



**Federal Communications Commission  
Washington, D.C. 20554**

May 6, 2015

*In Reply Refer To:*  
1800B3-ATS

Mr. Robert Brading  
Metroeast Community Media  
829 NE 8<sup>th</sup> Street  
Gresham, OR 97030

Mr. Petr Nakhaychuk  
Jehovah Jireh International Mission  
27500 SE Fern Drive  
Boring, OR 97009

Mr. Vitaliy Pechenyuk  
Slavic Community Center of the NW, Inc.  
17229 SE Division Street, S-29  
Portland, OR 97236

Mr. Jeff Simmons  
The Creative Music Guild  
4323 NE 18<sup>th</sup> Avenue  
Portland, OR 97211

Mr. Todd J. Tobutis  
The Oregon Center for Photographic Arts  
122 NW 8<sup>th</sup> Avenue  
Portland, OR 97209

Ms. Jo Ann Benns-Scott  
Enlighten State Academic Services  
P.O. Box 872125  
Vancouver, WA 98687

**In re: LPFM MX Group 283**

The Oregon Center for Photographic  
Arts  
New LPFM, Portland, Oregon  
Facility ID Number: 196398  
File Number: BNPL-20131114BUZ

Metroeast Community Media  
New LPFM, Gresham, Oregon  
Facility ID Number: 196088  
File Number: BNPL-20131114AXB

The Creative Music Guild  
New LPFM, Portland, Oregon  
Facility ID Number: 196305  
File Number: BNPL-20131114BUV

Jehovah Jireh International Mission  
New LPFM, Portland, Oregon  
Facility ID Number: 194894  
File Number: BNPL-20131108AEW

Slavic Community Center of NW, Inc.  
New LPFM, Portland, Oregon  
Facility ID Number: 196785  
File Number: BNPL-20131114BHV

Enlighten State Academic Services  
New LPFM, Vancouver, Washington  
Facility ID Number: 196942  
File Number: BNPL-20131114BNN

### Informal Objection

Dear Applicants:

We have before us: 1) the applications of The Oregon Center for Photographic Arts (“OCA”), Metroeast Community Media (“MCM”), The Creative Music Guild (“CMG”), Jehovah Jireh International Mission (“JJIM”), Slavic Community Center of NW, Inc. (“SCC”), and Enlighten State Academic Services (“ESAS”) for construction permits for new LPFM stations to serve various communities in Oregon and Washington (“OCA Application,” “MCM Application,” “CMG Application,” “JJIM Application,” “SCC Application,” and “ESAS Application,” respectively); 2) the time-share agreement filed by JJIM and SCC (“JJIM-SCC Agreement”); 3) the time-share agreement filed by OCA, MCM, and CMG (“OCA-MCM-CMG Agreement”); and 4) the Informal Objection (“Objection”) to the OCA Application, the MCM Application, and the CMG Application filed by SCC.<sup>1</sup> For the reasons set forth below, we dismiss the OCA Application and the MCM Application, reject the OCA-MCM-CMG Agreement, accept the JJIM-SCC Agreement, grant the JJIM Application and the SCC Application, and dismiss the ESAS Application.

**Background.** OCA, MCM, CMG, JJIM, SCC, and ESAS filed their respective applications during the October 2013 LPFM filing window. The Bureau determined that the six applications were mutually exclusive and identified them as LPFM MX Group 283.<sup>2</sup> On July 9, 2014, the Commission issued a Public Notice in which it conducted a point system analysis and identified the applications of Metroeast, JJIM, SCC, CMG, and OCA as the tentative selectees of LPFM MX Group 283 on a time-share basis, began a 30-day period for filing petitions to deny against those applications, and began a 90-day period in which the tentative selectee applicants could file time-share agreements.<sup>3</sup> On July 10, 2014, JJIM and SCC filed the JJIM-SCC Agreement, aggregating their comparative points for a combined total of 10 points.<sup>4</sup> On October 8, 2014, OCA, MCM and CMG filed the OCA-MCM-CMG Agreement, aggregating their comparative points for a total of 15 points.

---

<sup>1</sup> SCC filed the Objection on October 24, 2014. OCA and MCM filed an Opposition on December 8, 2014.

<sup>2</sup> *Media Bureau Identifies Mutually Exclusive Applications Filed in the LPFM Window and Announces 60-Day Settlement Period; CDBS Is Now Accepting Form 318 Amendments*, Public Notice, 28 FCC Rcd 16713 (MB 2013).

<sup>3</sup> *Commission Identifies Tentative Selectees in 79 Groups of Mutually Exclusive Applications filed in the LPFM Window*, Public Notice, 29 FCC Rcd 8665 (2014) (“July Public Notice”).

<sup>4</sup> The *July Public Notice* explained that tentative selectees may file time-share agreements to aggregate their points and break ties. See *July Public Notice*, 29 FCC Rcd at 8668. See also 47 C.F.R. § 73.872(c).

In the Objection, SCC argues that the OCPA Application and the MCM Application should be dismissed because the applications and the Agreement were not signed by an officer of OCPA and MCM, respectively.<sup>5</sup> Specifically, it notes that the OCPA Application and the Agreement were signed by Amanda Clem, who is identified as OCPA's Gallery Manager, although she is not a party to the OCPA Application.<sup>6</sup> SCC also states that the MCM Application and Agreement were signed by Robert Brading, who is identified as Executive Director but is not listed as a party to the MCM Application.<sup>7</sup> Accordingly, SCC argues that the OCPA and MCM fail to meet the requirements of Section 73.3513 of the Commission's Rules ("Rules") and should be dismissed.

In the Opposition, OCPA and MCM argue that officers did in fact sign the OCPA Application, the MCM Application, and the Agreement. It states that "OCPA's board of directors has designated Amanda Clem as a Manager to do all business for the Board. She is thus authorized to act for the corporation as a signing officer."<sup>8</sup> The Opposition further states that "[MCM]'s board of directors has designated Robert Brading as a [sic] Executive Director to do all business for the Board. He is thus authorized to act for the corporation as a signing officer."<sup>9</sup>

**Discussion.** Pursuant to Section 309(d) of the Communications Act of 1934, as amended, informal objections, like petitions to deny, must 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 the public interest.<sup>10</sup>

*Officer Signature.* Initially, we note that the OCPA Application as initially filed was signed by Todd Tobutis and the October 8, 2014, amendment that included the Agreement was signed by Clem. Neither Tobutis nor Clem were identified as officers in the OCPA Application, and Brading was not identified as an officer in the MCM Application, even though FCC Form 318 specifically instructs applicants to identify their officers in addition to their board members.<sup>11</sup> Section 73.3513(a)(3) states that an application and amendment to an application filed by a corporation, such as OCPA and MCM, must be

---

<sup>5</sup> Objection at 1, *citing* 47 C.F.R. § 73.3513. The Objection does not specifically object to the CMG Application, except that it is "a party to a time share agreement that includes OCPA and [MCM]." Objection at 2.

<sup>6</sup> Objection at 1-2. *See also* OCPA Application at Section II, Question 3.a.

<sup>7</sup> Objection at 2. *See also* MCM Application at Section II, Question 3.a.

<sup>8</sup> Opposition at 3. The Opposition includes a printout from OCPA's website showing that Clem is employed by OCPA as its Gallery Manager. *Id.* at Attachment 1.

<sup>9</sup> *Id.* at 3. The Opposition includes a printout from MCM's website showing that Brading is its Chief Executive Officer. *Id.* at Attachment 2.

<sup>10</sup> 47 U.S.C. § 309(d); *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); *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987).

<sup>11</sup> *See* FCC Form 318, Section II, Question 3.a ("List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests." (emphasis added)).

signed by an officer of the corporation.<sup>12</sup> Thus, the applications were not properly signed by officers of OCPA and MCM and must be dismissed.<sup>13</sup>

*Time-Share Agreements.* Because we are dismissing the OCPA Application and the MCM Application, we reject the OCPA-MCM-CMG Agreement. As a result of the JJIM-SCC Agreement, JJIM and SCC have an aggregated 10 comparative points, thus breaking the three-way tie between JJIM, SCC, and CGM in favor of JJIM and SCC. We have reviewed the JJIM-SCC Agreement and find that it meets the requirements of Section 73.872(c) of the Rules.<sup>14</sup> Accordingly, we will approve the JJIM-SCC Agreement, grant the JJIM Application and the SCC Application, and dismiss the mutually-exclusive CGM Application and the non-tentative selectee ESAS Application.<sup>15</sup>

**Conclusion.** Accordingly, for the reasons set forth above, IT IS ORDERED, that the Informal Objection filed by Slavic Community Center of NW, Inc., on October 24, 2014, IS GRANTED.

IT IS FURTHER ORDERED that the application of The Oregon Center for Photographic Arts (BNPL-20131114BUZ) for a new LPFM station at Portland, Oregon, IS DISMISSED.

IT IS FURTHER ORDERED, that the application of Metroeast Community Media (BNPL-20131114AXB) for a new LPFM station at Gresham, Oregon, IS DISMISSED.

IT IS FURTHER ORDERED that the time-share agreement filed on October 8, 2014, by The Oregon Center for Photographic, Metroeast Community Media, and The Creative Music Guild IS REJECTED.

IT IS FURTHER ORDERED, that the time-share agreement filed on July 10, 2014, by Jehovah Jireh International Mission and Slavic Community Center NW, Inc., IS APPROVED pursuant to 47 C.F.R. § 73.850(c)(1).

IT IS FURTHER ORDERED, that the application of Jehovah Jireh International Mission (BNPL-20131108AEW), for a new LPFM station at Portland, Oregon, IS GRANTED.

---

<sup>12</sup> See 47 C.F.R. §§ 73.801, 73.3513(a)(3); see also *Mary Ann Salvatoriello*, Memorandum Opinion and Order, 6 FCC Rcd 4705 (1991) (dismissing application that did not comply with signature requirement of Section 73.3513); *Central Florida Communications Group, Inc., et al.*, Hearing Designation Order, 6 FCC Rcd 522, 523 (1991) (same). See also Instruction for FCC Form 318, General Instructions, Certifications (“the application should be signed as follows: if a corporation, by an officer”).

<sup>13</sup> See *Blue Lake Academy, Inc.*, Letter, 20 FCC Rcd 12066, 12069 (MB 2005) (“*Blue Lake*”) (dismissing new LPFM application where it was not signed by officer of applicant corporation). We reject OCPA’s and MCM’s reliance on the printouts from their websites to show that Clem and Brading are corporate officers. These website printouts are hearsay evidence – not corporate records – and have no probative value. See, e.g., *Dakota Communications, Ltd.*, Letter 26 FCC Rcd 15567, 15570 (MB 2011) (information on licensee’s website has no probative value in showing control of station). Moreover, Clem’s and Brading’s titles on these pages may be an occupational title rather than an actual corporate office. OCPA and MCM have failed to rebut SCC’s *prima facie* showing of a violation of Section 73.3513 due to their failure to provide any corporate records showing that Tobutis, Clem, and Bradley hold a corporate office, combined with their failure to list Tobutis, Clem, and Bradley as corporate officers in response to Section II, Question 3 of their respective applications.

<sup>14</sup> See 47 C.F.R. § 73.872(c).

<sup>15</sup> The *July Public Notice* indicated that non-tentative selectee applications would be dismissed once the tentative selectees’ application had been granted. *July Public Notice*, 29 FCC Rcd at 8670.

IT IS FURTHER ORDERED, that the application of Slavic Community Center NW, Inc. (BNPL-20131114BNV), for a new LPFM station at Portland, Oregon, IS GRANTED.

IT IS FURTHER ORDERED, that the application of The Creative Music Guild (BNPL-20131114BUV), for a new LPFM station at Portland, Oregon, IS DISMISSED.

IT IS FURTHER ORDERED, that the application of Enlighten State Academic Services (BNPL-20131114BNN) for a new LPFM station at Vancouver, Washington, IS DISMISSED.

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" followed by the initials "PH" in a larger, stylized font.

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: Todd Urick  
28361 Sloan Canyon Road  
Castaic, CA 91384