

From: Michael Wagner [Michael.Wagner@fcc.gov]
Sent: Tuesday, February 27, 2018 8:11
To: Reese
Cc: Karen Workeman; Annette Smith
Subject: FW: 314 Transfer Question with March 1st Deadline

Mr. Janca:

Karen referred your inquiry to me for response. We are very glad you asked the question when you did, as there appears to be a fairly serious violation of the Communications Act and the Commission's Rules occurring from the scenario you describe.

With respect to the question regarding the March 1 deadline for transitioning to the online public inspection file, any and all public file obligations rest with KYRM's current licensee of record, Socorro Community Radio, Inc. But that is the least of your worries.

It appears that you have been in control of and running the station since July of 2017, but you and Socorro have not filed for or received Commission approval for you to own or control the station. That alone constitutes a violation of Section 310 of the Communications Act and Section 73.3540 of the Commission's Rules, because no license is to be transferred, assigned, or disposed of in any way without the FCC's prior approval. You and Socorro are both jointly and severally liable for the violation, you because you assumed control of the station without Commission approval, and Socorro because it ceded control to you without Commission approval.

My advice to you, and I strongly suggest that you heed it, is that you cease operating the station IMMEDIATELY and work with Socorro to get the necessary FCC Form 314 on file:

<https://transition.fcc.gov/Forms/Form314/314.pdf>

You will need to work together, because there is a section for both the seller (Socorro) and the buyer (you). I also caution you that Socorro should refund any purchase price you have paid, because the Commission will not approve an assignment application if the entire purchase price has been paid before we even see an application. If Socorro drags its feet, consider legal action in a local court for specific performance to compel Socorro to cooperate in filing the application; the Commission does not get involved in private contractual disputes. But as of right now, you and Socorro are looking at a possible fine running into the thousands of dollars -- the base forfeiture amount for an "unauthorized transfer of control" set forth in the Rules is \$8,000 -- and you should handle this right away.

Understand that I am not threatening to send the Commission's Enforcement Bureau field staff out to KYRN(FM), but if one of the FCC's inspectors were to stop by, it would not end happily for either you or Socorro.

Please cease operation of the station until we have granted the necessary Form 314, and it would be a good idea to make that Form 314 filing as "plain vanilla" as possible.

Sincerely,

Michael Wagner
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