



Federal Communications Commission
Washington, D.C. 20554

May 3, 2021

Sent via electronic mail

In reply refer to: 1800B3-VM

Dan J. Alpert, Esq.
2120 North 21st Road
Arlington, VA 22201
DJA@commlaw.tv

In re: **WUPC-LP, Arrowhead Village, NJ**
Facility ID No. 133835
Application File Nos. BLSTA-
20200304AAG, 0000113395,
0000135170

Dear Mr. Alpert:

This letter involves the referenced applications and objections to those applications filed for Radio Alerta (RA), licensee of Station WUPC-LP, Arrowhead Village, New Jersey, by Mr. Luis Rios, President of RA. Our records show that you (Alpert) are listed as the contact representative on these applications.¹ We are sending this letter to inquire about the circumstances of these filings.² Please respond within 30 days of the date of this letter.

Background. On May 22, 2020, we received a letter from Mr. Luis Rios, president of RA, stating that RA had not filed Application File Nos. BLSTA-20200304AAG and 0000113395, and that RA is not a party to the applications or interested in their prosecution. At that time, he alleged that someone had fraudulently accessed RA's FCC accounts to file the applications and asked to have the applications dismissed. On June 1, 2020, we revoked File No. BLSTA-20200304AAG, and dismissed File No. 0000113395.

On February 2, 2021, Application File No. 0000135170 was filed. RA again notified the Commission that it had not filed the application and requested that it be dismissed. That application remains pending, subject to the outcome of this inquiry.

Radio Alerta alleges that Mr. Rios has been a member of the board of directors of RA since the FCC granted the WUPC-LP initial license in 2003, and is currently its president.³ He also states that RA's ownership has not changed since RA filed its last ownership report.⁴ He states that the referenced applications were filed without RA's consent or knowledge.⁵ He claims that WUPC-LP was never silent, did not lose its transmitter site lease and has never needed to move its transmitter site.⁶ He also states that

¹ See File Nos. BLSTA-20200304AAG; 0000113395; 0000135170; Administrative Update filed on May 8, 2020.

² See 47 U.S.C. §§ 154(i), (j), and 403.

³ See *Letter from Mr. Luis Rios, President, Radio Alerta, to Victoria McCauley, Attorney/Advisor, Audio Division, Media Bureau, FCC* (May 22, 2020).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

when he tried to access RA's own records in the FCC databases, RA's password had been changed and access was blocked.⁷

Instructions

If Alpert requests that any information or Documents, as defined herein, responsive to this letter be treated in a confidential manner, he shall submit, along with all responsive information and Documents, a statement in accordance with section 0.459 of the Commission's Rules.⁸ 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 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.

If Alpert withholds any information or Documents under claim of privilege, he 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.

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, unless the Document is a recording or transcript, in which case it should be provided only for the period specified in the pertinent inquiry 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.

If a Document responsive to any inquiry made herein existed but is no longer available, or if Alpert 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 Alpert is otherwise unable to produce it.

With respect only to Documents responsive to the specific inquiries made herein and any other Documents relevant to those inquiries, Alpert is directed to retain the originals of those Documents for twelve (12) months from the date of this letter unless the Licensees are directed or informed by the Media Bureau in writing to retain such Documents for some shorter or longer period.

The specific inquiries made herein are continuing in nature. Alpert 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, Alpert must supplement his response: (a) if he 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 Alpert after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless Alpert is directed or informed by the Media Bureau in writing that his obligation to update the record will continue for some shorter or

⁷ *Id.*

⁸ 47 CFR § 0.459.

longer period.

For each Document or statement submitted in response to the inquiries below, 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). Alpert must identify with reasonable specificity all Documents provided in response to these inquiries.

Unless otherwise indicated, the period of time covered by these inquiries is January 1, 2020 up to the present.

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.”

“Commission” shall mean the Federal Communications Commission.

“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, including but not limited to any broadcast, radio or television program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, text message, voicemail message, file, invoice, memorandum, note, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, preliminary drafts, press release, website, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form). “Document” shall also include the terms of any oral agreement or understanding. If a matter responsive to a request for documents is unwritten, Alpert should so state, and provide a written narrative of the operative provisions of oral agreement, identifying its date, parties, and terms.

“Licensee” shall mean Radio Alerta, Alerta Communication Network, Inc., or any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all current or former 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.

“Services” shall mean any paid or unpaid services or advice to a licensee, party or applicant in connection with potential or actual matters before the Commission, including submission of pleadings, applications, or other Documents to the Commission and contacts with Commission personnel in any form whatsoever on behalf of a licensee, party or applicant before the Commission.

“Station” shall mean WUPC-LP, Arrowhead Village, NJ, FCC Facility ID 133835.

Inquiries: Documents and Information to be Provided

1. Provide all Documents requesting or authorizing Alpert, directly or indirectly, to perform Services for the Licensee or the Station.
2. Provide all Documents relating to any Services performed by Alpert for the Licensee or the Station.
3. Provide all Documents relating to any payments requested or received by Alpert for any Services performed involving the Station, and identify by name, address, and telephone number all individuals involved in requesting and/or paying for any such Services.
4. Provide a complete explanation of Alpert’s role in requesting any modification(s) of the Licensee’s log-in data for filings at the Commission, and identify by name, address, and telephone number all individuals involved in authorizing any such modification(s).
5. Provide a complete explanation of Alpert’s role in submitting Application File Number BLSTA-20200304AAG (attached as Exhibit 1), including an explanation of the basis for each of the factual assertions therein (specifically (a) that Alpert was authorized to serve as the Licensee’s contact representative, (b) the Station went silent as of February 17, 2020, (c) the Licensee lost its lease to its current transmitter site, and (d) the filing of the application was authorized by Recardo Reyes on March 4, 2020 as the Licensee’s President), and identify by name, address, and telephone number all individuals involved in authorizing the filing of the application.
6. Provide a complete explanation of Alpert’s role in submitting Application File Number 0000113395 (reference copy attached as Exhibit 2), including an explanation of the basis for each of the factual assertions therein (specifically (a) that Alpert and Darryl K. DeLawder were authorized to serve as the Licensee’s contact representatives, (b) each “Yes” and each “No” answer submitted within the application, (c) the specification of a new antenna site for the Station in the Antenna Location Data section of the application, and (d) the filing of the application was authorized by Luis Rios on May 7, 2020 as the Licensee’s President), and identify by name, address, and telephone number all individuals involved in authorizing the filing of the application.
7. Provide a complete explanation of Alpert’s role in submitting Application File Number 0000135170 (reference copy attached as Exhibit 3), including an explanation of the basis for each of the factual assertions therein (specifically (a) that Alpert and Darryl K. DeLawder were authorized to serve as the Licensee’s contact representatives, (b) each “Yes” and each “No” answer submitted within the application, (c) the specification of a new antenna site for the Station in the Antenna Location Data section of the application, (d) the statement that Ron Stern had provided reasonable assurance for use of the proposed site, (e) the phone number 7329034052 listed for Ron Stern, and (f) the filing of the application was authorized by Chanel Nicole Hurst on February 2, 2021 as the Licensee’s President), and identify by name, address, and telephone number all individuals involved in authorizing the filing of the application.

We direct you to support your response with an affidavit or declaration under penalty of perjury, verifying the truth and accuracy of the information therein and that all of the information and/or recordings requested by this letter which are in your possession, custody, control or knowledge have been produced. If multiple people contribute to the response, in addition to such general affidavit or declaration signed by you, if you (or any other affiant or declarant) are relying on the personal knowledge of any other individual, rather than your 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 Media Bureau letter of inquiry may constitute a violation of the Communications Act of 1934, as amended, and the Commission's rules.¹¹

The response shall be organized and indexed according to the number of the specific inquiries. Please shall direct your response to Federal Communications Commission, Office of the Secretary, 45 L Street, N.E., Washington, D.C. 20554, with a courtesy copy to Victoria McCauley, Audio Division, Media Bureau, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554.

We direct you to provide the information within **thirty (30) days** of the date of this letter.

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁹ 47 CFR § 1.16.

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

¹¹ See *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, n.36 (2003); *World Communications Satellite Systems, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (Enf. Bur. 2004); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003).