

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

In re Application and License of

SEWANEE PHOENIX LICENSE, LLC)	File No. BLFT-20170126ABP
)	File No. BPFT-20170206ACK
)	
FM Translator Station K241CS)	Facility Identification Number 156046
Phoenix, Arizona)	
)	

To: Federal Communications Commission
Attn: Media Bureau, Audio Services Division

**REPLY TO OPPOSITION TO
REQUEST FOR EXTENSION OF TIME**

Sewanee Phoenix License, LLC (“Sewanee Phoenix”) and Gabrielle Broadcasting Licensee Ordinal I, LLC (“Gabrielle”) (collectively, the “Petitioner”), by its attorneys, hereby files this Reply to the “Opposition to Request for Extension of Time” filed by Barna Broadcasting, LLC (“Barna”) against K241CS. For the reasons discussed below, it is reasonable for the Commission to grant the extension request and deny Barna’s Opposition. In the interest of expediency however, Petitioner hereby modifies its prior extension request, urging the Commission to issue a letter that would instruct Petitioner to resolve the interference complaints within 30 days of issuance of the letter instead of the previously requested April 14, 2017 deadline for Petitioner to file its initial response.

In opposing the extension request, Barna argues Petitioner has not been diligent in addressing the allegations that K241CS will cause interference to the regular over the air reception of KSWG(FM), preferring instead to concentrate on the sale of KXEG to Gabrielle.¹

¹ As mentioned in its extension request, Sewanee Phoenix is the licensee and Gabrielle the proposed assignee of K241CS and KXEG(AM). Gabrielle delivers programming to KXEG pursuant to a Local Marketing

This simply misrepresents the diligent attention to this matter by the licensee.

Petitioner responded to two interference complaints received from Barna in the second half of February and first week of March 2017; one from a listener and the second from the licensee.² In each instance representatives of Petitioner met with the listener and the owner at their premises where the interference allegedly occurred. On/off tests were conducted at each site but absolutely no interference from K241CS to KSWG was detected. The listener and owner claimed the interference occurred on other days but not the day the tests were conducted.³ During the second half of February and the first week of March Petitioner drove the area where the alleged interference took place several times but never detected any interference. Petitioner consented to Barna installing filters at the K241CS site, which Barna installed on March 11. Barna led Petitioner to believe that the filters would resolve the alleged interference.

Petitioner was therefore shocked when Barna filed its pleadings on March 13.⁴

Petitioner disagrees with Barna that K241CS is causing actual interference to the regular over the air reception of KSWG. Petitioner intends to respond fully and completely to the pleadings Barna filed with the Commission. A proper response requires time, including but not limited to coordinating visits with each complainant, conducting on/off tests, evaluating the results and then submitting a detailed report to the Commission. It is for this reason the Commission staff has wisely adopted a process for handling interference complaints such as the one filed by Barna through the issuance of a letter giving the translator licensee thirty days to

Agreement. K241CS rebroadcasts the programming of KXEG. Jacob Barker is the General Manager for Sewanee Phoenix for KXEG(AM) and K241CS and the Managing Member and sole owner of Gabrielle.

² The Commission considers complaints from the licensee, its employees, affiliates and business partners as non-cognizable. Petitioner's meeting with the owner was a courtesy; the owner's complaint remains non-cognizable.

³ The names of the complainants filed with the Informal Objection and Complaint do not include the listener. Accordingly, his complaint must be considered resolved and not entitled to any further consideration.

⁴ All but one of the complaints is dated prior to installation of the filters. It would be helpful to know from Barna whether the filters were successful in resolving the alleged interference for those complainants. It also raises questions about the sincerity of Barna to find a technical solution vis-à-vis the filters.

resolve any interference complaints from the date of the letter (the "Translator Letter").

Arguably this process would take longer. Petitioner therefore thought its request for an extension of time until April 14 to file its initial response was more reasonable.

But given Barna's Opposition and in the interest of expediency, Petitioner believes the public interest would be better served if the Commission staff issued a Translator Letter in this matter as soon as practicable. Petitioner consents to this approach as a substitute for Petitioner's original request for an extension. While Petitioner continues to believe that the filing of an initial response by April 14 was the preferred course of action, Petitioner recognizes this approach is unacceptable to Barna.

Petitioner objects however to Barna's proposal that K241CS cease operations in the interim. This approach is inconsistent with prior Commission practice and would render it impossible for Petitioner to fully evaluate each interference complaint and assess the overall situation. Moreover, the record to date casts considerable doubt as to whether actual interference is occurring in the first instance. The fair and equitable approach is for the Commission to issue the Translator Letter and adjudicate the matter upon the completion of filings by the parties in response to the Translator Letter. K241CS would remain on the air pending a Commission decision on the full record.

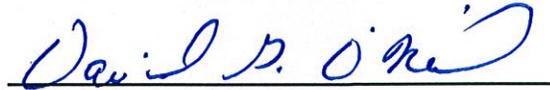
Wherefore, for the foregoing reasons, Sewanee Phoenix, LLC, and Gabrielle Broadcasting Licensee Ordinal I, LLC respectfully request the Commission deny Barna's Opposition, withdraw Petitioner's prior request and instead request the Commission issue a Translator Letter instructing Petitioner to resolve the interference complaints within 30 days of issuance of the Translator Letter.

Respectfully Submitted,

SEWANEE PHOENIC, LLC

**GABRIELLE BROADCASTING LICENSEE
ORDINAL I, LLC**

By:



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March 24, 2017

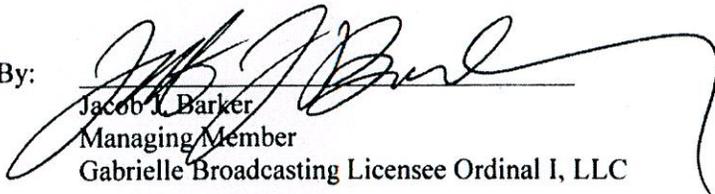
Their Attorney

DECLARATION OF JACOB J. BARKER

My name is Jacob J. Barker. This Declaration is submitted in support of the "Reply to Opposition to Request for Extension of Title" that Sewanee Phoenix, LLC and Gabrielle Broadcasting Licensee Ordinal I, LLC is filing with the Commission. I am General Manager for Sewanee Phoenix, LLC, licensee of KXEG(AM) and K241CS, both licensed to Phoenix, Arizona. I am the Managing Member of Gabrielle Broadcasting Licensee Ordinal I, LLC, the proposed assignee of KXEG and K241CS.

I have reviewed the pleading and to the best of my information, knowledge, and belief the information contained therein is complete and accurate. This declaration is submitted under the penalty of perjury.

By:


Jacob J. Barker
Managing Member
Gabrielle Broadcasting Licensee Ordinal I, LLC

General Manager
KXEG(AM) and K241CS, Phoenix, Arizona

March 24, 2017

CERTIFICATE OF SERVICE

I, David G. O'Neil, hereby certify that a true and correct copy of the foregoing "Reply to Opposition to Request for Extension of Time" was sent via first class mail (unless otherwise indicated) this 24th day of March 2017 to the following:

Marissa G. Repp*
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1629 K Street, NW
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Washington, DC 20006-1631



David G. O'Neil

* Copy served by e-mail only.