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May 1, 2015

VIA HAND DELIVERY

Hossein Hashemzadeh Federal Communications Commission 445 12th Street, SW Washington, DC 20554

Re: WHDN-CA, Naples, Florida (FIN: 25538) File Nos. BLTTA-20001208AEW; BDCCDTL-20120629ACO

Dear Mr. Hashemzadeh:

This letter responds to your letter of April 16, 2015 in which you have asked for additional information in connection with your consideration of the Petition for Reconsideration filed by Guenter Marksteiner regarding the staff's action in deleting the above referenced authorizations.

Question 1: Please provide the specific dates, time, and duration of the Station's brief return to air.

Response: The station was placed on-air at approximately 1:00 PM on May 31, 2014, and was operational until approximately 8:00 AM on June 1, 2014. After a brief shutdown, the station was placed on-air again by approximately 1:00 PM, June 1, 2014 and was operational until approximately 10:30 PM on June 1, 2014.¹

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¹ See Declaration Under Oath of Guenter Marksteiner at ¶ 2, 4.

Question 2: Please provide specific information describing the technical operation of the Station's brief return to air. This information should include a description of the equipment used, the antenna and tower site used, the effective radiated power, HAAT, studio location, and whether the operations were consistent with the Station's FCC license.

Response: The Station's operations were consistent with the Station's FCC license in that the Station operated from its licensed coordinates, with its licensed antenna system and HAAT. The Station employed substitute Thales amplifier modules in an effort to optimize the station's operation.²

Question 3: Please provide a description of the nature or type of the duration of any programming broadcast by the Station during its brief return to air. Also discuss how this operation complied with Section 312(g) and related Commission precedent.

Response: The Station aired a normal schedule of programming, including local news, weather, syndicated programming, children's educational programming, paid programming, commercials, public service announcements, and program promos.³ See also "Compliance with Section 312(g) and Commission Precedent" below.

Question 4: Please provide the names and title of the specific duties of any station personnel involved in the supervision and operation of the Station during its brief return to air.

Response: Guenter Marksteiner: Licensee, Chief Operator.⁴

Question 5: Please provide the Commission with all correspondences, documents, station records including programming guides, electric and maintenance bills, and any other written material verifying the station's brief return to air. In particular describe the precise nature of the Station's operation and discuss how this operation complied with Section 312(g) and related Commission precedent.

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² See Declaration Under Oath of Guenter Marksteiner at \P 3.

³ See Declaration Under Oath of Guenter Marksteiner at $\P 5$.

⁴ See Declaration Under Oath of Guenter Marksteiner at \P 7.

Response: Attached please find the Declaration of Mark Rauch attesting to the contemporaneous statements of Guenter Marksteiner stating that the Station was operational on June 1, 2014. See also "Compliance with Section 312(g) and Commission Precedent" below.

Compliance with Section 312(g) and Commission Precedent:

The Commission has previously stated that operation of a station pursuant to equipment tests and the broadcast of a test pattern are not sufficient to satisfy the requirements of Section 312(g). As reflected herein, WHDN-CA broadcast a full program schedule intended for receipt by the public, including local news, children's educational and informational programming, station identification, and public service announcements.

Moreover, the Commission has stated that the return to operation with unauthorized facilities is not sufficient to satisfy the requirements of Section 312(g). The facilities from which WHDN-CA broadcast were those reflected in its license authorization.

The operation of the station was not undertaken merely to avoid application of Section 312(g)'s bar. Marksteiner returned the station to air for independent business and program service reasons eight months before the one year deadline would have otherwise passed. The licensee had no reason, in May and June of 2014, to bring the station online just to preserve the license. The licensee has a long history of serving the community and had and continues to have inquiries from programmers seeking to reach the Naples market. It was only the failure of the licensee's intended repair solution that prevented the Station from remaining in operation after June 1, 2014. To the extent necessary, the licensee requests that the Commission exercise its discretion to recognize that the Station's silence is due to causes beyond the licensee's control.

Please contact the undersigned with any questions.

Incerel/v vours: vnch Flick

cc: Evan Morris (via email)

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DECLARATION

I, Guenter Marksteiner, hereby declare as follows:

1. I am the licensee of WHDN-CA, Naples, Florida and permittee of WHDN-CD, Naples, Florida, and provide the following information in response to the Commission's letter dated April 16, 2015, requesting additional information in connection with the Petition for Reconsideration of the Commission's action cancelling the stations' authorizations.

2. After going dark on January 6, 2014, the station was returned to air at 1:00 PM Eastern Time on Saturday, May 31, 2014. Apart from a few brief interruptions initially as the facilities were brought online, the station remained in operation until approximately 8:00 AM Eastern Time, Sunday, June 1, 2014. Operation then resumed by 1:00 PM Sunday, June 1, 2014 and continued until 10:30 PM that night.

3. The facilities used during this time were the station's licensed facilities, that is, the station operated from its licensed coordinates, with its licensed antenna system and HAAT. Several Thales amplifier modules were recaptured from another of the licensee's facilities following an upgrade, and these were utilized as they provided a reasonable chance of operating the station's existing transmitter at full power. However, by the end of the first day of analog service, the amplifiers were triggering coolant alarms.

4. At the conclusion of the station's children's programming Sunday morning, shown as "SYWTB" at 0730 on page 3 of the DEM printout attached hereto, I powered the transmitter down to investigate the over-temperature alarms on the coolant pump. The system was opened to flush out some coolant. It was not possible to completely drain the system due to bacterial contamination and likely corrosion in the heat exchanger. Accordingly, I exhausted the supply of deionized water stored at the site, but was not able to restore sufficient coolant flow. Nevertheless, I placed the station back into operation in time for the regularly scheduled network feed of Le Mans automotive sports at 1:00 PM, as this was important to a significant supplier of programming to the station and a main motivation for attempting to restore operation, rather than waiting to do so upon converting the station to digital operation. By Sunday night, the coolant pump housing was too hot to allow the system to run any longer. The Geysel combiner at the site used air-cooled resistive loads which, in the event of a failed amplifier would dissipate heat into the transmitter room, presenting a potential fire hazard. It was also clear from this period of operation that the transmitter's liquid-cooling system would have to be replaced. Internal corrosion throughout the exterior heat exchanger had migrated to various transmitter components, the repair of which is beyond the scope of a field repair. Accordingly, at that time, I was forced to take the station off air.

5. Throughout this period of operation, the station aired a normal schedule of programming intended for reception by the public. The programming broadcast during this time is reflected by the automation system Daily Event Manager ("DEM"). I have formatted the appropriate records from that system into the pages attached hereto to provide a record of the specific programs. The Daily Event Manager records all programs fed into the station's transmitter. The Daily Event Manager reflects that paid programming and syndicated programming aired until 11:00 PM Saturday, May 31, 2014. At 11:00 PM, a one-hour licensee-produced south-Florida newscast aired, including local weather. After the news, regular programming, including the station's programming resumed until 8:00 AM on Sunday, June 1, 2014. The station went off air at approximately 8:00 AM, and returned to air at

1:00 PM on June 1, at which time it began broadcasting The Auto Channel. The station was shut down at 10:30 PM on June 1, 2014.

6. As described below, the impetus to return the station to the air was a request from a major program supplier, the Auto Channel, to launch service in Naples. Throughout this programming, local commercials, public service announcements, including Stop the Text – Stop the Wrecks and Buzzed Driving is Drunk Driving; and program promos for upcoming programs also aired. Appropriate station identification announcements also aired during each hour of broadcasting.

7. I was the only station representative who undertook the work at the transmitter site and returned WHDN-CA to air on May 31 and June 1. WHDN-CA has another engineer who normally would have been tasked with such a repair, but that individual was tasked with delivering and installing equipment at the licensee's station in Boston, Massachusetts the following week and was preparing for that work and driving to Boston at the time I was working on WHDN-CA in Naples, Florida.

8. Because I undertook the repair work myself, there is no correspondence such as might occur between an engineer and a station owner because in this case, they are one and the same. No EAS alerts or tests aired during this period of time for which there would be a record. The station's electricity is included in its monthly rent and is not separately metered. That station's programming was simulcast with WHDT during this period, accordingly, all program records are identical to WHDT.

For context, the licensee has continuously served the Naples community for some
20 years and had made previous efforts to restore operation before the events detailed above.

The motivation for returning the station to operation was not to simply operate for a short period of time and shut down again. At the time I undertook the work, the station had been off-air only about four months and I had no reason to bring the station online simply to preserve the license. I was attempting to return the station to air and keep it on air until the station's new digital facilities could be brought online. I wanted to take advantage of commercial opportunities presented to the station by programmers wishing to reach the Naples market via the facilities of the station. One of these was that The Auto Channel wished to be carried on WHDN-CA, as it is on other Marksteiner stations. The fact that the station returned to air on analog channel 32 required that The Auto Channel update marketing materials to reflect the analog channel number. The Declaration of Mark Rauch included with these responses reflects that this third party programmer anticipated WHDN-CA returning to air on June 1 and then had to make changes to its marketing materials as a result of the station going dark.

10. Finally, it is noted that the licensee has made significant investments and preparations over several years to assure the station's transition to digital operation. It is only the complexity of the repair needed, including the need to replace the liquid coolant system which will become obsolete upon the commencement of digital operations and will complicate the digital construction in that it takes up room needed for the new larger digital transmitter, that the station has been forced to be silent. The station took delivery of an ATSC exciter, mpeg encoder, CAPS-EAS receiver and digital STL microwave in 2014. Delivery of the station's 2.5 kW digital transmitter was expected in January 2015, but was delayed until March of 2015. With delivery of the station's DTV mask filter, which has been transferred from WHDT-LD Boston, the station's digital construction is imminent and expected to be completed prior to the

June 2, 2015 date which would mark 365 days since the analog station's last operation. The digital facility for WHDN-CD will use WHDN-CA's broadcast antenna and transmission line. Due to space constraints in the transmitter room, the analog facility of WHDN-CA, in particular its water cooling system, must make way for installation of WHDN-CD's larger, air-cooled digital transmitter. As previously noted, the analog transmitter and water cooling system have largely been removed. In addition, the licensee is in the process of upgrading the 20-year old physical plant at the transmitter site with new electrical panels, HVAC, LED lighting, and a new stainless steel heat exchanger, all of which will contribute to a quality digital buildout for WHDN-CD, and its ability to broadcast to the public reliably for years to come.

11. The station has multiple program suppliers who wish to be carried on the station once it is returned to service and who continue to inquire as to the status of the digital buildout. The licensee has not been able to take advantage of the advertising revenue that carriage of these programs will make available to it due to its off-air status. As a result, inasmuch as the licensee has long served this community and continues to have new opportunities presented to it to do so, there is no incentive for the station to remain silent for any longer than necessary to correct the technical issues that have confronted it.

The foregoing is true and correct to the best of my personal knowledge, information and belief.

Respectfully submitted,

Guenter Marksteiner

Dated: May 1, 2015

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spot QUICKLEEN - a headlight (QK.US) Highway (00:17)		psa BUZZED DRIVING IS DRUNK DRIVING (broken tooth) DOT (00:15)
		HOLLYSCOOP 338 B Genesis (14:30) spot HAMMER X DRIVER (GoHammerX.com) HighTrack (01:00)
		HOLLYSCOOP 338 F Genesis (00:10) spot BREWZZI LocaDimes (00:30) HOLLYSCOOP 338 H Genesis (06:39) spot HAMMER PUTTER (HammerPutter.com) HighTrack (01:00)
		HOLLYSCOOP 338 H Genesis (06:39)
		spot HAMMER PUTTER (HammerPutter.com) HighTrack (01:00) HOLLYSCOOP 338 E Genesis (00:15) spot SUSHI JD LocalDines (00:30)
id WHDT STUART MIAMI - bird diving into water (short) (00:04) paid SHEER COVER 6 - v.5 (800.455.7660) Comerstone (28:29) spot WRAPTASTIC (800.899.7161) Gray Matter (01:00)		spot SUSHi JO LocalDines (00:30) HOLLYSCOOP 3381 Genesis (03:37)
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id WHDT STUART MIAMI - bird diving into woter (short) (00:04) paid FOOD LOVERS v1 (800.874.3921) Gray Matter (28.29) spot QUICKLEEN - a headlight (QK.US) Highway (00:17) prome CANNABIS PLANET - Earth to the Power of Cannabis (Sot & Sun 7.30 pm) 0030 CP (00:29) spot HAMMER DRIVER :30 HD (800.380.0939) HighTrack (00:30)		spot QUICKLEEN - a door knob (QK.US) Highway (00:29) spot QUICKLEEN - generie (QK.US) Highway (00:44) paid SHOULD GRANDMA SMOKE POT v.2 (received 20 AUG 13) PLATSHORN (28:11)
id WHDT STUART MIAMI - flying flag and bird (00:07) paid LIGHT RELIEF V35 (800.983.0112) Gray Matter (28:29) spot HUMANA HEALTH INSURANCE 60 (800.348.9261) Gray Matter (01:00) psa STOP THE TEXT - STOP THE WRECKS (Crossing Street) NHTSA (00:15)		spot TRUSTY CANE (800.120.3208) Gray Matter (02:00) spot BREWZZI LocalDines (00:30) spot BOSLEY (800.750.6295) Gray Matter (01:00) spot SUSHI JO LocalDines (00:30) spot HAMMER PUTTER (HammerPutter.com) HighTrack (01:00) spot HAMMER X DRIVER (GoHammerX.com) HighTrack (01:00)
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DECLARATION

I, Marc J. Rauch, hereby declare as follows:

1. I am Executive Vice President and co-founder of The Auto Channel LLC. The Auto Channel was founded almost 30 years ago as a comprehensive broadcast media producer of automotive news and information, including consumer buying guides and vehicle reviews. The Auto Channel website was created in 1995 and it was first website in the world to use Internet streaming video. The Auto Channel subsequently launched its broadcast television network in June 2012, via the stations licensed to Guenter Marksteiner.

2. I personally know Mr. Marksteiner and have regularly communicated with him regarding distribution of The Auto Channel over his stations.

3. In connection with the launch of The Auto Channel's broadcast network, I was interested in having The Auto Channel carried on WHDN-CA, Naples, Florida to better secure carriage of its programming on the local cable system in Naples.

4. In the spring of 2014, I spoke to Guenter Marksteiner about the feasibility of launching a downconverted version of The Auto Channel on WHDN-CA. He advised me that WHDN-CA remained off the air due to equipment damage, but that he would attempt to restore service so that the launch could go forward on June 1. He advised me that when restored to service, WHDN-CA would operate on analog channel 32. I prepared marketing materials reflecting that channel number.

5. Mr. Marksteiner advised me that the network did launch in the Naples market on June 1, 2014, but that he was unable to keep WHDN-CA running. Mr. Marksteiner told me that station was constructing a digital companion station to operate on channel 26, and that upon completion, he would relaunch The Auto Channel in Naples in high definition later in 2014. I subsequently changed my marketing material to reflect channel 26 as the new channel for WHDN-CD.

6. I remain anxious for WHDN-CD to complete its digital transition and begin carriage of The Auto Channel. The foregoing is true and correct to the best of my personal knowledge, information and belief.

Respectfully submitted,

March. Rauch

Marc J. Rauch Dated: April 30, 2015