



Federal Communications Commission  
Washington, D.C. 20554

July 21, 2014

*In Reply Refer To:*  
1800B3-PPD

Stuart W. Nolan, Jr., Esq.  
LegalWorks Apostolate, PLLC  
4 Family Life Lane  
Front Royal, VA 22630

Mr. Kevin Bowman  
Chrysalis Institute  
P.O. Box 1633  
Mariposa, CA 95338

In Re: **Application for Construction Permit  
for a Low Power FM Broadcast  
Station**

New-LP, Mariposa, CA  
Facility ID Number: 195075  
Chrysalis Institute  
File Number: BNPL-20131105AJB

**Petition to Deny**

Dear Messrs. Nolan and Bowman:

We have before us Radio Catholic's ("RC") December 27, 2013, Petition to Deny ("Petition") Chrysalis Institute's ("Chrysalis") application for a new low power FM broadcast ("LPFM") station at Mariposa, CA ("LPFM Application"). Chrysalis did not file an opposition. For the reasons set forth below, we deny the Petition and grant the LPFM Application.

**Background.** Chrysalis timely filed the LPFM Application on November 5, 2013, prior to close of the LPFM window on November 15, 2013.<sup>1</sup> The LPFM Application was accepted for filing as a singleton on November 25, 2013.<sup>2</sup>

The Petition states that Chrysalis was ineligible to file the LPFM Application because Chrysalis' status as a nonprofit entity under California law was (and continues to be) "suspended" at the time of

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<sup>1</sup> See *Media Bureau Extends Low Power FM Filing Window*, Public Notice, 28 FCC Rcd 15763 (2013).

<sup>2</sup> Public Notice regarding the acceptance of Chrysalis' application was given on November 29, 2013. See *Broadcast Applications*, Public Notice, Report No. 28125 (November 29, 2013).

filing.<sup>3</sup> RC provides a letter dated December 18, 2013, from California's Secretary of State stating the "Secretary of State suspended [Chrysalis'] powers, rights and privileges on September 27, 2007."<sup>4</sup>

**Discussion.** Although RC states it has standing to file the Petition as a potential listener of Chrysalis' proposed station, RC did not provide an affidavit or declaration establishing its standing to file a petition to deny.<sup>5</sup> Therefore, RC has not established that it has standing to file its Petition. We will, however, treat the Petition as an informal objection under Section 73.3587 of the Commission's rules (the "Rules").<sup>6</sup>

Pursuant to Section 309(d) of the Act, 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.<sup>7</sup>

According to the Rules, an LPFM applicant must be incorporated, registered, or otherwise organized as a nonprofit entity under state law at the time its application is submitted.<sup>8</sup> Section II, Question 2 requires corporate applicants to provide an exhibit with the state and date of their incorporation.<sup>9</sup> When filing the LPFM Application, Chrysalis submitted its articles of incorporation, which indicated Chrysalis was incorporated in California as a nonprofit public benefit corporation on April 21, 2005.<sup>10</sup> While the CA Letter indicates Chrysalis' status in California as "suspended," the CA Letter does not indicate that Chrysalis' incorporation has been terminated. Thus, as an existing, registered nonprofit corporation in California, Chrysalis meets the basic statutory threshold of eligibility to operate a LPFM station under Section 397(6)(A) of the Act.<sup>11</sup>

Although RC claims that Chrysalis' suspended status made Chrysalis an ineligible LPFM applicant, we have previously determined that an entity's "suspension and its effect on corporate actions taken during the period of the suspension are state law matters. The Commission has traditionally declined to consider such issues where no challenge has been made in state court and the determination is one that is more appropriately resolved by a local court of competent jurisdiction."<sup>12</sup> Here, we are unaware of any challenge regarding Chrysalis' proposal to operate a LPFM station as a suspended entity. Thus, RC has failed to present a *prima facie* question about Chrysalis' eligibility to file the LPFM Application.

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<sup>3</sup> Petition at 3.

<sup>4</sup> Petition at Exhibit B ("CA Letter").

<sup>5</sup> See 47 C.F.R. § 1.939(d).

<sup>6</sup> See 47 C.F.R. § 73.3587.

<sup>7</sup> 47 U.S.C. § 309(d); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested); *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987).

<sup>8</sup> See *Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2213-2214 (2000). See also 47 U.S.C. § 397(6)(A).

<sup>9</sup> See FCC Form 318, Section II, Question 2, note.

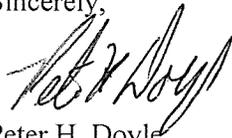
<sup>10</sup> See LPFM Application at Attachment 2.

<sup>11</sup> 47 U.S.C. § 397(6)(A).

<sup>12</sup> *Aspen FM, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 17852, 17855 (1997).

**Conclusion.** Accordingly, IT IS ORDERED that the Petition IS DENIED. Furthermore, application BNPL-20131105AJB IS GRANTED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter H. Doyle". The signature is written in a cursive style with a large initial "P" and "D".

Peter H. Doyle  
Chief, Audio Division  
Media Bureau