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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of

Robert B. Taylor
Jupiter, Florida

For Renewal of Station WTRU (FM)

Jupiter Broadcasting Corp.
Jupiter, Florida

For a Construction Permit

MM Docket No. 92-114

FCC File No. BRH-880926UJ

FCC File No. BPH-890103MD

To: Honorable Walter C. Miller
Administrative Law Judge

OBJECTION TO MOTION FOR PARTIAL SUMMARY DECISION

1. Jupiter Broadcasting Corp. (JBC), pursuant to Rule 1.251, on May 22, 1992, requested a summary decision in its favor of the renewal expectancy aspects of the standard comparative issue specified in this proceeding. JBC's motion for partial summary decision should be dismissed because it offers only accusations and unproven allegations.

In the data that follows, I will refer to myself, Robert B. Taylor, as "Taylor."

2. PUBLIC FILE. In paragraph 37 on page 21 of its motion, JBC alleges that "Robert Taylor placed no issues/programs lists in the ... public file." JBC then concludes that this is proof that WTRU (FM) "broadcast no programs treating issues of community concern." JBC also includes a hearsay statement comprised of unsubstantiated allegations from a disgruntled former employee, Steve May, which is not notarized and

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therefore is not an affidavit. Although this undated statement was signed "Steve May," this is an alias, not the man's legal name. Miss McKin, who JBC alleges was WTRU's "sole clerical worker" for a period of twenty months during 1985 and 1986, was in fact employed for only eight months and was one of several employees working in that office.

The fact is that for reasons of security, the WTRU (FM) public file was kept in Taylor's office at the radio station and was not accessible to all of Taylor's employees. The only valid conclusion that JBC may be able to come to is that a) either Taylor's public file may have been incomplete, or, b) JBC was not provided access to all the materials in the public file including data concerning issues and programs, or c) both a and b.

In paragraph 39 on page 22 of its motion, JBC states "Robert Taylor, by his own admission, has broadcast no issue oriented programming..." By that statement, JBC shows it is simply making things up. Taylor never said or implied anything like that. Where is JBC's proof? The fact is WTRU (FM) did broadcast issue oriented programming as well as local news, local announcements and local interviews.

3. WTRU (FM) BEING SILENT. In paragraph 41 on pages 22 and 23 of its motion, JBC alleges that Taylor "initiated" an FM frequency change in the Melbourne, Florida, FM rulemaking. JBC's allegation is false. This frequency change was initiated by Silicon East Corporation, the licensee of WAOA (FM), Melbourne, Florida.

In the same paragraph, JBC goes on to accuse Taylor of a) voluntarily taking WTRU (FM) silent, and b) of not putting the AM station on the air at the same time WTRU (FM) resumed broadcasting. a) The fact is the

commission knew and approved at all times of WTRU (FM) being silent.

b) Although JBC implies otherwise, Taylor did not specifically tell the commission that the AM would resume broadcasting exactly concurrent with WTRU (FM). There were in fact compelling reasons relating to technical equipment that kept the AM silent at that time.

In paragraph 18 on page 13 of its motion, JBC alleges that Taylor told Miss McKin that she was fired because "he was closing the station." This is not the reason Miss McKin was fired and I categorically deny making that statement. I also deny JBC's allegation that I "began taking steps to turn off WTRU." That decision was not made until the end of March, 1987.

The reason WTRU (FM) was forced to be silent for as long as it was is because of the out-of-the-blue petition by WAOA (FM), Melbourne, Florida. In March, 1987, Silicon East Corporation, the licensee of WAOA (then WVTI-FM) petitioned the commission to change the table of assignments to order WTRU (then WKSX) to change to 99.5 instead of 107.1. The problem I faced was the station was operating on 96.7 at the time. To manufacture and install a new FM antenna would cost me \$20,000 to \$25,000. I would pay for it using the reimbursement money from WRFM, 95.7, Homestead, as directed by the commission. I could not afford to pay for buying and installing two new FM antennas within months of each other; one tuned to 107.1, then if the Melbourne petition prevailed, buy another one tuned to 99.5. I was never offered payment by the Melbourne licensee to buy a second antenna tuned to 99.5. So I took WTRU (FM) silent until the commission could decide which frequency I should ultimately use,

107.1 or 99.5. It was the only course of action any prudent person would take in similar circumstances.

4. SILENCE AUTHORITY. In paragraph 43 on page 25 of its motion, JBC alleges that "Robert Taylor misrepresented facts and lacked candor in obtaining silence authority..." The fact is Taylor was completely honest in all his dealings on the phone and in correspondence with the commission, and JBC has failed to show that he was not.

The only evidence JBC offers on this subject is JBC's allegation that WTRU (FM) must have been off the air on March 26, 1987, because a process server allegedly came to the radio station on that date and later submitted a report that stated "the premises of the radio station appear(s) to be unused for a period of time." This conclusion could have been made because the lawn needed mowing, the building needed paint and the door was locked. We routinely kept the front door locked because the building was across from a large field at the end of a dead-end dirt road, not in a business district. With a small staff it was a matter of securing the premises. However JBC implies that a) the process server's observation must be accurate, and b) WTRU (FM) must have been off the air because of the process server's statement. In fact, WTRU (FM) and the AM were both broadcasting that day and both stations were on the daily through March 31, 1987. Therefore, there was no misrepresentation or lack of candor.

5. CONCLUSION. In paragraph 42 on page 23 of its motion, JBC states: "The renewal applicant, like Mr. Taylor, had misrepresented facts in its various requests to keep its station silent." In this statement, JBC is

again attempting to mislead the commission into thinking that I was less than honest in this matter. The fact is I was completely honest and did not misrepresent any facts. The facts were just as I stated them in my correspondence with the commission. JBC provides no evidence that I have misrepresented any facts. Where is JBC's proof?

In footnote #27 on page 14 of its motion, JBC states: "Apparently Mr. Taylor simply pocketed the funds for this channel change and turned WTRU off." What I would like to know is how the commission can allow Matthew Leibowitz's law firm, which has recognized standing before the commission, to enter into the public record a statement like that which is obviously a highly slanderous unproven allegation against my personal integrity. Of course I did not "pocket" the funds.

In paragraph 29 on page 18 of its motion, JBC states: "This second WTRU (FM) channel change was an unsuccessful attempt to obtain a frequency that could be upgraded to a higher class FM allotment." This allegation by JBC is simply not true. The fact is that I was faced with a choice of either fighting at the FCC to keep 107.1 or reluctantly agreeing to accept 99.5. I chose the latter. If I had decided to fight for 107.1, WTRU (FM) would have been forced to^{be} silent even longer than it was. Further, there was no opportunity to upgrade on 99.5. I know this is a fact because I requested an upgrade on 99.5 and was told this was precluded due to a new FM station at Vero Beach on 99.7. However, if I had been able to hold onto 107.1 as I originally intended, WTRU (FM) would be broadcasting today with at least 6000 watts ERP and possibly 25,000 watts.

In the same paragraph and page, JBC draws the following startling

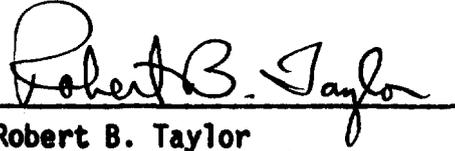
conclusion: "Unquestionably WTRU (FM)'s two years of silence was caused solely by Robert Taylor for the financial benefit of Robert Taylor." Of course this incredible statement is completely false and is offered by JBC with no proof as part of JBC's effort to intimidate, harass and slander me. The fact is that the opposite is true...by being forced to remain silent, I suffered substantial operating losses that could never be recouped.

This proceeding is about the license renewal of WTRU (FM). It has nothing to do with WEXI (AM), which was another, separate proceeding. Yet JBC has riddled its WTRU motion with accusations and allegations about WEXI in an attempt to obfuscate the facts and confuse the commission.

Throughout its motion, JBC implies, infers or states that I have broken commission rules and/or have displayed lack of candor. JBC states its conclusions, allegations and accusations first, then in its argument it refers to these as though they were fact. I am an honorable and decent person. I served for over twenty years as a commission licensee. All of my stations have operated in the public interest and served their communities. I have served my country as a soldier in the United States Army during the war when I was stationed in South Viet Nam. I resent that JBC is using the commission's process as a vehicle to launch these slanderous attacks against my character and integrity.

I oppose the granting of JBC's motion and ask that it be dismissed for the reasons set forth herein.

Respectfully submitted,



Robert B. Taylor
Licensee, WTRU (FM)

June 5, 1992

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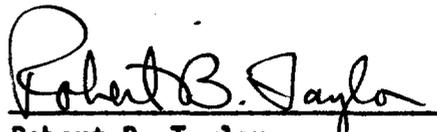
CERTIFICATE OF SERVICE

I, Robert B. Taylor, hereby certify that the attached Objection to Motion for Partial Summary Decision submitted on my behalf was sent the 5th day of June, 1992, to the following persons by U.S. mail, first class postage prepaid:

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