

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

18 December 2019

Application of)
)
RADIO TRAINING NETWORK, INC.) FRN 0001843341
)
For Renewal of License) FCC File No. 0000082137
Call Sign W290BJ, West Tampa, Florida) Facility ID 146619
)
For Renewals of Licenses) FCC File No. 0000082128
Lead Call Sign W237CW, Pinellas Park, Florida) Facility ID 147104

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Attn: Media Bureau, Audio Division

REPLY TO OPPOSITION

Triangle Access Broadcasting, Inc. (“Triangle”), hereby replies to the Opposition to Informal Objection (“Opposition”)¹ filed on December 13, 2019, by Radio Training Network, Inc. (“RTN”). RTN seeks dismissal of Triangle's November 26, 2019, Informal Objection (“Objection”)² to renewal of FM translator licenses³ in the above-captioned application (the “application”). For the reasons set forth below, Triangle's Objection should be granted and the application should be dismissed.

RTN claims that a nonprofit exemption from paying regulatory fees applies solely based upon a permittee's or licensee's status as a nonprofit entity.⁴ The title of 47 C.F.R. §1.1162(c) is “General exemptions from regulatory fees.” “General” imparts that unwritten exceptions exist. Subverting the

1 LMS Pleading File No. 0000093406.

2 LMS Pleading File No. 0000091527.

3 W290BJ (facility ID 146619), W237CW (facility ID 147014), and W244BE (facility ID 86293) (the “translators”).

4 Opposition, at 2-1.

paying of regulatory fees by operating a commercial business unrelated to a nonprofit purpose is an exception to a general exemption. Otherwise, for-profit entities could simply create nonprofit subsidiaries to lease, at the discounted cost to the nonprofit, the licenses and facilities back for commercial use while depriving the Commission its entire annual regulatory funding budget. RTN's position that neither commercial purpose nor commercial interests apply is no more than a rationalization of an unjust exploitation of the rules—rules that foresee exceptions and, relevant to this matter, identify them within Section 501(c)(3)⁵ as unrelated for-profit businesses and 47 C.F.R. § 73.3555 at Note 2 as attribution via same-market business transactions.

Opposition exhibits are intended to support RTN's nonprofit qualifications. The IRS determination letter⁶ refers to a December, 1985, finding with no new examination of fact. This predates the November 2012 debut of commercial programming on W237BZ. The Georgia Certificate⁷ issued August 29, 1989, and the underlying Articles of Incorporation, as amended,⁸ refer back to an exclusive Section 501(c)(3) purpose. As the evidence does not contemplate the regular, substantial, unrelated business activities of leasing the translators for commercial purposes, the Bureau cannot rely on these outdated documents as a nonprofit determination without evidence that the IRS has been notified and accepted that RTN's evolved structure is exempt.

RTN refutes any claims that the translator do not further RTN's charitable purpose.⁹ The argument is baseless. “Broadcast related” (without reference to the charitable part of RTN's exempt purpose) and only the directing of revenue towards advancement of charitable purposes are not the applicable standards.¹⁰ A trade or business is related to exempt purposes “only when the conduct of the business activities has causal relationship to achieving exempt purposes (other than through the

5 26 U.S.C. § 501(c)(3) (“Section 501(c)(3)”).

6 Opposition, Exhibit A.

7 Opposition, Exhibit B.

8 Exhibit A (“Amendment to RTN Articles of Incorporation”).

9 Opposition, at 4-1.

10 *id.*

production of income). The causal relationship must be substantial.”¹¹ RTN's reasoning directly conflicts with the well-settled interpretation. The commercial translators do not reach the threshold to be classified as advancing any charitable purpose.

Finally, RTN is not allowed, per its own Articles of Incorporation (as amended), to operate its facilities for secular purposes. As seen in Exhibit A, RTN's facilities “shall all be operated for the advancement of the Gospel of Jesus Christ” (emphasis added). Operation of the translators has deviated so far from the corporate charter that a reasonable conclusion is that RTN is no longer in control of the translators and that ownership is actually the Board of Directors outside the RTN corporate entity.

For the reasons in the Informal Objection and from above, the Bureau should GRANT Triangle's Informal Objection and DENY renewal of non-fee-paying commercial translators.

Respectfully Submitted,



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¹¹ Internal Revenue Service (2019). “Substantially related.” Retrieved from <https://www.irs.gov/charities-non-profits/substantially-related>. See 26 U.S.C. § 513(a).