



Federal Communications Commission
Washington, D.C. 20554

May 16, 2014

DA 14-670
In Reply Refer to:
1800B3-PPD

Mr. Antonio Cesar Guel
2605 Hyacinth Drive
Mesquite, Texas 75181

In re: **Applications for Construction Permits for
New Low Power Broadcast FM Stations**

NEW-LP, Memphis, TN
Facility ID No. 193829
East Memphis Community Radio
File No. BNPL-20131112AFU

NEW-LP, Fort Worth, TX
Facility ID No. 193837
Fort Worth Hispanic Community Church
File No. BNPL-20131112AFX

NEW-LP, Greensboro, NC
Facility ID No. 194078
Greensboro Community Radio
File No. BNPL-20131112AGA

NEW-LP, Las Vegas, NV
Facility ID No. 194090
Las Vegas Community Radio
File No. BNPL-20131112AGG

NEW-LP, North Las Vegas, NV
Facility ID No. 194541
North Las Vegas Community Radio
File No. BNPL-20131112AHB

NEW-LP, Rockwall, TX
Facility ID No. 194580
Rockwall Radio De La Comunidad
File No. BNPL-20131112ALN

NEW-LP, Indianapolis, IN
Facility ID No. 194267
South Indianapolis Community Radio
File No. BNPL-20131112BDY

NEW-LP, Southlake, TX
Facility ID No. 194281
South Lake Hispanic Community Church
File No. BNPL-20131112BEB

NEW-LP, Sugar Land, TX
Facility ID No. 194395
Sugar Land Community Radio
File No. BNPL-20131112BEN

NEW-LP, Wichita Falls, TX
Facility ID No. 195685
Casa Al Imigrante De Wichita Falls
File No. BNPL-20131114APH

NEW-LP, Houston, TX
Facility ID No. 193940
Centro Cristiano De Amor Inc.
File No. BNPL-20131112ATV

NEW-LP, Houston, TX
Facility ID No. 193950
Centro Mundial De Fe Inc.
File No. BNPL-20131112AUM

NEW-LP, Houston, TX
Facility ID No. 193952
Centro Cristiano De Fe Inc.
File No. BNPL-20131112AUP

NEW-LP, Houston, TX
Facility ID No. 193958
Centro De Fe Y Avivamineto Del Santo
Espiritu Inc.
File No. BNPL-20131114BXE

Letter of Inquiry

Dear Mr. Guel:

This letter concerns the responses you provided to the Media Bureau's ("Bureau") February 21, 2014, Letter of Inquiry ("LOI").¹ The LOI sought further information regarding the Form 318 applications for a construction permit ("CP") for a low power broadcast FM ("LPFM") station for File Nos. BNPL-20131112AFU (Memphis, Tennessee), BNPL-20131112AFX (Fort Worth, Texas), BNPL-20131112AGA (Greensboro, North Carolina), BNPL-20131112AGG (Las Vegas, Nevada), BNPL-20131112AHB (Las Vegas, Nevada), BNPL-20131112ALN (Rockwall, Texas), BNPL-20131112BDY

¹ See Letter of Inquiry to Mr. Antonio Cesar Guel from Peter H. Doyle, Chief, Audio Division, Media Bureau (February 21, 2014).

(Indianapolis, Indiana), BNPL-20131112BEB (Southlake, Texas), BNPL-20131112BEN (Sugar Land, Texas), and BNPL-20131114APH (Wichita Falls, Texas) (collectively, “the Radio Applications”). The LOI also sought further information regarding the Form 318 applications for a CP for new LPFM stations in Houston, Texas, File Nos. BNPL-20131112ATV, BNPL-20131112AUM, BNPL-20131112AUP, and BNPL-20131114BXE (collectively, “the Centro Applications”).

The Radio Applications and the Centro Applications (collectively, “the Applications”) are “singleton” applications which the Bureau previously “accepted for filing.” We withheld further action on the Applications pending a response to the LOI and our analysis of the response. East Memphis Community Radio (BNPL-20131112AFU); Greensboro Community Radio (BNPL-20131112AGA); and South Indianapolis Community Radio (BNPL-20131112BDY) did not provide a response;² therefore those applications are dismissed for the parties’ failure to respond.³ Further, for the reasons set forth below, we dismiss the remainder of the Radio Applications (collectively referred to as “Community Applications”)⁴ and the Centro Applications.

Background. All the Applications were filed during the October 15 – November 15, 2013, LPFM filing window.⁵ Form 318 requires applicants to provide a range of information. For example, Section I (General Information), Question 1 seeks information about the applicant. This information includes the legal name, mailing address and telephone number of the applicant.⁶ Thus, the information sought in Question 1 is specific to each Form 318 applicant.⁷ However, an independent Audio Division staff (“Staff”) analysis identified a number of discrepancies and commonalities among the information provided in the Applications. For example, Radio Application applicants listed Mr. Guel’s telephone number as disclosed elsewhere in the application.⁸ Relying on publicly available information, Staff further determined that the actual occupant (“Occupant”) at the listed mailing address⁹ was not the applicant as listed on the Form 318.¹⁰ In December 2013, relying on publicly available contact

² See Letter to Parul P. Desai from Dan J. Alpert (April 17, 2014) (stating that the applicants did not provide the requested information).

³ See 47 C.F.R. § 73.3568(a) (failure to respond to official correspondence is cause for dismissal of an application); *Applications for Review of Decisions Regarding Six Applications for New Low Power FM Stations*, 28 FCC Rcd 13390, 13392 (2013) (“*Six Applications*”).

⁴ See File Nos. BNPL-20131112AFX (Fort Worth, Texas), BNPL-20131112AGG (Las Vegas, Nevada), BNPL-20131112AHB (Las Vegas, Nevada), BNPL-20131112ALN (Rockwall, Texas), BNPL-20131112BEB (Southlake, Texas), BNPL-20131112BEN (Sugar Land, Texas), and BNPL-20131114APH (Wichita Falls, Texas).

⁵ See *Media Bureau Extends Low Power FM Filing Window*, Public Notice, 28 FCC Rcd 15763 (2013).

⁶ The Instructions to Form 318 state that when answering Question 1 in Section 1, the “name of the applicant... shall be the exact name of the agency, board, institution, organization, corporation, association, Tribe or governmental entity seeking the authorization.”

⁷ If applicable, Section I, Question 2 also allows the applicant to provide separate contact information of a representative for the applicant.

⁸ See Form 318, Section VI, Preparer’s Certification.

⁹ Applicants also list the same mailing address as the location for the proposed main studio; as the contact information for board members listed in the Radio Applications and the Articles of Incorporation; and as the applicant’s principal office in the Articles of Incorporation.

¹⁰ See Form 318, Section 1, Question 1. For example, File No. BNPL-20131112AFU lists the legal name of the applicant as East Memphis Community Radio, with a mailing address of 1082 Berclair Drive, Memphis, Tennessee, 38122. However, public records indicate that the Macon Road Baptist School occupies the building at 1082 Berclair Drive, Memphis, Tennessee, 38122.

information, Staff telephoned each of the Occupants at the addresses listed in the Radio Applications. These calls established: (1) the Occupant was the only occupant at the address listed in the application; (2) none of the applicants in the Radio Applications had any relationship with the Occupant at the address listed in the application; (3) none of the applicant's board members had any relationship to the Occupant at the address listed in the application; and (4) none of the Occupants at the addresses listed in the Radio Applications had submitted a Form 318 application.

Moreover, each Centro Application listed the same mailing address and telephone number for its contact information and its proposed main studio location. Based on the Commission's own records, Staff determined that these are the mailing address (8230 Antoine Drive, Houston, Texas, 77055) and telephone number (713-875-8728) for Centro Cristiano De Vida Eterna ("CCVE"), licensee of noncommercial educational station KNLY(FM), New Waverly, Texas, Facility Identification Number 173796.

The Bureau issued the LOI because the commonalities in the Applications, discrepancies in the Radio Applications, and common information among the applicants in the Centro Applications and CCVE raised questions as to the identity of the applicants and the parties to the Applications. The LOI noted that the Bureau was investigating potential statutory and rule violations and related instances of potential misrepresentation and/or lack of candor in connection with the Applications. The Bureau received the responses to the LOI on April 3 and 17, 2014.

Discussion. The Bureau has not determined whether any of the applicants have engaged in misrepresentation and/or lack of candor. However, based on the responses provided, the Bureau has determined that the Community Applications applicants made major ownership changes and/or did not have reasonable site assurance prior to their filing. The Bureau has also determined that the Centro Applications applicants did not have reasonable site assurance prior to their filing. Therefore, the Applications will be dismissed.

Changes in Ownership

Among other things, the LOI requested applicants to "[p]rovide a signed and dated affidavit or sworn declaration from each board member listed in each Application (1) affirming his or her membership and positional interest in the Applicant, and (2) providing his or her identity and address, as shown in a copy of that board member's driver's license or other state-issued form of identification attached to such affidavit or declaration, and his or her current personal telephone number."¹¹

All of the Community Applications were amended after the LOI was issued. These amendments included board of director changes. The Commission's rules ("Rules") state that an applicant for an LPFM CP can only make "[c]hanges in ownership where the original party or parties to an application retain more than 50 percent ownership interest in the application as originally filed."¹² Thus, a fifty percent change in the governing board of a LPFM applicant is considered a "major change" and results in the dismissal of the application.¹³

¹¹ LOI at 5. The LOI also stated that "[i]f a board member's address has changed from the address shown in the document attached to the affidavit or declaration, the affidavit or declaration should provide the board member's current address and the date of the board member's move to that address." *Id.* at n. 3.

¹² 47 C.F.R. § 73.871(c)(3).

¹³ See *Fatima Response, Inc.*, Letter, 21 FCC Rcd 11711 (MB 2006) (dismissing NCE application where applicant had experienced major changes in board composition), *recon. denied*, 22 FCC Rcd 8402 (MB 2007).

Reasonable Site Assurance

For each proposed transmitter site, the LOI asked each applicant to “provide (1) the address, (2) the property owner’s, tower owner’s or tower manager’s name and telephone number, and (3) a description of all actions taken by or on behalf of the Applicant to determine that the site would be available to the Applicant in the event the Application is granted.”¹⁴ The LOI also asked the applicants to “[p]rovide a copy of all Documents relating or referring to the availability of the transmitter site proposed in each Application.”¹⁵

It is well established that the specification of a transmitter site in an application is an implied representation that the applicant has obtained reasonable assurance that the site will be available for the construction and operation of its proposed facilities.¹⁶ While some latitude is afforded such “reasonable assurance,” there must be, at a minimum, a “meeting of the minds resulting in some firm understanding as to the site’s availability.”¹⁷ A mere possibility that the site will be available is not sufficient.¹⁸ Lack of reasonable site assurance at the time the application is filed is a non-curable defect.¹⁹

Community Applications

Fort Worth Hispanic Community Church. Fort Worth Hispanic Community Church (“FWHCC”) amended its application on March 11, 2014, to specify a new three-member board of directors. FWHCC’s response to the LOI (“FWHCC Response”) states the amendment was submitted because one of the directors resigned from the board due to a personal situation and to provide updated information on new board members.²⁰ We find that FWHCC has undergone a major ownership change since the close of the window.²¹

FWHCC provides a declaration, *not* made under the penalty of perjury, from Mr. Guel stating that he spoke to Mrs. Barbara Andrews of Andrews Tower (ASRN 1058262) in mid-October 2013 regarding “available space in the tower.”²² According to the declaration, Mrs. Andrews stated space was available and requested information about the type of equipment that would be installed.²³ The FWHCC Response also provides an email dated March 3, 2014, from Lia Oliveros of Hispanic Christian Community

¹⁴ LOI at 6.

¹⁵ *Id.*

¹⁶ See *William F. Wallace and Anne K. Wallace*, Memorandum Opinion and Order, 49 FCC 2d 1424, 1427 (1974) (“*Wallace*”).

¹⁷ *Genesee Communications, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 3595 (1988). The applicant need not own the proposed site and may even work out the final details for a lease sometime in the future. The “reasonable assurance” standard is satisfied by “[s]ome clear indication from the landowner that he is amenable to entering into a future arrangement with the applicant for use of the property as its transmitter site, on terms to be negotiated” *Elijah Broadcasting Corp.*, Memorandum Opinion and Order, 5 FCC Rcd 5350, 5351 (1990).

¹⁸ See *Wallace*, 49 FCC 2d at 1425.

¹⁹ See *Six Applications*, 28 FCC Rcd at 13900, n. 88, and cases cited therein.

²⁰ See FWHCC Response at Question 9(b) (the updated information includes changes in names and addresses).

²¹ See 47 C.F.R. § 73.871(c)(3).

²² See FWHCC Response, Declaration of Antonio Cesar Guel.

²³ See *id.*

Network (“HCCN”) to Mrs. Andrews stating that HCCN “is interested in one of the towers located in Halton [sic] City, TX. If you have any space available in this tower please let me know.”²⁴ Mrs. Andrews replied on March 11, 2014, stating that space was available to HCCN (rather than FWHCC).²⁵

The March 2014, email does not reference any discussion prior to application filing and does not identify FWHCC as the entity seeking site availability. FWHCC provides no other documentation or extrinsic evidence, such as an affidavit from Mrs. Andrews, to support Mr. Guel’s declaration that site assurance was granted prior to filing the FWHCC application. Mr. Guel’s declaration was not made as a declaration under penalty of perjury and by itself is not reliable.²⁶ We find that FWHCC has failed to show that it had reasonable assurance to use the specified site when it filed its application.

Las Vegas Community Radio. Las Vegas Community Radio (“LVCR”) amended its application on March 13 and 17, 2014, to specify a new three-member board of directors. LVCR’s response to the LOI (“LVCR Response”) states the first amendment “was made to correct the names of the directors” and the second amendment “was made when [the directors provided] their state identification.”²⁷ We find that LVCR has undergone a major ownership change since the close of the window.²⁸

LVCR provides a declaration, *not* made under the penalty of perjury, from Mr. Guel stating that he spoke to Mr. Jess Deal in September 2013, regarding availability on American Tower (ASRN 1025338), and Mr. Deal stated space was available.²⁹ The LVCR Response also provides an email dated March 6, 2014, from Armando Quintero of HCCN providing registration information for ASRN 1009985 to Ken Hall of American Tower Corporation (“ATC”).³⁰ Mr. Hall responded on March 14, 2014, providing reasonable site assurance to LVCR for space on ATC site number 90348, ASRN 1009985.³¹

The March 2014, email does not provide site assurance for ASRN 1025338, the site specified in Mr. Guel’s declaration and in LVCR’s LPFM application.³² The email also does not reference any discussion prior to application filing. LVCR provides no other documentation or extrinsic evidence, such as an affidavit from Mr. Deal or Mr. Hall, to support Mr. Guel’s declaration, which itself was not made as a declaration under penalty of perjury and by itself is not reliable.³³ We find that LVCR has failed to show that it had reasonable assurance to use the specified site when it filed its application.

North Las Vegas Community Radio. North Las Vegas Community Radio (“NLVCR”) amended its application on March 13 and 17, 2014, to specify a new three-member board of directors. NLVCR’s response to the LOI (“NLVCR Response”) states the first amendment “was made to correct the names of

²⁴ FWHCC Response, Email to Barbara Andrews from Lia Oliveros (March 6, 2014).

²⁵ *Id.*, Email to Lia Oliveros from Barbara Andrews (March 14, 2014).

²⁶ *See, e.g., Rock’n’Roll Preservation Society*, Letter, 23 FCC Rcd 16630, 16638 (MB 2008), *aff’d*, *Six Applications*, 28 FCC Rcd at 13399-13401 (“*Rock’n’Roll*”) (hearsay statements made in an unsworn declaration were unreliable without corroborating evidence).

²⁷ *See* LVCR Response at Question 9(b).

²⁸ *See* 47 C.F.R. § 73.871(c)(3).

²⁹ *See* LVCR Response, Declaration of Antonio Cesar Guel.

³⁰ *See id.*, Email to Ken Hall from Armando Quintero (March 6, 2014).

³¹ *See id.*, Email to Armando Quintero from Ken Hall (March 14, 2014).

³² *See* BNPL-20131112AGG at Section VI, Tech Box.

³³ *See, e.g., Rock’n’Roll*, 23 FCC Rcd at 16638.

the directors” and the second amendment “was made when [the directors provided] their state identification.”³⁴ We find that NLVCR has undergone a major ownership change since the close of the window.³⁵

NLVCR provides a declaration, *not* made under the penalty of perjury, from Mr. Guel stating that he spoke to Mr. Jess Deal in September 2013, regarding availability on American Tower (ASRN 1025338), and Mr. Deal stated space was available.³⁶ The NLVCR Response also provides an email dated March 6, 2014, from Armando Quintero of HCCN providing registration information for ASRN 1009985 to Ken Hall of ATC.³⁷ Mr. Hall responded on March 14, 2014, providing reasonable site assurance to NLVCR for space on ATC site number 90348, ASRN 1009985.³⁸

The March 2014, email does not provide site assurance for ASRN 1025338, the site specified in Mr. Guel’s declaration and in NLVCR’s LPFM application.³⁹ The email also does not reference any discussion prior to application filing. NLVCR provides no other documentation or extrinsic evidence, such as an affidavit from Mr. Deal or Mr. Hall, to support Mr. Guel’s declaration, which itself was not made as a declaration under penalty of perjury and by itself is not reliable.⁴⁰ We find NLVCR has failed to show that it had reasonable assurance to use the specified site when it filed its application.

Rockwall Radio de La Comunidad. Rockwall Radio de La Comunidad (“RRC”) provides an unsigned declaration, *not* made under the penalty of perjury, from Mr. Guel stating that in October 2013 he spoke to Mr. Darryl Snyder regarding availability on Global Tower (ASRN 1050894), and Mr. Snyder stated space was available.⁴¹ In January of 2014, Mr. Guel learned Global Tower had changed owners and was owned by ATC.⁴² Mr. Guel states he called Mr. Ken Hall of ATC to confirm the tower was still available.⁴³ The RRC Response also provides an email dated March 6, 2014, from Armando Quintero of HCCN providing ASRN registration information to Mr. Hall of ATC.⁴⁴ Mr. Hall responded on March 14, 2014, providing reasonable site assurance to RRC for ATC site number 374508, ASRN 1050894.⁴⁵

The March 2014, email does not reference any discussion prior to application filing. RRC provides no other documentation or extrinsic evidence, such as an affidavit from Mr. Snyder or Mr. Hall, to support Mr. Guel’s declaration, which itself was not made as a declaration under penalty of perjury and by itself is not reliable.⁴⁶ We find that RRC had failed to show that it has reasonable assurance to use the specified site when it filed its application.

³⁴ See NLVCR Response at Question 9(b).

³⁵ See 47 C.F.R. § 73.871(c)(3).

³⁶ See NLVCR Response, Declaration of Antonio Cesar Guel.

³⁷ See *id.*, Email to Ken Hall from Armando Quintero (March 6, 2014).

³⁸ See *id.*, Email to Armando Quintero from Ken Hall (March 14, 2014).

³⁹ See BNPL-20131112AHB at Section VI, Tech Box.

⁴⁰ See, e.g., *Rock’n’Roll*, 23 FCC Rcd at 16638.

⁴¹ See RRC’s response to the LOI (“RRC Response”), Declaration of Antonio Cesar Guel.

⁴² See *id.*

⁴³ See *id.*

⁴⁴ See *id.*, Email to Ken Hall from Armando Quintero (March 6, 2014).

⁴⁵ See *id.*, Email to Armando Quintero from Ken Hall (March 14, 2014).

⁴⁶ See, e.g., *Rock’n’Roll*, 23 FCC Rcd at 16638.

South Lake Hispanic Community Church. South Lake Hispanic Community Church (“SLHC”) amended its application on January 3 and March 2, 2014, to specify a new three-member board of directors. SLHC’s response to the LOI (“SLHC Response”) states the amendments were made because one of the directors quit the board and to correct the names and addresses of the other directors.⁴⁷ We find that SLHC has undergone a major ownership change since the close of the window.⁴⁸

SLHC provides a declaration, *not* made under the penalty of perjury, from Mr. Guel stating that he spoke to Mr. Jess Deal in September 2013 regarding availability on American Tower (ASRN 1056266), and Mr. Deal stated space was available.⁴⁹ The SLHC Response also provides an email dated March 6, 2014, from Armando Quintero of HCCN providing registration information for ASRN 1056266 to Ken Hall of ATC.⁵⁰ Mr. Hall responded on March 14, 2014, providing reasonable site assurance to HCCN (rather than SLHC) for space on ATC site number 92148, ASRN 1056266.⁵¹

The March 2014, email does not provide site assurance to SLHC. The email also does not reference any discussion prior to application filing. SLHC provides no other documentation or extrinsic evidence, such as an affidavit from Mr. Deal or Mr. Hall, to support Mr. Guel’s declaration, which itself was not made as a declaration under penalty of perjury and by itself is not reliable.⁵² We find SLHC has failed to show that it had reasonable assurance to use the specified site when it filed its application.

Sugar Land Community Radio. Sugar Land Community Radio (“SLCR”) amended its application on March 13 and 30, 2014, to specify a new three-member board of directors. SLCR’s response to the LOI (“SLCR Response”) states the amendments were made to correct the names and addresses of the directors.⁵³ We find SLCR has undergone a major ownership change since the close of the window.

Casa Al Imigrante De Wichita Falls. Casa Al Imigrante De Wichita Falls (“CIWF”) amended its application on March 9 and 17, 2014, to specify a new three-member board of directors. CIWF’s response to the LOI (“CIWF Response”) stated the amendments were made because one of the directors resigned from the board and to provide updated information on the new board members.⁵⁴ We find CIWF has undergone a major ownership change since the close of the window.⁵⁵

CIWF provides a declaration, *not* made under the penalty of perjury, from Mr. Guel stating that in mid-October 2013, he spoke to Mrs. Barbara Andrews regarding availability on Andrews Tower (ASRN 1058252), and Mrs. Andrews stated space was available.⁵⁶ CIWF provides no other documentation or extrinsic evidence, such as an affidavit from Mrs. Andrews, to support Mr. Guel’s declaration, which

⁴⁷ See SLHC Response at Question 9(b).

⁴⁸ See 47 C.F.R. § 73.871(c)(3).

⁴⁹ See SLHC Response, Declaration of Antonio Cesar Guel.

⁵⁰ See *id.*, Email to Ken Hall from Armando Quintero (March 6, 2014).

⁵¹ See *id.*, Email to Armando Quintero from Ken Hall (March 14, 2014).

⁵² See, e.g., *Rock’n’Roll*, 23 FCC Rcd at 16638.

⁵³ See SLCR Response at Question 9(b).

⁵⁴ See CIWF Response at Question 9(b).

⁵⁵ See 47 C.F.R. § 73.871(c)(3).

⁵⁶ See CIWF Response, Declaration of Antonio Cesar Guel.

itself was not made as a declaration under penalty of perjury and by itself is not reliable.⁵⁷ We find that CIWF has failed to show it had reasonable assurance to use the specified site when it filed its application.

Centro Applications

Centro Cristiano De Amor Inc. Centro Cristiano De Amor Inc. (“CCA”) provides a declaration, *not* made under the penalty of perjury, from Mr. Martin Guevara, stating that he spoke to Ms. Karin Jackson in October 2013, regarding space availability on Crown Castle’s Tower (ASRN 1048161), and Ms. Jackson stated space was available for rent to Mr. Guevara’s clients.⁵⁸ CCA provides no other documentation or extrinsic evidence, such as an affidavit from Ms. Jackson, to support Mr. Guevara’s declaration, which itself was not made as a declaration under penalty of perjury and by itself is not reliable.⁵⁹ We find that CCA has failed to show it had reasonable assurance to use the specified site when it filed its application.

Centro Mundial De Fe Inc. Centro Mundial De Fe Inc. (“CMF”) provides a declaration, *not* made under the penalty of perjury, from Mr. Martin Guevara stating that he spoke to Ms. Karin Jackson in October 2013, regarding availability on Crown Castle’s Tower (ASRN 1000175), and Ms. Jackson stated space was available for rent to Mr. Guevara’s clients.⁶⁰ CMF provides no other documentation or extrinsic evidence, such as an affidavit from Ms. Jackson, to support Mr. Guevara’s declaration, which itself was not made as a declaration under penalty of perjury and by itself is not reliable.⁶¹ We find that CMF has failed to show it had reasonable assurance to use the specified site when it filed its application.

Centro Cristiano De Fe Inc. Centro Cristiano De Fe Inc. (“CCF”) provides a declaration, *not* made under the penalty of perjury, from Mr. Martin Guevara stating that he spoke to “Ms. Eli Rivera” in October 2013, regarding availability on CenterPoint Energy’s Tower, and “Ms. Rivera” stated space was available for rent to Mr. Guevara’s clients.⁶² CCF provides no other documentation or extrinsic evidence, such as an affidavit from Eli Rivera, to support Mr. Guevara’s declaration, which itself was not made as a declaration under penalty of perjury and by itself is not reliable.⁶³ We find that CCF has failed to show it had reasonable assurance to use the specified site when it filed its application.

Centro De Fe Y Avivamineto Del Santo Espiritu Inc. Centro De Fe Y Avivamineto Del Santo Espiritu Inc. (“CADSE”) provides a declaration, *not* made under the penalty of perjury, from Mr. Martin Guevara stating that he spoke to Ms. Karin Jackson in October 2013, regarding availability on Crown Castle’s Tower (ASRN 1048161), and Ms. Jackson stated space was available for rent to Mr. Guevara’s clients.⁶⁴ CADSE provides no other documentation or extrinsic evidence, such as an affidavit from Ms. Jackson, to support Mr. Guevara’s declaration, which itself was not made as a declaration under penalty of perjury and by itself is not reliable.⁶⁵ We find that CIWF has failed to show it had reasonable assurance to use the specified site when it filed its application.

⁵⁷ See, e.g., *Rock’n’Roll*, 23 FCC Rcd at 16638.

⁵⁸ See CCA Response, Declaration of Martin Guevara.

⁵⁹ See, e.g., *Rock’n’Roll*, 23 FCC Rcd at 16638.

⁶⁰ See CMF Response, Declaration of Martin Guevara.

⁶¹ See, e.g., *Rock’n’Roll*, 23 FCC Rcd at 16638.

⁶² See CCF Response, Declaration of Martin Guevara. We note that Eli Rivera is *Mr.* Eli Rivera.

⁶³ See, e.g., *Rock’n’Roll*, 23 FCC Rcd at 16638.

⁶⁴ See CADSE Response, Declaration of Martin Guevara.

⁶⁵ See, e.g., *Rock’n’Roll*, 23 FCC Rcd at 16638.

Conclusion/Action. Accordingly, IT IS ORDERED that the Applications (File Nos. BNPL-20131112AFU, BNPL-20131112AFX, BNPL-20131112AGA, BNPL-20131112AGG, BNPL-20131112AHB, BNPL-20131112ALN, BNPL-20131112BDY, BNPL-20131112BEB, BNPL-20131112BEN, BNPL-20131114APH, BNPL-20131112ATV, BNPL-20131112AUM, BNPL-20131112AUP, and BNPL-20131114BXE) ARE DISMISSED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

Cc: Dan J. Alpert, Esq.