



FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
INVESTIGATIONS AND HEARINGS DIVISION
445 12th STREET, S.W. ■ WASHINGTON, D.C. 20554
TEL: (202) 418-1420 ■ FAX: (202) 418-2080

FACSIMILE TRANSMISSION

DATE: 5.07.10
To: Clifford M. Harrington, Esq.
Fax number: 202.663.8007
Telephone number: _____
FROM: Anita Patankar-Stoll
Telephone number: 202.418.1420

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MESSAGE:

TOTAL NUMBER OF PAGES IN THIS FAX : 9 (including this cover page)

IF THERE IS A PROBLEM WITH THIS TRANSMISSION, PLEASE CALL (202) 418-1420.



FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W., Suite 4-C330
Washington, D.C. 20554

May 7, 2010

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND FACSIMILE AT (202) 663-8007

Clifford M. Harrington, Esq.
Pillsbury Winthrop Saw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037-1122

Re: **Station KVI(AM), Seattle, Washington**
File No. EB-08-IH-1203

Dear Licensee:

The Enforcement Bureau is investigating potential violations of Sections 508 and of the Communications Act of 1934 (the "Act") and Section 73.1206 of the Commission's rules¹ by Fisher Broadcasting—Seattle Radio, L.L.C. (the "Licensee"), licensee of Station KVI(AM), Seattle, Washington (the "Station"). On April 18, 2008, we received a letter from the Licensee disclosing that the outcome of the "Secret Listener Salute" contest ("Contest") conducted over the Station may have been manipulated.² Subsequently, we sent a letter of inquiry to the Licensee,³ who responded timely.⁴ In its *Response*,⁵ the Licensee provided the names of the winners of its Contest.⁵ After reviewing the response received, we find that follow up inquiries are necessary.

The Instructions for responding to this letter and the Definitions for certain terms used in this letter are contained in the attachment hereto. We direct the Licensee, pursuant to Sections 4(i), 4(j), 308(b) and 403 of the Communications Act of 1934, as amended,⁶ to provide the information and documents specified below within thirty (30) calendar days from the date of this letter.

¹ See 47 U.S.C. §509; 47 C.F.R. §73.1206.

² See Letter from Clifford M. Harrington, Attorney, Fisher Broadcasting – Seattle Radio L.L.C., to Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated April 18, 2008.

³ See Letter from Kenneth M. Scheibel, Jr., Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Clifford M. Harrington, Esq., Attorney, Fisher Broadcasting – Seattle Radio L.L.C., dated June 24, 2008.

⁴ See Letter from Clifford M. Harrington, Attorney, Fisher Broadcasting – Seattle Radio L.L.C., to Marlene Dortch, Secretary, Federal Communications Commission, dated July 30, 2008 ("*Response*").

⁵ See *Response*, Document 5-A, Secret Listeners Salute Winners.

⁶ See 47 U.S.C. §§ 154(i), 154(j), 308(b), and 403.

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Unless otherwise indicated, the period of time covered by these inquiries is January 1, 2007, to the present.

Documents and Information to be Provided

1. In your *Response*, you provided the name of Mr. Austin Leming as a Contest winner.⁷ With respect to your *Response*:
 - a. Explain whether you have any reason to believe that Ms. Keeley approached Mr. Leming to participate in the Contest.
 - b. State whether the Contest prize was awarded to Mr. Leming.
 - i. Identify by whom and how the prize was awarded.
 - ii. If the prize was not awarded, explain why not.
 - iii. Provide any and all Documents that show the distribution of the Contest prize to Mr. Leming.
 - c. Explain whether you have any reason to believe that Ms. Keeley obtained a part of the prize money awarded to Mr. Leming.
 - d. Provide any and all information you have regarding the circumstances surrounding Mr. Leming's participation in the Contest.
2. Mr. Collin Horn also claims to be a winner of the Contest. With respect to Mr. Horn:
 - a. State whether Mr. Collin Horn participated in the Station's Contest.
 - b. State whether Mr. Collin Horn was a Contest Winner. If so, answer the following:
 - i. Identify the date on which he won.
 - ii. State whether Mr. Horn received \$1,500 as his prize for winning in the Contest. With respect to the answer to this Inquiry:
 - (1) If the answer to Inquiry 2.b.ii., above, is "yes," explain why Mr. Horn received \$1,500 as his prize, rather than the Contest prize you describe in your *Response*.⁸

⁷ See *Response* at Document 5-A (Secret Listeners Salute Winners).

⁸ See *Response* at 2 (describing the Contest prize as \$1,000).

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- (2) If the answer to Inquiry 2.b.ii., above, is “no,” then describe the prize, if any, awarded to Mr. Horn.
 - (3) Provide any and all Documents which show distribution of the Contest prize of \$1,500 or any other amount of money to Mr. Horn.
 - (4) Identify by whom and how the prize was awarded. If the prize was not awarded to Mr. Horn, fully explain why not.
 - iii. If the answer to Inquiry 2.b., above, is “yes,” explain why Mr. Horn’s name was not listed as a winner of the Contest in your Response.
 - c. State whether Mr. Horn was a member of the Station’s Insider’s Club. If so, provide the date on which he became a member.
 - d. State whether Mr. Horn was contacted by DMR via telephone on behalf of the Station to enter his name into the Contest. If yes, provide the date on which he was contacted via telephone.
 - e. Explain whether have any reason to believe that Ms. Keeley approached Mr. Horn to participate in the Contest.
 - f. State whether you have any reason to believe that Ms. Keeley charged participants a fee to participate in the Contest. If so, describe such fees.
 - g. State whether charging a fee to participate in the Contest complied with the rules of the Contest. If so, explain your response.
 - h. Provide any and all information you have regarding the circumstances surrounding Mr. Horn’s participation in the Contest.
3. Provide copies of all Documents that provide the basis for or otherwise support your responses to Inquiries 1-2, above.
 4. To the extent not otherwise provided in response to the preceding Inquiries, provide any additional information that the Licensee believes may be helpful in our consideration and resolution of this matter.

Filing Requirements

We direct the Licensee to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the Licensee with

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personal knowledge of the representations provided in the Licensee's response, verifying the truth and accuracy of the information therein and that all of the information requested by this letter that are in the Licensee's possession, custody, control or knowledge have been produced. If multiple Licensee employees contribute to the response, in addition to such general affidavit or declaration of the authorized officer of the company noted above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual, rather than his or her own knowledge, provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with Section 1.16 of the Commission's rules,⁹ and be substantially in the form set forth therein.

To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.¹⁰ Failure to respond appropriately to this letter of inquiry may constitute a violation of the Communications Act and our rules.

The Licensee shall direct its response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554, to the attention of Anita Patankar-Stoll, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, with a copy to Anjali K. Singh, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Anita Patankar-Stoll, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554, with a copy to Anjali K. Singh, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554.

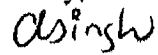
⁹ See 47 C.F.R. § 1.16.

¹⁰ See 18 U.S.C. § 1001; see also 47 C.F.R. § 1.17.

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The Licensee shall also, to the extent practicable, transmit a copy of the response via email to Anita.Patankar-Stoll@fcc.gov, and to Anjali.Singh@fcc.gov.

Sincerely,



Anjali K. Singh
Acting Assistant Chief
Investigations and Hearings Division
Enforcement Bureau

Attachment

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ATTACHMENT

Instructions

Request for Confidential Treatment. If the Licensee requests that any information or documents responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and documents, a statement in accordance with Section 0.459 of the Commission's rules. 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of Section 0.459, including the standards of specificity mandated by Section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of documents, and casual requests, including simply stamping pages "confidential," are unacceptable. Pursuant to Section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of Section 0.459.

Claims of Privilege. If the Licensee withholds any information or documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item: the numbered inquiry to which each item responds and the type, title, specific subject matter and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Format of Responses. The response must be organized in the same manner as the questions asked, i.e. the response to Inquiry 1 should be labeled as responsive to Inquiry 1.

Method of Producing Documents. Each requested document, as defined herein, shall be submitted in its entirety, even if only a portion of that document is responsive to an inquiry made herein. This means that the document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other documents referred to in the document or attachments. All written materials necessary to understand any document responsive to these inquiries must also be submitted.

Identification of Documents. For each document or statement submitted in response to the inquiries stated in the cover letter, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the document was retrieved. If any document is not dated, state the date on which it was prepared. If any document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Licensee must identify with reasonable specificity all documents provided in response to these inquiries.

Documents No Longer Available. If a Document responsive to any inquiry made herein existed but is no longer available, or if the Licensee is unable for any reason to produce a Document responsive to any inquiry, identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why the Licensee is otherwise unable to produce it.

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Retention of Original Documents. With respect only to documents responsive to the specific inquiries made herein and any other documents relevant to those inquiries, the Licensee is directed to retain the originals of those documents for twelve (12) months from the date of this letter unless (a) the Licensee is directed or informed by the Enforcement Bureau in writing to retain such documents for some shorter or longer period of time or (b) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, the Licensee must retain all such documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any collection action brought by the United States Department of Justice or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

Continuing Nature of Inquiries. The specific inquiries made herein are continuing in nature. The Licensee is required to produce in the future any and all documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, the Licensee must supplement its responses (a) if the Licensee learns that, in some material respect, the documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive documents or information are acquired by or become known to the Licensee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless (a) the Licensee is directed or informed by the Enforcement Bureau in writing that the Licensee's obligation to update the record will continue for some shorter or longer period of time or (b) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case the obligation to update the record will continue until the release of such item.

Definitions

For purposes of this letter, the following definitions apply:

"Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

"Broadcast," when used as noun, shall mean images or sounds or language transmitted or disseminated over a station during the course of a radio or television broadcast.

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“Broadcast,” when used as a verb, shall mean the transmission or dissemination of radio or television communications intended to be received by the public. The verb “broadcast” may be used interchangeably with the verb “air.”

“Document” shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.

“Identify,” when used with reference to a person or persons, shall mean to state his/her full legal name, job title (if any), current business address, and business phone number. If business address and/or telephone number are not available, state the person’s home address and/or telephone number.

“Identify,” when used with reference to a document, shall mean to state the date, author, addressee, type of document (*e.g.*, the types of document, as described above), a brief description of the subject matter, its present or last known location, and its custodian.

“Identify,” when used with reference to an entity other than a person, shall mean to state its name, current or last known business address, and current or last known business telephone number.

“Licensee” shall mean Fisher Broadcasting—Seattle Radio, L.L.C. and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.

“Station” shall mean Station KVI(AM), Seattle, Washington.