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Richard S. Yoon
WIN Radio Broadcasting Corporation
100-25 Queens Blvd – Suite 1CC
Forest Hills, NY 11375

In re: WNYH(AM), Huntington, New York
Facility ID: 29259
File No. BR-20060201APU

**Application for Renewal
of Broadcast Station License**

Dear Mr. Yoon:

We have before us the application of WIN Radio Broadcasting Corporation (the "Licensee") to renew its license for Station WNYH(AM) (the "Station") filed on February 1, 2006 (the "Application"). We also have before us informal objections to the above-captioned application filed by Ralph Amitrano ("Amitrano") on April 10, 2006, and by Robert M. Jeantet ("Jeantet") on January 8, 2007. For the reasons discussed below, we deny the informal objections and grant the Application.

Background. The Licensee filed a timely application to renew the WNYH(AM) license on February 1, 2006.¹ On April 10, 2006, Amitrano filed his objection to the Application; the Licensee filed an opposition to Amitrano's informal objection on June 14, 2006. Additionally, on January 8, 2007, Jeantet filed a "Petition to Deny" the Application; the Licensee filed an opposition to Jeantet's pleading on November 30, 2007.

Discussion. Procedural Matters. Under Section 73.3516(e) of the Rules,² petitions to deny a renewal application must be filed by the first day of the last full calendar month of the expiring license term. Thus, Jeantet's petition to deny should have been filed by May 1, 2006. Because Jeantet's pleading was filed after the petition to deny deadline we will consider it an informal objection under Section 73.3587 of the Rules.³

Informal Objections. Pursuant to Section 309(e) of the Act,⁴ informal objections, like petitions to deny, must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,⁵ which governs our evaluation of an application for license renewal. Specifically,

¹ Renewal applications for radio stations in New York were to be filed by February 1, 2006, and the licenses expired June 1, 2006.

² 47 C.F.R. § 73.3516(e).

³ 47 C.F.R. § 73.3587.

⁴ 47 U.S.C. § 309(e).

⁵ 47 U.S.C. § 309(k). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 note 10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986)

Section 309(k)(1) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.⁶ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”⁷

Amitrano Objection. In his informal objection, Amitrano claims that renewal application should be denied because: (1) the Station has been off the air on a regular basis during the previous eight years; (2) the Station serves the needs of Flushing, New York, not Huntington, New York, its community of license; (3) the Station has operated at full-power at night, in violation of the terms of its license; and (4) Amitrano “understand[s] that [the Station] did not participate in the EAS system.”⁸

In response, the Licensee states that: (1) it acquired the Station five months before the renewal application was filed and that many of Amitrano’s allegations pertain to the performance of past licensees, and have no bearing on the Licensee’s renewal application;⁹ (2) the Station currently broadcasts English-language programming intended to serve the general population within its service area; (3) the Station has not broadcast at night since returning the Station to operating status on September 24, 2005, pursuant to the terms of a Special Temporary Authority (“STA”) for reduced facilities,¹⁰ because the Station’s STA facilities do not provide effective nighttime service; and (4) Amitrano’s EAS allegation lacks detail and support by Amitrano’s personal knowledge. The Licensee further states that since resuming operation, it has installed the required EAS equipment, monitors two EAS sources, maintains the required EAS logs, and sends and receives weekly EAS tests.¹¹

We find that the Licensee has adequately rebutted Amitrano’s allegations regarding the Station’s operating power and its alleged silence during the license term. The Licensee has indicated that the Station has been operational since the Licensee returned it to the air on September 24, 2005, and it has submitted copies of Commission authorizations for the Station to operate at a reduced power since that time. To the extent that the Station was silent for periods of time prior to its acquisition by the Licensee, we will not hold the Licensee responsible for the actions of the prior owner of the Station.¹² Amitrano’s

(informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

⁶ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

⁷ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

⁸ Amitrano Objection at 1.

⁹ See File No. BAL-20050429ACL (granted Jun. 17, 2005).

¹⁰ File No. BSTA-20050902ACK (granted Sept. 16, 2005) (authorizing operation with a nondirectional antenna and reduced power not to exceed 6.25kW daytime and 10 watts nighttime). Extensions of the Station’s STA to operate with reduced facilities were granted on November 16, 2006 (File No. BSTA-20060314AGM) and December 5, 2007 (File No. BSTA-20070604ADZ).

¹¹ Licensee June 14, 2006, Response at 2-3.

¹² See *Media Bureau Announces Certain Revisions to Instructions to Form 303-S -- Application for Renewal of License for Broadcast Stations*, Public Notice, 18 FCC Rcd 8986 (MB 2003) (if the station license was assigned or transferred during the license term pursuant to a “long-form” application on FCC Form 314 or 315, the renewal applicant’s certifications should cover only the period during which the renewal applicant held the station’s license).

remaining allegations, regarding failure to serve the needs of Huntington and participation in the EAS system, are unsupported and do not contain adequate and specific factual allegations sufficient to warrant further inquiry into WIN Radio Broadcasting Corporation's license renewal application. For these reasons, Amitrano's informal objection is denied.

Jeantet Objection. In his informal objection, Jeantet claims that the renewal application should be denied because: (1) the Licensee "does not maintain a 'place of business' or principal studio";¹³ (2) Jeantet has been denied access to the Station's public file due to an inability to access the Station's main office;¹⁴ (3) the Licensee violated the required EAS system test requirements; (4) the Licensee "abandon[ed] his English language/music based format ... to play a solely Korean language religious service for the entire Sunday broadcast day";¹⁵ (5) the public has been denied use of the Station's air time to broadcast public service announcements; (6) the Licensee does not offer any public service programming; (7) the Licensee has "repeatedly ignored requests for a 'traffic log' or 'as played' log from his automation system";¹⁶ (8) the Licensee "illegally re-tuned the transmitter to power it up causing more damage and interference";¹⁷ and (9) the required license renewal announcements were "not in clear understandable English."¹⁸

In response, the Licensee states that: (1) Jeantet's allegations regarding the Station's main studio do not establish a violation of any Commission Rule, and that the Station's main studio complies with Section 73.1125 of the Commission's Rules;¹⁹ (2) it has always located the Station's public inspection file at the Station's main studio location, both when it was located at the transmitter site and at its current location in Jericho, New York;²⁰ (3) Jeantet's EAS allegation does not establish a violation of the Commission's Rules, that the Station uses an automated EAS logging system, and attaches printouts from the automated system which indicate no problems with the Station's EAS transmissions;²¹ (4) there is no rule or policy against a station broadcasting foreign language programming; (5) there is no public right of access to a station's facilities; (6) the station's public inspection file contains a quarterly list of programs broadcast by the Station, which the Licensee believes addresses important problems faced by members of the public residing in the Station's community of license; (7) the Commission has not required licensees to maintain programming or traffic logs in many years, and at the time such logs were required, they were not subject to public inspection; (8) since the time that the Licensee returned the Station to the air, the Station has operated at *reduced* power under Special Temporary Authority issued by the Commission;

¹³ Jeantet Petition at 3.

¹⁴ Jeantet states that he attempted to access the Station's main studio both at the transmitter site, which is located "in a residential neighborhood, not accessible to the general public. . ." and at the address listed on the Commission's website, 100-25 Queens Blvd, Forest Hills, New York. Jeantet also states that repeated calls to the number listed for the Station's principal offices were not returned and he was informed the number is for a doctor's office, not a radio station. Jeantet Petition at 4, 6.

¹⁵ *Id.* at 4.

¹⁶ *Id.* at 4-5.

¹⁷ *Id.* at 5-6.

¹⁸ *Id.* at 6.

¹⁹ 47 C.F.R. § 73.1125.

²⁰ The Licensee states that upon acquiring the Station, it notified the Commission that the main studio would temporarily be located at the transmitter site, in Cold Springs Harbor, New York, and that on April 25, 2006, the Licensee notified the Commission that the main studio had been relocated to 131 Jericho Turnpike, Jericho, New York. WIN November 13, 2007, Response at 2-3.

²¹ *Id.* at 4-5.

and (9) regarding the renewal announcements, that the Commission “does not regulate elocution.” Finally, the Licensee states that the Station has been inspected twice by Commission field agents since 2006, and those inspections did not reveal any violations of the Commission’s Rules or policies.²²

We find that the Licensee’s statements, supported by copies of filings made with the Commission, EAS printouts, and the lack of violations noted by the Commission field inspectors, fully rebut the allegations made by Jeantet regarding the Station’s main studio, access to the public inspection file, the EAS test requirements, public service programming, and the Station’s operating power. Jeantet’s remaining allegations regarding access by the public to the station’s facilities, the format of the Station’s programming, the “elocution” of the Station’s license renewal announcements, and lack of a “traffic log,” even if true, do not establish a violation of any Commission Rules or the Act. There is no right of public access to a broadcast station’s transmission facilities.²³ Moreover, the Commission does not regulate station formats.²⁴ Additionally, the Commission has no rules regarding the elocution of broadcast renewal announcements and does not require licensees to maintain “traffic logs.” Jeantet’s informal objection therefore does not contain adequate and specific factual allegations sufficient to warrant further inquiry into WIN Radio Broadcasting Corporation’s license renewal application. For these reasons, Jeantet’s informal objection is denied.

Conclusion/Actions. We have evaluated the above-referenced renewal application pursuant to Section 309(k) of the Act,²⁵ and we find that Station WNYH(AM), Huntington, New York, has served the public interest, convenience, and necessity during the subject license term. Moreover, we find that there have been no serious violations of the Act or the Rules involving Station WNYH(AM) by WIN Radio Broadcasting Corporation of the Communications Act or the Commission’s Rules which, taken together, would constitute a pattern of abuse. In light of the foregoing, we will grant the renewal application.

Accordingly, IT IS ORDERED that the Informal Objection filed by Ralph Amitrano and the Petition to Deny filed by Robert M. Jeantet, treated herein as an Informal Objection, ARE DENIED. IT IS FURTHER ORDERED that the application of WIN Radio Broadcasting Corporation for renewal of its license for Station WNYH(AM) IS GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Ralph Amitrano
Robert M. Jeantet
J. Geoffrey Bentley, Esq.

²² *Id.* at 5.

²³ See, e.g., *You Can’t Afford Dodd Committee*, Memorandum Opinion and Order, 81 FCC 2d 579, 581 (1980) (“[w]ith the exception of legally qualified candidates for Federal elective office, no person or group has an affirmative right of access to the station’s facilities”) (emphasis in original).

²⁴ See *Changes in the Entertainment Formats of Broadcast Stations*, Memorandum Opinion and Order, 60 FCC 2d 858, 865-66 (1976), *recon. denied*, Memorandum Opinion and Order, 66 FCC 2d 78 (1977), *rev’d sub nom.*, *WNCN Listeners Guild v. FCC*, 610 F.2d 838 (D.C. Cir. 1979), *rev’d*, 450 U.S. 582 (1981).

²⁵ 47 U.S.C. § 309(k).