

2015 NOV 13 A 10:59

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

Accepted / Filed

NOV 12 2015

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

Federal Communications Commission
Office of the Secretary

REPLY

Beasley Media Group, Inc. ("Beasley"), parent of 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, by its attorneys, hereby replies to the "Limited Response" filed by Hispanic Arts of Tampa ("Hispanic Arts").

Hispanic Arts claims that Beasley's Reply, filed October 14, 2015 (the "Reply") in response to Hispanic Arts' August 20, 2015 Response to Complaint (the "Response"), was late-filed under Section 1.45 of the Commission's rules and should therefore be "stricken from the record."¹ Hispanic Arts also claims that the Reply "introduce[d] new matters not addressed" in the Response – namely, that WVVF-LP is airing commercial advertisements in violation of the FCC's rules for noncommercial educational licenses – and that "[a]ll references to this new material should be disregarded by the Commission."² These arguments are easily disposed of.

¹ Limited Response at 2.

² *Id.*

The filings of the parties in this proceeding are not governed by Section 1.45. Beasley's July 31, 2015 Complaint was not a petition to deny. It was a complaint against the operation of WVVF-LP, which is akin to an informal objection. Moreover, Hispanic Arts' August 20, 2015 Response was not an opposition to a petition to deny.³ Beasley's Reply was therefore not late-filed. Beasley notes, however, that if Section 1.45 were to apply, Hispanic Arts' Response would have been late-filed.⁴ Moreover, Hispanic Arts' Limited Response would be an unauthorized pleading.

Similarly, Section 1.45's limitation on replies – that they may address only “matters raised in the opposition[]”⁵ – is not relevant here.⁶ Beasley's Reply provided information pertinent to the Complaint about facts Beasley could not have presented therein.⁷ Evidence about WVVF-LP's broadcast of commercial advertisements is directly related to Beasley's contention that Hispanic Arts is operating WVVF-LP in a manner that violates numerous Commission rules applicable to Low Power FM stations, including that such stations must “be used for the advancement of an educational program.”⁸

³ The Response was styled as a “Response to Complaint.” In the Limited Response, Hispanic Arts attempts to label the Response as an “Opposition.” *See* Limited Response at 2.

⁴ Hispanic Arts would have had until August 13, 2015 to file its Response. Instead, Hispanic Arts filed the Response on August 22.

⁵ 47 C.F.R. § 1.45(c).

⁶ *See Fort Myers Broadcasting Co.*, 37 R.R. 2d 907 (¶ 4 n. 4) (“The licensee . . . filed a Motion to Strike new matter allegedly raised in petitioner's reply pleading, and requested our acceptance of a limited response to that new matter. *Because the informal objection procedure is not governed by Section 1.45 of our Rules*, the Motion to Strike is moot, and we will consider . . . the reply's alleged new matter and the station's response thereto.”) (emphasis added).

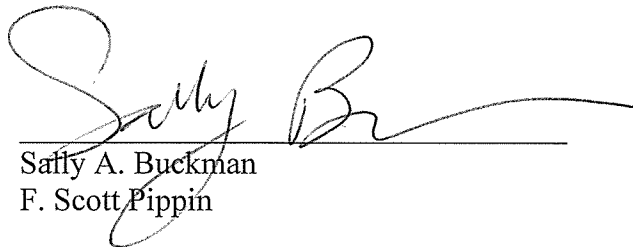
⁷ To the best of Beasley's knowledge, WVVF-LP was not airing commercial advertisements when the Complaint was filed.

⁸ 47 C.F.R. § 73.853.

In sum, Section 1.45 is not relevant to this proceeding. Beasley's Reply was not late-filed, and the restriction on presenting "new material" within the meaning of Section 1.45(c) is not applicable here.

Respectfully submitted,

BEASLEY MEDIA GROUP, INC.

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November 12, 2015

Its Attorneys

CERTIFICATE OF SERVICE

I, Genevieve F. Edmonds, hereby certify that on this 12th day of November 2015, I caused a true and correct copy of this Reply to be served on the following by first class mail, postage prepaid:

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Genevieve F. Edmonds