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

In the Matter of	S	CIB DOCKET NO. 98-44
	S	
JOSEPH FRANK PTAK	S	
	S	
Order to Show Cause Why a Cease and	S	
Desist Order Should Not Be Issued	S	May 19, 1998

**HAYS COUNTY GUARDIAN'S REQUEST FOR
ADMISSION OF FACTS AND GENUINENESS OF DOCUMENTS**

The Hays County Guardian pursuant to Section 1.246 of the Commission's Rules, hereby requests that, within 10 days from receipt of this request, the Chief, Compliance and Information Bureau (CIB) admit to the truth of facts and genuineness of documents, as set forth in the following numbered paragraphs. Each response should correspond and be identified with the same number listed in the Requested Admissions section below.

The pleading containing the responses should be made under oath or affirmation by the person providing the response. In addition, the Chief is reminded that Section 1.246 (b) of the rule provides that "[a] denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part or qualification of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder."

No. of Copies rec'd
List A B C D E

Requested Admissions

1. That on March 18, 1997, the Hays County Guardian sent a letter and a check for \$25 to the Federal Communications Commission (FCC) informing you of what we were planning to do, requesting applicable paperwork, and paying for any fee associated with our attempt to register our in-state radio transmissions.
2. That on April 3, 1997, Nila C. Pritt, FCC Fee Section responded stating "You sent a fee although none was required. Therefore we are returning your check".
3. That on June 9, 1997, Magalie R. Salas, Chief, Compliance Division sent a letter to J. Patrick Wiseman, Esquire in his capacity of legal council for the Hays County Guardian.
4. That on April 9, 1997 when FCC agents Jim Wells and Lloyd Perry visited the uKind broadcasting facility, they met Joseph Frank Ptak and Joel Dean Simpson who identified themselves as two of the directors of uKind Radio. Mr. Ptak also informed the FCC agents that he was one of the publishers of the Hays County Guardian.
5. That at no time during the visit by Agents Perry and Wells on April 9, 1997, did they ever advise Mr. Ptak or Mr. Simpson that they were being investigated for criminal purposes nor were they ever advised of their rights to remain silent, have an attorney present or that anything they said could be used against them in a court of law.
6. That on April 9, 1997, Joseph Frank Ptak informed agents Perry and Wells that he is registered with the State of Texas Capitol News Service as a news media representative of the Hays County Guardian and uKind Radio San Marcos.
7. That on April 9, 1997, Joseph Frank Ptak asked agents Perry and Wells to produce a warrant or evidence of the FCC's jurisdiction to regulate the community access

political, non-commercial, intra-state radio transmissions below 50 watts on 105.9 FM.

8. That on April 9, 1997, agents Perry and Wells did not produce a warrant or evidence that the FCC has jurisdiction to regulate the community access political, non-commercial, intra-state radio transmissions below 50 watts on 105.9 FM.
9. That on April 9, 1997, Joseph Frank Ptak advised agents Perry and Wells of Federal District Judge Claudia Wilken's denial of the FCC's request for an injunction to cease radio transmissions of Free Radio Berkeley and order to the FCC to file a brief explaining how what they were proposing to do was not unconstitutional.
10. That on April 9, 1997, Ptak advised agents Perry and Wells that if they would provide evidence of their jurisdiction and application for authorization from the FCC to broadcast community access political, non-commercial, intra-state radio transmissions below 50 watts on 105.9 FM, he would pass the information on to the Hays County Guardian for action.
11. That Keith Parry wrote a letter to FCC Chairman Reed Hunt dated June 9, 1997 asking the question, "Does your agency have any jurisdiction over intrastate radio communications, meaning within the state of Texas?"
12. That Norman Goldstein, Chief of FCC Complaints and Political Programming Branch replied to Mr. Parry's letter with a letter dated April 16, 1998 in which he stated, "... your letter concerns a subject outside the Commission's jurisdiction".
13. That Martha E. Contes, Chief of the FCC Public Service Division wrote a letter on March 3, 1997 to Mr. Eric Johnson in response to a letter Mr. Johnson wrote to the FCC. Ms. Conte's letter states, "The FCC only regulates inter-state and foreign

commerce in radio communications”. Ms. Conte also wrote, “Intra-state radio communication may be regulated by individual states ...”.

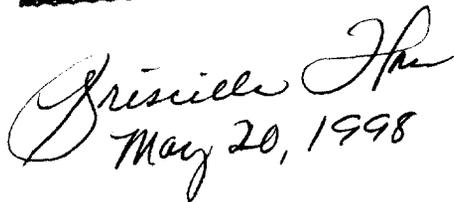
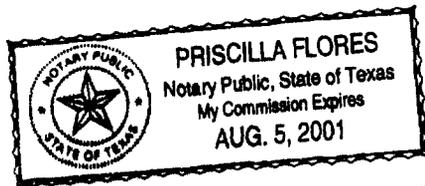
14. That radio transmissions from uKind Radio San Marcos do not cross any state or national borders and such transmission is only capable of being received within the State of Texas.
15. That the radio broadcasts of uKind Radio San Marcos are non-commercial and listeners do all broadcasts on a volunteer basis.
16. That the radio transmissions from uKind Radio San Marcos do not and have not caused interference to any air traffic control, emergency services, police or commercial radio communications.
17. That political non-commercial speech has greater Constitutional protection than non-political commercial speech.
18. That the FCC does not have a process to obtain authorization to broadcast political non-commercial speech within the borders of Texas below 100 watts. If FCC claims jurisdiction, please cite all laws and regulations upon which such jurisdiction is based.
19. That the corporation which holds the San Marcos, Hays County, Texas FM license to 103.5 is wholly located in Austin, Travis County, Texas and does not serve the public interest in San Marcos.
20. That the corporation which holds the Round Rock, Williamson County, Texas FM license to 105.9 FM is wholly located in Austin, Travis County, Texas and does not serve the public interest in San Marcos.

21. That FCC Administrative Law Judge received a letter from San Marcos Mayor Billy G. Moore in which he testified to the public interest, convenience and necessity of uKind Radio San Marcos.

May freedom be heard,



Joe Ptak
Jeffrey "Zeal" Stefanoff
for the Hays County Guardian



CERTIFICATE OF SERVICE

- 1) I, Joseph Ptak, certify that I have on this 20th day of May sent by certified mail, return receipt requested, and by regular United States mail, a copy of the foregoing, "Hays County Guardian's Request for Admission of Facts and Genuineness of Documents" to:

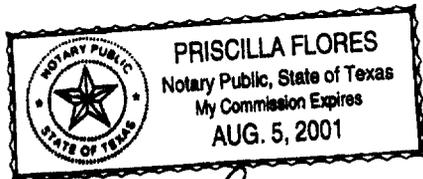
Secretary of the FCC
1919 M Street N.W.
Washington D.C 20554

CurTrisha Banks
FCC Compliance and Information Bureau
1919 M Street N.W.
Washington D.C.

Administrative Law Judge Richard L. Sipple (first class only)
FCC
2000 L Street, N.W., Suite 218
Washington D.C. 20554

Joe Ptak

Joe Ptak
Jeffrey "Zeal" Stefanoff
Hays County Guardian



Priscilla Flores
May 20, 1998