

DUPLICATE



WASHINGTON, DC

July 31, 2015

Accepted / Filed

F. SCOTT PIPPIN

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JUL 31 2015

Federal Communications Commission  
Office of the Secretary

**VIA HAND DELIVERY**

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

Attention: Chief, Audio Division, Media Bureau

Re: **Complaint Against Operation of WVVF-LP, Town N' Country,  
Florida**

Dear Ms. Dortch:

Transmitted herewith are an original and four copies of a complaint against the operation of WVVF-LP, Town N' Country, Florida, filed on behalf of entities controlled by Beasley Media Group, Inc.

Please date-stamp the enclosed "Return Copy" of this filing and return it to the courier delivering the package.

If there are any questions concerning this matter, please contact me.

Respectfully submitted,

A handwritten signature in cursive script that reads 'F. Scott Pippin'.

F. Scott Pippin

SPIP/gfe  
Enclosures

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

Accepted / Filed

JUL 31 2015

Federal Communications Commission  
Office of the Secretary

In re Matter of

**HISPANIC ARTS OF TAMPA**

Low Power FM Station WVVF-LP  
Town N' Country, Florida

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Facility ID No. 195070

To: Secretary, Federal Communications Commission  
Attention: Chief, Audio Division, Media Bureau

**COMPLAINT**

Entities controlled by Beasley Media Group, Inc. ("Beasley") are the licensees of full-power radio stations WBRN-FM, Holmes Beach, Florida; WHFS(AM), Seffner, Florida; WLLD(FM), Lakeland, Florida; WRBQ-FM, Tampa, Florida; WQYK-FM, St. Petersburg, Florida; and WYUU(FM), Safety Harbor, Florida (collectively, the "Beasley Tampa Stations"). Beasley, by its attorneys, hereby submits this complaint against the operation of WVVF-LP, a Low Power FM Station in Town N' Country, Florida licensed to Hispanic Arts of Tampa ("Hispanic Arts"). WVVF-LP is operating in a manner inconsistent with the requirement that Low Power FM stations "be used for the advancement of an educational program."<sup>1</sup> Beasley respectfully requests that operational authority for WVVF-LP be suspended until such time that the station complies with FCC requirements.

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<sup>1</sup> 47 C.F.R. § 73.853.

## BACKGROUND

The Beasley Tampa Stations provide a variety of programming to serve listeners in the Tampa, Florida market, including financial talk, classic hits, country, rock, top 40, and tropical Latin formats.

Low Power Station WVVF-LP commenced broadcasts on or about June 25, 2015.<sup>2</sup> Since then, WVVF-LP has positioned itself as a competitor with commercial stations in the Tampa market, including Station WYUU, and has not operated in a manner that advances an educational program or that complies with representations made by Hispanic Arts in its application for WVVF-LP's construction permit.

## DISCUSSION

FCC rules require that Low Power FM Stations be operated by “[n]onprofit educational organizations” in a manner that “advance[s] an educational program.”<sup>3</sup> These LPFM licensees must “have an educational program and demonstrate how [their] programming will be used for the advancement of that program.”<sup>4</sup> The FCC has stated that “the requirement [to] ... provide programming that advances an educational objective may be satisfied by a variety of programs, including but not limited to instructional programs, programming selected by students, bible study, cultural programming, in-depth news coverage, and children’s programs such as Sesame

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<sup>2</sup> As of the date of this complaint, WVVF-LP holds only a construction permit. *See* FCC Permit File No. 20150601AAC, modifying FCC Permit File No. BNPL-20131114BNH. WVVF-LP has, however, transmitted programming on a regular basis for over one month, in apparent violation of the Program Test Authority provision of Section 73.1620 of the Commission’s Rules. *See* 47 C.F.R. § 73.1620(a); *see also* Instructions to Form FCC 319 (“Applicants who are filing . . . license applications to cover construction permits that contain no program test restrictions or conditions . . . may immediately commence operations with the authorized facilities without prior Commission permission, *provided that, within 10 days of the commencement of operations, FCC Form 319 is filed.*”) (emphasis added).

<sup>3</sup> 47 C.F.R. § 73.853. Low Power FM Stations may also be operated by “[s]tate and local governments and non-government entities that will provide non-commercial public safety radio services.” *Id.*

<sup>4</sup> *Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2214 (2000).

Street that entertain as they teach.”<sup>5</sup> In their overall operation, Low Power FM Stations are supposed to provide “locally focused community-oriented radio broadcasting.”<sup>6</sup>

In its application for WVVF-LP’s construction permit, Hispanic Arts represented that it is a nonprofit educational organization dedicated to “promot[ing] Hispanic artists, arts organizations, and intergenerational cultural exchanges.”<sup>7</sup> It pledged to provide “broadcast services to the Hispanic arts community,” to “support[ ] arts programming that matches area youth with established artists” . . . and to “encourage[e] future generations and individuals of all ages to explore Hispanic arts and culture.”<sup>8</sup> Specifically, Hispanic Arts stated that:

“Our programming will consist of the following:

- 1.) Broadcast live poetry and short story reading.
- 2.) Educational cultural programs daily.
- 3.) Broadcast local news and weather reports.
- 4.) Live broadcast of local Hispanic arts festivals and music events.
- 5.) Daily community calendar.
- 6.) Local history show.
- 7.) Interviews with local citizens.
- 8.) Political hour/civic participation.
- 9.) Discussion round-table, variety of topics.
- 10.) Music programming.”<sup>9</sup>

Contrary to these representations, WVVF-LP has, to date, positioned itself as a “Latin Classic Hits” and/or “Adult Tropical” formatted station that competes with commercial stations in the Tampa market, and particularly with Beasley’s WYUU(FM). The station is broadcasting popular Spanish-language music, accompanied by professionally produced promotional

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<sup>5</sup> *Id.* (internal quotes and citations omitted)

<sup>6</sup> *Id.* at 2208.

<sup>7</sup> FCC File No. BNPL - 20131114BNH (Exhibit 2 – “Educational Plan and Proposed Programming”).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

announcements that attempt to create the sound and presence of a competitive commercial operation, rather than a locally focused community-oriented broadcaster. WVVF-LP has adopted the on-air moniker “Viva FM,” mimicking the type of branding employed by other commercial Spanish popular music formatted stations in the United States, and is promoting “Viva FM” through a production positioner package used by commercial Latin-formatted stations, including previously by WYUU(FM). In local television interviews, representatives of WVVF-LP have promoted the station as an “alternative” to Tampa’s existing Spanish-language commercial stations. WVVF-LP is distributing a “media kit,” complete with coverage map, that promotes the station’s “Latin music recipe” as “the most popular and the most accepted music among Latinos from various regions 35 to 64 years of age,” but completely avoids any mention of the station’s noncommercial status or the educational programming that FCC rules require it to provide.<sup>10</sup> Moreover, to Beasley’s knowledge and based on frequent monitoring of WVVF-LP by Beasley employees, the station is not providing the educational programming promised by Hispanic Arts, such as live poetry and short stories, daily educational cultural programs, local news and weather, daily community calendar, a local history show, and political/civic participation programs.

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<sup>10</sup> See Attachment A.


**CONCLUSION**

Beasley respectfully requests that the Commission suspend operational authority for WVVF-LP until such time that Hispanic Arts operates the station in a manner consistent with FCC requirements for Low Power FM Stations, and abides by the representations contained in Hispanic Arts' application for WVVF-LP's construction permit.

Respectfully submitted,

**BEASLEY MEDIA GROUP, INC.**

By:

  
\_\_\_\_\_  
Sally A. Buckman  
F. Scott Pippin

Lerman Senter PLLC  
2000 K Street, NW  
Suite 600  
Washington, DC 20006  
(202) 429-8970

July 31, 2015

Its Attorneys

**Attachment A**

“100.1 Viva FM Media Kit,”

*available at* <http://www.vivaradiotampa.com/>



**Media Kit**

# Your Latin Classic Hits Station!!!



WVVF-LP 100.1FM ~ [WWW.VIVARADIO.TAMPA.COM](http://WWW.VIVARADIO.TAMPA.COM) ~ Phone 813.649.8100





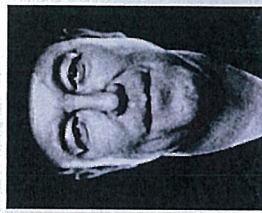
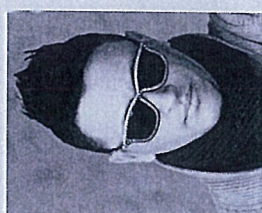
# About Our Format

## FORMAT: Adult Tropical

VIVA FM's Latin Music recipe reflects the authentic flavor of our culture and customs and is definitely here to stay. It exists not because of mass media exposure but because people like it... want it... and create the demand for it. We play the most popular and the most accepted music among Latinos from various regions 35 to 64 years of age.

## SOME OF OUR FEATURED ARTISTS

- |                     |               |
|---------------------|---------------|
| Gloria Estefan      | Marc Anthony  |
| Juan Luis Guerra    | El Gran Combo |
| Victor Manuelle     | Celia Cruz    |
| Gilberto Santa Rosa | Oscar D' Leon |
| Grupo Niche         | Frankie Ruiz  |
| Ruben Blades        | Joe Arroyo    |
| Elvis Crespo        | Carlos Vives  |





**Our Coverage**

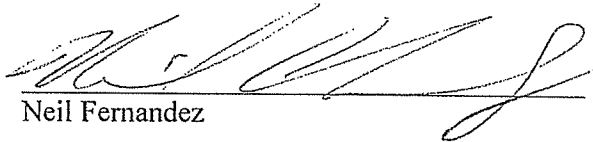


**Covering The  
Largest  
Concentration  
Of Hispanics  
In The Entire  
Tampa  
Market!!!**

**DECLARATION OF NEIL FERNANDEZ**

I, Neil Fernandez, under penalty of perjury, hereby declare as follows:

1. I am Program Director of WYUU(FM), Safety Harbor, Florida. I have held this position since March 2010.
2. Since WVVF-LP began broadcasting in June 2015, I have monitored the programming of the station on a regular basis. I have also instructed members of my staff to monitor, record, and analyze the programming broadcast by WVVF-LP.
3. My staff and I have observed and reviewed public statements and interviews given by WVVF-LP personnel to local Spanish-language media outlets.
4. Based on our frequent monitoring of the Station, WVVF-LP is airing Spanish-language popular music on a continuous basis, along with promotional announcements that attempt to position the station as a competitor to commercial stations in the Tampa, Florida market, including WYUU(FM).
5. WVVF-LP is not, to the best of my knowledge, broadcasting the educational programming listed in Hispanic Arts of Tampa's application for a Low Power FM Station.
6. I have reviewed the foregoing Complaint, and certify that the facts set forth therein, except those of which public notice may be taken, are true and correct to the best of my knowledge, information and belief.

  
Neil Fernandez

**CERTIFICATE OF SERVICE**

I, Genevieve F. Edmonds, hereby certify that on this 31st day of July 2015, I caused a true and correct copy of this Interference Complaint to be served on the following by first class mail, postage prepaid:

Vivian M. Lopez  
Hispanic Arts of Tampa  
4534 West Paris Street  
Tampa, FL 33614



Genevieve F. Edmonds