

**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: Enforcement Bureau

**LAKE BROADCASTING, INC.'S PARTIAL OPPOSITION TO
ENFORCEMENT BUREAU'S MOTION TO
COMPEL PRODUCTION OF DOCUMENTS;
REQUEST FOR PROTECTIVE ORDER AND FOR
ESTABLISHMENT OF HEARING SCHEDULE**

Pursuant to Sections 1.325 and 1.313 of the Commission's Rules, Lake Broadcasting, Inc. ("Lake"), by its attorney, hereby opposes, in part, the Enforcement Bureau's ("Bureau") March 23, 2015 Motion to Compel Production of Documents ("Motion") and asks the Presiding Judge to issue a protective order and establish a hearing schedule in this proceeding. In support whereof, the following is shown:

I. Why a Protective Order and Hearing Schedule are Needed

1. On June 24, 2014, the first Prehearing Conference in this proceeding took place. The atmosphere was congenial, Bureau counsel indicated (TR 13) that it had "no intention of dragging things out," Bureau counsel stated that it would need "six or seven months" for

discovery (TR 12), and Bureau counsel proposed a “hearing date in the Spring of 2015” (TR 12). Indeed, in a Joint Submission of Proposed Procedural Schedule,” filed on July 9, 2014, the parties proposed that discovery should be completed by January 30, 2015 and the hearing should commence on April 21, 2015.

2. In the nine months that followed, Lake produced many documents for the Bureau, including a November 22, 2014 Psychology Report prepared by Lake’s psychology experts, Drs. Duncan and Hively, a February 2, 2015 criminal law Expert Report prepared by Carter Collins Law, Esq., eight character reference letters, and answers to interrogatories and requests for admissions. Thus, Lake has fully complied with the original **unofficial but agreed** discovery schedule. However, the Bureau has not. Specifically, on March 4, 2015, the Bureau filed a “Second Request for Production of Documents”. Lake responded on March 16, 2015 and did not mention the untimeliness of the Bureau’s Request. It simply pointed out that Requests 2 and 4 for underlying test results and notes were duplicative, that the requested documents would be turned over under **previously agreed oral understandings**, and Lake requested confirmation of those understandings, as follows (Response at 2):

It is further understood that the transmittal of these documents to Dr. Weitzl and the preparation of a written report by Dr. Weitzl based thereon are in lieu of the time and expense needed to depose Mr. Rice, Dr. Duncan, and/or Dr. Hively before hearing or sending them written interrogatories pertaining to these matters. Lake has already indicated that it will produce Dr. Duncan and Mr. Rice at hearing, if requested, for cross-examination by the Bureau.

Requests 3 and 5 were moot, because no requested documents exist. And as to Request 6, Lake repeated its previous objection to the production of any of Mr. Michael Rice’s Federal income tax returns as irrelevant to Mr. Rice’s rehabilitation and the issues designated in this proceeding.

3. Instead of filing a Reply confirming the understandings mentioned above and trying to supply an evidentiary foundation for the requested income tax returns, the Bureau filed a

shrill Motion, which pretends that no understandings previously existed between Lake and the Bureau and describes an outlandish predicate for examining Mr. Rice's tax returns. The Bureau states (at 2) that Lake's conditions for document production would "unnecessarily restrict the Bureau's ability to present a comprehensive record for the Presiding Judge, and that the Bureau should not have to forego its "right" to take depositions of Mr. Rice and either of Lake's psychology experts (at 3).

4. In support of its views, the Bureau attached to its Motion a January 20, 2015 e-mail memo from Lake's counsel to Bureau counsel in which Lake indicated that it would be willing to give the Bureau's psychology expert (and only her) access to Dr. Duncan's test results and notes concerning Mr. Rice on condition that the Bureau must first demonstrate to Dr. Duncan's satisfaction that the Bureau's expert was properly qualified. Attached hereto are additional e-mail memos from the Bureau or Lake, dated January 22, February 2, and February 3, 2015, which further illuminate this area of contention: The Bureau transmitted Dr. Kimberly Weitzl's curriculum vitae to Lake on January 22, 2015, and inquired on February 2, 2015 whether the test results and notes had been transmitted to Dr. Weitzl. Lake responded on February 3, 2015 that it would not object to Dr. Weitzl's qualifications as an expert, but that, after studying Dr. Weitzl's credentials, Dr. Duncan had added the further condition for making the documents available that Dr. Weitzl must prepare her own report based on those same test results and notes of Dr. Duncan and give Lake that written report for Lake's analysis in a reasonable amount of time before the forthcoming hearing. Furthermore, Lake requested, on its own initiative, pre-hearing exchange of any document or report prepared by Dr. Weitzl which critiques the Duncan-Hively Psychology Report. In that way, according to Lake, the parties could avoid having Mr. Rice examined by Dr. Weitzl or Dr. Duncan being deposed by Dr. Weitzl, and vice-versa, and the parties would know – in advance and in writing – what Dr. Weitzl's conclusions were

concerning Mr. Rice's rehabilitation and the Duncan-Hively Report.

5. To fully understand this area of disagreement between the Bureau and Lake, it is necessary to review additional e-mail memos to or from the Bureau, which date back to December 18, 2014, when Bureau counsel stated in an e-mail memo that it wished to discuss scheduling depositions in January of Michael Rice and one of the experts that Lake expected to present at trial. Attached hereto are e-mail memos of December 18 and 23, 2014, January 13 and 20-22, 2015, and February 3, 2015 (already referenced), which show that:

- a) The parties expected the depositions to take place in late January 2015 in the St. Louis area;
- b) Michael Rice, Dr. Duncan, and perhaps Carter Law, Esq. would be deposed;
- c) The Bureau undertook on December 23, 2014 to "run this through the bureaucratic mill and get back to you as quick as we can".
- d) Lake heard nothing more from the Bureau about depositions until January 13, 2015 – three weeks later – when Lake inquired about having to change deposition dates. At that point, in a lengthy telephone conference, Bureau counsel intimated that they were not eager (or able?) to come to St. Louis to do depositions, they had hired their own psychologist expert, and **they were hoping that this expert could read the Duncan-Hively Report, along with the test results and notes, and reach a conclusion without examining Mr. Rice or deposing Dr. Duncan.**
- e) Dr. Duncan indicated that she could ethically only turn over her test results and notes to a qualified psychologist. However, after reviewing Dr. Weitzl's credentials, she added an additional condition concerning the report that Dr. Weitzl would prepare (see Paragraph 4 above).
- f) Consistent with (d) and (e), Lake added an additional condition for release of Dr.

Duncan's test results and notes, on its own initiative, stating that the Bureau should do a pre-hearing exchange of any document or report prepared by Dr. Weitzl which critiques the Duncan-Hively Psychology Report to avoid having Mr. Rice examined by Dr. Weitzl or Dr. Duncan being deposed by Dr. Weitzl, and vice-versa, and so that Lake will know – in advance and in writing – what Dr. Weitzl's conclusions are concerning Mr. Rice's rehabilitation and the Duncan-Hively Report.

6. Item (f) above and Lake's February 3, 2015 memo to the Bureau were intended by Lake to provide a procedure to wind up discovery and move the case to hearing. However, it is clear from the Bureau's Motion (at Para. 2) that the Bureau has no intention of ending discovery until ordered to do so by the Presiding Judge. Moreover, as demonstrated above, the Bureau has abused process on several occasions by ignoring oral understandings with Lake concerning when discovery would end, whether depositions would be taken, when and where they would be taken, who would be deposed, etc. Thus, Lake urges that the Presiding Judge should intervene, issue a protective order pursuant to Section 1.313 of the Rules on Lake's behalf to end discovery immediately, and establish a Hearing Schedule to bring this case to trial in an expeditious way.

7. Using the parties' July 9, 2014 Joint Submission of Proposed Procedural Schedule as a model, Lake proposes the following Hearing Schedule:

March 31, 2015	Completion of discovery
May 15, 2015	Exchange of direct case exhibits
June 1, 2015	Notification of witnesses for cross-examination
June 23, 2015	Admission session, commencement of hearing

II. Lake's Response to Motion to Compel as to Requests 2 and 4

8. Lake hereby renews the offer it made in its March 16, 2015 Response to the Bureau's Second Request for Production of Documents, as modified by the proposed Hearing Schedule above. Specifically, Lake is prepared to transmit the requested test results and notes to Dr. Weitzl directly at her address in Alton, Illinois or via e-mail to her at KWeitzl@aol.com. Given that these materials are privileged medical records, this transmittal will not be to the Bureau itself, and the information will not be placed in this hearing docket. Dr. Weitzl will prepare a written report based on these documents and the Duncan-Hively Report, and that report will be transmitted to Lake on or before May 1, 2015. It is understood that the transmittal of these documents to Dr. Weitzl and the preparation of a written report by Dr. Weitzl based thereon are in lieu of the time and expense needed to depose Mr. Rice, Dr. Duncan, Dr. Hively, or Dr. Weitzl before hearing or sending them written interrogatories pertaining to these matters. Lake will produce Dr. Duncan, Carter Law, Esq., and Mr. Rice at hearing, if requested, for cross-examination by the Bureau. It is also understood that the Bureau will exchange with Lake on or before May 1, 2015 any document or report prepared by Dr. Weitzl which critiques the Duncan-Hively Psychology Report.

III. Lake's Response to Motion to Compel as to Request 6

9. Lake has asked its Missouri criminal law expert, Carter Collins Law, Esq., to prepare a Supplemental Expert Report, attached hereto, which fully addresses the Bureau's specious Sex Offender Registration basis for requesting copies of Mr. Rice's Federal income tax returns for 2010 through 2014. In Paragraphs 4 and 5 of its Motion, the Bureau attempts to justify its request on possible inconsistencies between Mr. Rice referring to himself as self-

employed and the fact that his continuous 90-day Sex Offender Registrations show that he checks the “Unemployed” box. As Ms. Law explains, the form simply does not have a Self-Employed box!! The only choices are: Unemployed, Retired, or Disabled. Under these circumstances, Mr. Rice routinely checks the Unemployed box, but states that his “Secondary Address” or “Employer/Business Name” address is his home address. And Mr. Rice indicates elsewhere on the form that the effective date of that address is 01/04/2000 – when he was released from prison – and has not changed.

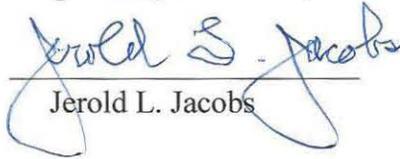
10. A second serious problem with the Bureau’s putative justification for obtaining Mr. Rice’s income tax returns to investigate the correctness of Mr. Rice’s sex offender reporting is that the Bureau states that “Through communications with an officer with the Missouri Parole and Probation Office, the Bureau has learned that there is a question as to whether Mr. Rice properly reported his employment” (Motion, para. 5). As Ms. Law explains, the Missouri Parole and Probation Office has no jurisdiction over sex offender reporting; it is handled solely (as to Mr. Rice) by the St. Charles County Sheriff’s Department – a very different entity. Thus, the views of an unidentified officer of an office which does not handle sex offender reporting cannot justify the Bureau’s request for production of documents.

11. Finally, IRS Form 1040 does not require a taxpayer to list his employer. Form W-2 withholding statements which identify employers may be attached, but Mr. Rice does not receive W-2’s for his occasional work. Schedule C of Form 1040 asks a taxpayer who is a sole proprietor to list a business name, and Mr. Rice simply lists his own name and “consultant”. In sum, Mr. Rice’s income tax returns have no information bearing on sex offender registration. He has fully disclosed in discovery the various kinds of things he does to keep busy, but he is 73 years old, and he need not be doing anything. However, he is active in his community and dabbles in several minor income-generating activities; therefore, he refuses to call himself

“Retired”. But his paid work is so little and sporadic (net income of \$2000 per year, according to Ms. Law) that calling himself “Unemployed” on the Sex Offender Registration form, given the three options available (see Paragraph 9 above), is hardly unreasonable and is certainly not the basis for criminal prosecution or further Bureau inquiry.

12. In sum, Request 6 has no reasonable basis, and the requested documents will not lead to the discovery of admissible evidence. Thus, while the prosecutors of Al Capone might be pleased with this proposed far-fetched fishing expedition into Mr. Rice’s income tax returns, the Presiding Judge should quash Request 6.

Respectfully submitted,



Jerold L. Jacobs

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

Counsel for Lake Broadcasting, Inc.

Dated: March 27, 2015

Attachments: E-mail Memos and Supplemental Expert Report and Exhibits

CERTIFICATE OF SERVICE

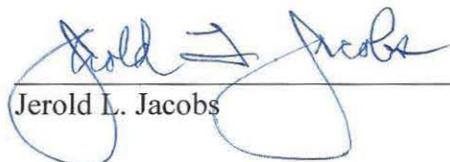
I, Jerold L. Jacobs, hereby certify that on this 27th day of March, 2015, I filed the foregoing “Lake Broadcasting, Inc.’s Partial Opposition to Enforcement Bureau’s Motion to Compel Production of Documents; Request for Protective Order and for Establishment of Hearing Schedule” in ECFS and caused a 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

Paula L. Blizzard, Deputy Chief
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Paula.Blizzard@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 Oshinsky, Esq.
Pamela Kane, Esq.
Jeffrey Gee, Esq.
Special Counsel
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
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Gary.Oshinsky@fcc.gov
Pamela.Kane@fcc.gov
Jeffrey.Gee@fcc.gov



Jerold L. Jacobs

E-MAIL CORRESPONDENCE CITED IN
LAKE BROADCASTING, INC'S
PARTIAL OPPOSITION TO
ENFORCEMENT BUREAU'S
MOTION TO COMPEL

Jerold Jacobs

From: Jerold Jacobs <jerold.jacobs.esq@verizon.net>
Sent: Thursday, December 18, 2014 1:06 PM
To: Michael S. Rice (radiomike@charter.net); 'ann duncan'; Carter Law
Subject: Depositions in January 2015?

12/18/14

All:

I just spoke with FCC counsel re scheduling depositions in our case. I told them that we would like to do it all in one day, and that I was not sure that Carter Law would be available in January (unless her report was completed before the deposition). We talked about possible venues for the depositions, and I mentioned the possibilities of St. Louis (IF the FCC has an office there), Chesterfield (Dr. Duncan's Office), and Clayton (Carter Law's office), since all of these locales seem less than 20 miles apart and less than 20 miles from St. Louis. We also talked about dates in January 2015. I said that I am available any time after Jan. 6.

FCC counsel wanted to know whether both Dr. Duncan and Dr. Hively would testify at hearing and be deposed. I said that only one of them would testify or be deposed, and it was probably Dr. Duncan because she is also an attorney. Dr. Duncan, please let me know what you and Dr. Hively would prefer.

I asked how long the depositions would be. They said "morning" and "afternoon" – assuming only two depositions. I assume that translates into 2-3 hours apiece. I don't know whether we could squeeze three into one day, if necessary.

In sum, my questions are:

- (1) When in January should the depositions occur?
- (2) Who should be deposed (Dr. Duncan or Dr. Hively)?
- (3) Where should the depositions take place?

Please give me your views on all matters.

Many thanks, and best regards,

Jerry

Jerold L. Jacobs, Esq.
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1629 K Street, N.W. Suite 300
Washington, D.C. 20006
Tel.: 202-508-3383
Fax: 202-331-3759
E-mail: jerold.jacobs.esq@verizon.net

From: William Knowles-Kellett [mailto:William.Knowles-Kellett@fcc.gov]
Sent: Thursday, December 18, 2014 9:24 AM
To: 'Jerold Jacobs (jerold.jacobs.esq@verizon.net)'

Cc: Gary Oshinsky; Gary Schonman

Subject: Depositions

Jerry-

We would like to discuss scheduling depositions in January of Michael Rice during January and one for the expert you expect to present a trial. If you would, please call Gary Oshinsky at 202 418-7167 or me at 717 338-2505 to discuss.

Thanks,

Bill Knowles-Kellett

Attorney

Enforcement Bureau, Investigations and Hearings Division

717 338-2505

Jerold Jacobs

From: William Knowles-Kellett <William.Knowles-Kellett@fcc.gov>
Sent: Tuesday, December 23, 2014 1:20 PM
To: 'Jerold Jacobs'
Cc: Gary Oshinsky; Gary Schonman
Subject: RE: Depositions in Patrick Sullivan/Lake case

Jerry-
Thanks--we will run this through the bureaucratic mill and get back to you as quick as we can. We are a little short staffed this week and next so cannot predict how fast we can get approvals for dates.

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

From: Jerold Jacobs [mailto:jerold.jacobs.esq@verizon.net]
Sent: Tuesday, December 23, 2014 12:30 PM
To: William Knowles-Kellett; Gary Oshinsky; Gary Schonman
Subject: Depositions in Patrick Sullivan/Lake case

12/23/14

All:

Per discussion, I have contacted those who may be deposed on my side in the subject case, and they are all available during the last week of January or February 2 and 3.

Dr. Ann Duncan will be deposed concerning the Duncan-Hively Psychological Report, and Mr. Michael Rice will also be available to be deposed. It is not clear to me whether you might wish to depose Carter Law, Esq. concerning her forthcoming report on relevant Missouri criminal law and practice. That report should be completed by January 10, and she will be available except for early morning on January 27.

Carter Law's office is in Clayton, MO, which is about 5 miles from St. Louis. She can make her conference room available for all depositions, whether or not she is deposed.

I would like to try to do all of the depositions in one day, so that I arrive the night before and leave at the end of the deposition day. If there are only two depositions (Rice and Duncan), that should work easily; if there are three, maybe not so.

Please advise.

I will be out of town from Dec. 25 through Jan. 4.

Happy holidays,

Jerry

Jerold L. Jacobs, Esq.

Jerold Jacobs

From: Jerold Jacobs <jerold.jacobs.esq@verizon.net>
Sent: Tuesday, January 13, 2015 1:07 PM
To: William Knowles-Kellett; 'Gary Oshinsky'; gary.schonman@fcc.gov
Subject: Depositions in Patrick Sullivan/Lake case; standard of proof; irrelevance of Titus case

Importance: High

1/13/15

All:

I have received no response from you to my December 23 memo below, and time is getting very short if depositions are to occur two weeks from now. Do we need to changing our thinking to mid-late February?

Also, before the depositions occur, in light of the disagreements of the parties in their December comments to the ALJ on the impact of the *Titus* case on ours, Lake will require a ruling from the ALJ concerning the proper standard of proof for rehabilitation in this case. If the ALJ does not rule on his own within the next few days, I will likely file a formal request for a ruling or certification of the matter to the Commission.

Finally, our criminal law expert has completed her report, and we should be forwarding it to you within the next few days. It makes it abundantly clear that Missouri law and the facts of our case are so different from Washington State law and Titus facts on relevant matters that *Titus* has very little relevance to our case.

Best regards,

Jerry

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E-mail: jerold.jacobs.esq@verizon.net

Jerold Jacobs

From: Jerold Jacobs <jerold.jacobs.esq@verizon.net>
Sent: Tuesday, January 13, 2015 2:30 PM
To: 'Ann Duncan'
Cc: Michael S. Rice (radiomike@charter.net)
Subject: Michael Rice case -- may be able to avoid deposition

Importance: High

1/13/15

Dear Ann:

Happy New Year!

I just had a long conversation with FCC counsel. Reading through the lines, they are not eager to come to St. Louis to do depositions. They have hired an expert of their own, and they hope that this expert can simply read your report, **along with the test results and your notes concerning same**, and reach a conclusion without examining Mr. Rice or deposing you. Are you willing/able to turn the test results and your notes over to the FCC? Is this a far-out or improper request?

Please advise.

Thanks,

Jerry

Jerold L. Jacobs, Esq.
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Tel.: 202-508-3383
Fax: 202-331-3759
E-mail: jerold.jacobs.esq@verizon.net

PS I tried to telephone you, but apparently you are having some telephone trouble, and I could not even leave a voicemail message.

Jerold Jacobs

From: Jerold Jacobs <jerold.jacobs.esq@verizon.net>
Sent: Tuesday, January 20, 2015 8:59 PM
To: William Knowles-Kellett; 'Gary Oshinsky'; gary.schonman@fcc.gov
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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Jerold Jacobs

From: William Knowles-Kellett <William.Knowles-Kellett@fcc.gov>
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

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Jerold Jacobs

From: Jerold Jacobs <jerold.jacobs.esq@verizon.net>
Sent: Tuesday, February 3, 2015 12:01 AM
To: 'Gary Oshinsky'; gary.schonman@fcc.gov
Cc: 'William Knowles-Kellett'; Carter Law; 'ann duncan'
Subject: RE: Dr. Duncan's test results and notes

2/2/15

All:

My client has reviewed the qualifications of Dr. Weitzl to be an expert in this proceeding, and we will not object to her qualifications. However, we will only turn over Dr. Duncan's test results and notes to Dr. Weitzl for her analysis on condition that Dr. Weitzl must prepare her own report based on those same test results and notes of Dr. Duncan and give us that written report for our analysis in a reasonable amount of time before the forthcoming hearing. Likewise, we request pre-hearing exchange of any document or report prepared by Dr. Weitzl which critiques the Duncan-Hively Psychology Report, which we have already furnished to you. In that way, we can avoid having Mr. Rice examined by Dr. Weitzl or Dr. Duncan being deposed by Dr. Weitzl, and vice-versa, and we will know – in advance and in writing – what Dr. Weitzl's conclusions are concerning Mr. Rice's rehabilitation and the Duncan-Hively Report.

Please confirm the Bureau's agreement with the above conditions. Assuming the Bureau agrees to these conditions, please give me the e-mail address of Dr. Weitzl to which we should send Dr. Duncan's test results and notes.

Many thanks,

Jerry

Jerold L. Jacobs, Esq.
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From: Gary Oshinsky [mailto:Gary.Oshinsky@fcc.gov]
Sent: Monday, February 2, 2015 4:36 PM
To: Jerold Jacobs (jerold.jacobs.esq@verizon.net)
Cc: William Knowles-Kellett
Subject: Dr. Duncan's test results and notes

Hi Jerry,

I'm emailing to confirm that the test results and notes have been furnished to Dr. Weitzl as requested. She is in the process of preparing her report and determining whether she will need to perform an examination of Mr. Rice. If you've not yet been able to forward this information, can you please let us know when you expect to accomplish this so we can inform her? Thanks very much.

Gary

Gary A. Oshinsky
Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Room 4-A335
Washington DC 20554
202-418-7167

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