

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

In the Matter of	)	EB Docket No. 03-152
	)	
<b>WILLIAM L. ZAWILA</b>	)	Facility ID No. 72672
	)	
Permittee of FM Station KNKS, Coalinga, California	)	
	)	
<b>AVENAL EDUCATIONAL SERVICES, INC.</b>	)	Facility ID No. 3365
	)	
Permittee of FM Station KAAX, Avenal, California	)	
	)	
<b>CENTRAL VALLEY EDUCATIONAL SERVICES, INC.</b>	)	Facility ID No. 9993
	)	
Permittee of FM Station KYAF, Firebaugh, California	)	
	)	
<b>H. L. CHARLES D/B/A FORD CITY BROADCASTING</b>	)	Facility ID No. 22030
	)	
Permittee of FM Station KZPE, Ford City, California	)	
	)	
<b>LINDA WARE D/B/A LINDSAY BROADCASTING</b>	)	Facility ID No. 37725
	)	
Licensee of FM Station KZPO, Lindsay, California	)	

To: Marlene H. Dortch, Secretary  
Attn: Chief Administrative Law Judge Richard L. Sippel

## ENFORCEMENT BUREAU'S INTERIM STATUS REPORT

1. Pursuant to *Memorandum Opinion and Order*, FCC 16M-01,<sup>1</sup> the Enforcement Bureau (Bureau) respectfully submits its interim status report concerning the above-captioned matter.

### The Bureau's July 2015 Discovery Requests

2. On June 4, 2015, the Presiding Judge lifted the stay that had been put in place earlier in this case and instructed the parties that “discovery can and should commence forthwith on all issues.”<sup>2</sup> In response, the Bureau served its first set of interrogatories and first set of document requests on Mr. Zawila, Avenal Educational Services, Inc. (Avenal), Central Valley Educational Services, Inc. (Central Valley), The Estate of Linda Ware d/b/a Lindsay Broadcasting (LB), and The Estate of H.L. Charles d/b/a Ford City Broadcasting (FCB) on July 28, 2015 and July 29, 2015, respectively. Mr. Zawila served separate objections to the Bureau's discovery requests on behalf of Avenal, Central Valley, LB, FCB, and himself. Mr. Couzens, who also claims to represent Avenal and Central, served additional objections. Because none of the parties provided substantive responses, the Bureau filed motions to compel their complete responses.<sup>3</sup>

3. On December 23, 2015, the Presiding Judge ordered Mr. Zawila to “revisit all

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<sup>1</sup> See *Memorandum Opinion and Order*, FCC 16M-01 (ALJ, rel. Jan. 12, 2016), at 5.

<sup>2</sup> See *Order*, FCC 15M-21 (ALJ, rel. June 4, 2015), at 2.

<sup>3</sup> See Enforcement Bureau's Motion to Compel William L. Zawila to Provide Complete Responses to Outstanding Discovery Requests, filed Aug. 21, 2015; Enforcement Bureau's Motion to Compel The Estate Of H.L Charles d/b/a Ford City Broadcasting to Provide Complete Responses to Outstanding Discovery Requests, filed Aug. 21, 2015; Enforcement Bureau's Motion to Compel The Estate Of Linda Ware d/b/a Lindsay Broadcasting to Provide Complete Responses to Outstanding Discovery Requests, filed Aug. 21, 2015; Enforcement Bureau's Motion to Compel Avenal Educational Services, Inc. and Central Valley Educational Services, Inc. to Provide Complete Responses to Outstanding Discovery Requests, filed Aug. 21, 2015.

interrogatories and requests to produce documents that were served by the Enforcement Bureau, as well as all requests for admissions served in 2003, and...to provide positive and cooperative responses.”<sup>4</sup> In addition, the Presiding Judge ordered Mr. Zawila to submit a status report with attached declarations describing the production efforts to all parties and to the Presiding Judge by January 5, 2016 and to file this submission with the Commission’s electronic comment filing system (ECFS) by the close of business on January 6, 2016.<sup>5</sup>

4. Mr. Zawila did not submit a status report to the parties on January 5, 2016 or file any such report with the Commission on January 6, 2016 as directed by the Presiding Judge. To date, Mr. Zawila has not submitted or filed such a report. In addition, Mr. Zawila has not provided any additional response to the Bureau’s July 2015 discovery requests or to the Bureau’s 2003 requests for admission on behalf of himself as an individual party or on behalf of LB, FCB, Avenal or Central Valley, whom he purports to represent. Indeed, Mr. Zawila has not even attempted to contact the Bureau concerning these outstanding discovery requests.

5. Mr. Couzens has not provided substantive responses on behalf of Avenal and Central Valley to the Bureau’s July 2015 discovery requests despite the fact that the Presiding Judge informed Mr. Couzens that he expected “full cooperation” in the discovery process.<sup>6</sup>

#### **The Bureau’s January 2016 and February 2016 Discovery Requests**

6. On January 12, 2016, the Presiding Judge granted the Bureau’s motion to add issues to the above-captioned matter.<sup>7</sup> Specifically, the Presiding Judge agreed to add issues

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<sup>4</sup> *Order*, FCC 15M-33 (ALJ, rel. Dec. 23, 2015) at 7. It is unclear whether this *Order* addressed Mr. Zawila’s discovery obligations as an individual party or whether Mr. Zawila was required to provide complete responses to the Bureau’s requests on behalf of all the parties he represents, including himself.

<sup>5</sup> *See id.*

<sup>6</sup> *See Order*, FCC 15M-32 (ALJ, rel. Dec. 14, 2015), at n. 1.

<sup>7</sup> *See, e.g., Order*, FCC 16M-01, at 2-4.

concerning (i) the ownership and control of Avenal and Central Valley and (ii) whether Avenal and Central Valley were qualified applicants at the time they filed applications for construction permits for Stations KAAX (FM) and KYAF (FM), respectively, and/or for a license to cover those stations.<sup>8</sup> The Presiding Judge also ordered that, beginning January 19, 2016, the Bureau was authorized to serve additional discovery requests, including requests for admission, requests for documents, and interrogatories.<sup>9</sup>

7. ***The Bureau's second set of interrogatories.*** On January 21, 2016, the Bureau served a set of interrogatories (Second Interrogatories) on Avenal and Central Valley directed to the newly-added issues. Since both Mr. Zawila and Mr. Couzens claim to represent Avenal and Central Valley exclusively, the Bureau anticipated it would receive two sets of responses. Pursuant to the Commission's rules, Avenal and Central Valley were obligated to provide their answers and/or objections to these interrogatories by February 4, 2016.<sup>10</sup>

8. On January 22, 2016, Mr. Couzens requested an extension until February 18, 2016 – an additional two weeks – to respond to these interrogatories because Vern White, alleged to be the most knowledgeable person concerning the matters requested therein, would not be returning from a cruise until February 2, 2016. In light of the Presiding Judge's *Order* that motions to compel on any unresolved discovery issues are to be served by February 17, 2016, the Bureau could not agree to Mr. Couzens' request.<sup>11</sup> However, in order to accommodate Mr. White's travel schedule, but also allow the Bureau adequate time to review any responses and file a motion to compel if necessary by February 17th, the Bureau agreed to extend the deadline

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<sup>8</sup> *See id.*

<sup>9</sup> *See id.* at 5.

<sup>10</sup> *See* 47 C.F.R. § 1.323(b).

<sup>11</sup> *See Order*, FCC 16M-01, at 5.

for responding to its Second Interrogatories until February 8th.

9. Instead of serving substantive responses on that date, however, Avenal and Central Valley (as represented by Mr. Couzens) filed a motion requesting protection from having to respond to any of the Bureau's discovery requests – including the Second Interrogatories – and a stay of all discovery.<sup>12</sup> The Bureau filed its opposition on February 11, 2016.<sup>13</sup>

10. The Bureau did not receive any request from Mr. Zawila to extend the deadline for Avenal and Central Valley to respond to the Bureau's Second Interrogatories. As such, to the extent Avenal and Central Valley are represented by Mr. Zawila, their responses were due no later than February 4, 2016. To date, Mr. Zawila has not provided any response or objections on behalf of Avenal and Central Valley to the Bureau's Second Interrogatories. The Bureau anticipates that it will file a motion to compel complete responses to these interrogatories by the February 17, 2016 deadline imposed by *Order*, FCC 16M-01.

11. ***The Bureau's requests for admission.*** On February 2, 2016, the Bureau served a set of requests for admission on Avenal, Central Valley, LB, FCB, and Mr. Zawila. Pursuant to the Commission's rules, the parties are obligated to provide their answers to these requests for admission by February 18, 2016.<sup>14</sup> As noted above, on February 8, 2016, Avenal and Central Valley (as represented by Mr. Couzens) filed a motion requesting a protective order from answering any of the Bureau's discovery requests – including the Bureau's requests for admissions. The Bureau opposed this motion. The Bureau will be prepared to discuss the status of its requests for admissions at the February 24, 2016 status conference.

12. ***The Bureau's second set of document requests.*** On February 4, 2016, the

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<sup>12</sup> See Motion for Protective Order (47 C.F.R. Sec. 1.313), filed Feb. 8, 2016.

<sup>13</sup> See Enforcement Bureau's Opposition to Motion for Protective Order, filed Feb. 11, 2016.

<sup>14</sup> See 47 C.F.R. § 1.246(b).

Bureau served a set of document requests on Avenal, Central Valley, and Mr. Zawila (Second Document Requests). Pursuant to the Commission's rules, the parties are obligated to provide their answers and/or objections to the Bureau's Second Document Requests by February 18, 2016.<sup>15</sup> As noted above, on February 8, 2016, Avenal and Central Valley (as represented by Mr. Couzens) filed a motion requesting a protective order from answering any of the Bureau's discovery requests – including the Bureau's Second Document Requests. The Bureau opposed this motion. The Bureau will be prepared to discuss the status of its Second Document Requests at the February 24, 2016 status conference.

### **Pending Motions**

13. *The Bureau's August 21, 2015 motions to compel.* On August 21, 2015, the Bureau filed individual motions to compel against Mr. Zawila, LB and FCB, and a single motion to compel against Avenal and Central Valley.<sup>16</sup> Upon consideration of the Bureau's motion to compel Mr. Zawila, on December 23, 2015, the Presiding Judge ordered Mr. Zawila to provide "positive and cooperative responses" to the Bureau's discovery requests.<sup>17</sup> To the extent *Order*, FCC 15M-33, only addressed Mr. Zawila's discovery obligations and not those of Avenal, Central Valley, LB and FCB, the Bureau's August 21, 2015 motions to compel against Avenal, Central Valley, LB and FCB remain pending.

14. *Avenal and Central Valley's motion to dismiss.* On September 22, 2015, Avenal and Central Valley (as represented by Mr. Couzens) filed a motion to dismiss the entire

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<sup>15</sup> See 47 C.F.R. § 1.325(a)(2).

<sup>16</sup> See, *supra*, note 3.

<sup>17</sup> *Order*, FCC 15M-33, at 7.

proceeding.<sup>18</sup> The Bureau filed its opposition on September 29, 2015.<sup>19</sup> Avenal and Central Valley filed a reply on October 2, 2015.<sup>20</sup> On December 14, 2015, the Presiding Judge noted that “[f]ull cooperation in discovery is expected of Mr. Couzens so that his motion to dismiss can be considered on a complete record.”<sup>21</sup> As detailed above, the parties have repeatedly thwarted the Bureau’s discovery efforts. The motion to dismiss remains pending.<sup>22</sup>

15. *Avenal and Central Valley’s request to appeal of Order, FCC 16M-01.* On January 14, 2016, Avenal and Central Valley requested permission to file an appeal of *Order*, FCC 16M-01, adding issues to the above-captioned matter.<sup>23</sup> Pursuant to the Commission’s rules, responsive pleadings shall be filed only if requested by the presiding officer.<sup>24</sup> No additional pleadings have been requested. Avenal and Central Valley’s request remains pending.

16. *Request to appeal of Order, FCC 16M-02.* On February 3, 2016, Mr. Zawila filed a request to appeal *Order*, FCC 16M-02, on behalf of Avenal, Central Valley, FB, LCB, and himself.<sup>25</sup> As noted above, pursuant to the Commission’s rules, responsive pleadings shall be filed only if requested by the presiding officer.<sup>26</sup> No additional pleadings have been requested. Mr. Zawila’s request remains pending.

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<sup>18</sup> See Motion to Dismiss Entire Proceeding, filed Sept. 22, 2015.

<sup>19</sup> See Enforcement Bureau’s Opposition to Motion to Dismiss Entire Proceeding, filed Sept. 29, 2015.

<sup>20</sup> See Reply to Opposition to Motion to Dismiss Entire Proceeding, filed Oct. 2, 2015.

<sup>21</sup> See *Order*, FCC 15M-32, at n.1.

<sup>22</sup> In a pleading filed well after the deadline for submission of papers in the motion to dismiss pleading cycle, Mr. Zawila asserts that Avenal and Central Valley (as represented by Mr. Zawila), along with Mr. Zawila, LB, and FCB, will join the pending motion to dismiss “as soon as possible.” See Opposition to Enforcement Bureau’s Request for Status Conference, filed Dec. 12, 2015, at 3. Mr. Zawila has not filed anything further.

<sup>23</sup> See Request for Permission to File Appeal (47 C.F.R. Sec. 1.301(b)), filed Jan. 14, 2016.

<sup>24</sup> See 47 C.F.R. § 1.301(b).

<sup>25</sup> See Request to Appeal 2-2-16 Order (FCC 16M-02), filed Feb. 3, 2016.

<sup>26</sup> See *id.*

17. *Avenal and Central Valley's motion for protective order.* As discussed above, on February 8, 2016, Avenal and Central Valley (as represented by Mr. Couzens) filed a motion seeking protection from answering any of the Bureau's outstanding discovery requests and a stay of all discovery. The Bureau opposed that motion. Pursuant to the Commission's rules, a reply will not be entertained.<sup>27</sup> The motion is thus fully briefed and remains pending.

#### **Difficulties Concerning Communications To and From Mr. Zawila**

18. As the Presiding Judge is aware, Mr. Zawila – who purports to be counsel for five separate parties – has not made an email address available for service of process or other communication purposes in this matter. The only way for the Bureau (and any other parties, counsel, or the Office of the Administrative Law Judge) to serve Mr. Zawila is by facsimile and first-class mail. However, the Bureau's facsimile transmissions to Mr. Zawila frequently fail – usually because the facsimile machine on Mr. Zawila's end is out of paper. When the Bureau then calls Mr. Zawila to alert him to the problem, it can take several days – and in some cases up to a week – for him to respond. Faxing Mr. Zawila has thus become an inefficient – and in many instances, an ineffective – means of prompt service. Moreover, it appears that Mr. Zawila identified an email address for the California bar.<sup>28</sup> The Bureau sees no basis for Mr. Zawila to refuse to provide an email address for use in this case. Accordingly, the Bureau respectfully asks that the Presiding Judge instruct Mr. Zawila to identify an email address that the parties in this case may use for service and other case-related communications as we move forward.

19. In addition, it appears that Mr. Zawila is not filing any of his submissions on the Commission's ECFS. As a result, many of his submissions do not get entered into the public

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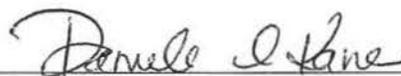
<sup>27</sup> See 47 C.F.R. § 1.294(b).

<sup>28</sup> <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch?FreeText=zawila&x=0&y=0&SoundsLike=false>

record. The Bureau respectfully requests that the Presiding Judge instruct Mr. Zawila that he must file his submissions on ECFS.

Respectfully submitted,

Travis LeBlanc  
Chief, Enforcement Bureau



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Pamela S. Kane  
Special Counsel  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 12th Street, SW, Room 4-C330  
Washington, D.C. 20554  
(202) 418-1420

Michael Engel  
Special Counsel  
Market Disputes Resolution Division  
Enforcement Bureau  
Federal Communications Commission  
445 12th Street, SW, Room 4-C366  
Washington, D.C. 20554  
(202) 418-7330

February 12, 2016

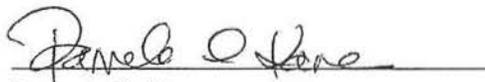
## CERTIFICATE OF SERVICE

Pamela S. Kane certifies that she has on this 12th day of February, 2016, sent copies of the foregoing "ENFORCEMENT BUREAU'S INTERIM STATUS REPORT" to:

The Honorable Richard L. Sippel  
Chief Administrative Law Judge  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554 (by hand, courtesy copy)

William Zawila, Esq.  
12600 Brookhurst Street, Suite 105  
Garden Grove, CA 92804-4833  
(714) 636-5040 (telephone)  
& (714) 636-5042 (facsimile)  
(by facsimile and first-class mail)

Michael Couzens  
Michael Couzens Law Office  
6536 Telegraph Avenue  
Suite B201  
Oakland, CA 94609  
(by first-class mail and email to [cuz@well.com](mailto:cuz@well.com))

  
Pamela S. Kane