

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

FCC 16M-05
10526

In the Matter of)	EB Docket No. 03-152
)	
WILLIAM L. ZAWILA)	Facility ID No. 72672
)	
Permitted of FM Station KNGS, 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 KAJP, 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)	
)	
In re Application of)	
)	
WESTERN PACIFIC BROADCASTING, INC.)	File No. BR-19970804YJ
)	Facility ID No. 71936
For Renewal of License for AM Station KKFO, Coalinga, California)	

ORDER

Issued: February 29, 2016

Released: February 29, 2016

Motion for Protective order was filed on February 8, 2016, by Michael Couzens who purports to represent Central Valley and Avenal.¹ 47 CFR 1.313 Enforcement Bureau (EB) filed an Opposition on February 11, 2016.

It is hornbook law that a corporate party that isn't in fact incorporated on the date that it files its application for a frequency, is not a lawfully existing applicant and frequencies can't be assigned by the Commission or delegated staff to a non-existent applicant. Enforcement Bureau notes that there has been no determination made that central Valley and Avenal, are "in fact the permittees named in this proceeding." The Presiding Judge recognizes that there are substantial questions of fact regarding ownership and control of Central Valley and Avenal also to be resolved.² Discovery is needed to obtain evidence related to the questions of incorporation, ownership and representation as issues of first impression in this litigation.

Mr. Couzens, and the two parties argue that they are entitled to be protected from discovery which requires inquiring about facts that occurred more than ten years ago.³ There is no precedent and no merit to such argument. The Commission does not forego the discretion to investigate, discover and consider conduct that occurred beyond ten years if circumstances so warrant.⁴ There are no subjective issues such as character, reputation for truth, or opinion. In the absence of other highly unusual circumstances, evidence on established historical organic facts such as ownership, incorporation and representation have no time limitations in a licensing case.

Accordingly, the motion for Protection Order filed by Mr. Couzens on February 8, 2016, **IS DENIED.**

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION⁵



Richard L. Sippel
Chief Administrative Law Judge

¹ William Zawila also claims to be representing Central Valley and Avenal. Zawila has been delinquent in filing a motion to join Couzens plea for protection and Zawila's motion may be denied. Determination of the appropriate person to represent Central Valley and Avenal is an issue to be determined at the appropriate time.

² See Order FCC 15M-21, released June 4, 2015 at 3, *Memorandum Opinion and Order*, FCC 16M-01, released January 12, 2016.

³ *Compare Policy Regarding Character Qualifications*, 102 FCC 2d 1179, 1229 (1986) suggesting 10 year limit on character evidence which is subjective and relies on recollection.

⁴ 1990 *Policy Statement on Qualifications*, 5 FCC Rcd 3252(1990); *In re David Titus*, 29 FCC Rcd 14066, 14071(2014).

⁵ Courtesy copies of this Order were e-mailed to Enforcement Bureau counsel and Mr. Couzens, and faxed to Mr. Zawila on date of issuance, and also sent to him by 1st class mail.