

**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
Attn: Chief Administrative Law Richard L. Sippel

**LAKE BROADCASTING, INC.’S COMMENTS ON
ENFORCEMENT BUREAU’S OPPOSITION TO LAKE’S
MOTION FOR A PROTECTIVE ORDER**

Pursuant to the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution, Lake Broadcasting, Inc. (“Lake”), by its attorney, respectfully asks the Presiding Judge’s permission to file the following Comments on the Enforcement Bureau’s (“Bureau”) August 24, 2015 Opposition to Lake’s Motion for a Protective Order (“Opposition”). As Lake will now demonstrate, the Opposition mistakenly dwells upon alleged procedural defects in the Motion and Lake’s conduct, instead of focusing on the merits of the Motion’s substantive goal of creating “a full and complete evidentiary record” (*Hearing Designation Order*, Para. 29) in this proceeding.

1. In *Order*, FCC 15M-26 at 1 (“*Order*”), released August 4, 2015, the Presiding Judge granted the Bureau’s expert, Dr. Kimberly Weitzl, latitude in conducting an interview of Mr. Rice and denied Lake’s request for “three conditions upon the interview”. One of those “conditions” was a request that the interview be transcribed and that the resultant transcription be made available to Lake no more than two weeks after the interview (*Denied, Order* at 4).

2. Thus, contrary to the Opposition, since Lake did not previously seek a “protective order” as to a transcript, Lake’s pending Motion is not a redundant, unauthorized, or untimely interlocutory appeal of FCC 15M-26, but rather a fresh Motion for a Protective Order, pursuant to Section 1.313 of the Commission’s Rules and the Due Process Clause of the Fourteenth Amendment, in light of new evidence that was discovered by Lake after reading FCC 15M-26 on August 4, 2015. That evidence is that between 2010 and the present, Dr. Weitzl has been involved in some 20 federal or state lawsuits concerning her psychological examinations. Most distressingly, in one case, *Smego v. Weitzl*, 2013 U.S. Dist. LEXIS66796 (May 10, 2013), Plaintiff alleged that “Dr. Weitzl made numerous false allegations and statements, twisted facts to the point of unrecognizability, and omitted so many essential facts including exculpatory evidence as to render her report an outright lie”. That case was dismissed by U.S. District Court Judge Myerscough on procedural grounds, because Dr. Weitzl was held to be entitled to witness immunity from Plaintiff’s claims arising from her report submitted to a state court, so the merits were never adjudicated.

3. Under these circumstances, Lake is very concerned about the apparent bias in Dr. Weitzl’s reports against criminal rehabilitation. This new concern, based upon just-discovered research that was stimulated by the Presiding Judge’s own *Order*, provides new grounds for Lake’s request that a court reporter be present to record and transcribe Mr. Rice’s interview and/or that Mr. Rice be permitted to prepare his own audio recording of the interview to protect

himself against errors or misrepresentations by Dr. Weitzl. Lake is willing to pay the cost of such a court reporter.

4. In FCC 15M-26, at 4, the Presiding Judge denied Lake's request for a transcript of the interview because Lake had failed to provide "any reason," let alone good cause, for a transcript. Lake was not aware of such an evidentiary burden but quickly found 20 "reasons" on the very day that the Presiding Judge issued his *Order* – the large number of recent cases in which Dr. Weitzl's psychological reports have been attacked. Lake submits that a full and complete record in this proceeding requires that a transcript of Mr. Rice's interview be prepared, because, in light of the 20 cited cases, Lake is indeed concerned that Dr. Weitzl may "misrepresent Mr. Rice's responses in her written report" of their interview (FCC 15M-26 at 4). See *Smego v. Weitzl, supra*.

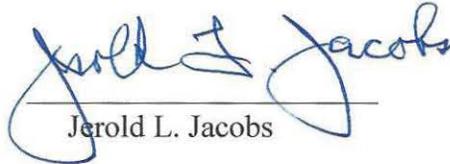
5. Finally, on August 27, 2015, Lake's counsel informally discussed with Bureau counsel by telephone the interview and deposition scheduling issues raised in Lake's Motion and the Opposition. Mr. Rice's contact information was already available to the Bureau, via discovery documents such as Mr. Rice's Form 1040 income tax returns. But, most importantly, Lake's counsel never received the Bureau's August 7 request for information, because it was sent by the Bureau to the wrong e-mail address. Furthermore, contrary to Opposition, n. 12, it is not the responsibility of Lake to arrange for the Weitzl-Rice interview that the Bureau wants. Rather, the Bureau must work out those details with Dr. Weitzl and Mr. Rice. For abundance of clarity, Mr. Rice's contact information is:

Michael S. Rice
216 Rio Vista Drive
St. Charles, MO 63303-4111
Tel. 636-946-2430

6. It is now informally understood that Dr. Weitzl will interview Mr. Rice during September 2015, that she will prepare and present her report during September 2015, and that she will be deposed during the week of October 12, 2015, along with anyone else to be deposed in this proceeding. The place for the depositions of Mr. Rice, Dr. Weitzl, and any others should be selected by the Bureau (most likely a motel room in the St. Louis area), and the arrangements for the location and court reporter for the depositions should also be made by the Bureau, with Lake participating in expense allocation as appropriate.

WHEREFORE, in light of the foregoing, it is respectfully requested that Lake's Motion for a Protective Order be granted.

Respectfully submitted,



Jerold L. Jacobs

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Counsel for Lake Broadcasting, Inc.

Dated: August 28, 2015

CERTIFICATE OF SERVICE

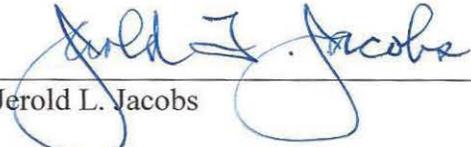
I, Jerold L. Jacobs, hereby certify that on this 28th day of August, 2015, I filed the foregoing "Lake Broadcasting, Inc.'s Comments on Enforcement Bureau's Opposition to Motion For a Protective Order" in ECFS and caused a copy to be sent via First Class United States Mail and via e-mail to the following:

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