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September 4, 1992

Ralph A. Haller, Chief
Private Radio Bureau
Room 5002
Federal Communications Commission
Washington, D.C. 20554

Re: Vincent S. Cordaro d/b/a VSC Enterprises
File No. 597275
Application for a new
Business Radio Service-Conventional
(SMR end user) station

Dear Mr. Haller:

We represent the radio system interests of Vincent S. Cordaro d/b/a VSC Enterprises and of James A. Kay, Jr. before the Federal Communications Commission. On behalf of Cordaro and of Kay, we respectfully respond to the Petition for Special Relief (Petition) filed by Jim and Lynda Doering (Doering) concerning Cordaro's above referenced application for a new Business Radio Service-Conventional station to operate in southern California. In support of Cordaro and of Kay's position, we show the following.

Section 1.41 of the Commission's Rules provides for the filing of an informal request for action. However, the Rule requires that any request "set forth clearly and concisely . . . the relief sought." Doering's Petition, one of a stream of similarly titled, recently filed requests by Doering, failed to state the relief which Doering desired. Merely asking the Commission to do whatever it might like does not rise to a level of clarity or conciseness to require the Commission's attention. Accordingly, Doering' Petition should be dismissed. Cordaro and Kay believe that the Petition will be dismissed on that basis. However, in an abundance of caution, they respond fully herein to the Petition.

Doering is trivially correct that Cordaro is an employee of Kay. However, the Commission has never had reason question an employer/employee relationship in the licensing of an SMR end user station. Rather, it has imputed to an employer the interest of an employee in an application or license only with respect to

Event
94-147
WTB

Dispo

Reporter
Shanon

Date
1-12-99

Reported
Billings

851

unloaded SMR stations within 40 miles of one another. Thus, although Cordaro is an employee of Kay, nothing in the Commission's Rules or policies bars Cordaro from holding a license for an SMR end user station to operate in association with Kay's SMR facilities.

As Doering seems to have appreciated at paragraph five of his Petition, to have raised a substantial question as to whether Kay were the undisclosed real party in interest in Cordaro's application, Doering would had to have shown that Cordaro had filed an application for an authorization which Kay could not have requested in Kay's own name in accord with the Commission's Rules. However, had Kay desired to hold a license for any number of mobile units up to the number of slots available on the shared channel, Kay could have lawfully filed an application in his own name. If Kay had desired to control the end user station requested by Cordaro, Kay did not need Cordaro as a "strawman"; Kay, himself, could simply and lawfully have filed for an end user license. Since Kay would have had no motivation, whatsoever, for concealing himself as the real party in interest in someone else's application, Doering has no basis for suggesting that Cordaro did not disclose the real party in interest in his application.

Separate and apart from his work for Kay, as fully disclosed in Cordaro's application, Cordaro also operates a radio communications consulting company. A copy of Cordaro's fictitious name filing is attached as Exhibit I hereto, demonstrating the authenticity of Cordaro's separate business activities since 1989.

Prior to undertaking employment by Kay, Cordaro had operated an independent, franchised radio installation and repair business. Part of the understanding under which Cordaro is employed by Kay is that Cordaro is free to engage in any line of business which is not in conflict with his work for Kay. Cordaro's consulting business does not conflict with Kay's line of business and Kay has no objection to Cordaro's working in that field. Kay has no interest, whatsoever, in Cordaro's separate business and Cordaro's interest in Kay's business is simply that of an employee. If Cordaro is granted the license which he requests, he will operate the units which he requests as an individual and in pursuit of his independent business activities. Accordingly, Cordaro, and not Kay, is the real party in interest in Cordaro's application.

Even were Cordaro to have no line of work apart from his employment by Kay, even if Cordaro were Kay's brother, father, or son, Cordaro would be as eligible as any other individual to apply for and obtain a license as individual end user operating in association with an SMR station. If each of Kay's employees and relatives to the N-th generation desired to hold a license

for operation as an individual in association with Kay's SMR facilities, nothing would bar them from doing so.

What Doering hoped to show by the speculations put forth in his Petition is not obvious. How Doering reached the conclusion that Cordaro could not be an employee of Kay and also operate a separate business was not explained. Many persons, of whom Cordaro is only one, engage in multiple commercial activities at the same time without exhausting their capacities.

There is nothing dark or mysterious in Cordaro's requesting authority for the same number of mobile units on the same SMR system as another applicant had proposed to use. On the date of the filing of Cordaro's application, 17 mobile unit slots were available. He desires to operate that many mobile units and he requested authority for them in his application. Since he is employed by Kay, it is more likely that Cordaro will choose to give his trade to Kay than anyone else. There is nothing sinister in any of that.

Doering's Petition is one of several which he has recently filed alleging that Kay has somehow engaged in fraud on the Commission, or that Kay has "engaged in an effort to dupe and deceive the Bureau," Petition at para. 2, or similar allegations, none of which has been supported by fact. Kay is wearying of these absurd, petty, unsupported, scandalous allegations by Doering, and the Commission should be, too. Cordaro and Kay have demonstrated herein that Kay would have had no motivation, whatsoever, to defraud the Commission concerning the real party in interest in Cordaro's application. Accordingly, in accord with Section 1.52 of the Commission's Rules, Cordaro and Kay respectfully request that the Commission expressly and promptly strike Doering's illogical, unsupported, and scandalous allegations, caution Doering not to bring any similarly baseless defamations before the Commission, and impose such sanctions as may appear to be necessary to raise the level of debate before the Commission to one of common civility.

Respectfully submitted,



Dennis C. Brown

cc: Lewis H. Goldman, Esq.

A MAIL CERTIFIED COPIES TO:
 NAME _____
 ADDRESS _____
 First Filing Renewal Filing
 Current Registration No. _____

B PUBLISH IN NEWSPAPER:
 COUNTY CLERK'S FILING STAMP
FILED
 OCT 27 1989
 RICHARD D. DEAN, County Clerk
 By *Martha Gonzales*
 Deputy County Clerk:

FICTITIOUS BUSINESS NAME STATEMENT
 THE FOLLOWING PERSON(S) IS (ARE) DOING BUSINESS AS:

1. ⁽¹⁾ VSC Enterprise ⁽²⁾ mobile Radio of Thousand Oaks
 Street Address, City & State of Principal place of Business in California Zip Code
 95 WEST JANS RD Thousand Oaks CA 91362

3. Full name of Registrant (if corporation - show state of incorporation)
 Vincent S. Cordaro
 Residence Address City State Zip Code
 95 W JANS RD Thousand Oaks CA 91362

Residence Address City State Zip Code

Full name of Registrant (if corporation - show state of incorporation)

Residence Address City State Zip Code

Full name of Registrant (if corporation - show state of incorporation)

Residence Address City State Zip Code

4. This Business is conducted by: an individual () a general partnership () joint venture () a business trust
 () co-partners () husband and wife () a corporation () a limited partnership
 () an unincorporated association other than a partnership () other - please specify _____

5. The registrant commenced to transact business under the fictitious business name or names listed above on 10-27-89

5A. Signed *Vincent Cordaro*
 Signed _____
 Type or Print Name(s) Vincent Cordaro

5B. If Registrant a corporation sign below:
 Corporation Name _____
 Signature & Title _____
 Type or Print Officer's Name & Title _____

This statement was filed with the County Clerk of Ventura County on (date indicated by file stamp above.)

NOTICE - THIS FICTITIOUS NAME STATEMENT EXPIRES FIVE YEARS FROM THE DATE IT WAS FILED IN THE OFFICE OF THE COUNTY CLERK. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED BEFORE THAT TIME. THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SECTION 1440 ET SEQ., BUSINESS AND PROFESSIONS CODE).

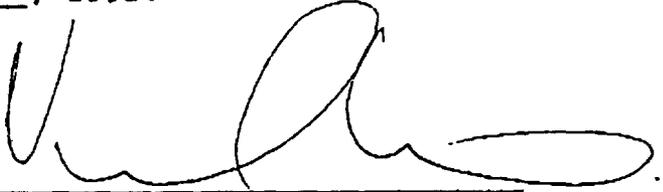
I HEREBY CERTIFY THAT THIS COPY IS A CORRECT COPY OF THE ORIGINAL STATEMENT ON FILE IN MY OFFICE
 RICHARD D. DEAN OCT 27 1989
 COUNTY CLERK
Martha Gonzales DEPUTY
 File No. 80-6572-1



A F F I D A V I T

I declare under penalty of perjury under the laws of the United States that the foregoing document is true and correct.

Executed on 9-4, 1992.



Vincent S. Cordaro

This document is submitted by electronic facsimile. When the original document is available, it will be submitted as a supplement.

A F F I D A V I T

I declare under penalty of perjury under the laws of the United States that the foregoing document is true and correct.

Executed on 9/3/92, 1992.


James A. Kay, Jr.

This document is submitted by electronic facsimile. When the original document is available, it will be submitted as a supplement.