

ORIGINAL

PIPER & MARBURY

1200 NINETEENTH STREET, N.W.
WASHINGTON, D. C. 20036
202-861-3900

TELECOPIER 202-223-2085
CABLE PIPERMAR WSH
TELEX 904246

RECEIVED

MAR 8 - 1989

MAR 9 10 00 AM 1989
Federal Communications Commission
Secretary

**AUDIO SERVICES
DIVISION**

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530

WRITER'S DIRECT NUMBER

March 8, 1989

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: Radio Station WKSJ-FM, Jupiter, Florida
FCC File No. BRH-880926UJ

Dear Ms. Searcy:

On January 3, 1989, we filed, on behalf of Jose Oaks, a petition to deny the license renewal application of the radio station WKSJ in Jupiter, Florida. Today, while reviewing the FCC's folder of petitions to deny filed against other Florida stations, we came across the attached "Opposition to Petition to Deny" filed by Robert B. Taylor, owner of WKSJ.

This opposition was never served on the undersigned, in violation of the Commission's rules, and you will note that a certificate of service is not attached to it. The petitioner wishes to reply to the opposition and will do so by March 22, 1989. Therefore, we respectfully request that the Commission take no action on the pending license renewal application before that time.

Sincerely,


Nora E. Garrote

Attachment

cc: Barbara Kreisman, Esq.
Mr. Alex Felker
James Bayes, Esq.
Mr. Robert Taylor

DUPLICATE
RECEIVED

JAN 31 1989

January 27, 1989

MAR 9 10 34 AM '89
AUDIO SERVICES
DIVISION

Robert B. Taylor, Licensee
WKSJ (FM)
500 North Delaware Blvd.
P.O. Box 848
Jupiter, Florida 33458

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: File No. BRH-880926UJ

Dear Ms. Searcy:

Please find enclosed for filing the original and two copies of an "Opposition To Petition To Deny."

This is in reply to a "Petition To Deny" filed on January 3, 1989, by Jose Oaks.

Please call the undersigned at (407) 744-6398 should there be any question about this matter.

Sincerely,


Robert B. Taylor

RBT:caft

Enclosures

RECEIVED

BEFORE THE JAN 31 1989
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Mar 9 10 34 AM '89
RECEIVED
AUDIO SERVICES
DIVISION
MAR 8 - 1989

In re Application of

U.S. Three Broadcasting Corp.
(Robert B. Taylor)

For Renewal of License of
FM Station WKSJ,
Jupiter, Florida

To: Chief, Mass Media Bureau

Federal Communications Commission
Office of the Secretary
File No. BRH-880926UJ

OPPOSITION TO PETITION TO DENY

1) "Jose Oaks" ("Petitioner"), asserts in his Petition To Deny that he "resides seasonally and has a place of business within the listening area of WKSJ." With that statement, Mr. Oaks has tried to deliberately mislead the Commission. In fact, Mr. Oaks is not a legal resident of the state of Florida, and the addresses he gives in Boca Raton are not within the WKSJ coverage area. Under FCC rules, the usable coverage area of an FM station extends only to the station's 1 Mv/M or 60 dbu circle. The "local" addresses given by Mr. Oaks are approximately 42 miles south of the WKSJ tower site in Jupiter, or approximately 27 miles beyond the coverage area of WKSJ.

2) a) The Commission should be aware that "Jose Oaks" Petition To Deny is a sham and an abuse of the Commission's rules. "Jose Oaks" is a front for a man named Kenneth Dawson whose home address is 6479 Las Flores Drive, Boca Raton, Florida 33433. In his Petition To Deny, "Jose Oaks" gives the Commission a sworn statement that he has "seasonally resided at 6479 Las Flores Drive, Boca Raton, Florida 33433, during this past year."

Since this is the personal residence of Kenneth Dawson where Dawson lives with his wife and children, apparently "Jose Oaks" means that when he came down to Florida to visit last winter he stayed overnight in the guest bedroom at Dawson's house. This hardly makes him a resident. Yet he is attempting to mislead the Commission into believing that he is a Florida resident and lives within the WKSJ coverage area, when neither is true.

b) All the material presented in "Jose Oaks" Petition To Deny was assembled and prepared by Kenneth Dawson. On October 21, 1988, Dawson, by his attorney, Nora E. Garrotte of Piper & Marbury (the same attorney he used to prepare the "Jose Oaks" Petition To Deny), filed with the secretary of the Commission a pleading entitled "Reply Comments In Opposition To Counter-proposal of U.S. Three Broadcasting Corporation" as part of MM Docket No. 88-366, RM-6260, which contains the exact same charges, allegations, and exhibits that have been presented to the Commission a second time as "Jose Oaks" Petition To Deny.

c) Kenneth Dawson's motive is money. He wants a payoff. He wants me to pay him. He's using the Commission's processes to achieve his own personal financial gain. Here is what happened:

Fall 1986. Dawson approached me at the WKSJ office in Jupiter asking for employment. I politely turned down his offer. He then asked me to sell the stations to him.

April 22, 1988. Dawson sent me a letter (Exhibit 1). In the last paragraph on the first page, Dawson states

that "under my direction" (Dawson's direction) the Jupiter stations could become successful. While he doesn't make it clear whether he is seeking employment or seeking to purchase the stations, he is apparently asking me to sell to him because on page 2 of his letter he discusses financing.

November 22, 1988. Kenneth Dawson and I met for an hour at Denny's Restaurant, 4102 Blue Heron Blvd., Riviera Beach, Florida. During this meeting Dawson suggested to me that the same material he had filed in his October 21, 1988 pleading (see b above) would be used against me as part of the FCC license renewal process for WKSJ (FM), Jupiter, unless I agreed to employ him as manager of the Jupiter FM and agreed to allow him to purchase stock in the licensee corporation equaling 20% to 25% of the equity.

November 27, 1988. On this date and another day in early December 1988 Dawson telephoned me at the WKSJ office and repeated his demands. He again threatened to take action against my license if I didn't capitulate. He pointed out that he had to file at the FCC by the end of December so I should accede to his demands now in order to avoid his filing.

January 3, 1989. Dawson files the Petition To Deny

using the name "Jose Oaks."

January 20, 1989. On this date Dawson again telephoned me at the WKSJ office. Admitting to me verbally that he had filed the "Jose Oaks" Petition To Deny, Dawson told me he would withdraw his Petition at the FCC if I paid him and hired him. In effect he is using the FCC procedures to blackmail me.

3) "Jose Oaks" again attempted to give false information to the Commission on page 3 of his Petition. "Oaks" states: "Each complaint contains similar allegations that...applicant fraudulently used the station's facilities to promote applicant-sponsored contests for which prizes were openly promised but never awarded." Here, "Oaks" is again deliberately trying to mislead the Commission as to what the complaints contain. In fact, none of the complaints contain allegations as "Oaks" describes them.

a) None of the complaints allege that contests were promoted on WKSJ. Instead, the complaints allege that WKSJ advertised and conducted a series of listener parties. "Oaks" is trying to mislead the Commission into believing that advertising listener parties on WKSJ was the same as advertising contests. The word contest does not appear in the complaints (or in the WKSJ advertisements).

b) With his statement, "Oaks" is also trying to mislead the Commission that WKSJ did not deliver prizes that were awarded. The complaints do not suggest this. The complaints refer to four specifically described

prizes. In fact, not on the air, but rather at the parties, off-the-air, WKSJ awarded and delivered dozens of prizes to listeners in attendance. These prizes were awarded by random drawings, not by contests.

c) The complaints falsely state that "all expense paid vacations" were advertised as prizes. While this is not true, it should be noted that "Oaks" says that such statements were made on-the-air on WKSJ ("used the station's facilities"). Actually, the complaints do not allege that such statements were made on-the-air on WKSJ. Instead the complaints vaguely state "through its radio station" which refers to the radio station co-sponsored parties at the restaurants or the WKSJ participation in the car show at the mall.

4) The following is a detailed explanation of what actually happened regarding the three listeners who filed complaints:

The WKSJ licensee, U.S. Three Broadcasting Corporation, authorized a management employee, WKSJ General Sales Manager Robert L. Cox, to handle station promotions. The allegations concern promotions organized by Mr. Cox during the fall of 1986.

In December 1986 I became aware that Mr. Cox was not administering his promotions as carefully as he should have. This came to my attention during a period of a week to ten days just before Christmas when I received a few telephone calls in my office at the radio station from persons inquiring about prizes. I immediately conducted a personal investigation which I completed the weekend of December 27-28, 1986. As a result of the information

I uncovered, I decided that the employees responsible should be relieved of their duties. On Monday morning, December 29, 1986, as each arrived for work at the radio station, I dismissed from employment, effective immediately, the following station employees:

- a) Robert L. Cox, General Sales Manager
- b) Sherri L. McKin, Sales Secretary and Assistant to Mr. Cox
- c) Deborah S. Kessler, Account Executive
- d) Lorraine Mustapick, Account Executive

While I placed responsibility for the poor administration of the promotions directly on Mr. Cox, I felt his assistant, Mrs. McKin, and two of his sales associates who worked with him on the promotions should have been aware of what he was doing. Since these three had failed to alert me to the facts of these events, either at the time or afterward, I felt that all four employees had to be fired.

My investigation produced the following information:

- a) Mr. Cox had organized a series of weekly promotions called "Mid-week Attitude Adjustment Parties." These were happy hour promotions with local restaurants and night spots. Mr. Cox scheduled a total of six of these events during late October, November and early December 1986. Each was held for an hour and 37 minutes, from 5:00 PM to 6:37 PM on Wednesday evenings at the sponsoring establishment. The on-air announcements on WKSJ and advertising flyers distributed in advance stated that WKSJ would be "giving away prizes." Other than saying that lunches and dinners would be given away and

that there would be free refreshments at the parties, no other specific prizes were announced. The word "contest" was not used. The ads invited listeners to attend a party. The ads did not invite listeners to enter any contest. Prizes were awarded at the night clubs, not at WKSJ radio or on the air. In some cases as part of the promotion, Mr. Cox would find a pay phone at the club, call the station, and talk on the air live with the evening announcer on duty. The nature of the call was to invite listeners to come join the party at the club.

b) Mr. Cox had also organized a promotion during Thanksgiving weekend 1986 which involved a car show co-sponsored and held at a local shopping center, the Jupiter Mall. Prizes included individually inscribed trophies which were custom made by WKSJ and awarded to winners of the antique car judging. I personally saw the trophies when they were delivered to the radio station by the manufacturer and I observed the winners as they stopped in at WKSJ to pick up their trophies.

c) My investigation showed that Mr. Cox had obtained a variety of prizes which were subsequently awarded and delivered to listeners. However, I discovered that one of Mr. Cox's suppliers was delivering travel trips that were not exactly the way Mr. Cox described them. This supplier was a local travel agent named Randy Rovins, also known as Randy Stevens. Mr. Rovins operated a travel business known as Passkey-Hollywood Tours at 2525 Old Okeechobee Road, Suite 1, West Palm Beach, Florida 33409 (see Exhibit 2, copy of letter from Rovins to Taylor). Mr. Rovins provided the trips in a

barter arrangement for air time. Mr. Cox provided Mr. Rovins (using the alias of Randy Stevens) with one hour of air time weekly on the station for a program called "Travel Talk."

d) Over a period of three months, January, February and March 1987, I spoke by phone with several persons who claimed they had won prizes. I discovered that Mr. Cox had failed to give anything in writing to winners. The meager written material left by Mr. Cox and Mrs. McKin after their dismissals also failed to list some of the persons who claimed orally to be winners. Nevertheless, I accepted each person's oral claim as valid and proceeded to furnish prizes. Some of the prizes were record albums which were already at our office waiting to be picked up. Others had won dinners for which I personally prepared certificates redeemable at Parker's Lighthouse Restaurant in North Palm Beach. I confirmed these dinners when I personally met with the restaurant manager, then I mailed the certificates to the winners.

For those persons who claimed they had won a particular trip, I tried to get these trips honored by Randy Rovins. In that effort, I spoke with Mr. Rovins multiple times during January and February 1987. In most cases, Mr. Rovins was cooperative. For example, in January a Connie Rodriguez of Lake Park called and claimed to have won a trip to Disney World. On January 22, 1987, I spoke to Mr. Rovins who acknowledged the trip and agreed to provide the necessary paperwork to the winner.

WKSJ had a second trip supplier who was working with me. In early January I arranged with Joe Valle of Crown Cruise Lines in Fort Lauderdale to

provide WKSJ with ten cruises for two to Grand Bahama Island, sailing from the Port of Palm Beach on the cruise ship "Viking Princess." During January and February all of these trips were given by me to those persons who had called claiming to have won a trip or other prize.

e) Three persons who were apparently acquainted with each other and with a North Palm Beach based attorney named Terry McManus agreed to have him file civil complaints on their behalf. All three complaints were subsequently dismissed for lack of prosecution. Here are the details on each of the three as I know them:

1) James Tucker. This man I got to know very well during January and February 1987. I phoned him repeatedly at work trying to satisfy his claims. Mr. Tucker was a resident of Stuart, Florida, who worked at Pratt & Whitney Aircraft, a subsidiary of United Technologies Corp. Part of the problem with Mr. Tucker was that his claims were all oral; he had nothing in writing. Unfortunately, the paperwork left by Mr. Cox and Mrs. McKin had nothing about Mr. Tucker either. To the best of my knowledge, during Mr. Cox's promotions there was never a monetary value mentioned in connection with any trip. However, for a trip only described to him orally, with nothing in writing, Mr. Tucker thought he could tell me all about it including its estimated market value. I phoned Randy Rovins

and told him about James Tucker and the trips he described. Mr. Rovins claimed that he never agreed to provide a trip to Hawaii, and that perhaps Mr. Tucker was thinking of the Acapulco trips that Rovins had agreed to provide. There is nothing in writing anywhere about the two trips Tucker claims to have won. Neither trip was described on the air on WKSJ either in prepared announcements or during Mr. Cox's phone calls from the clubs.

It was publicly announced in advance that the WKSJ promotion ended at 6:37 PM. It was Mr. Cox's practice to have his own private party at the club each Wednesday night starting when he went off duty as the promotion ended at 6:37 PM. At that time Mr. Cox would gather a table of friends and his wife to share cocktails and conversation. I was told later by persons who had attended these events that Cox would sometimes feel the effects of the liquor and become quite noisy. While I have no knowledge of this happening, I think it is entirely possible that on the occasions Tucker cites he may have shared a drink with Mr. Cox during which Cox's alcohol fueled ego prompted him to award imaginary prizes to a gullible Mr. Tucker. I don't know. I wasn't there. I think it's either that or Randy Rovins deceived Mr. Cox and/or me about what trips he had

agreed to provide.

In any case, I proceeded to provide prizes to Mr. Tucker. On January 22, 1987, I mailed a certificate to Mr. Tucker's address which was redeemable for dinner for him and his wife at Parker's Lighthouse Restaurant. Tucker had agreed to accept this prize in a phone conversation I had with him that day. At the same time I offered him and his wife the trip for two to the Bahamas on the Viking Princess that I already had arranged. Tucker was non-committal on the Bahamas trip. Subsequently, I talked to Tucker again on January 30, 1987. I again described the Bahamas cruise to him and told him he could schedule it at his convenience through Joe Valle at Crown Cruise Lines. I told him I would call Mr. Valle myself to make reservations for Tucker and his wife. However, instead of accepting the Bahamas trip I offered, Tucker agreed with Mr. McManus to file his complaint.

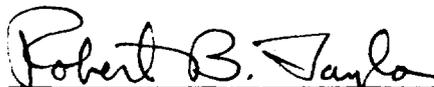
2) Candy Mattingly. I talked with Miss Mattingly twice on the phone in early February 1987. She claimed to have won an Acapulco trip as a prize at the car show, but had nothing in writing. Again I questioned Randy Rovins. He said yes, he had agreed to provide Mr. Cox with certificates redeemable for hotel accommodations at a certain hotel in Acapulco. Rovins stressed to me that these certificates

were for lodging only and did not include meals or transportation. When I explained this to Miss Mattingly she refused to accept it. So, as an alternative, I offered her the cruise for two to Grand Bahama on the "Viking Princess". She declined this also and chose to allow Mr. McManus to file her complaint instead.

3) Keith Koemm. I don't remember talking to Mr. Koemm, but I did speak by phone with his wife, Marlana. They claimed to have won an Acapulco trip but had nothing in writing. I explained the Acapulco trip was lodging only. She said if transportation wasn't included they wouldn't accept it. I also offered the Koemm's a Bahamas cruise for two from Crown Cruise Lines but they weren't interested. Instead they decided to let Mr. McManus file their complaint.

f) In summary, the president of the licensee personally took charge of this situation and spent much time, effort and money working to resolve it satisfactorily. All parties involved were treated fairly. In a decisive yet fair manner, four careless employees were swiftly discharged. Persons claiming without proof that WKSJ owed them something were all given comparable prizes. If they didn't receive the prize it was because they refused it. Every person was spoken to with courtesy and politeness.

Respectfully submitted,



Robert B. Taylor, Licensee, WKSJ (FM)
500 N. Delaware Blvd., P.O. Box 848
Jupiter, Florida 33458

Date: January 27, 1989

KENNETH DAWSON
6479 Las Flores Drive
Boca Raton, Florida 33433
(407) 487-5252

April 22, 1988

Mr. Robert Taylor
P.O. Box 848
Jupiter, Fl. 33468

Dear Bob;

I hope all is well.

Since our last meeting, I have been very active in the Palm Beach radio market. I was instrumental in finalizing a most successful sale for the Aspinwalls of WPBR Radio. My duties included pumping up the sales for a more attractive bottom line, format modification and stabilization, and engineering cleanup.

I am currently General Manager/Sales Manager for Radio Station WPOM. In my capacity, I have increased sales over 50%, to a monthly base of 70K. The station is now profitable for the first time in many years. I also produced a turnaround in programming by using my expertise in audience development, and by locating and hiring an experienced and enthusiastic staff dedicated to success and team goals. WPOM with it's Urban Adult Contemporary format, is the Hot station in Palm Beach County.

However, because the WPOM ownership has not honored business commitments they made both to me and my staff, I am resigning my position.

I cannot emphasize too strongly my view that your stations could become, under my direction, one of South Florida's most successful broadcast properties. Along with the key sales and on air personnel I will bring to your station from WPOM, the good will I have personally developed with community, business and elected officials will further insure a profitable operation. The ability to split program both of your stations will enable you to achieve the demographic mix necessary for maximum ratings. Furthermore, you will also neutralize and capture the sales of the Urban station in Boynton Beach.

Robert Taylor
April 22, 1988
Page 2

The capital necessary to achieve the profitability that will be yours is minimal. Funding for Urban stations is available, and I have contacts who along with myself would be willing to discuss financing if you desire.

I trust you will contact me at your earliest convenience so that we may further discuss this most exciting venture. On behalf of myself and the staff of WPOM, I look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Dawson', with a long horizontal flourish extending to the right.

Ken Dawson

PASSKEY HOLLYWOOD TOURS

January 9, 1987

Mr. Bob Taylor
c/o WKSJ Radio
500 N. Delaware Blvd.
Jupiter, Florida 33458

Dear Bob,

Pursuant to our conversation regarding proposed Reggae Show, please accept the following negotiated terms with Mr. Cox:

1. Air Time - 12-1 a.m. Sunday evenings, sixty minutes, once a week.
2. Format - Caribbean music, primarily Reggae, hosted by Randy Stevens - tape or live open for discussion. Show called, Reggae Vision.
3. Trade Off Agreement - Three double occupancy accommodations in a beachfront property in Runaway Bay, Jamaica. One hundred percent trade for hour with sponsorship rights to Randy Stevens. Travel Certificate to be delivered at monthly intervals with a 24 week commitment.
4. Advertising Support - WKSJ will furnish negotiated amount of fliers for distribution and 15 Radio spots weekly to be run to promote Reggae Vision.

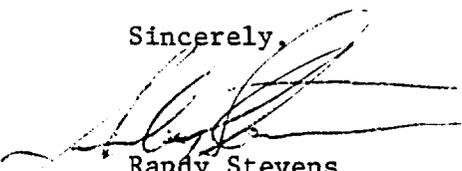
Passkey.Hollywood Tours will run promotion in newspaper ad in conjunction with corporate advertising campaign.

Bob, the above terms were agreed to by Bob Cox and are presented for your consideration. We were in the midst of moving up the time slot to 10-11 p.m.

The travel give-aways are at your discretion for promotional purposes.

Please advise on terms outlined herein. Looking forward to meeting you,

Sincerely,


Randy Stevens
Passkey.Hollywood Tours

RS/ar