

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re applications of

HISPANIC CHRISTIAN COMMUNITY
NETWORK, INC.

Received & Inspected
JUN 30 2014
FCC Mail Room

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JUN 30 2014
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for renewal of license of:

K23IA, San Angelo, TX

File No. BRTTL 20140401ABB
Facility ID 130496

KJTN-LP, Abilene, TX

File No. BRTTL 20140401AAZ
Facility ID 127351

KZAB-LP, Abilene, TX

File No. BRTTL 20140401AAX
Facility ID 130088

KZOD-LP, Odessa, TX

File No. BRTTL 20140401AAV
Facility ID 130504

KHFW-LD, Dallas, TX

File No. BRDVL 20140401AAT
Facility ID 130952

KEAM-LD, Amarillo, TX

File No. BRDTL 20140401AAP
Facility ID 131091

KXCO-LD, Refugio, TX

File No. BRDTL 20140401AAN
Facility ID 127994

KYFW-LD, Wichita Falls, TX

File No. BRDTL 20140401AAL
Facility ID 132692

To: Chief, Video Division, Media Bureau

PETITION TO DENY

Michael Couzens (Petitioner) hereby petitions to deny the renewal applications for the following stations ("the Stations") shown in the caption: K23IA, KJTN-LP, KZAB-LP, KZOD-LP, KHFW-LD, KEAM-LD, KXCO-LD, and KYFW-LD. This petition is filed pursuant to Section 309(d) of the Communications Act, 47 U.S.C. Sec. 309(d) and Section 73.3584(b) of the Commission's Rules and Regulations. It is based on probative evidence that the applicant, Hispanic Christian Community Network, Inc. (HCCN), is not in compliance with Section 310 of the Communications Act, 47 U.S.C.

Sec. 310, relating to interests of aliens and foreign governments. The statement of compliance in the applications, answering “yes” to Section II, Question 5, is false.

A. FALSE REPRESENTATION OF U.S. CITIZENSHIP

The Act, Section 310(b), provides that “No broadcast . . . license shall be granted to or held by (3) any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives. . . .” The most recent ownership report for the Stations, File No. BOA-20131220HCO, states that 100% of votes and 100% of equity in HCCN are held by one individual, Antonio Cesar Guel (“Guel”). The report states his citizenship as “US.” However, the statement is false. There is no record of any assignment or transfer that would render the ownership today any different from that disclosed in the most recent ownership report.

As set forth in Petitioner's declaration, Attachment A, I represent plaintiffs in a law suit in Los Angeles County Superior Court against HCCN, Guel and others, *Jose Gonzalez et al.v. Iglesia Jesucristo Es Mi Refugio, Inc. et al*, No. BC 501688.¹ In discovery for that suit, form interrogatories and specially prepared interrogatories were served on defendants. Guel objected to and failed to answer questions regarding his citizenship. Plaintiffs brought a motion to compel further answer, granted by the judge in an order issued on May 14, 2014. Guel was ordered to serve written verified responses without objection within 10 days of the ruling.

In light of that ruling Guel served a supplemental response on May 19, copy included with Attachment A, which stated as follows:

Supplemental Response to Special Interrogatory No. 10:

I am not a natural born United States citizen.

Supplemental Response to Special Interrogatory No. 11

I have not yet become a naturalized United States citizen.

Supplemental Response to Special Interrogatory No. 12

I am not a United States citizen at this time.

His certification stated:

I declare under penalty of perjury under the laws of the State of California that the foregoing to be true and correct. Executed on May 19, 2014, at Dallas, Texas. /s/ Antonio Cesar Guel.

Guel's admissions are admissible evidence under either criterion for petitions to deny. My attached declaration confirms a chain of custody “from personal knowledge,” Sec. 73.3584(b) that the

¹ The verified second amended complaint in that lawsuit alleges acts of fraud by HCCN and Guel in conjunction with the purported sales of low power television broadcast stations to the plaintiffs. March 26, 2015, has been set as the date for a jury trial in that case. At this stage the allegations are just that – allegations – and the issues are not before the Commission, either in this petition or otherwise.

attached document, supplemental responses, is a true copy of a document received by mail from opposing counsel. The response also is matter “of which official notice may be taken,” 47 U.S.C. Sec. 309(d), because it constitutes an admission under the Federal Rules of Evidence, not subject to the hearsay objection.²

B. GUEL IS ACTING WITH IMPUNITY, GIVEN THE COMMISSION'S LONG RECORD OF FAILURE TO IMPOSE MEANINGFUL SANCTIONS.

The applications for renewal of these stations are but the latest in a string of deliberate, knowing misrepresentations. The stations were acquired by HCCN in the first place, through a false representation of Guel's citizenship. The fraud was perpetuated with the filing of false ownership reports in 2012 (BOA-20120503ABO) and in 2013 (BOA-20131220HCO). From the total lack of repercussions, extended over a period of years, Guel evidently has concluded that he is able to act with impunity, as regards any representations made to the Commission. It would be idle for him to profess ignorance of the law's requirements, given that HCCN has been represented throughout by experienced telecommunications counsel.

Most recently, the staff investigated a pattern of real-party-in-interest, site availability and other false representations made by Guel in some 14 applications for new Low Power FM stations, *Mr. Antonio Cesar Guel*, Letter of Inquiry DA 14-670, released on May 16, 2014. Notably in that action, the spotlight was placed on Guel personally as the creator in many cases of completely bogus application entities. All fourteen applications placed under scrutiny were dismissed. However, “The Bureau has not determined whether any of the applicants have engaged in misrepresentation and/or lack of candor.” *Id.*, p. 3. From this incident, Guel might well conclude, once again, that false statements to the Commission are entirely without consequences to himself.

C. THE REGULATORY SCHEME CANNOT OPERATE IN CONDITIONS WHERE WIDESPREAD FALSE STATEMENTS BY A SINGLE LICENSEE GO UNPUNISHED AND UNDETERRED.

The licensee or applicant willing repeatedly to lie has an underserved advantage over others before the Commission who observe candor and tell the truth. More than that, if any rule may be disregarded through dishonesty, the rules become meaningless and the regulatory project descends into chaos.

[T]he Commission must rely heavily on the completeness and accuracy of the submissions made to it, and its applicants in turn have an affirmative duty to inform the Commission of the

² Rule 801(d): A statement is not hearsay if –
(2) **Admission by party-opponent.** The statement is offered against a party and is (A) the party's own statement, in either an individual or a representative capacity. . .

facts it needs in order to fulfill its statutory mandate. This duty of candor is basic, and well known. [citations omitted]. The Commission has said before that 'no specific misrepresentation or lack of candor issues are needed to consider these matters, since the Commission always has authority to deny a license or application where the records reveals such misconduct.' *Radio Carrollton*, 69 FCC 2d 1136, 1146 n. 20 (1978), *affd. mem. sub nom. Faulkner Radio Inc. v. FCC*, No. 79-1749 (D.C. Cir., October 15, 1980) cert den. 450 U.S. 1041, 101 S. Ct. 1758, 68 L.Ed 238 (1981). See *Grenco, Inc.*, 39 FCC 2d 732, 737 (1973) ("no one is allowed 'one bite' at the apple of deceit.").

RKO General, Inc. v. FCC, 670 F. 2d 215, 232 (D.C. Cir., 1981), cert den. 456 U.S. 927, 102 S. Ct. 1974, 72 L.Ed 2d 442 (1982). It is especially dispiriting to see the Commission's staff, in the low power FM matter, stopping short of a misrepresentation or candor finding, when the abuses are seen to be systematic and widespread.

Petitioner has practiced before the Commission since 1981 (see Attachment A). I do not see how the practice is sustainable, or the policies and rules of the Commission viable, if important participants year after year may lie without consequence. Nor can the Commission fulfill its duties under the statute, where such extensive abuses go uncorrected. On that basis, as a United States citizen, as consumer of mass media, and as an attorney practicing before the Commission and providing expert services in TV and radio licensing, Petitioner alleges standing to raise the matter in this appropriate case.

Respectfully submitted,


Michael Couzens

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June 28th, 2014.

DECLARATION OF MICHAEL COUZENS

I am an active member of the bar of State of California and of the District of Columbia. I have practiced before the Federal Communications Commission since leaving the staff of the Commission's Mass Media Bureau in 1981.

I am counsel for plaintiffs in the case of *Jose Gonzalez et al. v. Iglesia Jesucristo Es Mi Refugio, Inc. et al.*, Los Angeles County Superior Court No. 501688. In the course of that litigation, I served form and specially prepared interrogatories on, among others, Antonio Cesar Guel. Three specially prepared interrogatories concerned Guel's citizenship. His attorney objected to these and Guel failed to answer them. Plaintiffs brought a motion to compel further answer, granted by the judge in an order issued on May 14, 2014. Guel was ordered to serve written verified responses without objection within 10 days of the ruling. In response, I received by mail a "Supplementary Response of Antonio Cesar Guel to the special interrogatories, Set No. One, Nos. 10, 11 and 12 propounded by plaintiff Jose Gonzalez," dated May 19, 2014. A true and complete copy of this document is attached hereto.

The foregoing declaration is sworn to under the penalties for perjury provided in the laws of the United States. Executed at Oakland, Alameda County, California on June 25, 2014.

By: _____

Michael Couzens

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6 Attorney for Defendants
7 IGLESIA JESUCRISTO ES MI REFUGIO,
8 INC.; ROBERTO GOMEZ; H.C.C.N.,
9 INC.; and ANTONIO CESAR GUEL

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES

12 JOSE GONZALEZ, et al.,)
13 Plaintiffs,) CASE NO. BC 501 688
14 vs.) SUPPLEMENTAL RESPONSE OF
15) ANTONIO CESAR GUEL TO THE
16) SPECIAL INTERROGATORIES,
17) SET NO. ONE, NOS. 10, 11 AND
18) 12 PROPOUNDED BY PLAINTIFF
19) JOSE GONZALEZ
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PROPOUNDING PARTY: JOSE GONZALEZ.

RESPONDING PARTY: ANTONIO CESAR GUEL.

SET NUMBER: ONE.

To: JOSE GONZALEZ, and to his attorney of record:

COMES NOW ANTONIO CESAR GUEL, and submits the following
supplemental responses to the Special Interrogatories, Set No.
One, Nos. 10, 11 and 12, propounded by JOSE GONZALEZ:

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1 from responding or otherwise to this discovery request. The fact
2 that a supplemental response has been given should not be taken
3 as an admission, or as a concession of the existence of any facts
4 set forth or assumed by a request, unless such facts are
5 explicitly admitted herein.

6
7 RESPONSES
8

9 SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 10.

10 I am not a natural born United States citizen.
11

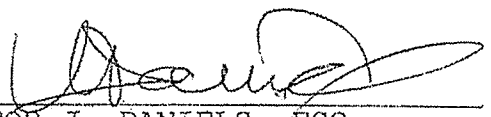
12 SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 11.

13 I have not yet become a naturalized United States citizen.
14

15 SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 12.

16 I am not a United States citizen at this time.
17

18 DATED: May 19, 2014
19


20 VICTOR J. DANIELS, ESQ.,
21 Attorney for Defendants
22 IGLESIA JESUCRISTO ES MI REFUGIO,
23 INC.; ROBERTO GOMEZ; H.C.C.N.,
24 INC.; and ANTONIO CESAR GUEL
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VERIFICATION

I, ANTONIO CESAR GUEL, DECLARE AS FOLLOWS:

I am a Defendant in the above-entitled action. I have read my entire foregoing Supplemental Response to the Special Interrogatories (Set No. 1), Nos. 10, 11 and 12, propounded upon me by JOSE GONZALEZ, and I know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 19, 2014 at Dallas, Texas.


ANTONIO CESAR GUEL

K23IA, KJTN-LP, KZAB-LP, KZOD-LP, KHFW-LD, KEAM-LD, KXCO-LD, KYFW-LD

CERTIFICATE OF SERVICE

I, Dennis Roberto Vidal, certify that copies of the foregoing Petition to Deny were served by First Class Mail, with postage fully prepaid, on June 28, 2014, to the following:

Barbara A. Kreisman, Chief
Video Division, Media Bureau
Federal Communications Commission
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Washington, D.C. 20554

Dan J. Alpert
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Dennis Roberto Vidal