

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

In the Matter of) MB Docket No. 14-82
)
PATRICK SULLIVAN) FRN 0003749041, 0006119796,
(Assignor)) 0006149843, 0017196064
)
and) Facility ID No. 146162
)
LAKE BROADCASTING, INC.) File No BALFT-20120523ABY
(Assignee))
)
Application for Consent to Assignment of)
License of FM Translator Station W238CE,)
Montgomery, Alabama)

To: Marlene H. Dortch, Secretary
Att: Chief Administrative Law Judge Richard L. Sippel

**REPLY TO ENFORCEMENT BUREAU’S OPPOSITION TO LAKE
BROADCASTING’S REQUEST FOR INTERLOCUTORY RULING**

Lake Broadcasting, Inc. (“Lake”) by its counsel, hereby replies to the Enforcement Bureau’s (“Bureau”) February 10, 2015 “Opposition to Lake Broadcasting’s Request for Interlocutory Ruling” (“Opposition”). For the reasons that follow, Lake urges that the Presiding Judge should issue the requested ruling on the burdens of proof in the instant proceeding.

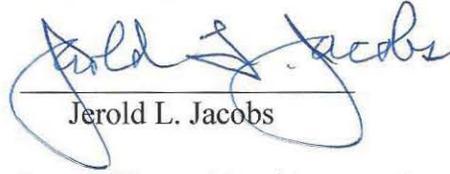
1. The Opposition errs (at Para. 1) when it asserts that “Lake’s request is nothing more than a veiled attempt to gauge the sufficiency of its case in advance of the actual hearing...” However, the Opposition is completely correct when it states in its very next paragraph that Lake is seeking “a pre-hearing declaratory ruling from the President Judge on the **ultimate legal standards** to be applied in this case” (emphasis added).

2. Lake is fully aware of the normal evidentiary standard in FCC proceedings of proof by a preponderance of the evidence, and it so stated in Paragraph 1 of its subject request for

an interlocutory ruling. However, Lake also stated in Paragraph 1 that the shrillness of the Bureau's positions in its December 8, 2014 "Comments on the Commission's *Titus* Decision" ("Comments") as to "a very high bar for a licensee or applicant who is an adjudicated sex offender to demonstrate that he has been rehabilitated and is qualified to be or remain a Commission licensee" and that the crimes of which Mr. Rice was convicted may have been "so egregious" that he can be deemed qualified to be a licensee "only in the most extraordinary and compelling of circumstances" have shaken Lake's confidence that the normal burden of proof by a preponderance of the evidence will be applied in this proceeding. That is why Lake is seeking a special pre-hearing ruling.

3. Simply stated, while Lake is confident that it can easily demonstrate Mr. Rice's rehabilitation and qualifications to be a licensee by a preponderance of the evidence, the "very high bar" and "most extraordinary and compelling of circumstances" evidentiary standards that the Bureau supports in its Comments **go beyond the preponderance of the evidence** and would make a charade of the hearing and ensure that Mr. Rice and Lake cannot win, no matter what evidence they adduce. "So egregious" and "extraordinary and compelling" are artificial stumbling blocks, which are intended by the Bureau to prevent Mr. Rice and Lake from obtaining a fair hearing and a fair result, regardless of the evidence. If applied in the instant case, they will be used by the Bureau to trump the preponderance of the evidence standard and turn the hearing into a travesty. That is why Lake seeks a prior ruling from the Presiding Judge that those phony higher standards are incompatible with the preponderance of the evidence standard and will not be applied in this case.

Respectfully submitted,



Handwritten signature of Jerold L. Jacobs in blue ink, written over a horizontal line.

Law Offices of Jerold L. Jacobs
1629 K Street, N.W. Suite 300
Washington, D.C. 20006
(202) 508-3383

Counsel for Lake Broadcasting, Inc.

Dated: February 12, 2015

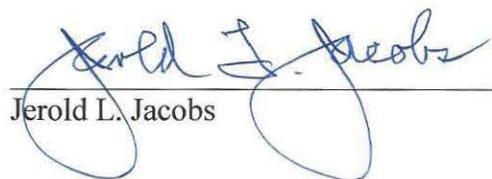
CERTIFICATE OF SERVICE

I, Jerold L. Jacobs, hereby certify that on this 12th day of February, 2015, I filed the foregoing "Reply to Enforcement Bureau's Opposition to Lake Broadcasting's Request for Interlocutory Ruling" in ECFS and caused a copy to be sent via First Class United States Mail and via e-mail to the following:

Hon. Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Richard.Sippel@fcc.gov
Austin.Randazzo@fcc.gov
Mary.Gosse@fcc.gov

William Knowles-Kellett, Esq.
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
William.Knowles-Kellett@fcc.gov

Gary Schonman, Esq.
Gary Oshinsky, Esq.
Special Counsel
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Gary.Schonman@fcc.gov
Gary.Oshinsky@fcc.gov



Jerold L. Jacobs