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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

FILED/ACCEPTED

JAN 18 2012

Federal Communications Commission
Office of the Secretary

In re Application of)
CLEAR CHANNEL BROADCASTING)
LICENSES, INC.)

For Renewal of the License of Station)
WJNO(AM), West Palm Beach, FL)

FCC File No. BR-20110930AEG
Facility ID #1917

To: The Secretary, Federal Communications Commission
Attn: The Chief, Audio Services Division, Media Bureau

OPPOSITION TO PETITION TO DENY

Clear Channel Broadcasting Licenses, Inc., a license subsidiary of Clear Channel Communications, Inc. (collectively "Clear Channel") and the licensee of radio station WJNO(AM), West Palm Beach, FL, by its attorneys and pursuant to Section 73.3584(b) of the Commission's rules, hereby opposes the Petition to Deny (the "Petition") submitted by Milo Vannucci against Clear Channel's captioned application to renew WJNO's license. As detailed below, the Petition's allegations are barred by decades of Commission and court precedent affirming the programming and editorial discretion of broadcast licensees. Under well-established law, the Petition presents no *prima facie* question of fact regarding the grantability of WJNO's license renewal, and thus the Petition should be denied.

As a petitioner to deny, Vannucci must provide properly supported allegations of fact which, if true, would establish a substantial and material question that grant of WJNO's license renewal application would be *prima facie* inconsistent with Section 309(k) of the Communications Act.¹ Section 309(k) provides that the Commission is to grant the renewal

¹ 47 U.S.C. § 309(k).

application if, upon consideration of the applications and pleadings, it finds that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Communications Act or the FCC's rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.²

Vannucci does not claim that WJNO has violated the Communications Act or any FCC rule. He claims only that WJNO "fails to serve the public interest" because it allegedly offers more "conservative" than "progressive" talk radio. This, according to Vannucci, "harms the local community" by "denying the rights of alternative political voices . . . access to the microphones on the publicly owned airwaves of West Palm Beach."³ Additionally, Vannucci claims that WJNO "fails to identify which of its programs are . . . news . . . and which are opinion," thus allegedly confusing listeners "as to whether what they hear on WJNO constitutes facts or fictions."⁴

Vannucci's Petition falls squarely into the category of program content complaints that the Commission has repeatedly found insufficient to raise a substantial and material question of fact as to renewal of a station license. As the Commission has stated many times over many years:

The Commission will not take adverse action on a license renewal application based upon the subjective determination of a listener or group of listeners as to what constitutes appropriate programming. Licensees have broad discretion – based on their right to free speech – to choose, in good faith, the programming they believe serves the needs and interests of their communities.⁵

² *Id.*

³ Petition at 5.

⁴ *Id.* at 7.

⁵ WHYY, Inc., 22 FCC Rcd 18635, 18636 (Audio Div. 2007) (citing WGBH Educational Foundation, 69 F.C.C.2d 1250, 1251 (1978)) (footnotes omitted). See also Letter to Ms. Rosanda Suetopka Thayer re KUYI(FM), Hotevilla, AZ, 22 FCC Rcd 17305, 17307-08 (Audio Div. 2007) (denying renewal objection which alleged failure to broadcast community-responsive programming, complained of station's format, and claimed station aired "biased political

Vannucci's claims—that WJNO airs too much “conservative” as opposed to “progressive” talk radio programming, and that the station fails to meet a nonexistent requirement that it “identify” supposed “news” and “opinion”—are precisely the types of program-related allegations that the Commission has long found do not raise an issue regarding renewal of a station's license. Under established precedent, Vannucci's Petition should be denied, and WJNO's renewal application granted promptly.

Respectfully submitted,

**CLEAR CHANNEL BROADCASTING
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public service programming”); Letter to Mr. Edward W. Mudd II re WBHM(FM), Birmingham, AL, 21 FCC Rcd 11871 (Audio Div. 2006) (denying renewal objection claiming, among other things, that station had not adapted programming to reflect changing demographics of community).

Certificate of Service

I, Randy Pannell, a secretary in the law firm of Wiley Rein LLP, do hereby certify that I have on this 18th day of January, 2012, caused a copy of the foregoing "Opposition to Petition to Deny" to be served by First Class U.S. Mail, postage prepaid, upon the following:

Milo Vannucci
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Randy Pannell