

Before the
Federal Communications Commission
Washington, D.C. 20554

In reply refer to:
1800C1-JEE
98070168

Released: July 22, 1999

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

WQAM License Limited Partnership
Licensee, WQAM(AM), Miami, FL
3033 Riviera Drive
Naples, FL 33940

Dear Licensee:

This letter constitutes a NOTICE OF APPARENT LIABILITY FOR A FORFEITURE pursuant to Section 503(b) of the Communications Act of 1934, as amended.

The Commission has received information indicating that Radio Station WQAM(AM), Naples, FL, may have violated 18 U.S.C. § 1464 by broadcasting allegedly indecent material during broadcasts of the "Neil Rogers Show" on May 20, 21, 22, 25, and 26, 1998, between 10 a.m. and 2 p.m. Transcripts of the allegedly indecent broadcasts, taken from a tape submitted by the complainant, are attached.

Pursuant to 47 U.S.C. §§ 312(a)(6) and 503(b)(1)(D), the Commission has statutory authority to take appropriate administrative action when licensees broadcast material in violation of 18 U.S.C. § 1464, which provides criminal penalties for anyone who "utters any obscene, indecent or profane language by means of radio communication."

The Commission has defined indecency as language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs. Infinity Broadcasting Corporation of Pennsylvania, 2 FCC Rcd 2705, 2705 (1987) (citing Pacifica Foundation, 56 FCC 2d 94, 98 (1975), aff'd sub nom. FCC v. Pacifica Foundation, 438 U.S. 726 (1978)). The United States Court of Appeals for the District of Columbia Circuit has upheld the Commission's authority to restrict the broadcast of indecent material at times when there is a reasonable risk that children may be in the audience. Action for Children's Television v. FCC, 852 F.2d 1332 (D.C. Cir. 1988). The court subsequently concluded that a 10:00 p.m. to 6:00 a.m. "safe harbor" was justified as a properly tailored means of vindicating the government's compelling interest in the welfare of children. Action for Children's Television v. FCC, 58 F.3d 654 (D.C. Cir. 1995), cert. denied, 116 S. Ct. 701 (1996).

It appears that the subject excerpts are indecent in that they contain language that describes sexual and/or excretory activities or organs in patently offensive terms. Because the material aired at times when there

was a reasonable risk that children may have been in the audience, it is legally actionable. Thus, it appears that on May 20, 21, 22, 25, and 26, 1998, Station WQAM(AM) violated 18 U.S.C. § 1464 by airing indecent programming.

Accordingly, pursuant to Section 503(b) of the Communications Act of 1934, as amended, WQAM License Limited Partnership is hereby advised of its apparent liability for a forfeiture of THIRTY-FIVE THOUSAND Dollars (\$35,000), for its apparent willful and repeated violations of 18 U.S.C. § 1464 on May 20, 21, 22, 25, and 26, 1998. The amount specified was determined in accordance with the Commission's forfeiture guidelines. See In the Matter of The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines, 12 FCC Rcd 17087 (1997).

In regard to this forfeiture proceeding, you are afforded a period of thirty (30) days from the date of this letter "to show, in writing, why a forfeiture penalty should not be imposed or should be reduced, or to pay the forfeiture. Any showing as to why the forfeiture should not be imposed or should be reduced shall include a detailed factual statement and such documentation and affidavits as may be pertinent." 47 C.F.R. § 1.80(f)(3). Other relevant provisions of Section 1.80 of the Commission's Rules are summarized in the attachment to this letter.

This letter was adopted by the Commission on July 19, 1999.

BY DIRECTION OF THE COMMISSION

Magalie Roman Salas
Secretary

Attachments

Radio Station: WQAM(AM), Miami, FL
Date/Time Broadcast: May 20, 21, 22, 25, 26, 1998, between 10 a.m. and 2 p.m.
Material Broadcast: Neil Rogers
98070168

MV: Male Voice
M2: Second Male Voice
MS: Male Singing
MS2: Second Male Singing
DU: Duet Singing
GS: Group Singing
CH: Child's Voice
MO: Mother's Voice
MC: Male Caller

5/20/98

* *

MS: I don't want to grow up, I'm a uterus guy. I want to spend a week or so right here between your thighs. Inhale your clam, with my head jammed by your quivering, crushing gams. No, I don't want to get up or get a towel to dry, cause I wouldn't be a uterus guy.

MS2: I don't want to get up, I'm a uterus guy and I know where to lick and chew exactly where you like. You'll have more fun when I make you come, with my nose between your thighs. No, I don't want to get up, cause babe I'll tell you why. I wouldn't be a uterus guy.

MS: Dyke.

MS2: Or guy

DU: We both like boing, boing. I want to be your uterus guy.

MS: Guy.

MS2: Dyke.

MS: Guy.

MV: Yeah, whatever.

* *

5/21/98

* *

MS: (Tune of "New York, New York") Pretty good, now look at my dork. No, I'm feeling so excited now, let's pork, let's pork. Okay, this third leg of mine, is feeling so stiff, I'd like to step right into it. Oh, let's pork, let's pork. I want to take hold with my hands of your sweet cheeks.

MV: Rectum.

MS: To find I'm. [End of Side A]. [Transcript Only: King of the hill, top of your heap, my little man blue (Squirt, squirt) He's popping his cork, I'm going to grab that part of you, let's pork.]

WQAM

2.

[Start of Side B]

MS: Let's pork.

MV: I want to give you a kiss.

MS: If I can make you scream, I'll give you some peaches and cream. I'm after you, let's pork, let's pork.

* *

5/22/98

* *

MS: (Tune of "Girl From Ipanema") Are you rude, obnoxious, foul and distasteful, the Dolphins are cursing and man it's disgraceful, cause Brian Cox and the rest of them are saying.

GS: Suck my di(Bleep)ck, lick my ba(bleep)lls, sh(bleep)it on you, mother fu(Bleep)ker.

MS: Words of love, they toss in the microphone, the dump button just can't seem to be left alone, and all of this is because, they like saying.

GS: Suck my di(Bleep)ck, lick my ba(bleep)lls, sh(bleep)it on you, mother fu(Bleep)ker.

MS: Oh, but they play football badly.

MV: I think they play.

MS: How did the Patriots kick their ass.

MV: So (Unintelligible).

MS: Where will they make it to the Super Bowl? But with an attitude as bad as their's.

MV: Say what?

MS: They're tossing our hopes down the stairs.

MV: Oh, man.

MS: Rude, obnoxious, foul and distasteful, the Dolphins are cursing, and man it's disgraceful, cause Brian Cox and the rest of them are saying.

GS: Suck my di(Bleep)ck, lick my ba(bleep)lls, sh(bleep)it on you.

MS: Yes, they're saying.

GS: Suck my di(Bleep)ck, lick my ba(bleep)lls, mother fu(Bleep)ker.

MS: Oh, they're saying.

GS: Suck my di(Bleep)ck, lick my ba(bleep)lls, sh(bleep)it on you.

MS: Ba, ba, ba, ba, ba.

GS: Suck my di(Bleep)ck, lick my ba(bleep)lls, sh(bleep)it on you, mother fu(Bleep)ker.

* *

5/25/98

* *

MS: When I was young I found out I was gay. I found out I was gay and I found a new way to arouse myself. The love I find, I like it from behind, but it just ain't right. When I walk around, I don't feel so tight. (Flatulent sound). When I am with you, I give my buns to you. This ain't no love

I'm giving, I give you all a boy could give you. Bend me over and I'm screaming oh. anal love.
MV: Rectum(?).
MS: Anal love, touch me baby, anal love, touch me baby, anal love.
MV: Wrecked him? Hell it damn near killed him.

* *

5/26/98

* *

MV: Turn that radio down. Listen to that pervert on the radio and I can hear it.
MC: Hey listen.
MV: Still sharper than these bastards in this town.
MC: I really do. I got, I want to know the butt thing you talked about earlier, but first.
MV: About the butt thing, maybe you're an expert. Here's a guy that knows his butt.
MC: I mean, I love ass, women. But listen, I'll get to that, but first I wanted to.
MC: No, wait a minute, wait a minute, let's clarify one thing. In other words, let's, let's I mean, you know.
M2: (Unintelligible).
MV: Are you saying that you enjoy giving anal sex to women? Is that what you're saying?
MC: Do I enjoy anal sex for women? Yes.
MV: Okay.
MC: Okay, now, but before I get into sex can you.
MV: Isn't it awful dirty down there though?
MC: No, but could you be kind enough to tell me, I have two dogs. Where do they rank please? And then I'll get back to that.
MV: We're not talking about bestiality here today, okay?
MC: No, no.
MV: We're not doing doggie sex.
MC: No.
MV: Don't worry. he's more interested in a lot.
MC: I have a girlfriend. I'm not Cuban.
MV: Big time.
MC: She has, I tell you.
MV: That's his main thing.
MC: One of these most beautiful butts I've ever seen in my life.
MV: Yeah.
MC: And there's no hair on it. Not even in the hole.
MV: It wasn't what it looked like that he was concerned about.
MC: Uh huh.
MV: He was talking about the human.
M2: Rectum.
MV: As being (Sound of rooster) disgusting.
MC: Oh, I.
MV: To me that women's behinds are like more sanitary?
MC: Well, you know, yeah, you know, I have a feeling, maybe, usually when I'm in the mood for it, she'll clean it, you know?

WQAM

3.

MV: She'll what?

MC: She'll do an en-um(?).

MV: She'll do an enema?

MC: Yeah.

MV: So you're also, not only are you into anal sex but you're also into enemas.

MC: No, no. I'm not into it. But, I mean, (Sound of rooster) cause one time when I did it with her, I got a little dirty. Kind of grossed me out a little bit. So she was kind of, she even suggested, I'll do that the next time, you know, since she's done that it doesn't work.

MV: Okay, you know what.

MC: But, you know. I'm satisfied with just.

MV: Wait a minute, wait a minute, this is very educational. This is good information. So all you guys out there who want to be looked upon with greater favor by the majority, by the straight bastards out there, if you just do a little douche before you start engaging in these acts, you'd be much more acceptable.

MC: Absolutely.

* *