN has eliminated the actual interference caused by the Station to the nine listeners of co-channel Station KXZM(FM) who filed complaints. Based on the record as supported by *written* documentation, we find that HFCN resolved six listener complaints, but failed to resolve three listeners complaints. Regarding the six resolved complaints, we find that Alejandro was uncooperative because he checked the “no contact” box on his June 28, 2017, complaint;⁵⁹ Cortez was

⁵¹ See *Ass’n for Cmty. Educ., Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682, 12688, para. 16 (2004) (*Ass’n for Cmty. Educ.*).

⁵² See *id.*

⁵³ See *Living Way Ministries, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 15070, 15077, n.46 (2008).

⁵⁴ *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688 n.37.

⁵⁵ See, *e.g.*, *Jay Ayer and Dan J. Alpert*, Letter Order, 23 FCC Rcd 1879, 1883 (MB 2008) (requiring complainants to cooperate fully with the station’s efforts to resolve interference and cautioning that the failure to do so could lead to a finding that the station has fulfilled its interference remediation obligations).

⁵⁶ See *Radio Power, Inc.*, Letter Order, 26 FCC Rcd 14385, 14385-86 (MB 2011) (listing grounds that translator licensee claimed are sufficient to conclude that complainant has failed to reasonably cooperate and finding that a listener may reasonably reject a non-broadcast technology to resolve interference claim).

⁵⁷ Because only a complaint from a *bona fide* listener of the desired station can force a translator station to suspend operation, certain engineering statements and interference showings and KXZM(FM) personnel statements, submitted by Lazer in Exhibits D-F of the Supplement, and certain statements, concerning interference testing by HFCN’s consultant Arbona, Third Response, Attachment C, Arbona Declaration do not meet that criterion. See, *e.g.*, *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 16 (station’s engineer locating the points on a map where the translator had interfered with the stations’ signal as he drove around the full-service station’s coverage area listening to the car radio did not meet that criterion) and *Valley Broad., Inc.*, 7 FCC Rcd 4317, 4319, para. 26 (MB 1992) (tests for booster interference were conducted under Special Field Test Authority by a neutral party, using a mobile receiver and a stationary receiver. The application was granted with the *caveat* that if the booster station resulted in listener interference complaints, the permittee would be required to discontinue its operation until all complaints had been resolved). Likewise, the referenced statements and showings presented by Lazer and Arbona are not probative because Section 74.1203(b) does not allow us to rely on such studies.

⁵⁸ See 47 CFR § 74.1203(e); see also *Amendment of Part 74 of the Commission’s Rules Concerning FM Translator Stations*, Report and Order, 5 FCC Rcd 7212, 7230, para. 131 (1990), *modified*, 6 FCC Rcd 2334 (1991), *recon. denied*, 8 FCC Rcd 5093 (1993); *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 15.

⁵⁹ Objection-Complaint, Exh. A. Because Alejandro clearly indicated on the complaint that he did not want future contact, we express no opinion on the differing text message translations submitted by HFCN and Lazer.

unavailable because her address was incorrectly listed;⁶⁰ and Ochoa, Alatorre, Gonzalez and Sanchez were non-responsive because they failed to keep scheduled appointments or otherwise failed to participate in the interference remediation process after being sent the October 2017 Letter.⁶¹

Regarding the remaining listener complainants, we find that HFCN failed to resolve the Torres complaint. Specifically, although Torres did not accept delivery of HFCN's October 2017 Letter, HFCN sent subsequent written correspondence that we are unable to review. In particular, HFCN's Arbona reports exchanging "a number of emails" with Torres; HFCN, however, does not include this e-mail correspondence. Arbona further reports that Torres was "initially very cooperative" and that he verified her interference, but she failed to respond to his email, sent sometime after November 14, 2017, when the Station moved its antenna.⁶² Previously, Torres described feeling "pressured" and "harassed" by HFCN.⁶³ Therefore, we believe that review of the Arbona-Torres email correspondence is critical. Because we are unable to do so we cannot find documented support for HFCN's claims that Torres complaint was resolved.

While we find HFCN's failure to resolve the Torres complaint to be dispositive, we also tentatively conclude that it failed to resolve the Pena and Zarate complaints due to a lack of sufficient documentary support. Specifically, Pena and Zarate wrote, in response to HFCN's October 2017 Letter, that they were experiencing interference. HFCN replied with the November 2017 Letter, written in Spanish, which it claims requested only that they contact HFCN, which they did not;⁶⁴ HFCN does not include a translation of the November 2017 Letter. Previously, HFCN has conceded that its "non-lawyer's terminology" caused "confusion." Under these circumstances, we believe that review of the November 2017 Letter is necessary to support HFCN's contention that the Pena and Zarate complaints should be considered resolved due to the complainants' failure to respond to its overtures.⁶⁵

Consequently, we conclude that HFCN has failed to eliminate the interference to Torres and, therefore, K229DD must suspend operations. Because we are directing HFCN to cease operations on K229DD due to HFCN's failure to resolve interference, we do not need to address at this point Lazer's allegation, raised in the Supplement, that K229DD is operating with unauthorized facilities.

Conclusion. Based on the above, IT IS ORDERED, that the Objection to License to Cover Application, Complaint of Interference and Request for Order to Terminate Operations by Lazer Licenses, LLC filed on July 11, 2017, IS GRANTED.

IT IS FURTHER ORDERED pursuant to Sections 74.1203 and 0.283 of the Rules,⁶⁶ based on the above, Hispanic Family Christian Network, Inc. IS HEREBY ORDERED TO CEASE OPERATION OF STATION K229DD IMMEDIATELY.⁶⁷ Hispanic Family Christian Network also is

⁶⁰ See *supra* note 37.

⁶¹ See *supra* notes 34, 36, 38, and 41.

⁶² See *supra* note 45.

⁶³ See *supra* note 20.

⁶⁴ See *supra* notes 42-44.

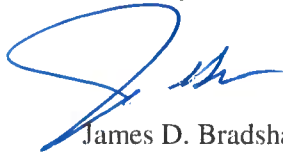
⁶⁵ Our tentative conclusion that HFCN failed to resolve the Pena and Zarate complaints is not determinative here in light of our finding that the Station must cease operations due to its failure to resolve the Torres complaint.

⁶⁶ 47 CFR §§ 74.1203 and 0.283.

⁶⁷ Please note that any request by HFCN to operate with reduced/temporary facilities on this same channel will only be granted upon a demonstration that the proposed facilities will not cause interference at all of the listening locations provided by the remaining listeners.

cautioned that it is impermissible for a licensee to intimidate or harass a complainant with threats of reprisals or to engage in some other unnecessary or abusive conduct reasonably calculated to dissuade him or her from continued involvement in a complaint proceeding.⁶⁸

Sincerely,



James D. Bradshaw
Senior Deputy Chief
Audio Division
Media Bureau

⁶⁸ See *Clear Channel Broadcasting Licenses, Inc.*, Notice of Apparent Liability, 19 FCC Rcd 1768, 1777, para. 15 (2004) (intimidation or harassment requires threats of reprisals or some other unnecessary and abusive conduct reasonably calculated to dissuade involvement in a proceeding).