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FEDERAL COMMUNICATIONS COMMISSION

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| In re |) | MM DOCKET No.: | 97-122 |
| |) | | |
| GERARD A. TURRO |) | File No.: | BRFT-970128YC |
| |) | | |
| For Renewal of License |) | File No.: | BRFT-970129YD |
| For FM Translator Stations |) | | |
| W276Q(FM), Fort Lee, NJ, |) | | |
| and W232AL(FM), Pomona, NY |) | | |
| |) | | |
| MONTICELLO MOUNTAINTOP |) | | |
| BROADCASTING, INC. |) | | |
| Order to Show Cause Why the |) | | |
| Construction Permit for FM |) | | |
| Radio Station WJUX (FM), |) | | |
| Monticello, NY, |) | | |
| Should Not Be Revoked |) | | |

Volume X

Pages: 1305 through 1477

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Date: December 9, 1997

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D C. 20554

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 BROADCASTING, INC.)
)
 Order to Show Cause Why the)
 Construction Project for FM)
 Radio Station)
 WJUX(FM),)
 Monticello, NY, Should Not)
 Be Revoked)

Courtroom 1
 FCC Building
 2000 L Street, N.W.
 Washington, D.C.

Tuesday,
 December 9, 1997

The parties met, pursuant to adjournment,
 at 9:05 a.m.

BEFORE: HON. ARTHUR I. STEINBERG
 Administrative Law Judge

APPEARANCES:

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WESLEY WEIS
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(201) 501-0101

I N D E X

| <u>WITNESSES:</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> | <u>VOIR DIRE</u> |
|----------------------|---------------|--------------|-----------------|----------------|------------------|
| Paul A. Einreinhofer | -- | | | | |
| By Mr. Helmick | -- | 1309 | -- | -- | -- |
| By Mr. Aronowitz | -- | 1322 | -- | -- | -- |
| Wesley Weis | -- | | | | |
| By Mr. Helmick | -- | 1336 | -- | 1443 | -- |
| By Ms. Friedman | -- | 1414 | -- | 1449 | -- |
| By Mr. Riley | -- | -- | 1431 | -- | -- |

E X H I B I T S

| <u>IDENTIFIED</u> | <u>RECEIVED</u> | <u>REJECTED</u> |
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Turro:

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| | | | |
|----------------|------------|----------------|-----------|
| Hearing Began: | 9:05 a.m. | Hearing Ended: | 3:38 p.m. |
| Recess Began: | 12:28 p.m. | Recess Ended: | 1:49 p.m. |

1 P R O C E E D I N G S

2 JUDGE STEINBERG: Back on the record, please.

3 Who is the next witness?

4 MR. NAFTALIN: Your Honor, It's Paul A.

5 Einreinhofer.

6 JUDGE STEINBERG: Okay, would you please step up?

7 Could you raise your right hand, please?

8 Whereupon,

9 PAUL A. EINREINHOFER

10 having been first duly sworn, was called as a witness herein

11 and was examined and testified as follows:

12 JUDGE STEINBERG: Please be seated. State your

13 name and address for the record.

14 THE WITNESS: Paul Einreinhofer, 327 Ridgeway

15 Avenue, Paramus, New Jersey.

16 MR. NAFTALIN: Your Honor, Paul Einreinhofer is

17 available for cross-examination on the contents of Turro

18 Exhibit No. 3, a copy of which has been placed before him.

19 JUDGE STEINBERG: Okay. And who is going to go

20 first? Mr. Helmick.

21 CROSS-EXAMINATION

22 BY MR. HELMICK:

23 Q Good morning, Sergeant Einreinhofer.

24 A Good morning.

25 Q How long have you known Jerry Turro?

1 A 1993 to the present.

2 Q Is your acquaintance with him strictly on a
3 professional basis?

4 A That's how we met; yes, sir.

5 Q That's how you met.

6 Do you deal with or do you have any dealings with
7 Jerry Turro other than on a professional basis?

8 A You have to explain what you mean by "dealings".

9 Q Are you a personal friend of his?

10 A Oh, I consider him a friend; yes, sir.

11 Q Since 1986, your testimony says you have been the
12 county communications officer for the Bergen County Police
13 Department, and 911 coordinator, and in that capacity you
14 direct the operations of the Bergen County Office of
15 Emergency Management; is that correct?

16 A Generally, yes. It's a progression of titles. My
17 real job is a sergeant in the county police. The county
18 police run the Emergency Management Division. I'm a deputy
19 coordinator of the Emergency Management Division. When we
20 started to explore 911, I was appointed the 911 coordinator.
21 So as of this date, yes.

22 JUDGE STEINBERG: But your major duties are as a
23 sergeant in the --

24 THE WITNESS: I am assigned full time to Emergency
25 Management, and I maintain the operations of the

1 communication systems for the county police, and the
2 remainder of the county -- the county 911 system, plus
3 deputy coordinator of the county's emergency management. We
4 have a lot of titles; a lot of jobs.

5 BY MR. HELMICK:

6 Q Do you know approximately when in 1994 -- well,
7 you state that -- did Mr. Turro approach you and offer his
8 assistance to provide the emergency communications
9 facilities, be it is translator?

10 A I was at Mr. Turro's location in 1993, when we had
11 a ribbon cutting with the county executive. At that point
12 Mr. Turro made statements to the county executive that he
13 would be willing to do whatever he could to support the
14 county for emergency management or whatever, to get
15 information out to the public.

16 Q When you say "ribbon cutting," where was this at?

17 A In Dumont.

18 Q This was in connection with what? Do you know?

19 A When his station went on the air.

20 Q In 1993?

21 A I believe so; yes, sir.

22 Q Would that have been -- do you know which station
23 it was?

24 A No, sir.

25 Q Do you know where it was located?

1 A Dumont.

2 Q The studio was in Dumont, as far as know?

3 A Yes, sir.

4 His offices, that's where he went.

5 Q Have you ever heard of a station in Franklin
6 Lakes, New Jersey?

7 MR. NAFTALIN: Objection, Your Honor. Irrelevant
8 to the proceeding.

9 JUDGE STEINBERG: I think we're just trying to
10 place in the context of where this happened, and that's the
11 only purpose in which the --

12 MR. NAFTALIN: Okay, I have no objection -- I have
13 no objection if it's just contextual.

14 JUDGE STEINBERG: That's the way I understood it.

15 MR. NAFTALIN: Okay, that's fine. I withdraw the
16 objection if it's just contextual.

17 THE WITNESS: Yes.

18 BY MR. HELMICK:

19 Q So it was in conjunction with the Franklin Lakes
20 station going on the air that this ribbon cutting took
21 place?

22 A He went on the air. That's all I know.

23 Q All right, that's fine.

24 A The context of it, I don't know.

25 Q Okay. Now, I would like you to your statement on

1 page 1, the second paragraph, where you state, "In 1994, Mr.
2 Turro offered to assist the Bergen County Office of
3 Emergency Management by offering use of his translator
4 station facilities in Portland, New Jersey."

5 Is this separate and -- is your testimony you said
6 he approached you in 1993, and offered -- made an offer of
7 his services. Is that different from your written
8 statement?

9 A I don't believe so.

10 Q Well, you said on the stand here that Mr. Turro
11 approached you in 1993 and offered his facilities to the
12 county.

13 MR. NAFTALIN: Objection, I think that
14 mischaracterizes the witness's testimony.

15 JUDGE STEINBERG: I think I heard it differently.

16 MR. NAFTALIN: County executive?

17 JUDGE STEINBERG: We don't suggest anything.

18 MR. NAFTALIN: Okay.

19 JUDGE STEINBERG: But if he's mischaracterizing
20 your testimony, just tell him that he is.

21 THE WITNESS: You know, it started in 1993, if we
22 had a conversation in '94, '95, '96, the principal is still
23 the same. It was still the offering. I'm sure he did again
24 in '94, because that's when we were beginning to talk about
25 911, and I'm sure we had more conversations which

1 precipitated my 1995 letter regards to 911.

2 Q All right. Have you ever asked any other stations
3 in Bergen County to assist the Office of Emergency
4 Management?

5 A No, sir.

6 Q Is there a reason why you haven't asked any other
7 stations?

8 A Didn't know of any other ones.

9 Q You didn't know of any other ones.

10 On page 2 of your statement, in the second
11 paragraph you refer to a cooperative arrangement between
12 Bergen County Office of Emergency Management and Jukebox
13 Radio.

14 What do you mean -- what did you mean by
15 "cooperative arrangement"?

16 A I guess, cooperation is the relevant term here.
17 We spoke to Mr. Turro in regards to providing information
18 out to the public, a method where we could direct people
19 calling 911 in a disaster type situation where -- the best
20 example I can give is a pipeline explosion that happened in
21 central New Jersey and the 911 systems were overloaded.
22 Excuse me, I have a cold.

23 Mr. Turro, when we discussed it, he said that he
24 would be willing to go as far as taking his programming off
25 the air and just providing constant information updates if

1 the situation so dictated.

2 Q You aware of any emergency situation where Jukebox
3 Radio programming has been taken off the air and emergency
4 communications put on exclusively?

5 A For the 1991 situation I was referring to?

6 Q Yes.

7 A No, sir.

8 Q How about any other emergency apart from 911?

9 A We had heavy snow conditions.

10 Q In Bergen County?

11 A And we provided information to Mr. Turro, and we
12 opened up a line of communication, and he kept the public
13 dated, I hope, you know, with the information about road
14 closes, what have you.

15 Q This was in Bergen County?

16 A Yes, sir.

17 Q Your statement says that you are not required to
18 retain any records and you don't have any records; is that
19 correct?

20 A Yes, sir.

21 Q So would it be fair to say that your
22 communications with Mr. Turro on emergency communications
23 matters are primarily oral rather than in writing?

24 A Yes, sir.

25 Q Have you ever communicated with Mr. Turro in

1 writing?

2 A Yes, sir.

3 Q But those records are not available?

4 A I don't have any with me, if that's your question.

5 Q Were you asked to provide any records --

6 A No, sir.

7 Q -- by Mr. Turro?

8 A The only record I provided is the letter attached
9 to my statement.

10 Q Do you recall an incident in the summer 1995, when
11 a phone circuit was cut and Jukebox Radio programming was
12 interrupted?

13 A No, sir.

14 Q You don't.

15 Do you recall an incident where the phone line was
16 cut and Bergen County services were disrupted in the summer
17 of 1995?

18 A Phone service was disrupted? I don't recall it.
19 I'm not saying it didn't happen. I just don't recall it.
20 It's awhile ago. We have 70 municipalities in the county
21 with the attendant problems with almost a million
22 population.

23 Q Do you recall receiving a phone call from Jukebox
24 Radio in the summer of 1995, around that time, asking you to
25 declare a weather emergency so that they could use the

1 microwave facilities?

2 A I don't recall; no, sir.

3 Q And you would not recall faxing any such
4 authorization to Jukebox Radio?

5 A No, sir.

6 Q What do you classify, Sergeant Einreinhofer, as
7 emergency messages?

8 A What would I -- could you repeat the question?

9 Q What do you -- what do you mean when you say
10 "emergency messages?" What does that encompass?

11 A That's kind of tough to put your thumb on. That's
12 very wide ranging. It could be as simple as school are
13 closed in a certain area because there is no power at a
14 school to something that's disastrous as roads are closed
15 because of a blizzard, or an emergency because of a chemical
16 fire; you know, it's very wide.

17 Q It doesn't have to be a life threatening
18 situation?

19 A No, sir. They all have the potential to be life
20 threatening.

21 Q Could be something such as a water main break
22 which would be a big inconvenience for a lot of people?

23 A Using your example of a water main break, there is
24 a public health component to that, so obviously it could
25 have an impact on people's public safety.

1 Q Seems that there could be quite a number of
2 emergency messages given the size of Bergen County; is that
3 correct?

4 A There could be.

5 Q Have there, in fact, been a lot of emergency
6 messages?

7 A You know, we don't have a daily interaction
8 because of newsworthy events. Our concern is major event
9 that would encompass a good portion of the population.

10 Q To your recollection, sir, what emergencies, major
11 events as you've defined them, have occurred in Bergen
12 County since 1994, to the best of your recollection?

13 A Chemical fires, winter storms, water main breaks.

14 Q Anything else?

15 A I don't have a list in front of me, sir.

16 Q All right.

17 A I'm sorry.

18 Q Does your office, the Office of Emergency
19 Management provide information as to school closings and
20 weather emergencies to entities other than Jukebox Radio?

21 A We don't per se deal with school closings. And do
22 we provide it to other, if you -- let me back up.

23 General information is disseminated, I think it's
24 about 25 different media outlets we send faxes and have that
25 type of communication. Jukebox is more a one-to-one

1 situation where they call up, and because they are in the
2 county they have a certain spirit towards, you know, the
3 community that they're serving. So I guess that's what
4 their interests are.

5 JUDGE STEINBERG: You started to say "they call
6 up," do they call --

7 THE WITNESS: Jukebox Radio is no different than
8 probably every other media outlet. If it's a newsworthy
9 event, they are on the phone calling us, looking for
10 information. Sometimes the media surrounding Bergen County,
11 you understand we're in the New York Metropolitan market, it
12 doesn't have a wide appeal to other stations where it
13 apparently does to Jukebox Radio.

14 JUDGE STEINBERG: Is Oakland, New Jersey, in --

15 THE WITNESS: Yes, sir.

16 JUDGE STEINBERG: That's in Bergen County?

17 THE WITNESS: Yes, sir.

18 JUDGE STEINBERG: And is there a station located
19 there that you know of?

20 THE WITNESS: No, sir.

21 JUDGE STEINBERG: If there were -- well, that's
22 hypothetical.

23 THE WITNESS: Well, you got to -- let me just --
24 is there a station there? Are there transmitter facilities
25 or a studio? I know there is transmitters up there on top

1 of Skyline Drive, yes.

2 JUDGE STEINBERG: But you don't know what stations
3 they belong to?

4 THE WITNESS: Now I know it's WVNJ, but I don't
5 know.

6 JUDGE STEINBERG: When did you find that out?

7 THE WITNESS: When I called them this spring in
8 regards to an emergency broadcast.

9 (Pause.)

10 BY MR. HELMICK:

11 Q To your knowledge, sir, has the Bergen County
12 Office of Emergency Management recently provided any
13 information on emergency matters to Senator Torricelli?

14 A No, sir.

15 Q If Senator Torricelli made such a request, would
16 you know about it?

17 A If he made the request to me, I certainly, would,
18 sir.

19 Q Well, to your office, you're the head of the --

20 A I'm one of the deputy coordinators. He could
21 communicate with our chief. He's the county coordinator.
22 He's my boss.

23 Q And who would that person be?

24 A Chief Joel Trella, J-O-E-L, T-R-E-L-L-A.

25 Q Would the likelihood of Senator Torricelli had

1 contacted the Bergen County Office of Emergency Management,
2 if that in fact happened, would the likelihood be that you
3 would be aware of that?

4 A The likelihood is yes, but I couldn't give you 100
5 percent certainty.

6 Q Has Mr. Turro from time to time provided you with
7 tickets to say hockey games or something of that nature?

8 A Yes, sir.

9 Q About how often or what is the regularity of those
10 tickets given to you?

11 A Well, I haven't gotten one in probably two years,
12 so they are pretty irregular.

13 JUDGE STEINBERG: Devils tickets or Rangers
14 tickets?

15 THE WITNESS: Devil's.

16 JUDGE STEINBERG: I shouldn't mention the Rangers?

17 THE WITNESS: No, you really shouldn't.

18 JUDGE STEINBERG: Okay.

19 (Laughter.)

20 JUDGE STEINBERG: Much less the Islanders

21 THE WITNESS: I would have been nice if we had the
22 Devils in town when I'm down here; new stadium, new arena.

23 JUDGE STEINBERG: Who is in town?

24 THE WITNESS: Nobody. They are out.

25 JUDGE STEINBERG: Maybe you can go shopping?

1 THE WITNESS: I'm going to go see the place. They
2 say it's very nice.

3 MR. HELMICK: No further questions, Your Honor.

4 JUDGE STEINBERG: Who is going to be crossing for
5 the Bureau?

6 MR. ARONOWITZ: Alan Aronowitz.

7 JUDGE STEINBERG: Okay

8 CROSS-EXAMINATION

9 BY MR. ARONOWITZ:

10 Q Good morning, Sergeant

11 A Good morning.

12 Q I heard Mr. Helmick refer to you as sergeant. Is
13 that the proper --

14 A Paul is fine.

15 Q Paul?

16 A Yes.

17 Q Okay. I kind of like sergeant.

18 A Okay.

19 Q Kind of cool.

20 A Thank you.

21 Q My name is Alan Aronowitz. I'm with the Bureau,
22 in this case the Mass Media Bureau of the Federal
23 Communications Commission, the FCC.

24 A I know the FCC. But the Wireless Bureau.

25 Q Okay.

1 A Yeah.

2 Q Hopefully, I'm just going to ask you a couple
3 questions on your statement. Hopefully, it won't be long.
4 Just quickly, did you write this statement?

5 A I gave it to him. He typed it out. Mr. Naftalin
6 had it typed up. I reviewed it

7 Q You dictated the statement or you just basically
8 gave him the facts and let him --

9 A Yes.

10 Q -- derive the statement from you?

11 A Yes.

12 Q And you reviewed it before you signed it?

13 A Yes, I did.

14 Q Absolutely. Okay.

15 JUDGE STEINBERG: Let's back up a little bit. You
16 said "yes, yes," and there were two questions in there, and
17 I don't know what the "yes".

18 THE WITNESS: I gave him the information. He
19 formulated the statement. I reviewed it and signed it.

20 BY MR. ARONOWITZ:

21 Q And from that, I assume, you did not dictated
22 these exact words --

23 A No.

24 Q -- in this exact order. Okay.

25 And on page 1 where it said, "In 1994, Mr. Turro

1 offered to assist," I think you said with Mr. Helmick, it
2 might be as early as 1993?

3 A Like I said, we were at the grand opening of
4 whatever it was in '93, and Mr. Turro made offers to the
5 county executive, and the county executive said you might
6 want to follow up on that. And it probably wasn't until
7 1994 that we got back with a need.

8 Q All right. So, in '94, you would have gotten back
9 to him, but this would have --

10 A This is, yeah, when we started.

11 Q It's fair to say that this process started in '93,
12 to your knowledge?

13 A Mr. Turro, I mean, we were trying to get a radio
14 station in Bergen County for I don't know how long. It's
15 been a long haul.

16 Q But in 1993, you and Mr. Turro had begun
17 conversations about this. Okay, terrific.

18 And you also testified that you would send out
19 faxes to various radio stations, presuming these radio
20 stations can be heard in Bergen County?

21 A Yes, sir.

22 Q To your knowledge, has any station declined to
23 make an announcement --

24 A No, I --

25 Q -- when you requested it?

1 A -- don't now any declines. I don't know any
2 acceptances either. We don't monitor.

3 Q You don't monitor the emergency announcements?

4 A We don't monitor -- well, you get a -- well, I
5 guess now in the world of emergency action system, Emergency
6 Broadcast System, we don't monitor routine news from these
7 different station; the different media outlets in New York
8 City or New Jersey or wherever.

9 Q Okay. So when you send out these faxes, they are
10 not necessarily emergency announcements; they are more like
11 in the news items and news alerts, schools are closing, or
12 something like that?

13 A They are not emergency broadcast messages.

14 Q Not emergency broadcast messages.

15 Q Have you ever asked any -- has any station
16 declined to make an emergency -- have you ever requested an
17 emergency broadcast to be made?

18 A Yes.

19 Q Has any station, to your knowledge, declined to
20 make emergency broadcasts that you requested?

21 A We requested the Emergency Broadcast System be
22 activated once, to my recollection. There wasn't a denial
23 of service. The problem was it took 45 minutes to get it
24 out.

25 Q But nobody has denied?

1 A No, sir.

2 Q Okay. Turning to page 2, about six lines down it
3 says, "Jukebox Radio has become the official information
4 outlet for Bergen County."

5 Do you see that?

6 A Yes, sir.

7 Q Okay. Could you tell me what you mean by
8 "official information outlet"?

9 A I guess that's more of a honorary term than an
10 official term. We only have one station so it is pretty
11 easy to be the official statement of the county.

12 Q Okay.

13 JUDGE STEINBERG: Isn't WNJR in the county?

14 THE WITNESS: WNJR, No, sir.

15 MR. ARONOWITZ: WVNC.

16 JUDGE STEINBERG: Did I mess that up again?

17 MR. ARONOWITZ: Yes.

18 JUDGE STEINBERG: WVNC.

19 THE WITNESS: I know they are now.

20 JUDGE STEINBERG: Okay. Why can't they be the
21 official information outlet for Bergen County?

22 THE WITNESS: They could. They could be one.

23 JUDGE STEINBERG: Maybe you should put it up for
24 auction.

25 THE WITNESS: If it was worth anything in the

1 element of tax cutting, we probably would.

2 BY MR. ARONOWITZ:

3 Q Are you aware whether -- do you listen to Jukebox
4 Radio?

5 A The programming isn't to my taste, but, yes, I do
6 listen to the news on occasion.

7 Q Are you aware of they have ever identified
8 themselves as the official information outlet?

9 A No, I don't know if they did or they didn't.

10 Q Okay. And you testified that the emergency
11 messages were -- have emergency messages were -- did you
12 request or did your office request that emergency messages
13 be broadcast?

14 A I guess, to dance around the word "emergency,"
15 we've requested that information be put on the air, yes.

16 Q Did you request that regular programming be
17 interrupted to put out emergency information?

18 A No.

19 Q Ever?

20 A No.

21 Q Did Mr. Turro ever ask you to declare an
22 emergency?

23 A No, sir.

24 Q Okay. So it's fair to say there have been no
25 emergency messages on Jukebox Radio, to your knowledge? Is

1 that what I understand?

2 A If we're going to strictly define the word
3 "emergency," I have a problem with the word "emergency." We
4 have given him information to put out, yes.

5 Q Okay. But you've never requested that it be put
6 out on an emergency basis and for emergency basis small
7 emergency basis, I mean interrupt regular problems?

8 A No, sir, we have never asked him to take his
9 regular programming off.

10 Q So you would have no occasion to listen to
11 emergency messages? There were none.

12 A Well, to be very honest with you, I find it
13 difficult to listen to any emergency messages because my
14 office is similar to this; inside a building which doesn't
15 get very good coverage.

16 Q So, again, and I'm going to ask this, and forgive
17 me if -- I just want to make sure that I understand it.
18 When you said you put out non-emergency announcements, you
19 said you really didn't follow up as to whether they were
20 done; you just put them out and the station could do it or
21 not do it?

22 A Um-hmm.

23 JUDGE STEINBERG: Is the answer "yes"?

24 THE WITNESS: Yes, sir. I'm sorry.

25 MR. ARONOWITZ: That's okay.