



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

July 12, 2006

DA 06-1331
In Reply Refer To
1800B3-ALM
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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Patrick J. Vaughn, Esquire
General Counsel
American Family Association
Post Office Drawer 2440
Tupelo, Mississippi 38803

In re: K211CY, Spearfish, South Dakota
American Family Association
Facility ID No. 81222
File No. BRFT-20041117AAQ
File No. BALFT-20041116ACD
Notification of License Cancellation and
Dismissal of Pending Renewal and
Assignment Applications

Dear Mr. Vaughn:

We have before us the captioned applications of American Family Association (“AFA”) to renew the license for FM translator station K211CY, Spearfish, South Dakota, and to assign the station license to Horizon Christian Fellowship (“HCF”). For the reasons set forth below, we find that the K211CY license has expired as a matter of law, and we dismiss the pending license renewal and assignment application.

Commission records reflect that in a letter received on February 9, 2004, AFA notified the Commission that K211CY had gone silent on December 12, 2003. AFA further indicated that it would “in the near future” file an application to assign the station license to another broadcaster who would restore the broadcast operation of K211CY. Commission records reveal that AFA did not submit an application to assign the K211CY license to HCF until November 16, 2004. On November 17, 2004, AFA submitted an application to renew the K211CY license. The staff could not locate any correspondence from AFA advising the Commission that K211CY had returned to the air. Accordingly, the Audio Division sent a certified letter to AFA, dated December 5, 2005, requesting information as to the operational status of the station. As of the date of this letter, no response to this letter inquiry has been received.

Section 312(g) of the Communications Act, 47 U.S.C. Section 312(g), provides that “if a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period,

notwithstanding any provision, term, or condition of the license to the contrary. . . ."¹ The record in this case indicates that K211CY was off the air from on or about December 12, 2003, until the present. Consequently, we find that the license for K211CY has expired as a matter of law.

Notwithstanding the fact that K211CY has remained silent for 12 consecutive months, the Commission retains the discretion under Section 312(g) to extend or reinstate such license "to promote equity and fairness."² The exercise of that discretion is not warranted here. Station K211CY was taken off the air more than two years ago and has remained silent during this entire period.

Accordingly, the Commission's public and internal databases will be modified to indicate that the broadcast license (BLFT-19970711TC) for the referenced station EXPIRED as a matter of law, on or about December 12, 2004, and we HEREBY DELETE the station's call sign K211CY. Additionally, the pending license renewal application (BRFT-20041117AAQ) and assignment application (BALFT-20041116ACD) ARE DISMISSED.

Finally, we note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the station's tower be maintained until the tower is dismantled. Accordingly, the owner of the tower where the referenced station's transmitting antenna is located is required, pursuant to 47 U.S.C. Section 303(q), to maintain the tower in the manner prescribed by our rules and the terms of the cancelled license.³

Sincerely,

Peter H. Doyle
Chief , Audio Division
Media Bureau

¹ See *Implementation of Section 403(l) of the Telecommunications Act of 1996*, 11 FCC Rcd 16499 (1996); see also 47 C.F.R. § 73.1740(c).

² 47 U.S.C. § 312(g). See also *Satellite Home Viewer Extension and Reauthorization Act of 2004*, Pub.L. 108-447, Div. J., Title IX, § 213, 118 Stat. 3431 (Dec. 8, 2004).

³ See 47 C.F.R. §§ 17.1 *et seq.* and 73.1213. See also *Streamlining the Commission's Antenna Structure Clearance Procedure*, WT Docket No. 95-5, 11 FCC Rcd 4272 (1995).