

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

In re Application of)
)
THE ASSOCIATION FOR) File No. BPFT-970218TE
COMMUNITY EDUCATION, INC.) (BPFT-960910TB Amended)
)
For Construction Permit)
For New FM Translator Station on)
Channel 211 at Santa Ana, CA)

To: Chief, Audio Services Division
Mass Media Bureau

**MOTION TO STRIKE ACE
RESPONSE TO PETITION FOR RECONSIDERATION**

Santa Monica Community College District (“SMCCD”), acting pursuant to Section 1.106 of the Commission’s rules, hereby moves to strike the Response to Petition for Reconsideration (“Response”) filed by The Association For Community Education, Inc. (“ACE”) on December 1, 1998. The Response is untimely and cannot be considered by the Mass Media Bureau (“Bureau”). In support of that conclusion, SMCCD shows as follows:

1. SMCCD holds the license for KCRW(FM), Santa Monica, California, a non-commercial educational FM radio station which operates on Channel 210 (89.9 MHz) – the first adjacent channel to ACE’s proposed operation.

2. On December 31, 1996, SMCCD filed a Motion to Dismiss or, in the Alternative, Petition to Deny (“Motion”) against ACE’s above-referenced application (the

“Application”) for a construction permit for a new FM translator station on Channel 211 to serve Santa Ana, California. The Motion demonstrated that ACE’s proposed FM translator station on a first adjacent channel would cause interference to a substantial number of KCRW’s listeners. The Motion was premised on Section 74.1204(f) of the Commission’s rules.

3. On August 26, 1998, the Bureau denied SMCCD’s Motion and granted ACE’s Application. *Letter of Daniel Fontaine, Supervisory Engineer, Audio Services Division, to The Association For Community Education, Inc., Lewis J. Paper, Esq. and Christopher D. Imlay, Esq., Ref. No. 1800B3 (MMB Aug. 26, 1998) (hereafter “Denial”).*

4. On September 25, 1998, SMCCD filed a Petition for Reconsideration of the *Denial*.

5. On December 1, 1998, ACE filed its Response. In its Response, ACE requested that SMCCD’s Petition for Reconsideration be denied.

6. Section 1.106(g) of the Commission’s rules provides that “oppositions to a petition for reconsideration shall be filed within 10 days after the petition is filed, and shall be served upon petitioner and parties to the proceeding.” Allowing additional time for service by mail, as permitted by Section 1.4(h) of the Commission’s rules, Thursday, October 8, 1998, was the deadline for ACE to file any opposition to SMCCD’s Petition for Reconsideration.

7. ACE's Response was filed almost two months late. As such, the Response should be dismissed and given no consideration.

WHEREFORE, in view of the foregoing and the entire record herein, it is respectfully requested that Chief dismiss ACE's Response.

Respectfully submitted,

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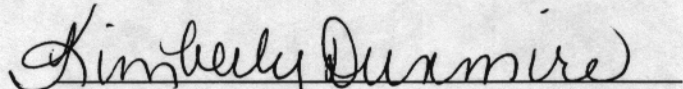
By: Harold K. McCombs
Lewis J. Paper
Harold K. McCombs, Jr.

CERTIFICATE OF SERVICE

I, Kimberly Dunmire, hereby certify that on December 11, 1998, a copy of the foregoing "Motion to Strike ACE Response to Petition For Reconsideration" was delivered by First Class Mail, Postage Prepaid, to the following persons:

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