



Federal Communications Commission
Washington, D.C. 20554

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DA 07-109

In Reply Refer to:

1800B3-RDH

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Joe Ray Blalack, Esq.
8243 Magnolia Glen Drive
Humble, Texas 77346

In re: KROM(FM), San Antonio, Texas
Facility ID No. 67071
File No. BRH-20050401AGJ

**Informal Objection to
Application for License Renewal**

Dear Mr. Blalack:

This letter concerns the captioned application (the "Application") filed by Tichenor License Corporation ("Licensee") to renew the license of station KROM(FM), San Antonio, Texas (the "Station"). The record also includes an informal objection ("Informal Objection") filed by Joe Ray Blalack ("Blalack") and various responsive pleadings.¹ Also on file are numerous *ex parte* letters from individuals regarding the Station's programming.² For the reasons set forth below, we deny the Informal Objection and grant the Application.

Background. On April 1, 2005, Licensee filed the Application for the renewal of the Station license. The deadline for filing petitions to deny the Application was July 1, 2005. On July 7, 2005, Blalack filed a letter dated July 2, 2005, against the Application.³ In support of his Informal Objection, Blalack alleges that KROM(FM) "conspired to obstruct the efforts of the Immigration Services in their efforts to apprehend illegal aliens who have violated the immigration laws of the United States, as

¹ Licensee filed a Reply to the Blalack filings on August 8, 2005 ("Reply"). Blalack filed a "Response" to this on August 23, 2005 ("Response"), and an "Amended Informal Objection to the Application for License Renewal of KROM (FIN 67071) San Antonio, Texas" ("Amended Informal Objection") on March 27, 2006.

² Licensee filed a response to these filings on February 27, 2006. *See* Letter from Scott R. Flick, Esq. and Christopher J. Sadowski, Esq., to Marlene H. Dortch, Secretary, Federal Communications Commission, February 27, 2006. That response states that none of these filings were served on the Station or its counsel and that none of the writers claim to be KROM(FM) listeners. Accordingly, these letters will be associated with but not made part of the record. *See* 47 C.F.R. § 1.1212(d). Moreover, the letters relate to the airing by the Station of the programming concerning immigration discussed in the Informal Objection. For the reasons below, we do not conclude that this matter should bar the grant of the Application.

³ The letter fails to satisfy any of the criteria for petitions to deny. *See* 47 C.F.R. § 73.3584. Accordingly, we will treat it as an informal objection pursuant to Section 73.3587 of the Commission's Rules. *See* 47 C.F.R. § 73.3587.

reported in the *San Antonio Express-News*.” He states that the Station repeatedly broadcast the locations of immigration agents and the likely areas of immigration raids in the San Antonio area. A newspaper article attached to Blalack’s Amended Informal Objection states that in 2000, a program broadcast on KROM(FM) featured people calling in to report sightings of immigration agents in the San Antonio area.⁴ Blalack contends that the Station’s broadcast of this program is contrary to the public interest, obstructs United States immigration laws, and compels denial of license renewal. Blalack also asserts that the Commission assessed Licensee a forfeiture of \$28,000 for its broadcast of a telephone conversation between an air personality and another employee of the radio station. He contends that this demonstrates a “consistent and total disregard of the public interest.”⁵

In reply to the Informal Objection, Licensee argues that Blalack’s filing does not comply with the Commission’s requirements for petitions to deny and should be returned to Blalack without consideration pursuant to Section 73.3584(e) of the Commission’s Rules.⁶ Moreover, it asserts that the segment complained of ceased long before Licensee obtained the KROM(FM) license. Thus, it contends, the allegations fall outside of the “certification window” for which it is responsible.⁷ Accordingly, Licensee argues that the allegations contained in the Informal Objection merit no further consideration.

Discussion. As an initial matter, as noted by Licensee, the subject program segment ceased in 2001 at a time when the Licensee, Tichenor, was controlled by Hispanic Broadcasting Corp. (“HBC”).⁸ Subsequently, on September 22, 2003, Univision Communications Inc. (“Univision”) acquired control of the Licensee.⁹ The conduct to which Blalack objects apparently took place in 2000 and the program segment on which it occurred was canceled in 2001, two years before the Station came under the control of Univision.¹⁰

⁴ Amended Informal Objection, Exhibit A, Hernan Rozemberg, “Spanish radio station could be silenced over segment,” *San Antonio Express News*, web posted December 26, 2005.

⁵ Amended Informal Objection at 2. Blalack indicates that this episode also resulted in a civil judgment against Licensee and Univision.

⁶ 47 C.F.R. § 73.3584(e).

⁷ Licensee cites *Media Bureau Announces Certain Revisions to Instructions to Form 303-S – Application for Renewal of License for Broadcast Stations*, Public Notice, 18 FCC Rcd 8986 (2003).

⁸ While the Amended Informal Objection states that “KROM over a period of five (5) years has been singularly insensitive to U.S. immigration laws by broadcasting the locations of immigration checkpoints established on the 100-mile smuggling corridor from Nuevo Laredo to the San Antonio area,” (Amended Informal Objection at 2), Blalack presents no information or evidence to rebut Licensee’s assertion that the subject program segment ceased prior to Univision obtaining control of the Licensee in 2003. Indeed, the head of Immigration and Customs Enforcement’s San Antonio office is quoted in the *San Antonio Express-News* article provided by Blalack as Exhibit A to his Amended Informal Objection that, as of the time of the article (*i.e.*, 2005), he “seldom” hears such reports.

⁹ Reply at 4. *See also* BTC-20020723ABL, granted September 22, 2003.

¹⁰ Letter from Scott R. Flick, Esq. and Christopher J. Sadowski, Esq., to Marlene H. Dortch, Secretary, Federal Communications Commission, February 27, 2006.

We have previously stated that if a station license was assigned *or transferred* during the license term under review, a renewal applicant's certifications "should cover only the period during which the renewal applicant held the station's license."¹¹ Accordingly, in the renewal context we consider only conduct that occurred while KROM(FM) was under the control of Univision. Because the conduct complained of occurred, and apparently ceased, all at a time when Tichenor was controlled by HBC, it cannot be considered in this renewal proceeding.

Finally, Blalack asserts that Licensee engaged in misconduct by broadcasting a telephone conversation between a KROM(FM) air personality and a station employee without having first notified the called party of the intended broadcast use of the conversation in violation of Section 73.1206 of the Commission's Rules.¹² The Commission issued a Notice of Apparent Liability for Forfeiture to the Licensee for a violation of Section 73.1206 of the Commission's Rules.¹³ The base amount of a forfeiture for violation of this rule is \$4,000.¹⁴ Because the conversation was aired on 7 commonly-owned stations, the Commission set the forfeiture amount at \$28,000 (*i.e.*, \$4,000.00 x 7). We find that this forfeiture constituted an adequate penalty for the infraction and that further action, including the designation of the Licensee's renewal application for hearing, is unwarranted.

Conclusion/Actions. Because we find that there have been no serious violation of the Communications Act or the rules and regulations of the Commission involving station KROM(FM), or violations by the licensee of the Act or rules and regulations of the Commission which, taken together, would constitute a pattern of abuse, and because we find that station KROM(FM) served the public interest, convenience, and necessity during the subject license term, we will grant the subject renewal application.¹⁵

Accordingly, for the reasons set forth above, Joe Ray Blalack's Informal Objection IS DENIED. Finally, because the subject application is otherwise in full compliance with the Commission's Rules and the Communications Act, and finding that the public interest, convenience, and necessity would be served

¹¹ *Media Bureau Announces Certain Revisions to Instructions to Form 303-S – Application for Renewal of License for Broadcast Stations*, Public Notice, 18 FCC Rcd 8986 (2003).

¹² 47 C.F.R. §73.1206.

¹³ *Univision Radio License Corporation*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 888 (2005)(forfeiture paid).

¹⁴ 47 C.F.R. § 1.80(b)(4). *See also Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Memorandum Opinion and Order, 12 FCC Rcd 17087, 17113 (1997) *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999). The Commission may adjust the base forfeiture as a result of its consideration of the factors listed in 47 U.S.C. § 504(b)(2)(D) and 47 C.F.R. § 1.80(a)(4). These factors include "the nature, circumstances, extent, and gravity of the violation . . . and the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."

¹⁵ *See* 47 U.S.C. § 309(k)(1).

thereby, the application for renewal (File No. BRH-20050401AGJ) of Station KROM(FM), San Antonio, Texas, IS GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Scott R. Flick, Esq.
Chrisopher J. Sadowski, Esq.