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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 93M-210
31384

DISPATCHED BY
In re Applications of)

KR PARTNERS)

KES COMMUNICATIONS, INC.)

LORI LYNNE FORBES)

For Construction Permit for a)
New FM Station on Channel 256C)
in Waimea, Hawaii)

MM DOCKET NO. 93-53 ✓

File No. BPH-911001MB

File No. BPH-911903MH

File No. BPH-911004MH

ORDER

Issued: April 27, 1993; Released: April 29, 1993

Under consideration is the Motion to Compel, filed by Lori Lynne Forbes (Forbes) on April 23, 1993.

The Presiding Judge has reviewed the Motion, along with the attached materials, and concludes that the Motion, in part, has merit, and that KR Partners (KR), if they have not already complied, will produce for inspection and copying by Ms. Forbes the following documents:

Request 1. Copies of KR's budget and business plan in effect as of the date of the filing of its application and any subsequent budgets and business plans prepared with regard to the proposed construction and operation of KR's proposed station.

Request 2. Copies of all documents reflecting any assurance or commitment of funds, provision of funds, or agreements or understandings for the purchase of stock or proposed extensions of credit, from any source which KR has relied upon as of the date of the filing of its application to the present.

Request 3. Balance sheets or financial statements of any person or entity (except financial institutions or equipment manufacturers) that KR relied upon as of the date of the filing of its application to the present in support of its claim that it is financially qualified to construct and operate its proposed station.

Request 4. Copies of all balance sheets of KR's partners in existence as of the date of the filing of KR's application to the present.

Request 5. Copies of all documents or notes reflecting any oral or written information (including business plans) provided by KR to any person or entity (including proposed lenders or providers of credit) that KR has relied upon to establish its eligibility for a loan or extension of credit for its proposed station, and any response or information KR subsequently received in response to such solicitations.

Request 7. For each person or entity (other than financial institutions or equipment manufacturers) who, as of the date of the filing of the application to the present, has agreed to furnish funds, purchase stock, extend credit, or guarantee loans for KR for its proposed station, (1) his, her, or its balance sheets or financial statements covering the periods of time such agreement to furnish funds, purchase stock, extend credit, or guarantee loans was in effect; (2) all documents establishing his, her, or its ability to furnish funds, purchase stock, extend credit, or guarantee loans (including copies of documents establishing the accuracy of the information provided on the balance sheets or financial statements, including copies of bank statements, stock certificates, promissory notes, and appraisals).

Request 8. All documents showing the willingness of any person or entity to provide endorsements (e.g. guarantees) with respect to any proposed loans or extensions of credit to KR as of the date of the filing of KR's application to the present.

Request 9. All documents withdrawing or revoking (or evidencing any withdrawal or revocation of) any oral or written understanding or agreement by any person or entity to provide funds or credit to KR with respect to its proposed station on or after the date of the filing of KR's application.

Request 10. Copies of all documents reflecting payments of bills or retainers by KR in conjunction with the prosecution of the application.

Request 11. For each person or entity who already has supplied funds, purchased stock, extended credit, or guaranteed loans, a copy of the agreement (if any) obligating (or evidencing the willingness of) the person or entity to furnish funds, and documents evidencing the amounts furnished, the terms of repayment (if any), the rate of interest (if any), and security provided (if any).

Request 12. All documents evidencing any attempt (whether successful or unsuccessful) of any funding source KR has relied upon to syndicate (i.e., obtain the participation of additional prospective lenders) any agreement or understanding the funding source may have with KR to furnish funds to KR.

KR will not be required to produce the documents identified in Request 6, or any other document described in Ms. Forbes' document request other than those specifically identified above. Any document responsive to the above set forth requests, for which a claim of privilege is asserted, will be produced for inspection in camera by the Presiding Judge within seven (7) days of the release date of this Order. In the event that he finds that the claim has no merit, an order will be issued requiring KR to produce the document or documents for inspection and copying by counsel for Ms. Forbes.

Accordingly, IT IS ORDERED, that the Motion to Compel, filed by Lori Lynne Forbes on April 23, 1993, IS GRANTED to the extent indicated above, and DENIED in all other respect.

FEDERAL COMMUNICATIONS COMMISSION



Joseph P. Gonzalez
Administrative Law Judge