

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Accepted / Filed

APR 16 2019

Federal Communications Commission
Office of the Secretary

In re)
)
GLR Southern California, LLC)
)
Application for Permit)
for Delivery of)
Programming to)
Mexican Station XEWW-AM,)
Rosarita, Baja California Norte, Mexico)
)

File No. 325-NEW-20180614-00001

To: Secretary
Attn.: Chief, International Bureau

MOTION FOR PRODUCTION OF DOCUMENTS

I. Introduction

Chinese Sound of Oriental and West Heritage (“CSO”), licensee of KQEV-LP, Walnut, California, by its attorneys, pursuant to Section 1.45 of the Commission’s Rules, 47 CFR 1.45, hereby files this Motion requesting that the Commission order GLR Southern California LLC (“GLR”) and its parent company, H&H Group USA LLC (“H&H”) (GLR and H&H are referred to herein as the “Applicants”) to produce the documents they failed to produce for public inspection in their Response to the Information Request.

II. The Applicants Overbroad Request for Confidential Treatment Must Be Denied and They Must Be Ordered to Produce the Documents They Failed to Produce

On February 15, 2019, the Chief of the International Bureau sent an Information Request to the Applicants. The Information Request was served on CSO and other parties. Therefore, it was clearly the intention of the Chief of the International Bureau that CSO would be made aware

of the documents that were requested and that CSO would be served with copies of those documents when the Applicants responded to the Information Request.

On March 22, 2019, the Applicants filed their response to the Information Request. The Applicants apparently provided a complete Response to the Commission. The Applicants provided to CSO a Response identified as being redacted and included a request for confidential treatment of various information. However, under the guise of requesting confidentiality for information, the Applicants have produced almost no documents in the redacted version of the Response to Information Request. This is clearly an abuse of the Commission's rule permitting confidential treatment of information. The Commission permits parties to redact confidential portions of documents, but it does not permit parties to fail to produce entire documents because certain portions of those documents might be confidential.

Here the Applicants have failed to produce the following entire documents identified at various pages in the Response:

1. Station programming and sales agreement dated April 18, 2018 between H&H and Phoenix Radio, p. 12.
2. Amendment to station programming and sales agreement dated June 26, 2018, p. 12.
3. Amended and restated station programming and sales agreement dated August 28, 2018 (the "TBA and its Schedules"), p. 12.
4. Purchase agreement and all associated closing documents executed in connection with the purchase of GLR SC, p. 13.
5. Letters of intent executed in connection with the transaction between H&H and GLR Services, p. 14.
6. Background correspondence related to the purchase of GLR SC, p. 14.
7. H&H Programming standards, p. 15.
8. Phoenix studio policy, p. 15.
9. Agreement between GLR SC and Phoenix Radio (the "Agent Letter Agreement")
10. Copies of the invoices/payments made for technical services, p. 18.
11. List of equipment used in connection with the operation of the Station, p. 18.
12. Evidence of payment of the Internet and Skycasters bills, p. 19.
13. Documents related to the preparation of the Application, p. 19.
14. Communications between Ms. Huo and Phoenix Radio, pp. 20-21.
15. Copies of background ad rate sheets and station sales data reviewed by Ms. Huo, p. 29.
16. List of employees, p. 33.

17. Documentation evidencing payments related to the acquisition of the Station, p. 35.
18. Evidence of the payment of all salaries, capital costs and operational expenses, p. 37.
19. Evidence of programming fee and expense reimbursements, p. 37.
20. Seller financing documentation, p. 37.
21. Documents related to consideration paid for programming on the Station, p. 39.
22. Ownership chart of Phoenix Radio, p. 43.

This is a flagrant abuse of the Commission's rule permitting nondisclosure of confidential material.

Section 0.459 of the Commission's Rules, 47 CFR § 0.459, provides that parties may ask that certain information they file be kept confidential. In *Joseph A. Sofio*, 32 FCC Red. 1781 (2017) ("*Sofio*"), the Commission set forth the standard for granting a request for confidential treatment:

Section 0.459 provides that parties may ask that certain information they file be kept confidential - that is, not released to the general public. A requestor must explain, among other things, how disclosure of the information could cause substantial competitive harm. A request for confidentiality may be granted only if it is demonstrated by a preponderance of the evidence that non-disclosure is consistent with the provisions of the FOIA. As is relevant here, the Commission may withhold from public inspection commercial or financial information only to the extent that it is privileged or confidential. There must be specific evidence substantiating an assertion that release of a record would cause substantial competitive harm to the person from whom the information was obtained. (footnotes omitted)¹

The Enforcement Bureau addressed the limits of Section 0.459 in a situation very similar to the instant case in *Kimberley Clark Corporation*.² In that case, Kimberly Clark filed a request with the Enforcement Bureau for confidential treatment of its entire response to an information

¹ 32 FCC Red at par. 14. In *Sofio*, the Commission affirmed the denial of confidential treatment of the names of parties to financing documents. See also, *Northeast Communications of Wisconsin, Inc.* 15 FCC Red 3289, 3290 (2010), where the Commission required public disclosure of financial information from a party seeking an auction bidding credit.

² 22 FCC Red 3703 (EB 2007).

request, including all documents attached to that response. The Bureau denied the request stating:

Kimberly Clark did not identify the specific information for which confidential treatment is sought.... Kimberly Clark also did not provide an analysis of the degree to which any information in its response is commercial or financial. Moreover, Kimberly Clark provided no discussion of the degree to which information pertaining to internal operations could result in substantial competitive injury if disclosed.³

The Applicants' decision to exclude production of the entire documents listed above is very similar to the situation in the *Kimberly Clark* case. As in that case, the Commission should order the Applicants to immediately produce the entire documents listed above.

To the extent some portions of some of the above-listed documents may warrant confidential treatment, the Applicants must produce the documents and redact only those portions which the Applicants can demonstrate to be either privileged or confidential. It is clear that the entirety of none of the above-listed documents can meet the test required by Section 0.459.

III. Conclusion

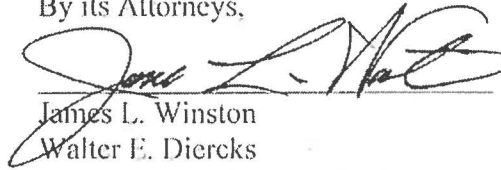
The request for confidential treatment filed by the Applicants is overbroad and completely contrary to the letter and intent of Section 0.459 of the Commission's Rules. The Applicants may not refuse to provide entire documents under their request for confidential treatment. The Applicants must produce the documents and identify any specific portions of those documents for which it can demonstrate the need for confidential treatment. The Commission should direct the Applicants to provide copies of the documents to CSO promptly.

³ *Id.* at par. 4.

Respectfully submitted,

**CHINESE SOUND OF ORIENTAL AND
WEST HERITAGE**

By its Attorneys,

A handwritten signature in black ink, appearing to read "James L. Winston", is written over a horizontal line.

James L. Winston

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April 16, 2019

CERTIFICATE OF SERVICE

I, Sheree Kellogg, do hereby certify that I sent via U.S. mail (except where indicated), on this 16th day of April, 2019, copies of the foregoing MOTION FOR PRODUCTION OF DOCUMENTS to the following:

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