

It is well documented that a monophonic broadcast system will serve a much wider area than a conventional stereo broadcast facility because receiver characteristics allow for much better reception of low level mono signals.⁵ Typically fixed mono FM receivers have a sensitivity of 3 to 5 $\mu\text{V}/\text{m}$.⁶ According to the NAB Engineering Handbook, "FM stereo signal-to-noise ratio is 22 dB worse than for mono at levels at or below 300 $\mu\text{V}/\text{m}$ ".⁷ Therefore, at the Pomona site, the fidelity of the predicted WJUX(FM) monophonic signal strength of 66 $\mu\text{V}/\text{m}$ is comparable to a stereo receive signal of 0.83 mV/m which is 4.3 dB greater than what the Commission considers "primary service" for a Class B FM facility. When one also considers the high gain, optimized, fixed, directional receive antenna, the receive antenna's height, and special filtering in the Pomona translator's receiver subsystem, the received audio fidelity will be much greater than the FCC's F(50,50) curves predict.

⁵ See Amendment of Part 3 of the Commission's Rules and Regulations to Permit FM Broadcast Stations to Transmit Stereophonic Programs on a Multiplex Basis, Docket No. 13506; FCC 61-254 Released April 20, 1961. The record contains substantial evidence pertaining to the "lost coverage area" which would be created as a direct result of the conversion from monophonic to stereophonic broadcasting.

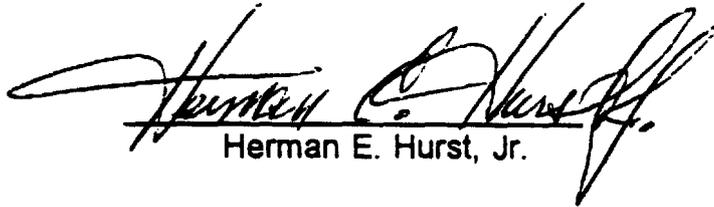
⁶ RF Signal for 30 dB audio signal-to-noise ratio. See *NAB Engineering Handbook Eighth Edition*, Section 7.2 Radio Receivers, Table 2, page 1144.

⁷ See *NAB Engineering Handbook Eighth Edition*, Section 7.2 Radio Receivers, page 1145.

STATEMENT OF HERMAN E. HURST, JR.
PAGE 6

This statement has been prepared by me or under my direct supervision and is
believed to be true and correct.

DATED: July 25, 1995



Herman E. Hurst, Jr.

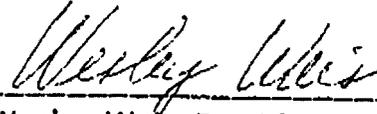
000424

ATTACHMENT C

Rebroadcast Consents

000425

I Wesley Weis, president of Monticello Mountaintop Broadcasting, due hereby give permission to FM translator W232AL, Pomona to rebroadcast the signal of WXTM, 99.7 FM, Monticello, New York.



Wesley Weis, President WXTM

000426



ODYSSEY COMMUNICATIONS, INC.

Michael Kakoyiannis
President/CEO

October 12, 1994

Mr. Jerry Turo
Translator W232AL
Pomona, NY 10970

Via Fax: (201) 439-0033

Dear Mr. Turo:

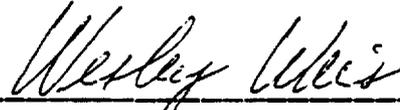
This letter will act as authorization for you to rebroadcast WRGX-FM programming on translator W232AL effective 10/21/94.

Regards,

Mike Kakoyiannis

000-127

I Wesley Weis, president of Monticello Mountaintop Broadcasting, due hereby give permission to FM translator W276AQ, Fort Lee to rebroadcast the signal of WXTM, 99.7 FM, Monticello, New York.



Wesley Weis, President WXTM

000408

ATTACHMENT D

Network Affiliation Agreement, As Amended

000429

Network Affiliation Agreement

Bergen County Community Broadcast Foundation (Network) and Monticello Mountaintop Broadcasting Inc. (MMBI) enter into this network affiliation agreement on OCT. 17, 1994. This agreement will commence at 12:01 AM, Oct. 1, 1994 and terminate at 12:01 AM, Oct. 1, 2004.

Network will provide MMBI with twenty-four hours of programming on a seven day basis, 365 days a year. Network will also provide all local station identifications (Legal ID's), public affairs programming, and Emergency Broadcast System tests.

Network agrees to indemnify MMBI and hold it harmless from any and all fines, surcharges, forfeitures, levies, and any other monetary damages imposed by the F.C.C.

Network is responsible for delivery of usable audio programming to MMBI via satellite, phone lines or other suitable means. Network is responsible for all costs incurred for delivering Network audio. Network will abide by all applicable FCC rules concerning program content.

Network will compensate MMBI for carrying all network programming on a twenty-four hour basis, as follows:

Year One - \$8,575.00 per month

Year Two - \$8,975.00 per month

Year Three - the first six months - \$9,140.00 per month

Year Three - the second six months - \$5,400.00 per month

Year Four - \$5,400.00 per month

Year Five - \$4,675.00 per month

Remaining 5 years - Year 5 plus 5% or the CPI, whichever is greater.

All payments are due and payable, in advance, on the first of the month. MMBI will provide Network with a ten day grace period after the first of the month.

The monthly compensation to MMBI will be reduced by \$3,600.00 per month after the first thirty months of network affiliation.

Both parties agree to abide by all applicable FCC rules and regulations.

MMBI agrees to allow translator W276AQ to rebroadcast 99.7 FM, Monticello New York.

This agreement will be binding to Network, its successors, assigns and/or transferees.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 17th day of OCTOBER, 19 94.

Signed, sealed and delivered in the presence of

Kathleen Kahyaoglu

Gerald Turro for Network
Wesley Weis
Wesley Weis for MMBI

STATE OF NEW JERSEY }
COUNTY OF BERGEN } SS.:

BE IT REMEMBERED that on this 17 day of OCTOBER, 19 94 before me, the subscriber, a Notary Public of New Jersey, personally appeared Gerald Turro, Wesley Weis, who, I am satisfied, are the person(s) named in and who executed the within Instrument, and thereupon have acknowledged that they signed the same as _____ act and deed, for the uses and purposes therein expressed.

Kathleen Kahyaoglu
Notary Public of N.J.

KATHLEEN KAHYAAGLU
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 15, 1998

GUARANTY OF PAYMENT

In order to induce Monticello Mountaintop Broadcast Inc. (hereinafter referred to as MMBI) to enter into a network affiliation agreement, dated October 1994, with Bergen County Community Broadcast Foundation (hereinafter referred to as the "network"), the undersigned (hereinafter jointly and severally referred to as the "Guarantor"), does hereby unconditionally guarantee the full and prompt payment by the Network when due, to MMBI, its successors and assigns, for the full term of the network affiliation agreement, of any and all indebtedness, liabilities and obligations, of every nature and description, including all attorney's fees, costs and expenses of collection incurred by MMBI.

The liability of the Guarantor hereunder is continuing and is unlimited unless a limit is stated in this paragraph, in which case said limit shall not exceed the sum of \$400,000. Dollars.

IN WITNESS WHEREOF, the Guarantors have hereunto set their hands and seals this 17 day of OCTOBER, 19 94.

Signed, sealed and delivered in the presence of

Kathleen Kahto

Gerard Turro

687 Orchard Street

Oradell NJ 07649

[Signature]
Signature

STATE OF NEW JERSEY }
COUNTY OF BERGEN } SS.:

BE IT REMEMBERED that on this 17 day of OCTOBER, 19 94 before me, the subscriber, a Notary Public of New Jersey, personally appeared Gerard Turro, who, I am satisfied, IS the person(s) named in and who executed the within Instrument, and thereupon HAS acknowledged that HE signed the same as _____ act and deed, for the uses and purposes therein expressed.

Kathleen Kahto

Notary Public of N.J.

KATHLEEN KAHYAOGU
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 15, 1998

AMENDMENT TO NETWORK AFFILIATION AGREEMENT

Bergen County Community Broadcast Foundation ("Network") and Monticello Mountaintop, Inc. ("MMBI") hereby amend the Network Affiliation Agreement ("Agreement") between them dated October 17, 1994. This Amendment is entered into on the _____ day of November, 1994, but is retroactive to commencement of the Agreement.

(1) The Agreement pertains to the FM broadcast station on 99.7 MHz assigned to Monticello, New York, which currently operates under the call letters WXTM (the "Station").

(2) Notwithstanding any other provision in the Agreement, MMBI retains responsibility for ascertainment of the needs of its community of license and service area. The parties agree that the network programming to be supplied by Network will include programming which responds to these ascertained needs and concerns, but that MMBI shall have the right to broadcast such additional programming, either produced or purchased by MMBI, as it determines appropriate to respond to the ascertained issues of community concern and to delete or preempt in its sole discretion any Network programming for the purpose of transmitting such programming.

(3) In addition to the right of MMBI to delete or preempt Network programming in order to broadcast MMBI programming responsive to issues of concern to its community of license, MMBI maintains the independent right to preempt or delete any Network programming which MMBI believes to be unsatisfactory or unsuitable or contrary to the public interest, or to substitute programming which, in MMBI's opinion, is of greater local or national importance.

(4) MMBI's acceptance and broadcast of Network programming is at all times subject to MMBI's responsibility to comply with all FCC regulations, including all technical regulations governing the operation of the Station, including maintenance of a main studio and providing a meaningful managerial and staff presence at that main studio, ascertainment of and programming in response to community needs and concerns, compliance with political programming laws and regulations, sponsorship identification rules, lottery and contest regulations, maintenance of the Station's public and political files, compiling appropriate quarterly program/issues lists, employment records and all other FCC requirements and duties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 17 day of ~~November~~, 1994.

JULY 15
[Handwritten signature]

Signed, sealed and delivered in the presence of

Gerard Turro for Network

[Handwritten signature: Kathleen Kahyaoglu]

agreed to in Oct, 1994

[Handwritten signature: W. Weis] 7/15/95

Wesley Weis for MMBI

KATHLEEN KAHYAOGLU
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 15, 1998

ATTACHMENT E

**Letter to Mr. Alan Schneider, Chief, Auxiliary Services Branch and
Response from Mr. Roy Stewart, Chief, Mass Media Bureau**

000435

Gerard Turro
111 East California Avenue
Beach Haven, N.J. 08008
January 30, 1991

The Federal Communications Commission
Mr. Alan Schneider
Auxiliary Services Branch
Washington, D.C. 20036

Dear Mr. Schneider;

The purpose of the letter is to request the Commission for an informal declaratory ruling concerning the operation of commercial FM translators.

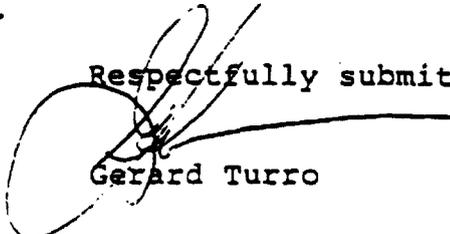
In the event a licensee of a commercial FM translator wishes to purchase broadcast airtime on the originating station which is carried on the license's translator may he or she do so?

The following conditions would exist:

1. The translator would be operating outside of the originating stations primary contour.
2. The primary station would not re-imburse the translator licensee for air-time pursuant to the Commission's rules. At no time would the primary station be financially supporting the translator licensee.
3. Any airtime purchased on the primary station by the translator licensee would abide by the Commission's rules regarding purchase of brokered airtime.
4. Advertising may be sold for broadcast during such brokered airtime to support this programming.

It is respectfully requested the Commission expedite a reply to this informal request.

Respectfully submitted,



Gerard Turro

000436

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

COPY

19 NOV 1991

IN REPLY REFER TO:

8930-AJS

Rainer K. Kraus, Esquire
Koteen & Naftalin
1150 Connecticut Avenue
Washington, D.C. 20036

Dear Mr. Kraus:

This refers to your correspondence of January 31, 1991, and the accompanying January 30, 1991 letter of Gerard Turro, licensee of FM translator station W276AQ, Fort Lee, New Jersey. Mr. Turro requests the Commission to provide an informal declaratory ruling regarding the proposed operation of an FM translator station. In particular, Mr. Turro seeks guidance on whether a licensee of a commercial FM translator station can purchase broadcast airtime on the station it is rebroadcasting ("primary station"). The purchase would be under the following circumstances:

1. The translator would be operating outside of the primary contour of the station being rebroadcast;
2. Pursuant to the Commission's Rules, the primary station would not reimburse the translator station licensee for airtime purchased (the primary station would not provide any financial support to the licensee of the translator);
3. The translator station licensee would purchase the airtime through a time brokerage agreement and would meet the Commission's rules and policies on such agreements; and
4. The translator would solicit advertisements to be aired during the brokered time to support the programming presented.

Specifically, the issue presented by Mr. Turro's request is whether the licensee of a translator station is permitted to enter into a time brokerage contractual arrangement with its primary station, provided that the primary station does not either reimburse the translator station licensee for the purchase of the brokered time or provide financial support for the translator station's operation.

In order to rule on Mr. Turro's request we must first determine the effect such a request would have on our newly revised FM translator rules governing financial support by commercial primary stations (47 C.F.R. § 74.1232

000237

(1990)).¹ Additionally, because airtime for the programming will be purchased through a time brokerage contractual arrangement, we must also give attention to the Commission's Policy Statement on Part-Time Programming, 82 FCC 2d 107 (1980).²

Under § 74.1232(e), an FM translator station whose coverage contour extends beyond the protected contour of the primary station cannot receive any support, before or after construction, either directly or indirectly, from the primary station. This applies to all persons and entities having any interest or connection with the primary station.

With regard to brokerage arrangements between licensees and brokers, such arrangements usually involve the broker as both program producer and commercial salesperson for a time block purchased from the licensee. Our rules only require licensees to keep brokerage contracts at the station and make them available for Commission inspection upon request (47 C.F.R. § 73.3613(d) (1989)).

In view of the specific circumstances presented by Mr. Turro's request, we conclude that his proposed operation would be consistent with the Commission's rules and policies as outlined above. However, this conclusion rests on the following requirements: the time brokerage contract must be kept at the primary station and made available for Commission inspection upon request per § 73.3613(d); there must be a bona fide, arms-length transaction between the primary station and the translator; the licensee of the translator station will have to pay the primary station a rate charge comparable to the amount charged other purchasers of brokered airtime, or an amount consistent with such charges in the local broadcast community; and at no time would the translator station receive financial support, directly or indirectly, from the primary station to cover any costs associated with the operation and maintenance of the translator station.

Accordingly, to the extent indicated above, and in view of the specific circumstances presented, we do not find that Mr. Turro's proposal would be prohibited by the Commission's rules or policies.

Sincerely,


Roy J. Stewart, Chief
Mass Media Bureau

1 See Report and Order In the Matter of Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations, MM Docket No. 88-140, 5 FCC Rcd. 2106 (1990).

2 See 47 C.F.R. § 73.4267 (1989).

ATTACHMENT III

000039

FCC MAIL SECTION

JUN 21 2 50 PM '95

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

JUN 21 1995

~~WJUX~~
L-8210

IN REPLY REFER TO:
1800C1-SB/RW
95020241

Monticello Mountaintop Broadcasting, Inc.
Licensee, Station WJUX (FM), Monticello, NY
11 Old Tappan Road
Old Tappan, NJ 07675

Attn: Mr. Wesley R. Weis

Dear Licensee:

The Commission has received information raising questions concerning the ownership of Station WJUX (FM), Monticello, NY.¹ Specifically, it is alleged that the ownership and control of Station WJUX changed without prior authorization of the Commission, which may be a violation of Section 310 (d) of the Communications Act of 1934, as amended, and Sections 73.3540 and 74.14 of the Commission's Rules. It appears further that Station WJUX has: (1) violated Section 73.1125(a) of the Commission's Rules by failing to maintain a main studio within the station's principal community contour; (2) violated Section 73.1125 (c) of the Commission's Rules by failing to maintain a local or toll-free number for residents of Monticello, NY; and (3) violated Section 73.3526 (d) of the Commission's Rules by failing to maintain a public inspection file in the station's community of license.

The Commission has made no determination in this matter. So that we may be more fully informed, pursuant to Section 73.1015 of the Commission's Rules, please respond to the following questions.

1. According to our records, Monticello Mountaintop Broadcasting, Inc., has been the licensee of Station WJUX (FM) since October 14, 1994, and there has been no reported change in ownership since that time. If there has been a change in ownership or control of Station WJUX (FM), indicate whether you filed any applications for Commission authorization of the transfer and, if not, explain why not. If you filed such an application, please provide us with a stamped copy or some other evidence of the filing.
2. Has Mr. Gerard A. Turro, licensee of Station W276AQ, Ft. Lee, NJ, ever been the licensee of Station WJUX (FM) or otherwise held an ownership interest in the licensee of the station? If Mr. Turro is the licensee or has obtained such an ownership interest, state when the acquisition occurred and whether he continues to hold the license or such an ownership interest.

¹We note that WJUX (FM) changed call signs on April 14, 1995. Prior to this date the call sign was WXTM (FM). The call sign WJUX (FM) was previously assigned to Station WNJW (FM), Franklin Lakes, NJ, which is licensed to the Bergen County Community Broadcasting Foundation. Any reference to WJUX (FM) throughout this letter refers to the Monticello, NY, station.

000140

3. State who has provided any funds used to purchase equipment for and/or construct Station WJUX (FM). If such funds have been provided by any person or entity other than the licensee of Station WJUX (FM), or by any person or entity which has not previously been reported to the Commission as having an ownership interest in the licensee, identify all such persons or entities and state the specific amounts contributed by such other persons or entities and the specific equipment and/or construction expenses paid for with such contributions.
4. State whether any person or entity which has not previously been reported to the Commission as having an ownership interest in the licensee (a) has lent to the licensee funds used to purchase equipment or construct Station WJUX (FM), or (b) has guaranteed repayment of funds borrowed by the licensee for the purchase of equipment or construction of the Station. If so, provide details regarding such loans or guarantee arrangements.
5. For the period of time from October 18, 1994, to the present, identify by name, title, service dates, and employer,² the specific person or persons who participated in the following activities with respect to Station WJUX (FM):
- (a) controlled and had access to the Station's financial records and books;
 - (b) prepared and kept the Station's financial records;
 - (c) paid the Station's operating expenses;
 - (d) prepared and signed the Station's checks;
 - (e) paid rent for the studio;
 - (f) paid rent for the antenna tower site or usage;
 - (g) interviewed, hired, or fired Station personnel;
 - (h) controlled what is or is not broadcast;
 - (i) established or changed Station management;
 - (j) controlled and had access to the Station's bank accounts; and
 - (k) prepared and paid the Station's payroll, insurance, income and property taxes, withholding statements and social security obligations.
6. With respect to each person listed in response to subsections (a) through (k), state whether, at any time from the initiation of program test broadcasting to the present, such person was, during the same period that he/she was employed by Station WJUX, also employed by any other business. If so, state the name of the other business, location, the individual's responsibilities there, and the hours per week employed at the business while working also at WJUX.

Main Studio

7. Provide the following information with regard to the main studio of WJUX (FM):
- (a) State whether WJUX (FM) has a main studio. If so, provide the exact address of the main studio at all times since the main studio was first established;

²By the use of the term employer in this and subsequent questions, we seek identification of the entity which employed and paid the salary of the identified individuals.

- (b) State the date (month and year) the main studio was established in each location listed in subsection (a);
 - (c) Provide contour maps showing the station's principal community contour, and pinpointing each location of the main studio listed in subsection (a) in relation to the station's principal community contour;
 - (d) State the reason for any change of location of WJUX (FM)'s main studio since the main studio was first established;
 - (e) State whether WJUX (FM) has ever been granted consent by the Commission to locate the station's main studio outside the principal community contour. If so, provide a dated copy of such Commission consent.
8. Provide copies of any internal corporate communications, news releases, and promotional materials concerning any main studio relocation occurring since the main studio was first established.
9. With regard to the functions performed at the main studio since the main studio was first established, provide the following information:
- (a) State the precise functions performed at the main studio;
 - (b) State whether the main studio has program origination capability (including any linkage from the studio to the transmitter), and, if so, describe in detail its technical facilities;
 - (c) Provide names, titles, employer, and responsibilities of personnel assigned to the main studio;
 - (d) State which of the personnel listed in response to subsection (c) are present at the main studio during regular business hours.
 - (e) With respect to each person listed in response to subsection (c), state whether, at any time from the initiation of program test authority to the present, such person was, during the same period that he/she was employed by Station WJUX, also employed by any other business. If so, state the name of the other business, location, the individual's responsibilities there, the hours per week employed at the business while working also at WJUX.
10. State the days and times during which the main studio has been open to the public since the main studio was first established, and when these hours were established.
11. Provide dated and executed copies of leases and insurance policies for each location of the main studio used since the main studio was first established.
12. If WJUX (FM) maintains an auxiliary studio, state;

- (a) The exact address of this studio since it was first established;
- (b) The date (month and year) this studio was established at each address listed in subsection (a);
- (c) The functions performed at this studio since it was first established;
- (d) Provide the names, job titles, employer, and responsibilities of personnel assigned to the auxiliary studio.

Public Inspection File

13. If WJUX (FM) maintains a public inspection file, state;
- (a) The exact location(s) of this file since the file was first established ;
 - (b) The dates between which the public file, or a copy thereof, was maintained at each location listed in subsection (a)
 - (c) The days and times during which the public file has been available for public inspection at each location where such a file has been maintained since the file was first established;
 - (d) The name, business address, and job title of each person responsible for maintaining such public file since the file was first established; assessing what issues of community interest will be addressed by the station; determining how the community issues will be addressed; and maintaining the quarterly issues statement.

Local or Toll-Free Telephone Number

14. State WJUX (FM)'s main studio telephone number, between the time the main studio was first established and the present, including the area code, the date this number was connected, and whether this number is local or toll-free for the residents of Monticello, NY. Provide copies of telephone bills for this number from the time the number was first connected to the present.

Time Brokerage Agreements

15. State whether Station WJUX (FM) has entered into a management agreement, a time brokerage agreement, or any other agreement concerning ownership, staffing, programming, sales, or operation of Station WJUX (FM), or any other station. If the answer is in the affirmative, provide the following information:
- (a) Provide a signed and dated copy of the agreement;

- (b) State whether the agreement is one that must be filed with the Commission pursuant to Section 73.3613 of the Commission's Rules. If so, state when this agreement was filed with the Commission. If not, explain.
- (c) State whether the agreement is one that must be kept in the station's public inspection file pursuant to Section 73.3526 of the Commission's Rules. If so, state when, and by whom, this agreement was placed in the station's public inspection file. If not, explain.

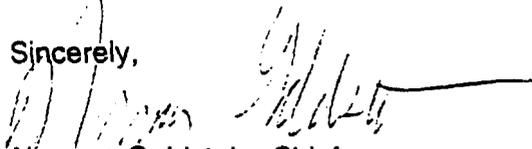
Programming

16. With regard to the programming of Station WJUX (FM), provide the following information:

- (a) Describe the nature of Station WJUX'S (FM) programming from October 18, 1994, to the present;
- (b) Identify by name, title, service dates, and employer, the individual (s) who has established and changed the Station's programming policies from October 18, 1994, to the present;
- (c) Provide signed and dated copies of any written communications concerning the Station's programming, including, but not limited to, memoranda, correspondence, and programming contracts, for the period from October 18, 1994, to the present.

So that we may be fully informed on these issues, we ask that you provide, within thirty (30) days of the date of this letter, all relevant information or documentation that is responsive to the foregoing or that you feel may be useful in helping the Commission make a determination in this matter. Failure to answer fully will constitute a violation under Section 73.1015 and may subject you to serious sanctions. Commission policy requires that responses to its inquiries be signed by an officer or director of the licensee organization.

Sincerely,


Norman Goldstein, Chief
Complaints & Investigations Branch
Enforcement Division
Mass Media Bureau

MONTICELLO MOUNTAINTOP BROADCASTING, INC.

11 OLD TAPPAN ROAD
OLD TAPPAN, NJ 07675

July 27, 1995

Mr. Norman Goldstein, Chief
Complaints & Investigations Branch
Enforcement Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Goldstein:

This is in response to your letter of June 21, 1995 concerning the operation of WJUX(FM), in Monticello, NY. According to that letter, it has been alleged that an unauthorized transfer of control of WJUX(FM) has occurred and that WJUX(FM) has (1) failed to maintain a main studio within the station's principal contours; (2) failed to maintain a local or toll-free number for residents of Monticello, NY, and (3) failed to maintain a public inspection file in its community of license. As shown in this response, those allegations are uniformly incorrect.

The responses to your specific inquiries are as follows:

1. Monticello Mountaintop Broadcasting, Inc. (Mountaintop) has been the permittee of WJUX(FM) since October 18, 1994.¹ The application for Commission consent to the assignment of the license of WJUX(FM) to Mountaintop was filed with the Commission on July 25, 1994 and there has been no change in ownership since that time. I have at all times owned all of the stock of Mountaintop.
2. Mr. Gerald A. Turro has never been the licensee or the permittee of WJUX(FM), nor has he otherwise held an ownership interest in the station. He has no right to acquire any such interest, and I have no intention to transfer any such interest to him.
3. As the sole owner of Mountaintop, I provided all of the funds used to purchase equipment and to construct WJUX(FM). I already had much of the necessary equipment -- processing equipment, racks, and transmission line -- on hand. Mr. Gerry Turro paid me \$40,000 on October 17, 1994, as an inducement to enter into the Network Affiliation Agreement discussed elsewhere in this letter. This was not a loan, and I have no obligation to repay those funds, which I applied toward my obligations to Mr. Larry Fishman, from whom I had acquired the construction permit for WJUX(FM) (BAPH-940725GR). The purchase price was \$120,000.
4. On October 6, 1994, my mother, Mrs. Marre C. Weis, lent me \$15,000 which I used to purchase equipment and to construct WJUX(FM). No other person has (a) lent funds used

¹ The Mountaintop application for a license to cover its construction permit was filed on October 31, 1994 and remains pending.

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to purchase equipment or construct Station WJUX(FM) or (b) guaranteed repayment of funds borrowed for those purposes.

5. With the exceptions noted below, I have been the sole individual who:
- a. controlled and had access to the Station's financial records and books, with the exception that Mr. Gene Blabey, the General Manager of WJUX(FM), and Ms. Carol M. Montana, the WJUX(FM) public affairs director, have access to certain financial materials which they receive at the station and forward to me. Generally these consist of bills from various vendors.
 - b. prepared and kept the Station's financial records, with the exception noted in response to 5(a), above. I am assisted in this matter by John Sheridan, my accountant, who performs certain book keeping and accounting functions for my various companies and for me personally.
 - c. paid the Station's operating expenses, with the following exception: Until recently, the WJUX(FM) telephone bill was sent to and paid by Mr. Gerry Turro. This was due to an oversight, which is now being corrected. Funds paid to Mountaintop under the Network Affiliation Agreement are used to operate WJUX(FM).
 - d. prepared and signed the Station's checks.
 - e. paid rent for the Station's main studio.
 - f. paid rent for the antenna tower site or usage.
 - g. interviewed, hired and fired Station personnel, with the following exceptions: Mr. Blabey has from time to time interviewed potential employees and made recommendations to me as to whether they should be hired. On one occasion, he hired a local sales person for WJUX(FM), pursuant to my instructions. On another occasion, he hired an engineer on a temporary basis to turn the WJUX(FM) transmitter off and on during an FCC inspection so that the inspector could determine whether turning WJUX(FM) off impacted on the operations of a translator facility in Ft. Lee, New Jersey. Mr. Blabey also supervises Ms. Carol Montana. At some time during the Fall of 1994, I asked Mr. Turro to interview an individual I was considering hiring as the station's chief engineer, to determine his qualifications. Nothing came of this, and I ultimately asked Mr. Turro to be the chief engineer, a position which he accepted and held until May 1, 1995.
 - h. controlled what is or is not broadcast, in accordance with the terms of the October 17, 1994 Network Affiliation Agreement with Bergen County Community Broadcast Foundation, subsequently amended retroactively to October 17, 1994.² It was my decision to enter into that Agreement which, I believe, preserves my ability to

² Although Mr. Turro and I agreed verbally to amend the Affiliation Agreement in accordance with the amendment sent to us by counsel on November 1, 1994, and by virtue of our agreement to do so deemed the Affiliation Agreement to have been amended then, we did execute the Amendment until recently.

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July 27, 1995

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perform my duties as licensee of the station to no less extent than the many LMA's, network agreements, and brokerage agreements with which the Commission has found no fault. When counsel recommended the changes reflected in the amendment be made, to bring the Network Affiliation Agreement into full compliance with Commission policy, Mr. Turro and I agreed to make the changes reflected in the amendment.

- i. established or changed the Station's management.
- j. controlled and had access to the Station's bank accounts.
- k. prepared and paid the Station's payroll, insurance, income and property taxes, withholding statements and social security obligations, with the following exception: my accountant, John Sheridan, who also does accounting work for my other businesses, did work for me in connection with Mountaintop's taxes.

6. During the period since October 18, 1994, I have been employed by the following businesses, in each of which I have an ownership interest: MIKAB Corporation, a tower and antenna systems sales and service company; MIKAB Equipment Sales, a communications equipment sales company; New Jersey Tower Service, Inc., a tower erection company; Hilltop Tower Management, Inc., an antenna site management company; Mountain Top Communications, Inc., which is now dormant; L & W Engineering, Inc., a structural engineering company; and Morristown - Erie RR, a railroad. Mr. Blabey is the owner of radio station WVOS(FM), from which WJUX(FM) rents studio and transmitter site space. While not an "employee" of WVOS(FM), Mr. Blabey is its full time general manager. He is also an officer and director of three railroad companies, the Arkansas - Missouri RR, the Livonia, Avon and Lakeville RR, and the Ontario - Midland RR. Ms. Montana is employed as the full time business manager of WVOS(FM).³

7. WJUX(FM) has a main studio, located on Old Route 17, in Liberty, New York, at the WVOS(FM) main studio. The main studio has been there at all times since WJUX(FM) went on the air. A contour map showing WJUX(FM)'s principal community contour and demonstrating that the main studio is located within that contour is provided in the engineering statement at Attachment A. No Commission consent to the location of the WJUX(FM) main studio outside the WJUX(FM) principal contour has ever been requested.

8. There has been no such relocation.

9. a. The WJUX(FM) public inspection file is maintained at the WJUX(FM) main studio (a copy is also maintained at the public library in Monticello, New York). Mail received at the studio is forwarded to me. The WJUX(FM) telephone is answered there. The program Sullivan County People Who Make a Difference is recorded there.

³ Under Section 73.3555 of the Commission's Rules, WJUX(FM), WVOS(FM) and WVOS(AM) could lawfully be under common ownership, since the three stations constitute less than fifty percent of the eight radio stations in the market, as demonstrated in the attached engineering statement. Accordingly, the Commission's Cross Interest Policy does not preclude the concurrent employment of Mr. Blabey and Ms. Montana by the three stations, see *Kern Broadcasting Corporation*, FCC 95-214, released June 16, 1995.

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