

FOR IMMEDIATE RELEASE:

Irwin Swirnoff
415.424.5904
savekusf@yahoo.com

Alan Korn, Attorney
510.548.7300
aakorn@igc.com

Peter Franck, Attorney
510.788.1009
peter@culturelaw.com



Appeals of proposed KUSF 90.3 FM sale filed with FCC

SAN FRANCISCO -- July 11, 2012 – As the fight to save the KUSF 90.3 FM broadcast license continues, appeals were filed this week with the Federal Communications Commission to review and overturn the FCC Media Bureau's approval of the proposed sale from the University of San Francisco to Classical Public Radio Network, LLC (CPRN), which is controlled by the University of Southern California. The request for review is to the five-member Commission.

Noting that the Media Bureau met in secret with USF and CPRN to negotiate a consent decree without the participation of the parties who filed Petitions To Deny the sale, Friends of KUSF lawyers Peter Franck and Alan Korn called the decision, “a travesty of justice, one that denies Petitioner its statutory rights to have its Petition considered honestly, fairly, and within standards prescribed by law,” and argued that the Bureau should have designated the case for a hearing.

In a separate appeal, longtime KUSF listener Ted Hudacko, who also filed a Petition To Deny the sale, wrote that the Media Bureau didn't adhere to its statutory process for consent orders which entitles other parties to participate in the negotiations. “It was not possible for the Petitioner to participate and exclusion of Petitioners was the Bureau's intent. The Bureau has exceeded its delegated authority, failed to follow its own procedures, and has violated Petitioner's rights for due process under both the Telecommunications Act and the Fifth Amendment.”

Said Save KUSF spokesman Irwin Swirnoff, “From the beginning, USF and CPRN have done their sneaky business behind closed doors with an arrogance that all you have to do to control a non-commercial education radio station is toss around large sums of money. We are hopeful the full Commission will step in and rule against this corrupt deal, which violates many FCC rules.”

USF announced the proposed sale of KUSF 90.3 FM to CPRN on January 18, 2011. The station, which had served San Francisco for over 33 years, was immediately taken off the air and security guards

escorted station volunteers off of the premises. After the Petitions To Deny were filed, the Media Bureau opened up a rare investigation into the proposed sale, due to the issues raised. On June 7, the Media Bureau announced that it was approving the proposed sale, and although it found USF and CPRN in violation of the law – as pointed out by Friends of KUSF, Hudacko and many others – it deemed those violations, “unintentional,” and negotiated a consent decree whereby USF and CPRN would make a “voluntary” contribution to the United States Treasury of \$50,000.

The Media Bureau, in turn, agreed to terminate its investigation into the violations and that it would not use the facts developed in the investigation to take any action against USF and CPRN concerning the matters that were the subject of the investigation, nor take any action regarding either party's qualifications to be an FCC licensee. Franck and Korn wrote that the Bureau, “walled off the adverse rulings on conduct from any further use in licensing,” and that it, “ignored substantive matters of conduct, qualifications, truthfulness and character of the licensee and proposed assignee.”

The Friends of KUSF appeal noted several of the questions raised in the Media Bureau's Letter Of Inquiry that USF and CPRN did not address, and that were not addressed in the Media Bureau's June 7 ruling. These include USF's failure to oversee programming after the announcement of the proposed sale, the use of a non-commercial educational station for third-party fund-raising – both violations of FCC rules – and USF and CPRN's failure to produce the documents requested by the Media Bureau. Further, Franck and Korn noted that by the time that illegal cash payments were stopped – a violation that the Media Bureau termed “unintentional” – USF had already received, “\$34,000 in improper cash payments,” from CPRN.

The fight to save KUSF 90.3 FM has attracted support from around the country. Ken Freedman, general manager of WFMU-FM New Jersey, said, “KUSF provided a unique and important community and cultural service to the Bay Area for many decades. It's a tragedy that the staff of the FCC allowed the station's sale to proceed, especially when, by their own admission, the buyer and seller made erroneous FCC certifications and they tried to use the not-for-profit airwaves for their own profit.”

Since being taken off the air, former KUSF DJs and volunteers as well as members of the community have worked to stop the sale of the license. Partnerships have been established, both locally and nationally, including with WFMU (91.1 Jersey City, N.J./90.1 Hudson Valley, N.Y.), which has been providing an Internet stream, called KUSF in Exile (<http://savekusf.org/listen-to-kusf-in-exile>).

For more information, go to www.savekusf.org.