



Federal Communications Commission
Washington, D.C. 20554

April 12, 2012

Guenter Marksteiner
47 Winnacunnet Road
Hampton, New Hampshire 03842

Re: WYDT-CA, Naples, Florida
Facility ID No. 25538
WHDT-CA, Miami, Florida
Facility ID No. 9614

Dear Licensee:

This is with respect to stations WYDT-CA, Naples, Florida and WHDT-CA, Miami, Florida, licensed to Guenter Marksteiner ("Marksteiner"). These stations are currently licensed as Class A television stations, which are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 ("CBPA").¹

To qualify for Class A status, the CBPA provides that, during the 90 days preceding enactment of the statute, a low power television station must have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station; and (3) been in compliance with the Commission's rules for low power television stations.² Class A licensees must continue to meet these eligibility criteria in order to retain Class A status.³

In addition, beginning on the date of its application for a Class A license and thereafter, the CBPA requires that a station must be "in compliance with the Commission's operating rules for full-power television stations."⁴ In implementing the CBPA and establishing the Class A television service, the Commission applied to Class A licensees all Part 73 regulations except for those that could not apply for technical or other reasons. Among the Part 73 requirements that apply to Class A licensees are the Commission's main studio requirements;⁵ rules governing informational and educational children's programming and the limits on commercialization during children's programming; the requirement to identify a children's programming liaison at the station and to provide information regarding "core" educational and informational programming aired by the station to publishers of television program guides; the public inspection file rule, including preparing and placing in the public inspection file on a quarterly basis an issues/programs list and the station's quarterly-filed FCC Form 398 (Children's Television Programming Report); the political programming rules; station identification requirements;

¹ Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 – 1501A-598 (1999), *codified at* 47 U.S.C. § 336.

² 47 U.S.C. § 336(f)(2)(A)(i).

³ 47 U.S.C. § 336(f)(1)(A)(ii); 47 C.F.R. § 73.6001(b).

⁴ 47 U.S.C. § 336(f)(2)(A)(ii).

⁵ *In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000) ("R & O"), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56 (2001) ("MO & O on Recon"). This includes maintaining a meaningful management and staff presence of at least two full-time personnel in order to serve the needs and interests of the residents of the station's community of license.

and the Emergency Alert System (EAS) rules.⁶ Class A television licensees are also subject to the regulations regarding fines and penalties applicable to full power television stations, and are subject to loss of Class A status if they fail to meet these ongoing program service and operating requirements.⁷

As discussed above, Class A television stations must prepare a Children's Television Programming Report for each calendar quarter reflecting efforts made by the licensee during the quarter, as well as efforts planned for the next quarter, to serve the educational and informational needs of children. The licensee must place a copy of each quarterly report in its station's public inspection file by the tenth day of the succeeding calendar quarter (i.e., by April 10 for the first quarterly report; by July 10 for the second quarterly report; by October 10 for the third quarterly report; and by January 10 for the fourth quarterly report). In addition, FCC Form 398 (Children's Television Programming Report) must be filed electronically with the Commission on a quarterly basis on the following dates: April 10 for the first quarterly report; July 10 for the second quarterly report; October 10 for the third quarterly report; and January 10 of the succeeding year for the last quarterly report.⁸ The forfeiture guidelines adopted by the Commission establish a base forfeiture penalty of \$10,000 for violation of the public file rules and a base forfeiture penalty of \$3,000 for failure to file required forms and information.⁹

Commission records indicate that the required Form 398 electronic filings for station WYDT-CA were not filed for the second, third and fourth quarters in 2010 and all four quarters in 2011. The required filings for station WHDT-CD were not filed for the second and third quarters in 2010 and all four quarters in 2011. In order to complete our investigation of potential rule violations by the stations, you are required to provide information identifying quarters in 2010 and 2011 for which a Children's Television Program Report was prepared, the dates on which they were prepared and placed in the stations' public files, and the locations of the public files. Your submission must be supported by the declaration of a person with personal knowledge of the facts.¹⁰ Please direct your response to Joyce L. Bernstein, Video Division, Media Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, and electronically to joyce.bernstein@fcc.gov.

In the event that the failure to make quarterly FCC Form 398 filings and/or to prepare and place quarterly Children's Television Program Reports in the stations' public files was due to your election to let stations WYDT-CA and WHDT-CD revert to low power television status, you need only notify us of this election and request a change in status for the stations.¹¹ Failure to provide the requested information or request a change in station status within 30 days from the date of this letter may result in the institution of a forfeiture proceeding and/or loss of Class A television status.

Sincerely,

Hossein Hashemzadeh
Deputy Chief, Video Division
Media Bureau

⁶ *R & O*, 15 FCC Rcd at 6366

⁷ *MO & O on Recon*, 16 FCC Rcd at 8257.

⁸ See 47 C.F.R. §§ 73.3526 and 73.6026.

⁹ 47 C.F.R. § 1.80(b)(4).

¹⁰ See 47 C.F.R. § 1.16.

¹¹ See 47 C.F.R. § 73.6001(d).

cc: John K. Hane, Esq.