



1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

Stamp and Return

FILED/ACCEPTED

FEB 15 2012

Federal Communications Commission
Office of the Secretary

Todd M. Stansbury
202.719.4948
tstansbury@wileyrein.com

February 15, 2012

BY HAND DELIVERY

Marlene H Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Request for Waiver of Section 73.1125
WAYJ(FM), Fort Myers, Florida (Facility ID No.64256)
FCC File No. BALED-20120214ACM

Dear Ms Dortch:

In a recently filed Form 314 Application for Consent to Assignment of Broadcast Station License (FCC File No. BALED-20120214ACM), Way Media, Inc. ("Way") proposes the assignment of WAYJ(FM), Fort Myers, Florida (Facility ID No. 64256) ("WAYJ") to Classical South Florida, Inc. ("CSF"). For the reasons set forth below, CSF respectfully requests that, upon consummation of the proposed assignment, the Commission waive the main studio rule to allow CSF to operate WAYJ as a "satellite" of commonly owned noncommercial educational station WKCP(FM), Miami, Florida.

CSF's parent company, American Public Media Group, is the licensee of WKCP. CSF is the licensee of WPBI(FM), West Palm Beach, Florida, and both WKCP and WPBI are licensed as noncommercial educational stations. Both WKCP and WPBI operate out of a common main studio located in Fort Lauderdale. CSF expects that WAYJ will retransmit most of the programming that originates on WKCP, which is predominately classical music.

As demonstrated below, grant of CSF's request to operate WAYJ as a satellite of WKCP will serve the public interest.

The Commission has stated previously that, absent a waiver, the "main studio must, at a minimum, maintain full-time managerial and full-time staff personnel." *Jones Eastern of the Outer Banks, Inc.*, FCC 91-175 ¶ 9 (rel. June 19, 1991); see also *Salem Broadcasting, Inc.*, DA 91-804 (rel. July 2, 1991). However, the Commission also has recognized the advantages accruing to noncommercial broadcasters from consolidated operations:

Marlene H. Dortch, Secretary

February 15, 2012

Page 2

In the past, we have recognized the benefits of centralized operations for noncommercial educational stations, given the limited funding available to these stations, and we have granted waivers to state and regional public television and radio networks to operate "satellite" stations that do not necessarily meet the requirements of a main studio.

Main Studio and Program Origination Rules, 3 FCC Rcd 5024, 5027 (1988). CSF respectfully submits that a similar result is warranted here.

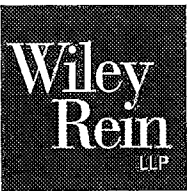
If CSF were required to set up and maintain a Main Studio in Fort Myers, the original investment required for the start-up and operations for the first year of the office/studio would be about \$460,000, with annual operating expenses of about \$370,000 thereafter. This includes finding office/studio space, building out studio space, installing additional T-1 lines, and buying office/studio equipment, furniture, utilities, office supplies and insurance. In addition, CSF would have the significant, ongoing personnel costs involved with hiring two individuals to work full-time in the Fort Myers studios. Depending on the exact job descriptions and experience levels of those two individuals, the annual personnel expense would be about \$130,000 per year, including benefits, with a start-up cost of about \$30,000. Therefore, appropriate staffing and technical facilities would be extremely costly and difficult to sustain in this area.

CSF currently has 3 dues-paying members in Fort Myers who contributed a total of \$230 to CSF in the past year.

If a main studio waiver is granted, the funds that would otherwise have to be put into creating and maintaining a main studio in Fort Myers will be used for a variety of purposes that will help to provide better service to the residents of Fort Myers.

For example, CSF's plans for all three stations, including WAYJ, involve becoming more digitally interactive with its audiences, where users can experience diverse classical music through mobile devices, media streaming and other creative ways to engage with other music fans and the artists themselves.

Another example of the service improvements that will benefit CSF listeners in Fort Myers involves the creation of a new network distribution method to all three of the CSF operated/owned stations in south Florida. As previously stated, CSF presently operates station WKCP in Miami and WPBI in West Palm Beach. With the addition of WAYJ in Fort Myers, CSF intends to change the current technical



Marlene H. Dortch, Secretary

February 15, 2012

Page 3

distribution method to a network model, which will enable CSF to send and broadcast the network feed and unique market-specific content to each of the stations and improve its service to the Fort Myers community.

Consequently, waiver of Section 73.1125 would substantially promote CSF's ability to deliver efficiently diverse and significant programming that will serve the needs of Fort Myers residents.

Upon grant of this request, CSF will satisfy the public needs and interests of residents of Fort Myers by the following means:

- CSF maintains a toll-free telephone line and an email address by which residents of the Fort Myers area can reach CSF management with programming suggestions and to express concerns about the station's operation. This action will be taken consistent with Section 73.1125(e) of the Commission's Rules. The toll free telephone number goes directly to CSF's Member Benefits Department. In the past year, Member Benefits has handled about 4,200 incoming calls, 3,800 email messages and about 40 mail letters from listeners on a huge range of subjects. (This is in addition to the calls and emails to CSF from people making a financial contribution to CSF.) Reports of listener contacts are routinely shared with CSF management. CSF's commitment to maintain easy access is strong.
- CSF has established a robust web site at www.classicalsouthflorida.org that enables local residents to receive extensive information about CSF's programming and provides a link for local residents to email concerns about the station operations to CSF management. The site contains descriptions of all programming, online audio sources and local events. The public inspection file for WKCP and WPBI are on the website. The WAYJ public file will be added to the website once CSF owns the station.
- CSF will promote interaction between its management and local community leaders through a Regional Advisory Council ("RAC"), in compliance with Corporation for Public Broadcasting requirements. CSF's Board currently meets two to four times per year and provides input to news and station management on programming, which CSF thoughtfully considers when making program decisions for the stations it programs. Following its acquisition of WAYJ, the CSF RAC will be expanded to include residents



Marlene H. Dortch, Secretary

February 15, 2012

Page 4

from the Fort Myers community. Summaries of the RAC meetings are supplied to CSF's Board of Trustees.

The Commission has relied substantially on similar representations in finding that waivers of the Main Studio Rule for stations of CSF subsidiary, Minnesota Public Radio ("MPR"), serve the public interest, and has granted waivers where MPR has pledged to (1) continue its policy for local residents to serve on an RAC; (2) continue the relationship with the local community through membership; (3) solicit comments from residents regarding station operation and programming; (4) maintain a local toll-free telephone number for residents of the satellite station's community to contact CSF management in accordance with 47 C.F.R. § 73.1125(e); and (5) maintain a station website that enables local residents to receive extensive information and comment on CSF's programming. See, e.g., Letter dated June 16, 2000 from Linda Blair, Chief, Audio Services Division, Mass Media Bureau, to Todd M. Stansbury, waiving the main studio rule for a new FM station at Grand Marais, MN, FCC file no. BPED-19981208MI.

For the foregoing reasons, CSF submits that it will be able to ascertain and satisfy the interests and needs of the residents of the Fort Myers area, and therefore, CSF respectfully requests that the Commission waive its Main Studio Rule to permit CSF to operate WAYJ as a satellite of commonly owned WKCP.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "T. Stansbury", written over a printed name.

Todd M. Stansbury

cc: Mitzi T Gramling, Classical South Florida