

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

In the Matter of	)	
	)	
Reclassification of License of	)	
Class A Television Station KQUX-CA	)	Facility ID No. 64992
Austin, Texas	)	
	)	

**ORDER**

**Adopted: October 22, 2012**

**Released: October 23, 2012**

By the Chief, Video Division, Media Bureau:

1. This is with respect to station KQUX-CA, Austin, Texas, licensed to the Louis Martinez Family Group, LLC (“LMFC”). This station is currently licensed as a Class A television station, which are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 (“CBPA”).<sup>1</sup>

2. By letters dated March 30, 2011 and August 3, 2011, the Video Division of the Media Bureau requested information from LMFC regarding its apparent failure to make the required filing of quarterly FCC Form 398 (Children’s Television Programming Report) for the station for the fourth quarter in 2006 and all four quarters in 2007, 2008, 2009, and 2010.<sup>2</sup> Both letters required that the information be provided within 30 days of the date of the letter and cautioned that failure to provide the information could result in a change of the station’s status from Class A television to low power television. LMFC failed to respond to the Division’s letters or to file the required Children’s Television Programming Reports. Accordingly, pursuant to Section 316(a) of the Communications Act of 1934, as amended,<sup>3</sup> the Video Division issued an *Order to Show Cause* why the license for KQUX-CA should not be modified to specify the station as a low power television station.<sup>4</sup>

3. LMFC was afforded until March 30, 2012, to file a written statement why its license should not be so modified and was also notified that if no written statement was filed by that date, it would be deemed to have consented to the modification of the KQUX-CA license from Class A television status to low power television status. LMFC did not file a written statement in response to the *Order to Show Cause*, and, therefore, we deem it to have accepted the modification of the KQUX-CA license to

<sup>1</sup> Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 – 1501A-598 (1999), *codified at* 47 U.S.C. § 336. Beginning on the date of its application for Class A license and thereafter, the CBPA requires that a station must be “in compliance with the Commission’s operating rules for full-power television stations.” 47 U.S.C. § 336(f)(2)(A)(ii); *see also In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56 (2001); 47 C.F.R. §§ 73.6001, 73.6026. KQUX-CA was granted Class A television status in 2001.

<sup>2</sup> *See* 47 C.F.R. §§ 73.671, 73.3526 and 73.6026.

<sup>3</sup> 47 U.S.C. § 316(a).

<sup>4</sup> *Reclassification of License of Class A Television Station KQUX-CA, Austin, Texas, Order to Show Cause*, 27 FCC Rcd 2090 (Vid. Div. 2012). In addition to the period covering 2009 and 2010, the *Order to Show Cause* noted that LMFC had also failed to file Children’s Television Programming Reports for all four quarters of 2011.

low power television status.<sup>5</sup> Further, because LMFC failed to file Children's Television Programming Reports (FCC Form 398) for the period 2006 through 2011 and has not responded to the Video Division's two letters regarding this failure or to the *Order to Show Cause*, we find that it has not fulfilled its obligations as a Class A licensee, and that the modification of its Class A license to a low power television license therefore serves the public interest.

4. IT IS THEREFORE ORDERED, pursuant to Sections 4(i), 316, and 332(f)(2)(A)(ii) of the Communications Act, 47 U.S.C. §§ 154(i), 316, 332(f)(2)(A)(ii), and Sections 1.87, 73.6001, and 73.6026 of the Commission's rules, 47 C.F.R. §§ 1.87, 73.6001, 73.6026, that the license for station KQUX-CA, Austin, Texas is modified from Class A television status to low power television status, effective as of this date.

5. IT IS FURTHER ORDERED, That a copy of this *Order* shall be sent by Certified Mail, Return Receipt Requested, to the Louis Martinez Family Group, LLC and its counsel as indicated below:

Louis Martinez Family Group, LLC  
P. O. Box 7000-382  
Redondo Beach, California 90277-8710

Louis Martinez Family Group, LLC  
c/o Donna Martinez  
17511 Santa Rosa Road  
Perris, California 92570-7760

Peter Tannenwald, Esq.  
Fletcher, Heald & Hildreth, PLC  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, Virginia 22209-3801

6. This action is taken pursuant to authority delegated by Sections 0.61 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.61, 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

---

<sup>5</sup> 47 C.F.R. § 1.87(g)(1), (h) (Absent good cause shown, the right to file a protest or have a hearing is waived if licensee does not file a timely protest or statement of intent to appear at a hearing, and "[w]here the right to file a protest or have a hearing is waived, the licensee . . . will be deemed to have consented to the modification as proposed and a final decision may be issued by the Commission accordingly.")