Federal Communications Commission
Washington, D.C. 20554

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In re: Inland Empire Broadcasting Corporation
KOLA(FM), San Bernardino, CA
Facility ID: 55240
File No. BRH-20050726AQW

Sunset Broadcasting, Inc.
KMET(AM), Banning, California
Facility ID: 55239
File No. BR-20050728AMM

Informal Objection

Dear Mr. Cote:

We have before us: (1) the license renewal applications (the "Applications") for Stations KOLA(FM), San Bernardino, California, filed by Inland Empire Broadcasting Corporation ("Inland"), and KMET(AM), Banning, California, filed by Sunset Broadcasting, Inc. ("Sunset") (collectively, the "Applicants"); (2) an Informal Objection ("Objection") to the Applications filed on November 16, 2005, by Frederick Cote ("Cote"); [1] and (3) related responsive pleadings.[2] For the reasons set forth below, we deny the objection and grant the Applications.

[1] Cote's Objection also contains a challenge to the license renewal application of KUTE(FM), Ignacio, California, which was granted by the Staff on March 10, 2005. Cote did not file his Objection until November 16, 2005. Accordingly, we will not consider Cote's objection against the KUTE(FM) renewal application. *See* 47 C.F.R. § 73.3587 (informal objections must be filed prior to grant of the pertinent applications). *See The Association for Community Education,* Memorandum Opinion and Order, 19 FCC Rcd 12682, 12684 (2004).

[2] Inland's Opposition to Informal Objection ("Inland Opposition"), filed on January 9, 2006, and Sunset's Opposition to Informal Objection ("Sunset's Opposition"), filed on January 4, 2006

Background. Cote was the sole stockholder of KOLA, Inc., a former licensee of KOLA(FM) and KMET(AM). In early 1992, Cote was indicted on five felony charges in California.[3] While he was awaiting trial, KOLA, Inc. and SBR Broadcasting Corporation ("SBR") entered into a loan agreement whereby Anaheim Broadcasting Corporation ("Anaheim"), SBR's parent corporation, loaned KOLA, Inc. $500,000, taking back a promissory note secured by KOLA, Inc.'s assets.[4] On January 1, 1994, SBR assigned its contract rights to another subsidiary of Anaheim, Inland.[5] KOLA, Inc. defaulted on its obligations under the promissory note, and Anaheim filed a complaint for collection in California Superior Court on April 20, 1994, seeking foreclosure on the assets of KOLA, Inc. and appointment of a receiver, as provided for in the security agreements.[6] The California Superior Court appointed Ray Stanfield receiver on April 21, 1994.[7] An application for the *pro forma* assignment of the KOLA(FM) and KMET(AM) licenses from KOLA, Inc. to Stanfield as receiver was filed on May 13, 1994, and was granted by the Commission's staff on June 21, 1994.[8] On July 6, 1994, an application to assign KOLA from Stanfield to Inland was filed and was granted by the Commission on June 29, 1995.[9] Inland consummated the assignment on July 15, 1995, and has remained the licensee of KOLA(FM) since that time.[10] An application was filed on July 5, 1995 to assign KMET(AM) from Stanfield to Robeson/Suttles Broadcasting, Inc. and was granted by the Commission on November 8, 1995.[11] Sunset acquired KMET(AM) on March 31, 2003, and has been a licensee of KMET(AM) since that time.[12]

In his Objection, Cote alleges that the Stations KOLA(FM) and KMET(AM) were "illegally and fraudulently transferred" to the current licensees.[13] Cote requests that the Commission suspend its review of the pending license renewal applications until a full investigation has been made regarding his allegations. In response, Applicants state that (1) Cote's Objection does not raise any substantial and

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[3] On July 11, 1994, Cote was convicted of four felonies, including murder. S*ee KOLA, Inc.,* Memorandum Opinion and Order, 11 FCC Rcd 14297, 14300 (1996).

[4] *KOLA, Inc.,* supra.

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *See* BALH-19940513EC and BAL-19940513EB.

[9] *See* BALH-19940706GP.

[10] *See* Inland's January 9, 2006 Opposition to Informal Objection ("Inland's Objection").

[11] *See* BAL-19950705ED.

[12] Robeson/Suttles Broadcasting, Inc. assigned KMET(AM) to Delphi Communications, Inc, ("Delphi") on June 25, 1998 (s*ee* File No. BAL-1990507EK, granted on June 25, 1998). Delphi subsequently assigned the Station to Sunset on March 31, 2003 (s*ee* File No. BAL-20021226AAE, granted on February 24, 2003).

[13] Objection at Paragraph 3.

material question of fact warranting further inquiry; (2) Cote's claims are frivolous and without merit; and (3) Cote's allegations have no bearing on the Stations' license renewals under Section 309(k).[14]

Discussion. Informal objections must, pursuant to Section 309(e) of the Communications Act of 1934, as amended (the "Act"), 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 Section 309(k) of the Act,[15] which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Commission's Rules (the "Rules"); and (3) there have been no other violations which, taken together, constitute a pattern of abuse.[16] If, however, the licensee fails to meet that standard, the Commission may deny the application—after notice and opportunity for a hearing under Section 309(e) of the Act—or grant the application "on terms and conditions that are appropriate, including a renewal for a term less that the maximum otherwise permitted."[17] For the reasons set forth below, we find that the Licensee has met this standard and, accordingly, we grant the Application.

We find that Cote's arguments are without merit. To the extent that Cote claims that the Stations were "illegally and fraudulently transferred to the now present owners," he has not provided any information beyond bare allegations. Cote offers to send "further information to the Commission as it is received by [his] counsel," but to date, the Commision has received no additional information. Cote's unsupported allegations provide no basis for denying the Applications.[18] Moreover, as discussed above, Inland and Sunset acquired the licenses for KOLA(FM) and KMET(AM) through appropriate procedures and with full Commission consent.[19] Furthermore, the issues raised by Cote constitute a private contractual dispute. This Commission has consistently held it is not the proper forum for the resolution of disputes of this type. To the extent that Cote believes the Stations were improperly transferred, he should seek redress in a local court of competent jurisdiction.[20]

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[14] *See* Inland's Objection; *see also* Sunset's January 4, 2006, Opposition to Informal Objection.

[15] *See, e.g., WWOR-TV, Inc.,* Memorandum Opinion and Order, 6 FCC Rcd 193, 197 note 10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC,* 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *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).

[16] 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). *See Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures),* Order, 11 FCC Rcd 6363 (1996).

[17] 47 U.S.C. §§ 309(k)(2), 309(k)(3).

[18] *See generally In the Matter of PCS Partners, LP,* Order, 17 FCC Rcd 21419, 21420 (2002).

[19] *KOLA, Inc.,* supra.

[20] *John F. Runner, Receiver (KBIF)*, 36 R.R. 2d 773, 778 (1976); *Decatur Telecasting, Inc.,* 7 FCC Rcd 8622 (1992*).*

Conclusion/Actions. Accordingly, it is ORDERED, that the Informal Objection of Frederick R. Cote IS DENIED.

It is FURTHER ORDERED, that the applications (File Nos. BRH-20050726AQW and BR-20050728AMM) of Inland Empire Broadcasting Corporation and Sunset Broadcasting, Inc. for renewal of licenses for Stations KOLA(FM), San Bernardino, California, and KMET(AM), Banning, California, respectively, ARE GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Lewis J. Paper, Esq.
Jerrold Miller, Esq.