

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In re Matter of)
)
SUN BROADCASTING INC.)
)
FM Translator W231DC) FCC File No. BLFT-2016124ADG
Facility ID No. 138791)
Channel 231, 94.1 MHz, Fort Myers, FL)
(Input Channel WFSX(AM), Fort Myers, FL))

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

REPLY TO OPPOSITION INTERFERENCE COMPLAINT

WDAS License Limited Partnership (“Beasley”), hereby replies to the Opposition to Interference Complaint (the “Opposition”) filed by Sun Broadcasting Inc. (“Sun”) relating to FM translator W231DC, Fort Myers, FL, 94.1 MHz (Facility ID No. 138791) (the “Translator” or “W231DC”). Interference to Beasley’s co-channel WLLD(FM), Lakeland, Florida (Facility ID No. 51987) (“WLLD” or the “Station”) from the Translator continues despite Sun’s argument that it has resolved all listener complaints.

Sun’s unsupported baseless assertion that the Complaint is just a ruse to insulate Beasley’s commonly owned WWCN(FM) from competition is wholly inaccurate. The Complaint has nothing to do with WWCN(FM) and everything to do with actual interference to WLLD, whose signal extends beyond the Tampa Nielsen Audio market into the Fort Myers-Naples-Marco Island Nielsen Audio market. In fact, the Station’s signal can be heard at Beasley’s corporate office in Naples, Florida, which is several miles south of Fort Myers, and well outside the Tampa market.

Under FCC rules, because of its secondary status, the Translator must cease operations if it interferes with a full-power station's signal *regardless of where the interference is occurring*. Whether the full-power station is located in the same radio market as the FM translator has no bearing on the translator's obligation to cease operations if it is causing interference. Any interference from an FM translator to a full-power station is prohibited.

Sun faults Beasley for relying on listeners with whom it has apparently reached some type of settlement regarding their complaints. Sun, however, has provided no information with respect to these "settlements," and Beasley had no way of knowing that these complaints were purportedly settled. Representatives of Sun and Beasley had frequent communications prior to Beasley filing the Complaint and at no point did Sun inform Beasley that it had entered into settlement agreements with any of the listeners. Further, because Beasley has not been provided copies of any of the settlement arrangements, Beasley has no information regarding the terms of the settlements.¹ For this reason, Sun's willingness to enter into settlement agreements with any additional listeners that experience interference² is an empty promise.

Sun does admit that it has not settled with a few of the complaining listeners.³ Sun argues that it has not been able to settle with one listener because Beasley had discouraged the

¹ One of the emails included with the Complaint suggests that the settlement amounted to nothing more than a cash payout without any attempt to resolve the actual interference. See emails from "MTO" included at Exhibit B to the Complaint. Additional comments posted to the Facebook page of WLLD on-air talent Orlando also show that these settlements were nothing more than a cash payment. See Exhibit A hereto. It is difficult to fathom how simply giving a \$50 payment is a remedial technique that resolves the interference. See *Radio Power, Inc.*, 26 FCC Rcd 14385 (MB 2011) (rejecting the use of a non-broadcast subscription service as "unresponsive to [the translator's] obligation to suspend operations 'until the *interference* has been eliminated'") (emphasis in original). Furthermore, additional information that Beasley has received from one Station listener suggests that there was not an actual "agreement" between Sun and the complaining listener. This leads Beasley to question the basis for Sun's request for confidential treatment.

² Redacted Opposition at 6.

³ *Id.* at 5 & n.12-13.

listener from settling the complaint.⁴ Clearly Beasley has no control over whether a listener decided to accept Sun's offer for \$50. In any case, recent Commission precedent makes clear that failure to resolve any listener complaints is a basis for the Commission to order the translator to cease operations.⁵

Sun also attempts to discredit several of the listener complaints Beasley received by claiming that the listeners do not explicitly state that they are regular listeners of WLLD and do not specify the "exact nature of the interference."⁶ Although the Commission has stated that a complainant should indicate that he or she is a listener of the affected station, there is no magic phrase that a complainant needs to use. It strains credulity to suggest that an individual would take the time to either contact a station or respond in detail to inquiries from a station about interference if the individual were not a listener of that station. Regardless, one of the complaints states that the interference is "totally ruin[ing]" her "morning drive"⁷ and numerous other complaints included in Exhibit B to the Complaint make clear that they are frustrated because they cannot listen to WLLD.

With respect to the allegation that the complaints inadequately describe the nature of the interference, Sun is simply wrong. Several of the submitted complaints specify that the listeners are hearing a sports station rather than WLLD programming. The nature of the interference could not be clearer – the programming on the Translator is overtaking the programming on the Station in the area identified in the listeners' emails.

⁴ *Id.* at 5.

⁵ *Arohi Media LLC*, Reference No. 1800B3-PPD (rel. May 9, 2017).

⁶ Redacted Opposition at 4.

⁷ See March 20, 2017 email from Qiana Fuller to Steve Wright included at Exhibit B to the Complaint.

Additionally, the notion that listeners should have contacted Sun directly about the interference is illogical.⁸ These individuals clearly have an established listener relationship with the Station and when they could no longer hear it, they reached out to the Station on Facebook and by email. Presumably, these listeners do not have a relationship with Station WFSX(AM), which the Translator is rebroadcasting. In addition, the FCC has never imposed a requirement that listeners contact the station causing the interference.

As explained in the Complaint, the interference has been ongoing in some form or another for an extended period of time. Most station listeners are not aware that something can be done about interference.⁹ Instead they tune to other stations when a signal is not coming in clearly. Beasley is “energetically pursuing the rights of a tiny group of out-of-market listeners”¹⁰ because any impairment to the Station’s signal is harmful. For every listener that submits a complaint, there are likely several that do not. Beasley is protecting its established listener base for the Station.

Finally, Beasley notes that its affiliate, Beasley Media Group, LLC (“BMG”) is the licensee or permittee of over 20 FM translators that operate in markets throughout the country. Beasley is well-aware of the secondary status that translators hold. In fact, earlier this year,

⁸ Redacted Opposition at 6. Sun’s assertion that no listener “ever contacted Sun independently to complain of the purported interference” is inaccurate. *Id.* Although the listener had no obligation to do so, at least one listener that submitted a complaint contacted Station WFSX(AM). *See* the November 3, 2016 11:58 AM email from MTO to Steve Wright included at Exhibit B to the Complaint (“I called The Fan directly.”). Beasley has since learned that at least one additional listener contacted WFSX(AM) about the interference. *See* Exhibit A hereto, which contains a Facebook post from Kailey Barrett stating “Yeah I’ve been emailing [WFSX(AM)] but they haven’t returned my emails. Last time they paid me \$50 so I think they think I’m lying so I can get another check.” This also further confirms Beasley’s understanding that these supposed “settlements” are payoffs.

⁹ Listeners may also mistakenly think that the interference is caused by something else. *See, e.g.*, Exhibit A hereto, which includes a Facebook comment from Natasha Cavi FayBanx stating “Damn I thought something was wrong with my cars [sic] radio antenna [sic].”

¹⁰ Redacted Opposition at 6.

BMG voluntarily took its FM translator in Philadelphia silent when it was notified of possible interference to a full-power station.¹¹

Because the interference to WLLD remains ongoing, Beasley respectfully requests the Commission suspend operational authority for W231DC until such time that Sun Broadcasting is able to eliminate the interference to the Station.

Respectfully submitted,

WDAS LICENSE LIMITED PARTNERSHIP

By: 

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May 12, 2017

Its Attorney

¹¹ See FCC File No. BLSTA-20170322ABC.

Exhibit A

Screenshot of Orlando's Facebook Page
(as of 10:30 am ET on May 12, 2017)

Orlando Davis
May 10 at 4:13pm · 🌐

Big shout out to all my Ft. Myers friends, out there. I'm hearing that the sports station, from Hell, is interrupting our signal again. If this is so, please confirm for me, so I can get this rectified with our legal. Thanks and appreciate the support for these past 9 years on 94-1! Steve Wright

👍 Like 💬 Comment ➦ Share

👍❤️😂 71

1 share

Timothy Ashcroft Bro been like that for months now Steve was gonna look into for me a while back but never heard back from him!!! So frustrating
Like · Reply · 🌐 1 · May 10 at 4:18pm

Steve Wright I sent you an email Tim!
Like · Reply · 23 hrs

Write a reply... 🗨️ 📷 🗑️

Darin Crews Driving from TAMPA to TARPON SPRINGS....THE WILD STATION LEAVES ...AND SOME OTHER STATION COMES ON ...
Like · Reply · 🌐 1 · May 10 at 4:29pm

Jason Jones Fix sports homie
Like · Reply · May 10 at 4:31pm

Jason Jones Fox
Like · Reply · May 10 at 4:31pm

Write a reply... 🗨️ 📷 🗑️



Kathryn Barrett Kailey can you check on this?

Like · Reply · May 10 at 4:42pm



Kailey Barrett Yeah I've been emailing them but they haven't returned my emails. Last time they paid me \$50 so I think they think I'm lying so I can get another check. But it definitely hasn't been working for months

Like · Reply · 1 · May 10 at 4:46pm



Timothy Ashcroft Same here lol

Like · Reply · May 10 at 4:48pm



Orlando Davis Somebody told me the station, down there, was paying complaintants off, so they gave you \$50 bucks? I really believe they broke the law. Smh. Thanks for the info

Like · Reply · 2 · May 10 at 6:38pm



Timothy Ashcroft Yea they gave me a 50\$ check as well and called it interference troubles or something to that nature....

Like · Reply · May 10 at 7:08pm



Steve Wright I sent you an email Kailey!

Like · Reply · 23 hrs



Write a reply...



Tiny Nasworthy Been doing that for weeks

Like · Reply · May 10 at 4:50pm



Laurie Tarolli Yea man.. I was coming from tampa and its hella staticky

Like · Reply · May 10 at 6:29pm



Brittney Meaghan Hodges It happened to me today driving thru st pete

Like · Reply · 1 · May 10 at 6:53pm



Laura Daniels Yes happened in Clearwater too.

Like · Reply · 1 · May 10 at 7:36pm



Tania Pinto Yes! I'm down in Cape Coral and for a while now it's sports radio during certain times....but usually in the morning interfering with my Freak Show!

Like · Reply · May 10 at 10:43pm · Edited



Natasha Cavi FayBanx Damn I thought something was wrong with my cars radio antena!! Yes. It's been happening. Today too.

Like · Reply · 1 · Yesterday at 12:36am



Natasha Cavi FayBanx Clearwater dunedin palm harbor area

Like · Reply · Yesterday at 12:37am



Write a reply...





Orlando Davis I hope you're paying attention to this Steve Wright

Like · Reply · 3 · Yesterday at 4:58am



Fahad Denley TheGeminiking Yep right pass ex 161.....b4 the truck scale ..but the bone sty on all the way ..wth thy got going on 🤔 Orlando Davis

Like · Reply · Yesterday at 5:58am · Edited



Fahad Denley TheGeminiking The one who's really eating 🍌...is 957...pass the the 175..and 275 bihh is gone #justaconcerndtruckdriver

Like · Reply · Yesterday at 6:01am



Felita Grant I'm over in Orlando for a work conference and have ALWAYS been able to vibe on Wild while here.... now it makes sense because Tuesday and Wednesday it was some other foolery on MY station (which btw I never change).... I'm not sure of Steve Wright's role or who he represents in all of this, but I'm going on record as saying -- "ain't nobody got time for this." #❤️Wild94.1 Orlando Davis Steve Wright

Like · Reply · 2 · Yesterday at 6:32am · Edited



Laura Daniels This is how bad the station sounds right now



Like · Reply · Yesterday at 8:05am



Orlando Davis Steve Wright WTFreak

Like · Reply · Yesterday at 8:43am



Write a reply...



Javier Parra That LLD antenna is huge and in the middle of no where. I hope this all get sorted out.

Like · Reply · Yesterday at 8:19am



Steve Wright If everyone who is having issues in the Ft Myers Area can email me at steve.wright@bbgi.com I will email you a form to fill out so we can get this cleared up.

Like · Reply · 23 hrs



Laurie Tarolli replied · 3 Replies



Lindsey Marie Driving in Clearwater, the station does not come in clear.

Like · Reply · 1 · 16 hrs



Nick Amick Man, gonna ruin those \$50 checks lol

Like · Reply · 14 hrs

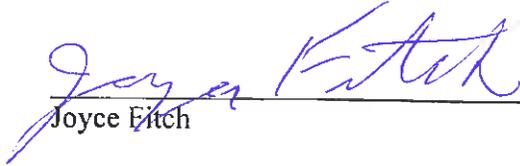


Write a comment...



DECLARATION OF JOYCE FITCH

I, Joyce Fitch, Secretary of Beasley Media Group, LLC, the general partner of WDAS License Limited Partnership, under penalty of perjury, hereby declare that I have reviewed the foregoing Reply to Opposition to Interference Complaint, and certify that the facts set forth therein, except those of which public notice may be taken or which are certified by others, are true and correct.



Joyce Fitch

Executed: May 12, 2017

CERTIFICATE OF SERVICE

I, Laura M. Berman, hereby certify that on this 12th day of May, 2017, I caused a true and correct copy of this Reply to Opposition to Interference Complaint to be served on the following by first class mail and email:

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**via email only*

A handwritten signature in black ink, appearing to read 'LMB', with a long horizontal line extending to the right.

Laura M. Berman