

**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: Richard L. Sippel
Chief Administrative Law Judge

**ENFORCEMENT BUREAU'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS**

1. On March 4, 2015, the Enforcement Bureau (Bureau) served its Second Request for Production of Documents on Lake Broadcasting, Inc. (Lake).¹ Therein, at Request Nos. 2-5, the Bureau requested that Lake produce, *inter alia*, all documents upon which Lake's psychology experts, Drs. Duncan and Hively, relied in preparing their November 22, 2104 Psychology Report (the DH Report) as well as test results and examination reports (1) related to a 1991 and a 2014 examination of Mr. Rice referenced in the DH Report and (2) related to any examination or test conducted on Mr. Rice after

¹ See Enforcement Bureau's Second Request for the Production of Documents, dated Mar. 4, 2015 (EB Requests).

the preparation of the DH Report.² The Bureau also requested that Lake produce Mr. Rice's tax returns for 2010-2014.³ In its March 16, 2015 response to the Bureau's Requests, Lake refuses to produce any documents that may be responsive to Request Nos. 2-5 unless the Bureau agrees to restrict the scope of its expert's report and forego deposing Mr. Rice, or either of Lake's experts.⁴ In addition, Lake refused to produce Mr. Rice's tax returns.⁵ For the reasons set forth below, the Chief, Enforcement Bureau, respectfully requests that the Presiding Judge compel Lake's response to the Bureau's Requests.

2. Lake does not dispute that the documents the Bureau requested in Request Nos. 2-5 are relevant to the matters to be decided in this case. Yet, Lake has refused to produce documents responsive to these Requests unless the Bureau agrees to conditions that unnecessarily restrict the Bureau's ability to present a comprehensive record for the Presiding Judge to consider in deciding whether Mr. Rice is fit to be a Commission licensee. *First*, Lake will only produce the requested documents if the Bureau agrees that its expert, Dr. Weigl, will rely only on the DH Report and the requested documents in preparing her expert report.⁶ There is no basis – and Lake offers none – to limit Dr.

² See *id.* at Request Nos. 2-5.

³ See *id.* at Request No. 6.

⁴ See Lake Broadcasting, Inc.'s Response to Enforcement Bureau's Second Request for Production of Documents, dated Mar. 16, 2015, at 2 (Lake Response).

⁵ See Lake Response at 3. Lake also refused to produce the requested documents unless the Bureau agrees that the documents be transmitted directly to the Bureau's expert psychologist, Dr. Weigl, and that the Bureau furnish Dr. Weigl's report to Lake at least two weeks prior to the hearing. See *id.* With regard to this first condition, the Bureau already agreed that these documents would be transmitted directly to Dr. Weigl and in fact already provided Lake with her contact information. See *email* dated Jan. 22, 2015, attached hereto as Exhibit A. As to the second condition, the Bureau already agreed to produce Dr. Weigl's report within a time frame allowing Lake to depose Dr. Weigl if it so chooses. Accordingly, the Bureau sees no need to address these conditions in the instant pleading.

⁶ See Lake Response at 2.

Weitl's ability to consider all of the evidence, not just the evidence Lake would want her to consider. *Second*, Lake will only produce the requested documents if the Bureau agrees to forego deposing Mr. Rice, or either of Lake's psychology experts.⁷ This condition is unreasonable on its face. Pursuant to the Commission's rules, the Bureau may take depositions of any person it deems necessary in preparing its case.⁸ There is simply no reason for the Bureau to have to agree to forego its right to pursue this fundamental fact-finding tool in order to obtain relevant documents to which it is plainly entitled. The Presiding Judge should compel Lake to produce documents responsive to the Bureau's Request Nos. 2-5.

3. In addition, Lake has refused to produce Mr. Rice's tax returns in response to the Bureau's Request No. 6, asserting that these documents are not relevant to Mr. Rice's qualification to hold a Commission license.⁹ As set forth below, these documents are in fact relevant to the issue at hand and should be produced.

4. In response to the Bureau's First Set of Interrogatories, Lake acknowledged that since Mr. Rice was released from prison in December 1999, he has been self-employed as an investor in residential rental properties, bonds, and securities; a property manager for residential properties and for the towers he owns; and an engineering consultant for AM and FM radio stations.¹⁰ In accordance with Section 1.323(b) of the Commission's rules, Lake's interrogatory responses included an

⁷ *See id.*

⁸ *See, e.g.*, 47 C.F.R. §§ 1.315 and 1.316.

⁹ *See* Lake Response at 3.

¹⁰ *See* Lake Broadcasting, Inc.'s Response to Enforcement Bureau's First Set of Interrogatories, dated Aug. 15, 2014, at Answer to Interrogatory No. 14 (Lake Interrogatory Response). *See also id.* at Answer to Interrogatory No. 15 (b).

affirmation from Mr. Rice as to the truthfulness of those responses.¹¹ The Bureau is entitled to investigate the veracity of Lake's interrogatory responses and of Mr. Rice's affirmation. Mr. Rice's tax returns are probative in that regard.

5. Moreover, under Missouri's sex offender registry regulations, a registered sex offender must report his/her place of employment.¹² Failure to accurately report such employment is considered a Class C felony criminal offense.¹³ Through communications with an officer with the Missouri Parole and Probation Office, the Bureau has learned that there is a question as to whether Mr. Rice properly reported his employment as required by Missouri law. If Mr. Rice was in fact employed as Lake described in its interrogatory responses, it is the Bureau's understanding that Mr. Rice should have reported this employment in accordance with Missouri's sex offender registry regulations. The tax returns are probative of the employment issue. The Bureau is thus entitled to Mr. Rice's tax returns to assess the likelihood of him being subjected to additional felony charges in Missouri. As such, Mr. Rice's tax returns are relevant to his claim of rehabilitation.

6. For the foregoing reasons, the Bureau respectfully requests that the Presiding Judge direct Lake to produce the documents the Bureau requested over any objection because they are probative to the Bureau's case and to the ultimate issue of Mr. Rice's fitness to be a Commission licensee.

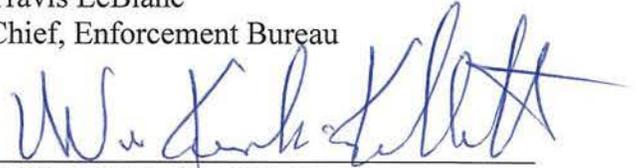
¹¹ See *id.* at "As to Answers" on second to last page of Lake's Interrogatory Response.

¹² See Mo. Ann. Stat. § 589.414(1).

¹³ See Mo. Ann. Stat. § 589.425.

Respectfully submitted,

Travis LeBlanc
Chief, Enforcement Bureau

A handwritten signature in blue ink, appearing to read 'William Knowles-Kellett', written over a horizontal line.

William Knowles-Kellett
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March 23, 2015

Exhibit A

William Knowles-Kellett

From: William Knowles-Kellett
Sent: Thursday, January 22, 2015 10:04 AM
To: 'Jerold Jacobs'
Cc: Gary Oshinsky; Gary Schonman; 'dr weitl'
Subject: FW: Availability of Dr. Duncan's test results and notes
Attachments: Vita2015.pdf

Jerry—

Please find attached the curriculum Vitae of EB's expert. Please forward the test results and notes to her.

Thanks,

Bill Knowles-Kellett
Attorney
Enforcement Bureau, Investigations and Hearings Division
717 338-2505

From: William Knowles-Kellett
Sent: Wednesday, January 21, 2015 2:32 PM
To: 'Jerold Jacobs'
Cc: Gary Oshinsky
Subject: RE: Availability of Dr. Duncan's test results and notes

Jerry—

Thanks to getting back to us about our request. Gary Oshinsky is out today. We will run this up the flagpole and get back to you shortly.

Regards,
Bill KK

From: Jerold Jacobs [<mailto:jerold.jacobs.esq@verizon.net>]
Sent: Tuesday, January 20, 2015 8:59 PM
To: William Knowles-Kellett; Gary Oshinsky; Gary Schonman
Subject: Availability of Dr. Duncan's test results and notes

1/20/15

All:

I have consulted with Dr. Duncan and my client Michael Rice about the referenced matter. Both of them are willing to allow the Enforcement Bureau's psychology expert (and only her) to have access to Dr. Duncan's test results and notes **on the following condition:** the Bureau must first demonstrate to Dr. Duncan's satisfaction that its expert is a similarly licensed and qualified psychologist, who is licensed, trained in forensic psychology, qualified as a test administrator, and a clinical psychologist. This demonstration includes supplying the expert's biography, education, places of employment, etc. in its showing.

Please submit this qualifying information to me, and I will then transmit it to Dr. Duncan for her approval. If your expert is lacking in any of these areas, please let me know, so that we can decide whether to move for her disqualification as an expert.

Best regards,

Jerry

Jerold L. Jacobs, Esq.
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Vita

Kimberly Weitzl, PsyD
200 W. 3rd Street, Suite 601
Alton, IL 62002
KWeitzl@aol.com
636-288-3850

Licenses

Psychologist; Missouri, #2004005468
Clinical Psychologist; Illinois, #07L007247
Licensed Sex Offender Evaluator, #271.00143
Licensed Sex Offender Treatment Provider, #272.000137

Education

Argosy University (formerly the Illinois School of Professional Psychology), APA Accredited
Doctorate of Clinical Psychology (PsyD), graduated 2002, GPA 3.7/4.0
o Clinical Research Project: Dynamic Risk Factors of Convicted Adult Male Sex Offenders

Southeast Missouri State University
Cape Girardeau, MO
Bachelor of Science, Psychology Major/Sociology Minor

Professional Experience

Illinois Department of Human Services

May, 07 - Present

Licensed Clinical Psychologist/Evaluator; Conduct evaluations for the state of IL DHS on sex offenders and provide opinion to the court regarding the individual's status as a Sexually Violent Person (based on risk to reoffend and mental disorder) and his or her continued need for institutional sex offender treatment, conditional release into the community, or discharge. Testify as an expert witness as to my opinion.

Another Chance Ministries

July, 2012 - Present

Conduct sex offender specific group therapy to convicted sexual offenders on parole living in a half-way house for sexual offenders.

Missouri Department of Corrections/Missouri Sex Offender Program (MoSOP)

Mar/ 05 - May/12

Licensed Clinical Psychologist; Conduct End of Confinement (Pre-Probable Cause) evaluations on men and women convicted of sexually violent offenses to determine status as Sexually Violent Predators, which includes risk assessment and presence/absence of mental abnormality. Testified for the Missouri Attorney General's Office regarding my opinion. Reviewed over 4000 files of men and women convicted of sexually violent offenses. Evaluation methods included: clinical interview, file review, and assessment instruments, such as Static-99, Minnesota Sex Offender Screening Tool, Revised (MnSOST-R), Hare Psychopathy Checklist - Revised and Screening Version, and the Personality Assessment Interview (PAI). Also evaluated sex offenders sentenced to 120 day/Sex Offender Assessment Unit for risk to re-offend and amenability to treatment and

make recommendations to Court. Supervised clinical staff and assisted in the Missouri Sex Offender Treatment Program (MoSOP) development. Serve as Acting MoSOP director in his/her absence.

Jefferson College, Hillsboro, MO Jan/ 06 to Jan/10

Adjunct Professor: Teaching General Psychology

Missouri Department of Corrections/Farmington Correctional Center Mar/04 – Mar/05

Institutional Chief of Mental Health Services: Responsible for the mental health needs of 2700 offenders in a medium security prison; 400 of which were treated with psychotropic medication; supervised the Social Rehabilitation Unit, a housing unit consisting of 200 chronically mentally ill offenders. Conducted peer/audit reviews of the institutional mental health program; facilitated offender admissions and transfers to the Biggs forensic hospital. Supervised 22 employees, including seven Master's level therapists, 3 psychiatric nurses, 4 activity therapists, and support staff.

Missouri Department of Corrections/Social Rehabilitation Unit Aug/ 02 – Mar/ 04

Staff Psychologist: Carried a caseload of approximately 85 chronically mentally ill offenders, supervised 4 activity therapists, on-call duties and suicide interventions/evaluations, treatment plan writing, peer review, crisis interventions, and annual assessments of death row offenders at Potosi Correctional Center (WAIS-III, WRAT-3, MMPI-2, Cognistat). Served as the Acting Institutional Chief in his/her absence.

BroMenn Counseling Services (Doctoral Internship) Aug, 01 to Aug, 02

Psychology Intern: Conducted psychological assessments and provided treatment to children, adolescents, and adults; case management; and wrote progress reports for the court. Co-facilitated out-patient group therapy of men on probation and parole for sexual offenses and/or domestic violence, including assessment and some individual treatment of these populations. Administered neuropsychological screens and treatment of patients admitted to the Acute Rehabilitation Unit. Conducted Attention Deficit and Hyperactivity Disorder (ADHD) screenings.

Southeast Missouri State Mental Hospital Sept, 00 to Aug, 01

Pre-doctoral Practicum: Provided group therapy and individual case management to men civilly committed to the Missouri Department of Mental Health as sexually violent predators. Conducted psychosocial evaluations.

Illinois Youth Center-Valley View Aug, 97 to June, 98

Masters Level Practicum: Assessment and treatment (individual and group) of adolescents convicted of sexual offenses in a medium security juvenile correctional facility.

Jefferson Memorial Hospital Aug, 94 to Aug, 97

Psychiatric Technician: Provided wide range of patient care on psychiatric unit, including facilitating group, writing treatment notes, crisis intervention, and assisting the social workers and activity therapist.

Military Experience

- United States Air Force, Aviation and Navigations Systems Specialist, Jan, 82 to Sept, 86, Honorable Discharge
- Missouri Army National Guard; Captain, Medical Detachment, Sept/10 – Sept/14

Training/Seminars

- Static-99: Evidence Based Sex Offender Assessment Training; Presented by Dr. Andrew Harris, 2006
- 2006 Association for the Treatment of Sexual Abusers (ATSA) Research and Treatment Conference
- Hare Psychopathy Checklist – Revised (PCL:R); presented by Robert Hare, PhD and Adelle Forth, PhD, 2007
- 2008 ATSA Research and Treatment Conference
- Static-99, Stable-2007, Acute-2007 Workshop; Dr. Andrew Harris, 2009
- Legal and Ethical Risk Management in Professional Psychological Practice, 2009
- 2010 ATSA Conference:
 - Interpreting Static-99R and Static 2002R in Light of New Research
 - Comparing High Risk Offender Groups
 - Sexual Offender Assessment: DSM -5 Proposals Modifying Diagnostic Criteria for Paraphilias and Related Disorders
 - Static-99R and High Risk Populations
- Assessment and Treatment of Sexual Offenders: Anna Salter, Ph.D., December, 2011
- 2012 ATSA Conference, Denver, CO
- The International Conference on Violence, Abuse, and Trauma (September 2013)
 - Forensic Interviewing
 - Ethical Issues in Forensic Interviewing
- 2013 ATSA Conference, Chicago, IL
- DSM-5 and ICD-10: Understanding New Diagnostic Developments and Mandates (July, 2014)
- SOCCPN (Sex Offender Civil Commitment Program Network) Annual Conference; 2014
- SOMB (Sex Offender Management Board) Training; November, 2014.

Presentations

- Sex Offender Risk Assessment Using the Static-99 to Missouri Probation and Parole Officers, 2007 and Missouri Sex Offender Program, 2008
- Healthy Therapeutic Boundaries with Sex Offenders and Prisoners to MHM-Missouri clinical staff and the Farmington Treatment Center, 2009
- Healthy Therapeutic Boundaries with Prisoners; Mental Health in Corrections Conference, Chicago, IL, April 2010

Professional Affiliations

- Association for the Treatment of Sexual Abusers (ATSA), Clinical Member
- Illinois Sex Offender Management Board's (SOMB) Approved Provider (Treatment and Assessment)
- American Psychological Association (APA)
- Sex Offender Civil Commitment Programs Network (SOCCPN)

CERTIFICATE OF SERVICE

William Knowles-Kellett, an attorney in the Enforcement Bureau's Investigations & Hearings Division, certifies that he has on this 23rd day of March 2015, sent by first class United States mail and by email copies of the foregoing ENFORCEMENT BUREAU'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS to:

Jerold L. Jacobs, Esq.
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1629 K Street, N.W., Suite 300
Washington, DC 20006
jerold.jacobs.esq@verizon.net
Counsel for Patrick Sullivan and Lake Broadcasting, Inc.

A copy of the foregoing also was served via hand-delivery to:

The Honorable Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W., Room 1-C861
Washington, DC 20554



William Knowles-Kellett