

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re Application of:)	
)	Application No. 135744
CALVARY CHAPEL OF PORT)	
ANGELES)	
)	
For an Original LPFM Construction)	
Permit (Form 318))	
_____)	

To the Mass Media Bureau

**INFORMAL OBJECTION OF
NATIONAL LAWYERS GUILD COMMITTEE ON DEMOCRATIC
COMMUNICATIONS AND _____**

Respectfully submitted,

**NATIONAL LAWYERS GUILD
COMMITTEE ON DEMOCRATIC
COMMUNICATIONS
[address]
San Francisco, California 94____
(415) 522-9814**

Dated: September 21, 2001

This Informal Objection is filed by National Lawyers Guild Committee on Democratic Communications and _____ against Calvary Chapel of Port Angeles in its applications to operate Low Power FM (LPFM) radio stations in the community of Port Angeles, Washington.

We oppose the awarding of any LPFM frequency to Calvary Chapel of Port Angeles, WA for the following reasons:

1. The above Applicant is in violation of Section 73.853(b) of the Code of Federal Regulations, which requires that a local chapter of a national or other large organization shall not have the attributable interests of the national organization attributed to it provided that the local chapter is separately incorporated *and* has a distinct local presence and mission.
2. Because the Applicant does not have a distinct local presence and mission, issuance of a license would violate Section 73.855 of the Code of Federal Regulations, which prevents a party from holding an attributable interest more than one LPFM station for the first two years the LPFM stations are made available for application.
3. In Applicant's community, there is already a translator owned by Calvary Chapel, thereby violating Section 73.860(a) of the Code of Federal Regulations, prohibiting the same party from holding an attributable interest in any other non-LPFM broadcast station, including FM translators.

1. The Applicant Violates Section 73.853(b) Because It Does Not Retain a Distinct Local Presence and Mission.

The FCC should not award Calvary Chapel of Port Angeles a LPFM construction permit because their application violate Section 73.855 of the Code of Federal Regulations which states "(1) For a period of two years from the date that the LPFM stations are first made available for application, a party may hold an attributable interest in no more than one LPFM station."

Section 73.858 provides that a local chapter of a national organization will not have the attributable media interest of the national organization attached to it if it is 1) incorporated in its local area separately from the national organization it is affiliated with; **and** 2) has a distinct local presence and mission. Instructions for the FCC's Form 318 states:

To satisfy the second element of this standard, an applicant must demonstrate that it has significant membership within its local area and that it has a local purpose that can be distinguished from the purpose of the national organization with which it is affiliated. *For example, the purpose of raising awareness of the toxic waste problem in the United States would not satisfy the distinct local mission requirement, but the purpose of raising awareness of the toxic waste problem in a particular local area would satisfy the distinct local mission requirement.*

Applicants applying for LPFM station licenses under this exception must submit an explanatory exhibit in response to Question 5b demonstrating how they meet the above-stated requirements. (Emphasis added).

Calvary Chapel of Port Angeles' Question 5(b) Exhibit fails to satisfactorily establish that it has a distinct local mission that can be distinguished from the purpose of the national Calvary Church. Here, Calvary Chapel of Port Angeles writes:

As an educational and religious organization, we direct our efforts to learning and understanding the Bible as a means of learning how to live in the society of today. Problems within families, in day-to-day contacts with the business and social world at large, and among our youth – all need to be understood, prevented if possible and dealt with if and when they arise. They may involve abuse of alcohol and drugs, or just a failure of interpersonal relations among family members, social acquaintances and in the workplace. We believe that the Scriptures provide guidance and answers in these and other matters, to that a proper approach to studying and understanding them will help individuals to make the proper choices, deal with stressful or unfortunate occurrences, and approach themselves and others in a moral and beneficial way. We currently seek to achieve our goals in adult study groups and in groups which address the special needs and capabilities of children. Our ability to reach others, however, is limited to the time and place when teachers and those they instruct are available to meet. These limitations are serious in our case, because the adult individuals involved (including those leading the studies) have full-time jobs and/or other responsibilities which make it difficult find [sic] a day, time and place when they all can meet. Some people cannot meet at all in these limiting circumstances. A radio station would enable us to broadcast our studies to those who cannot appear in person at the time, *to repeat those lessons at other days and times to*

reach those who otherwise would not be able to receive them, and to expand the number of teachers who we can present.

There is no mention of anything "distinctly local" in this statement of educational purpose. The applicant does nothing to distinguish its "distinct local purpose" from that of the national Calvary Church, nor does it discuss how it intends to distinguish its programming from that of the national Calvary Church or the Calvary Satellite Network. In addition, Calvary Chapel of Port Angeles" Question 5(b) Exhibit is nearly word-for-word identical to the generic form Exhibits submitted by the following Calvary Chapel applicants: Calvary Church of Bozeman, MT (#135526), Calvary Chapel of West River Valley, VT (#135148), Calvary Chapel of North Bend, WA (#135109), Calvary Chapel of Toms River , NJ (#134934), Calvary Chapel of New Smyrna Beach, FL (#134745), Calvary Chapel of Western Massachusetts, MA (#133631), Calvary Chapel of Fellowship, SC (#132313), Calvary Chapel of Black Hills, SD (#132282), Calvary Chapel of Manitowoc, WI (#132217) and Calvary Chapel of Joplin, MO (#132124).¹

To our knowledge, no Calvary Church LPFM application submitted a separate explanatory exhibit as required, giving specific evidence of its affiliates distinctiveness from the national Calvary organization. Given the uniform nature of these templates, it is questionable whether Calvary Chapel, Port Angeles, WA has a distinct local purpose and intends to provide genuinely local programming designed to serve the needs of its

¹ It is important to note that nearly two-thirds (2/3) of the Calvary Church applications available on the Commission's website did not have attachments demonstrating their distinct local presence or educational mission. This may be because the applications were submitted in the first two LPFM filing windows when electronic filing was not mandatory, or because no exhibits were submitted. Although we do not have direct evidence that this pattern of duplicative filing exists in all cases, the sample obtained via the FCC's website shows the vast majority of filings were derived from three templates. We believe this pattern also holds true for those applications without Question 5(b) exhibits available online.

community. This is particularly true inasmuch as the community of Port Angeles, WA is already served by Calvary Satellite Network translators (see below).

2. Calvary Chapel of Port Angeles, WA is In Violation of Section 73.855 Because One Entity Cannot Own More than One LPFM Station During the First Two Years of the LPFM Service

Because the Applicant has not established that it intends to serve a distinct local purpose, it must be considered an affiliate of the National Calvary Church under the Commission's attribution rules. Because Section 73.855 of the Code of Federal Regulations, prevents a party from owning more than one LPFM station during the first two years of the service, Calvary Chapel of Port Angeles is ineligible for an LPFM license based on the National Calvary Church's current full-power FM licenses and licenses for Calvary Satellite Network translators.

3. Calvary Church of Port Angeles Cannot Be Awarded an LPFM License where any Director has an Attributable Interest in an FM Translator, Low Power Television Station or other Media Subject to Broadcast Restrictions

73.860(a) of the Code of Federal Regulations prohibits an LPFM applicant from holding an attributable interest in any other non-LPFM broadcast station, including FM translators.

Here, the Calvary Church of Port Angeles, WA filed an LPFM application for 95.5 mhz. A full-time Calvary Satellite Network ("CSN") translator also services Port Angeles, Washington (K205DD, 88.1 mhz). The existing network of Calvary Chapel translators and radio stations (278, according to <http://www.calvarychapel.com/csn/index.htm>) would support the conclusion that the national Calvary Chapel organization seeks to use LPFM, a service intended to benefit local communities, to expand its already large broadcasting empire. Accordingly, this "affiliate" of the national Calvary Chapel

should be ineligible to be licensed due to the current operation of full time "Calvary Satellite Network" translators in the proposed community.

4. Calvary Church of Port Angeles' Application Contains Other Flaws

In addition to the above problems, the only two of three board members of this applicant (i.e., 66%) live within 10 miles of the proposed antenna site. In addition, it appears the Calvary Church of Port Angeles was only incorporated on March 24, 2000. Therefore, this applicant is ineligible for the point specified under Section III, Question 1(a) with respect to mutually exclusive applicants. The above deficiencies, coupled with the existence of a pre-existing CSN translator in the community and the "cookie-cutter" Question 5(b) Exhibit, leads to the inescapable conclusion that applicant lacks any intent to originate local programming geared towards the community of Port Angeles.

CONCLUSION

For the above reasons, we request that the FCC reject Calvary Chapel of Port Angeles, Washington's LPFM application, because it violates Section 73.853, Section 73.855 and Section 73.860(a) and because granting this application would not be in the public interest. Given the numerous inaccurate and incomplete statements contained in the numerous Calvary Chapel LPFM applications, and Calvary Chapel's existing network of 278 non-commercial stations and translators, we are of the opinion that the FCC should weigh whether Calvary Chapel lacks the requisite character to be awarded any Low Power FM licenses.

Respectfully submitted,

Alan Korn
Peter Franck

National Lawyers Guild
Committee on Democratic Communications
[ADDRESS]
San Francisco, California 94____
(415) 522-9814

DECLARATION

I, _____, declare as follows:

1. I am _____ of the organization _____.
2. This declaration is submitted in support of the Informal Objection of NLG Center on Democratic Communications and _____ as to Calvary Church of Port Angeles, Washington (Application No. 135744).
3. I have reviewed the factual assertions contained in the Petition to Deny and I declare that they are true to the best of my knowledge.

I hereby state under penalty of perjury that the foregoing is true and correct.

Executed on September __, 2001

[NAME]