



Federal Communications Commission
Washington, D.C. 20554

January 26, 2010

DA 10-131

Reply in Refer to:

1800B3-TN

Released: January 26, 2010

Malin Christian Church, Inc.
1604 Kimberly Drive
Klamath Falls, OR 97603
P.O. Box 111
Klamath Falls, Oregon 97601-0006

RE: **KBUG(FM), Malin, Oregon**
File No. BLH-20000512AAG
Facility ID No. 65747

Dear Applicant:

This refers to the above-referenced application by Malin Christian Church, Inc. ("MCC") for a license to cover the construction permit for KBUG(FM), Malin, Oregon (the "Application").¹ Based on the record in this proceeding, including state records of which the staff takes official notice, we conclude that MCC was dissolved on June 17, 2005, and has not been reinstated, and that therefore the Application must be dismissed for MCC's failure to prosecute the Application, in violation of Section 73.3568(a)(1) of our Rules.²

Background. On May 12, 2000, MCC filed the Application. According to the Application as filed, MCC's address was P.O. Box 111, Klamath Falls, Oregon 97601. The sole member of MCC listed in the application was Sandra Soho, who certified the application as a Director. The Oregon Secretary of State's records indicate that MCC was incorporated on April 20, 1999, with its principal place of business at P.O. Box 111, Klamath Falls, Oregon 97601-0006. Sandra Soho was listed as President and Registered Agent, and Sandra Falk, now deceased, was listed as Secretary. The corporation was assigned the registry number 686837-89. According to the records of the Oregon Secretary of State, of which we take official notice, MCC was involuntarily dissolved on June 17, 2005, and has not been reinstated.

On March 23, 2007, a second MCC was formed ("MCC2"). MCC2 was assigned the registry number 423118-94. Thomas G. Renteria was listed as the President and Registered Agent, and Joanna M. Bucholz was listed as the Secretary. The principal place of business was given as 507 Main Street, Tulelake, California 96134,³ with Renteria giving his address as 1604 Kimberly Drive, Klamath Falls, OR 97603, and his mailing address as P.O. Box 111, Klamath Falls, Oregon 97601. According to the Oregon Secretary of State, on May 22, 2009, this corporation was also involuntarily dissolved, and remains inactive.

¹ File No. BLH-20000512AAG, covering construction permit File No. BPED-19950203MA. At the time the Application was filed, KBUG(FM)'s call sign was KHAT(FM).

² 47 C.F.R. § 73.3568(a)(1).

³ We note that, on August 4, 2003, MCC filed a "Notice of Location of Main Studio," representing that the main studio of KBUG(FM) had moved from 507 Main Street, Tulelake, California, to 1604 Kimberly Drive, Klamath Falls, Oregon.

At the time MCC filed the Application in 2000, it certified that there were no character issues or adverse findings against MCC or its principals. However, in 2009 MCC's sole known living principal, Sandra Soho, was convicted of eight felony counts of unlawfully obtaining public assistance, five felony counts of first-degree theft, four felony counts of unlawfully obtaining a food stamp benefit, and one misdemeanor count of second-degree theft, all counts on which she was charged. On February 12, 2009, Soho was sentenced to 38 months in prison and 30 days in county jail, fined in the amount of \$499,308, and ordered to pay restitution in the amount of \$8,746.79.⁴

Discussion. *Status of MCC.* Based upon the evidence of which we take official notice, including the records of the Secretary of State of Oregon and the findings of the court in *State v. Soho*, we conclude that the entity that filed the Application no longer exists, and would not be qualified to be a Commission licensee if it did still exist. It is clear that the only MCC that had ever existed in the State of Oregon before the Application was filed was the MCC assigned registry number 686837-89. That corporation was dissolved while the Application was pending and has not been revived. The evidence before us suggests that another group of individuals, different from those who comprised MCC, formed a new corporation, MCC2, on March 23, 2007, by filing new Articles of Incorporation and receiving a new registry number, 423118-94, from the Oregon Secretary of State. Any contention that MCC2 was merely a revival and change in control of MCC would be gainsaid by the fact that new Articles were filed and a new registry number assigned. The clear indication is that the principals of MCC2 merely formed a new corporation using the same name as a prior corporation that had been dissolved. As such, MCC2 could not stand in the shoes of the original KBUG(FM) applicant, MCC, with its newly formed but identically named corporation. While the fact that both MCC and MCC2 used the same post office box address in their corporate filings suggests that MCC2 might claim in some respects to be a successor to MCC, we note that no application regarding KBUG(FM) has been filed with the Commission since MCC2's formation in 2007. Thus, we conclude that the actual, and only, applicant for the KBUG(FM) Malin license is the now-defunct MCC. Moreover, the only known living principal of MCC has been convicted of several felonies, and thus is not qualified to be a Commission licensee.⁵

Additionally, KBUG(FM) is currently silent, and is unable to broadcast from its permitted site, which is located on land controlled by the Bureau of Land Management ("BLM"). On October 11, 2005, BLM informed MCC that the right of way granted to it for use as a transmitter site had expired, and instructed MCC to remove all equipment from the site by December 31, 2005.⁶ MCC has not filed an application for modification of its construction permit since losing its permitted site.⁷

⁴ *State of Oregon v. Sandra Soho* ("State v. Soho"), Judgment, Case No. 0602044CR (Circuit Court, Klamath County, Feb. 12, 2009) ("Soho Judgment"). We hereby take official notice of the Soho Judgment and of the testimony therein, especially that of George Wade, who testified that Soho used his name without his permission as licensee of station KRAT(FM), Altamont, Oregon. *State v. Soho*, CourtSmart Transcription CD No. 2 of 8, at 7:12:35; 47 U.S.C. § 309(d)(1).

⁵ See *Policy Regarding Character Qualifications in Broadcast Licensing*, Policy Statement and Order, 5 FCC Rcd 3252 (1990), modified, 6 FCC Rcd 3448 (1991), further modified, 7 FCC Rcd 6564 (1992).

⁶ *Letter from Jon Raby, Manager, Klamath Falls Resource Area, United States Department of the Interior, Bureau of Land Management, to Dr. Sandra Soho, Malin Christian Church* (Oct. 11, 2005).

⁷ Prior to filing the Application, MCC did file an application for modification of its permit, specifying different coordinates, File No. BMPED-19991013AAH, which remains pending. For the reasons set forth herein, namely, MCC's involuntary dissolution and the felony conviction of MCC's remaining principal, this modification application IS DISMISSED.

Pleadings. On January 14, 2000, Klamath Basin Broadcasting (“KBB”) filed a Petition to Revoke Construction Permit for Station KHAT(FM), Merrill [sic], Oregon and to Dismiss Modification Application against MCC.⁸ Further, on June 26, 2000, KBB filed a Petition to Deny the Application. In both pleadings, KBB raises issues regarding MCC, its principals, and the assignment of the KBUG(FM) construction permit to MCC from a prior permittee. Because of our action today, we dismiss both petitions as moot.

Conclusion. For the foregoing reasons, pursuant to Sections 0.61 and 0.283 of the Commission’s Rules,⁹ the application of Malin Christian Church, Inc., for a license to cover the construction permit for KBUG(FM), Malin, Oregon, File No. BLH-20000512AAG, IS DISMISSED, and the application of Malin Christian Church, Inc., for modification to the construction permit for KBUG(FM), Malin, Oregon, File No. BMPED-19991013AAH, IS DISMISSED. The Petition to Deny MCC’s Application, and the Petition to Revoke Construction Permit and Dismiss Modification Application, both filed by Klamath Basin Broadcasting, ARE DISMISSED AS MOOT. The call sign of station KBUG(FM), Malin, Oregon, IS DELETED, and station KBUG(FM) MUST CEASE BROADCAST OPERATIONS IMMEDIATELY. We caution 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 KBUG(FM)’s transmitting antenna is located is required, pursuant to Section 303(q) of the Communications Act of 1934, as amended,¹⁰ to maintain the tower in the manner prescribed by our rules and the terms of the KBUG(FM) construction permit.¹¹

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

cc: J. Dominic Monahan, Esq.

⁸ *Id.*

⁹ 47 C.F.R. §§ 0.61, 0.283.

¹⁰ 47 U.S.C. § 303(q).

¹¹ See 47 C.F.R. §§ 17.1, *et seq.*, and 73.1213. See also *Report and Order* in MM Docket 95-5, 11 FCC Rcd 4272 (1996).