



Federal Communications Commission
Washington, D.C. 20554
October 31, 2017

In Reply Refer To:
1800B3-ALV

William Dudley Waller, Jr.
11652 County Road 2250
Tyler, TX 75707

David Tillotson, Esq.
4606 Charleston Terrace, N.W.
Washington, DC 20007

In re: **KFRO-FM, Gilmer, Texas**
Facility ID No. 14755
File No. BALH-20170515ACT

KZXM(FM), Bullard, Texas
Facility ID No. 170966
File No. BALH-20170515ACU

KMPA(FM), Pittsburg, Texas
Facility ID No. 8491
File No. BALH-20170515ACV

KLJT(FM), Jacksonville, Texas
Facility ID No. 57204
File No. BALH-20170515ACW

Applications for Assignment of Licenses
Informal Objections

Dear Mr. Waller and Counsel:

We have before us the above referenced applications (Applications) for Commission consent to the proposed assignment of the licenses for (1) Stations KFRO-FM, Gilmer, Texas, KZXM(FM), Bullard, Texas, and KMPA(FM), Pittsburg, Texas, from Waller Media, LLC (Waller Media) to East Texas Results Media, LLC (ETRM); and (2) Station KLJT(FM),¹ Jacksonville, Texas, from Waller Broadcasting, Inc. (Waller Broadcasting) to ETRM. We also have before us Informal Objections (Objections) to the Applications, filed on June 12, 2017, by William Dudley Waller Jr. (William).² For the reasons set forth below, we deny the Objections and grant the Applications.

¹ KFRO-FM, KZXM(FM), KMPA(FM), and KLJT(FM), collectively, the Stations.

² On June 13, 2017, William filed two additional pleadings, each titled "Petition to Deny," which were identical to his initial Informal Objections. William's pleadings contain numerous allegations of fact, which are not supported by an affidavit or declaration. Accordingly, the pleadings cannot be considered as petitions to deny. *See* 47 CFR § 73.3584; 47 U.S.C. § 309(d)(1). We will, however, consider the pleadings as informal objections under Section

Background. William is the son of the now-deceased former CEO and controlling member of Waller Media and Waller Broadcasting, William Dudley Waller (Dudley), and Dorothy Reid Waller (Dorothy); William also previously served as station operator and engineer for the Waller Stations. Dudley passed away in May 2016, without a will. Dorothy was subsequently appointed the Administratrix of the Estate of Dudley, and in July 2016, Susan Waller (Susan), the daughter of Dudley and Dorothy, obtained a Durable General Power of Attorney to act on behalf of Dorothy. In August 2016, Waller Media and Waller Broadcasting filed applications for the involuntary transfer of control of the Stations from Dudley to Dorothy, the court-appointed Administratrix of the Dudley Estate.³ On May 15, 2017, Waller filed the subject Applications, seeking Commission consent to assign Stations KFRO-FM, KZXM(FM), KMPA(FM), and KLJT(FM) to ETRM.

In his Objections, William paints a detailed picture of family turmoil and feuds in the wake of Dudley's death. According to William, his sister Susan, "a true tyrant ... adept at manipulation and mind-control,"⁴ seized control of Dudley's estate and the Stations by a "deceitful plot involving numerous counts of fraud and forgery."⁵ Specifically, William alleges that the initial transfer of control applications were "filed fraudulently because Dorothy's authority as Executrix was obtained by concealing, destroying, or suppressing [Dudley's] estate plan and last will."⁶ William further alleges that Susan's objective was to "take control of Dorothy's assets and hijack the family inheritance for herself."⁷ According to William, as a result of this "deceptive plot," he was fired by his mother, had his reputation ruined, health compromised, and suffered extreme mental anguish.⁸ William asserts that the "Forms 314 and 316 already filed in this case are dependent on a criminal conspiracy,"⁹ and accordingly, urges the Commission to dismiss the Applications because "it is not in the best interest of the FCC to serve an unlawful conspiracy by approving a transaction that is tainted by fraud."¹⁰

Discussion. Section 310(d) of the Communications Act of 1934, as amended (the Act)¹¹ requires the Commission to determine whether the proposed assignment of a broadcast license would be in the public interest. Informal objections, like petitions to deny, must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity.¹² For the reasons discussed below, William has not satisfied this threshold requirement.

73.3587 of the Commission's Rules. 47 CFR § 73.3587. On June 14, 2017, Waller filed an Opposition to the Objections.

³ See File Nos. BTCH-20160815AAQ, AAR, AAS; BTCH-20160816AAH (granted January 27, 2017).

⁴ Objections at 40.

⁵ *Id.* at 26.

⁶ *Id.* at 39.

⁷ *Id.* at 38.

⁸ *Id.* at 6.

⁹ *Id.* at 45.

¹⁰ *Id.*

¹¹ 47 U.S.C. § 310(d).

¹² 47 U.S.C. § 309(d). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193,197, n.10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864, para. 6 (1986).

In his Objections, William makes multiple serious allegations, including claims of a fraudulent takeover of the Dudley estate and a criminal conspiracy to defraud.¹³ Notwithstanding his 85-page Objections and numerous documents attached to the pleadings, William fails to provide concrete, supporting evidence and affidavits, as required, to sustain any of his allegations.¹⁴

Further, regardless of the veracity of William's allegations, the Objections amount to a private family dispute. William does not argue that ETRM is not qualified to become a Commission licensee or that the proposed assignment violates the public interest. Rather, the central issue raised here relates to a private dispute between William, his sister, and mother regarding the disposition of Dudley's estate and the Stations. The Commission has repeatedly held that it will not insert itself into the private affairs of parties, and that parties should seek redress for such matters in local courts of competent jurisdiction.¹⁵ Although William urges the Commission to intervene in this matter, he also notably acknowledges that "this is not the FCC's problem."¹⁶ We decline to step in the middle of this private dispute and instead, leave resolution to the proper forums.

We note that William indicates that he has filed a lawsuit in 2nd Judicial District Court of Cherokee County, Texas based on allegations similar to those raised in the Objections.¹⁷ Absent the issuance of an injunction or stay against the sale by a local court, the Commission has routinely granted assignment applications pending the resolution of private legal disputes.¹⁸ We note, however, that our grant of the assignment applications merely finds that the parties are qualified under, and the proposed transaction does not violate, the Communications Act 1934, as amended, and the Commission's Rules.¹⁹ It is therefore permissive, rather than compulsory, and does not prejudice or influence any relief that William may be entitled to under civil suit.²⁰

Conclusion/Actions. For these reasons, we find that William has failed to raise a substantial and material question of fact calling for further inquiry regarding the Applications. We also find that Waller Media and Waller Broadcasting are qualified to assign the Stations, ETRM is qualified to hold the Stations' licenses, and that grant of the Applications is consistent with the public interest, convenience, and necessity.

¹³ We will not address William's allegations regarding defects in the FCC Form 316 involuntary transfer of control applications. These applications were granted on January 27, 2017, and became final on March 13, 2017. It is well settled that we do not re-open proceedings that are final unless there has been fraud on our processes or the challenged result is unconscionable. *See, e.g., Birch Broadcasting Corp.*, Memorandum Opinion and Order, 16 FCC Rcd 5015, 5018, para. 8 (2001). William has not shown that either circumstance is present here.

¹⁴ Allegations that consist of "ultimate, conclusionary facts or more general allegations on information and belief, supported by general affidavits are not sufficient." *Gencom Inc. v. FCC*, 832 F.2d 171, 180, n.11 (D.C. Cir. 1987); *see also Beaumont Branch of the NAACP v. FCC*, 854 F.2d 502, 507 (D.C. Cir. 1988).

¹⁵ *See John F. Runner, Receiver*, Memorandum Opinion and Order, 36 RR 2d 773, 778 (1976).

¹⁶ Objections at 45.

¹⁷ *See William D. Waller, Jr. v. Susan J. Waller, Alicia G. Waller Tennison, and Dorothy Waller*, Cause No. 2016-11-0772. William also filed a complaint with OSHA (OSHA Case No. LLC/DOLEZAL/6-1730-16-149). According to William, the OSHA complaint was dismissed because of "tactical manipulation of an OSHA caseworker," and is under appeal. *See* Objections at 24.

¹⁸ *See, e.g., A.L.Z. Broadcasting, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 23200, 23201, paras. 3-4 (2000).

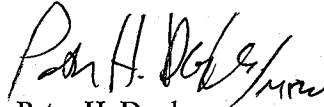
¹⁹ *See, e.g., Cumulus Licensing LLC*, Letter, 21 FCC Rcd 2998, 3007 (2006).

²⁰ *Id.*

Accordingly, IT IS ORDERED that the Informal Objections, filed June 12, 2017, by William Dudley Waller, Jr. ARE DENIED.

IT IS FURTHER ORDERED, that the Applications for the Assignment of Licenses for Stations KFRO-FM, Gilmer, Texas, KZXFM(FM), Bullard, Texas, and KMPA(FM), Pittsburg, Texas (File Nos. BALH-20170515ACT, -ACU, and -ACV), and Station KLJT(FM), Jacksonville, Texas (File No. BALH-20170515ACW), from Waller Media, LLC and Waller Broadcasting, Inc., respectively, to East Texas Results Media, LLC ARE GRANTED.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter H. Doyle".

Peter H. Doyle
Chief, Audio Division
Media Bureau