



Federal Communications Commission
Washington, D.C. 20554

June 22, 2007

DA 07-2746
In Reply Refer To:
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Lynn J. Farris
Farris Broadcasting, Inc.
P.O. Box 630
Brady, Texas 76825

In re: **KNEL(AM), Brady, TX**
Facility ID No. 59540
File No. BR – 20050331BDJ
Application for Renewal of License

Informal Objection

Dear Mr. Farris:

This letter concerns the captioned application (the “Application”) filed by Farris Broadcasting, Inc. (the “Licensee”) to renew the license of Station KNEL(AM), Brady, Texas (the “Station”). Also on file is an informal objection (“Informal Objection”) filed by H. Clint Low (“Low”) on March 17, 2005, directed to the Application.¹ For the reasons set forth below, we deny the objection and renew the KNEL(AM) license.

Background. The Informal Objection contends that in February 2004, Low was running for a unspecified local office in Mason County, Texas. He claims that the Station “aired a political advertisement that was highly slanderous and false” about him.² He states that the Station’s owner, Lynn Farris, agreed during a telephone conversation to run this political advertisement, recorded the advertisement, and aired it. Low asserts that no written contract was ever executed and that no payment “in full” was made for the ad. Low contends that Farris was unable to provide him with a copy of the contract although requested to do so.³ Additionally, Low asserts that Licensee employs a newscaster who frequently broadcasts unverified and erroneous information regarding local government meetings. He claims that the newscaster implied that she was in attendance at certain meetings when, in fact, she was not. Moreover, he contends that the newscaster is biased against the local sheriff’s office. Low contends that the newscaster’s husband ran against him in an election contest in which the alleged political advertising improprieties occurred and that the newscaster herself ran against him as a write-in candidate while she was employed in an on-air capacity at KNEL(AM). Finally, Low asserts that this newscaster uses her position to obtain private information for her personal use and to disseminate false information and rumors.

¹ Licensee did not file a response to Low’s Informal Objection.

² Informal Objection at 1.

³ Low indicates that Mr. Farris did air an apology to Low and his family, “but the damage had been done.” *Id.*

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,⁴ 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.⁵ 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 than the maximum otherwise permitted.”⁶ For the reasons set forth below, we find that the Licensee has met this standard and, accordingly, we grant the Application.

The Informal Objection fails to present sufficient information concerning the alleged political broadcasting issues to enable us to determine whether a violation took place. For example, it does not contain any indication that the subject “advertisement” was for or on behalf of a legally qualified candidate for public office under Section 73.1940 of the Rules.⁷ Nor is there any indication that anything of value was received by KNEL(AM) for the advertisement. Accordingly, the advertisement does not appear to implicate our sponsorship identification requirements.⁸ Thus, the Informal Objection fails to provide a basis for further action concerning the alleged advertisement.

With regard to the news bias and misrepresentation aspects of the Informal Objection, the Act imposes the general duty upon each broadcast licensee to operate its station in the public interest. As a public trustee, a broadcaster must conscientiously avoid intentional and deliberate falsification in the content and presentation of news.⁹ This does not mean, however, that isolated misstatements of fact from reporters and newscasters will subject a station to Commission sanctions. Rather, a petitioner must present to the Commission extrinsic evidence (evidence outside the content of the program) which supports the allegations of deliberate news distortion and demonstrates that it was directed by the licensee, station management or news management, or resulted from an abdication of responsibility by

⁴ 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 objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

⁵ 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).

⁶ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

⁷ 47 C.F.R. § 73.1940.

⁸ See 47 U.S.C. § 317; see also 47 C.F.R. § 73.1212.

⁹ *Michael D. Bramble*, Memorandum Opinion and Order, 58 FCC 2d 565, 571 (1976).

one or more of those entities.¹⁰ If the evidence does nothing more than indicate that there is a dispute about the truth of a reported event or statement, whether a particular event or statement should or should not have been reported, or the manner in which a news item was reported, the Commission will not intervene.¹¹ In view of the freedom accorded the press by the First Amendment to the United States Constitution, we believe that no Government agency can authenticate the news, or should try to do so.¹² To the extent that Low's Informal Objection raises issues of defamation or invasion of privacy, such matters are not regulated by the Commission even when a broadcast station is involved. Instead, the Commission has found that such matters are better addressed by local courts of competent jurisdiction in private actions than in Commission licensing proceedings.¹³

Conclusion/Actions. Accordingly, IT IS ORDERED, that the Informal Objection filed by H. Clint Low IS DENIED. IT IS FURTHER ORDERED, that the application for renewal (File No. BR – 20050331BDJ) for station KNEL(AM), Brady, Texas, IS GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: H. Clint Low

¹⁰ See *American Broadcasting Companies, Inc.*, Memorandum Opinion and Order, 86 FCC 2d 3, 10-11 (1981); *Hunger in America*, Memorandum Opinion, 20 FCC 2d 143, 150-51 (1969); *Black Producer's Association*, By Direction Letter, 70 FCC 2d 1920, 1928 (1979); *WPIX, Inc.*, Decision, 68 FCC 2d 381, 384-86 (1978); *Mrs. J. R. Paul*, By Direction Letter, 26 FCC 2d 591, 592 (1969).

¹¹ *American Broadcasting Companies, Inc.*, 86 FCC 2d at 10-11; *Service Broadcasting Corporation*, Memorandum Opinion and Order, 46 RR 2d 413, 420 (1979); *KMAP, Inc.*, Memorandum Opinion and Order, 72 FCC 2d 241, 244 (1979); *WSM, Inc.*, Memorandum Opinion and Order, 66 FCC 2d 994, 997 (1977); *WANV, Inc.*, Memorandum Opinion and Order, 59 FCC 2d 1430, 1433 (1976); *Mrs. J. R. Paul*, 26 FCC 2d at 591-92.

¹² See *American Broadcasting Companies, Inc.*, 86 FCC 2d at 11.

¹³ See *Anti-Defamation League of B'nai Brith*, Memorandum Opinion, 4 FCC 2d 190, 191 (1966).