

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

In the Matter of)	EB Docket No. 03-152
)	
WILLIAM L. ZAWILA)	Facility ID No. 72672
)	
Permittee of FM Station KNKS, Coalinga, California)	
)	
AVENAL EDUCATIONAL SERVICES, INC.)	Facility ID No. 3365
)	
Permittee of FM Station KAAX, Avenal, California)	
)	
CENTRAL VALLEY EDUCATIONAL SERVICES, INC.)	Facility ID No. 9993
)	
Permittee of FM Station KYAF, Firebaugh, California)	
)	
H. L. CHARLES D/B/A FORD CITY BROADCASTING)	Facility ID No. 22030
)	
Permittee of FM Station KZPE, Ford City, California)	
)	
LINDA WARE D/B/A LINDSAY BROADCASTING)	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 MOTION CONCERNING REQUESTS FOR ADMISSION
SERVED ON THE ESTATE OF LINDA WARE D/B/A LINDSAY BROADCASTING**

1. On January 12, 2016, the Presiding Judge issued a *Memorandum Opinion and Order* stating his intention of adding several issues to the above-captioned matter and ordered that, beginning January 19, 2016, the Enforcement Bureau (Bureau) was authorized to serve additional discovery requests, including requests for admission, requests for documents, and interrogatories.¹ In compliance with that *Order*, on February 2, 2016, the Bureau served requests for admission on The Estate of Linda Ware d/b/a Lindsay Broadcasting (LB). Pursuant to the Commission's rules, LB was obligated to provide its answers and/or objections to these requests for admission by February 18, 2016.² The Bureau did not receive any responses from LB to its requests for admission. For the reasons set forth below, the Chief, Enforcement Bureau, through his attorneys, respectfully submits that the requests for admission served on LB are deemed admitted.

2. Pursuant to Section 1.246 of the Commission's rules, "[e]ach of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than 10 days after service thereof, . . . the party to whom the request is directed serves upon the party requesting an admission either: (1) A sworn statement denying specifically the matters of which an admission is requested. . . , or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is improper in whole or in part."³

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

² See 47 C.F.R. §§ 1.246(b).

³ *Id.*

3. Although Mr. Zawila filed a request on behalf of LB to join the pending motion for protection filed by Mr. Couzens, this Joinder was not filed until February 20, 2016 – two days *after* LB’s responses to the Bureau’s requests for admission were due.⁴ It is well-settled in federal discovery practice that “[m]otions for a protective order must be made *before or on the date the discovery is due*”⁵ and that failure to do so constitutes grounds for denial.⁶ Here, LB has failed to offer any good cause for its untimely filing. In fact, Mr. Couzens filed his motion for protection nearly two weeks earlier – on February 8, 2016.⁷ Thus, Mr. Zawila had more than sufficient time to join Mr. Couzens’ motion on behalf of LB before the February 18, 2016 deadline to respond to the Bureau’s requests for admission. Instead, Mr. Zawila waited until after the deadline – and until after the Presiding Judge instructed him to use the time before the March 22, 2016 status conference to comply with the Bureau’s outstanding discovery requests – to file the Joinder on LB’s behalf.⁸ As a result, the Joinder should be denied.

4. Since LB did not provide any response to the Bureau’s requests for admission – whether it be a denial or an objection – and its Joinder to the motion for protection was untimely and should be denied, the Bureau’s requests for admission to LB, by operation of the Commission’s rules, are deemed admitted in their entirety.

⁴ See Joinder in Motion for Protective Order (47 C.F.R. § 1.313), filed Feb. 20, 2016 (Joinder).

⁵ *Ayers v. Continental Casualty Co.*, 240 F.R.D. 216, 221 (N.D. W. Va. 2007) (citing *United States v. IBM Corp.*, 70 F.R.D. 700, 701 (S.D.N.Y. 1976)) (emphasis added).

⁶ See, e.g., *Brittain v. Stroh Brewery Co.*, 136 F.R.D. 408, 413 (M.D.N.C. 1991) (“The failure to timely move for a protective order constitutes grounds for denying the same.”) (citations omitted).

⁷ See Motion for Protective Order (47 C.F.R. Sec. 1.313), filed Feb. 8, 2016.

⁸ See *Order*, FCC 16M-03 (ALJ, rel. Feb. 18, 2016), at 2.

Respectfully submitted,

Travis LeBlanc
Chief, Enforcement Bureau



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February 25, 2016

CERTIFICATE OF SERVICE

Alicia McCannon, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 25th day of February, 2016, sent copies of the foregoing the foregoing "ENFORCEMENT BUREAU'S MOTION CONCERNING REQUESTS FOR ADMISSION SERVED ON THE ESTATE OF LINDA WARE D/B/A LINDSAY BROADCASTING" to:

The Honorable Richard L. Sippel
Chief Administrative Law Judge
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A handwritten signature in blue ink that reads "Alicia McCannon". The signature is written in a cursive style with a large, sweeping initial "A".

Alicia McCannon