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In re: **KJJB(FM), Eagle Lake, TX**
Facility ID No. 171037
File No. BMPH-20181204AAK
Jennifer Cremeens

Informal Objections

Dear Applicants, Counsel, and Mr. Davis:

We have before us the above referenced application (Application), filed by Jennifer Cremeens (Cremeens) on December 4, 2018, for a minor modification to the authorized facilities of station KJJB(FM), Eagle Lake, Texas (KJJB or the Station).¹ We also have before us two Informal Objections (Objections) to the Application, filed on December 11 and December 19, 2018, by James B. Davis (Davis). For the reasons set forth below, we deny the Objections and grant the Application.

Informal Objections. In his Objection filed on December 11, 2018, Davis argues that Cremeens's Application should be deemed moot. Davis claims that KJJB was never constructed and that "there is reason to suspect that false information was attested to on many KJJB Applications." Davis also

¹ KJJB(FM) is full power commercial station (File No. BLH-20120521AAN) licensed to operate on Channel 237 (95.3 megahertz). It is a Class C3 facility authorized with a 25 kilowatts (kW) effective radiated power (ERP) and 100 meters antenna radiation center height above average terrain (HAAT). This license was subsequently modified by BPH-20160926ADV (Minor Change of a Construction Permit Application), which authorized a 25 kW Class C3 facility with a HAAT of 81 meters and the use of a directional antenna.

claims that the license for KJJB should be canceled, just like another Cremeen's station, DKBBB(FM), Baird, Texas, was canceled due to non-construction. In support of its allegations, Davis submits a list of previous modification applications and requests to remain silent, filed with the Commission from 2007 to the present.² Davis also notes that Cremeens previously filed an application to assign the Station's license to S Content Marketing LLC (S Content),³ but the assignment was never consummated.⁴ Davis claims that he "personally spoke with the President of S Content to find out reasons why the sale of KJJB 95.3 did not go through. He stated KJJB had never been constructed or built out." Accordingly, Davis urges the Commission to investigate his allegations of license fraud, issue a Letter of Inquiry (LOI) "to be sure its rules are being observed," and delay action on the Application.

Davis filed a second Objection on December 19, 2018 to an amendment filed to modify the Application.⁵ In this Objection, Davis claims that the amendment was filed to "cloud the real issue". He claims that he "spoke in person with the President of S Content on December 15, 2018, who stated again that the Station had never been constructed", and that S Content "did not want to buy a Station that could have its license taken back if an LOI was issued at a later time." Once again, Davis submits a history of previously filed applications to support his Objection.

Discussion. An informal objection may be filed at any time prior to action on the subject application⁶ and must, pursuant to Section 309(e) of the Act, provide properly supported allegations of fact which, if true, would establish a substantial and material question of fact regarding whether grant of the application in question would be consistent with the public interest, convenience, and necessity.⁷ Davis has failed to meet this burden.

In his Objections, Davis does not provide any evidence that the proposed Application violates the public interest. Rather, the central issue raised here relates to Davis's belief that the Station was never constructed, and that Cremeens has not been truthful and forthcoming. Davis neglects to submit concrete evidence to support his suspicions. Davis's "evidence" consists solely of a list of applications previously filed with the Commission and a hearsay account of a conversation with the President of S Content, the former proposed assignee of the Station.⁸ Allegations based on speculation and hearsay do not establish a *prima facie* case requiring further investigation.⁹ Finally, the cancellation of Cremeens's other station, DKBBB, is not relevant to the question of KJJB's operation.

² *Id.* (stating that the Station "filed for emergency STAs several times and numerous construction permit which were never constructed.").

³ See FCC File No. BALH-20160809AAL.

⁴ On July 27, 2018, Cremeens filed a notice of non-consummation.

⁵ An amendment to BMPH-20181204AAK was received on December 18, 2018.

⁶ 47 C.F.R. §73.3587.

⁷ U.S.C. §309(e); See also, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n. 10 (1990); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986).

⁸ The Commission has found accounts of conversations with third parties to be inadmissible hearsay. See, e.g., *Living Proof*, Letter, 24 FCC Rcd 2382, 2385, n.29 (MB 2009) (declining to credit hearsay accounts of third party); *Excellence in Education Network*, Memorandum Opinion and Order, 8 FCC Rcd 6269, 6272, n.9 (1993) ("a party attesting to another person's assertions is hearsay and as such has no probative value under Section 309(d).").

⁹ Allegations that consist of "ultimate conclusionary facts or more general allegations on information and belief, supported by general affidavits, are not sufficient." *Gencom, Inc.*, 832 F.2d 171, 180, n.11 (1987); see also *Beaumont Brach of the NAACP v. FCC*, 854 F.2d 502, 507 (D.C. Cir. 1988).

We, therefore, find that Davis has failed to raise a substantial and material question of fact calling for further inquiry. As such, the informal objections to the Application will be denied. We also find that the grant of the Application is consistent with the public interest, convenience, and necessity.

Conclusion. In light of the above, IT IS ORDERED that the Informal Objections, filed December 11, 2018, and December 19, 2018, by James B. Davis ARE DENIED.

IT IS FURTHER ORDERED, that the Application for the Minor Change of a Construction Permit of KJJB(FM), Eagle Lake, Texas (File No. BMPH-20181204AAK) IS GRANTED.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci", with a stylized flourish at the end.

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau