

October 7, 2019

Media Bureau
U.S. Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

2019 OCT 16 PM 3:03

ORIGINAL

Re: Protest of Application to Renew Broadcast License of WGCU Radio, Ft. Myers, FL
File #: 0000081930 Facility ID: 69042 FRN: 0001735648

Dear Sir or Madam:

Please consider this letter as a formal protest of the renewal of the broadcast license for the above-referenced radio station, an affiliate of National Public Radio, owned by the State of Florida through its State University system. The referenced application was submitted to the Federal Communications Commission (FCC) on September 23, 2019.

In its renewal application the licensee stated that it had not violated FCC regulations, as set forth in the Communications Act of 1934, during the preceding term. That statement is false. To wit:

On May 8, 2017 WGCU Radio broadcast an approximate nine-minute story that contained at least 19 false statements, the most egregious of which was an assertion of an arsenic level in a groundwater monitoring well in a residential area of Pine Island, Lee County, Florida of 1,000 times higher than the actual value. The report falsely stated an arsenic level of 8,000 micrograms per liter, whereas the actual highest historical value was 8 micrograms per liter, which is below the Federal Drinking Water Standard of 10 micrograms per liter, even though the monitoring well is in a low yield, poor quality aquifer that contains very brackish groundwater due to its proximity to a tidal creek.

A short time after the initial broadcast, which WGCU repeated on May 10, 2017 and posted in text format on its web site, it was informed by certified mail that its story contained numerous false statements. Under State law, when so informed, a radio station has 10 days to effect a correction, retraction, or apology. WGCU Radio took no such remedial action. After receiving a second certified mail complaint letter, and more than 7 weeks after the first letter, its legal counsel responded, in writing, that, in effect, WGCU Radio could say whatever it wanted, no matter whether what it was saying was true or not, and regardless of the effect on the public welfare.

In addition, comments critical of the story, containing important facts, which were posted on the station's web board, were quickly deleted by WGCU Radio.

After being informed that its story was false, WGCU Radio, in subsequent months, broadcast several follow-ups wherein it referenced its initial story.

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By knowingly broadcasting false material, WGCU Radio's actions constitute a clear hoax, as defined in the Federal Communications Act of 1934, as Amended. Specifically, sections 47 U.S.C. Sec 303 (m) (1) (D) (1) and 47 U.S.C. 396 (4) and (5) of that Act.

Subsequently, knowing it was false, WGCU Radio submitted the story for a journalism award.

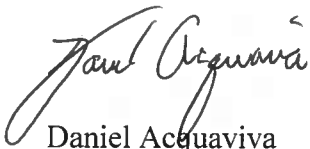
The false story has had a demonstrable adverse impact on property values on Pine Island, an unincorporated community of approximately 10,500 residents, by falsely claiming environmental impairment where none actually existed.

In consideration of the above facts, it is requested that the FCC refrain from issuing a renewal of the WGCU Radio broadcast license until WGCU Radio takes the following actions:

- Publically acknowledges that its May 8, 2017 broadcast contained numerous false statements which have had a needless adverse effect upon the public welfare.
- Publically acknowledges that it was duly notified, within a short time after its initial broadcast, that its story was false and that it nevertheless chose to take no remedial action.
- Publically acknowledges that it has engaged in censorship of important critical comments posted on its web board, contrary to the spirit of a free press, FCC regulations, and the First Amendment to the U.S. Constitution.
- Publically apologizes to the residents of Pine Island, its listeners, its financial contributors, and other adversely affected parties.
- Publically states unequivocally that it will not, in the future, use State sovereign immunity laws as a means to shield itself from potential lawsuits resulting from broadcasting of false material.
- Publically renounces and returns the journalism award it won for its false story and apologizes to the evaluation committee.

Thank you in advance for your prompt review and consideration of this matter. Should you require any additional information or materials to verify the assertions made in this letter, do not hesitate to contact me. My telephone number is provided on the following page.

Sincerely,



Daniel Acquaviva

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Ft. Myers, FL 33906