



Federal Communications Commission  
Washington, D.C. 20554

February 12, 2024

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED AND E-MAIL**

Pacifica Foundation, Inc.  
c/o Brad Deutsch, Esq.  
Foster Garvey P.C.  
3000 K Street, NW  
Suite 420  
Washington, DC 20007  
[brad.deutsch@foster.com](mailto:brad.deutsch@foster.com)

In re: Facility ID No. 51249  
License Renewal Application  
File No. 0000180618

**Letter of Inquiry - Response Required**

Dear Counsel:

This letter of inquiry (LOI) concerns noncommercial educational broadcast station WBAI-FM, New York, New York (WBAI), which is licensed to Pacifica Foundation, Inc. (Pacifica). We have pending before us an application for the renewal of WBAI's license (Application).<sup>1</sup> Also before us are a Petition to Deny (Petition) filed against the Application by Pacifica Safety Net (Petitioner), several informal objections (collectively, Objections),<sup>2</sup> and related responsive pleadings.<sup>3</sup> In order to evaluate the arguments raised in the Petition and Objections, we request the additional information described below. Pursuant to sections 4(i), 4(j), 308(b), and 403 of the Communications Act of 1934, as amended (Act), and section 73.1015 of the Commission's rules, Pacifica is hereby required to provide the information and documents set forth in the Attachment within **forty-five (45) days** of the date of this LOI.<sup>4</sup>

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<sup>1</sup> WBAI-FM Application for License Renewal, File No. 0000180618 (Jan. 21, 2022).

<sup>2</sup> See Petition to Deny of Pacifica Safety Net, Pleading File No. 0000189933 (filed May 2, 2022); Informal Objection of Carol Wolfley, Pleading File No. 0000195283 (filed July 19, 2022); Informal Objection of Harry Weiner, Pleading File No. 0000197825 (filed Aug. 17, 2022); Informal Objection of Douglass Ross Marshall, Pleading File No. 0000197824 (filed Aug. 17, 2022); Informal Objection of Nancy Schimmel, Pleading File No. 0000197827 (filed Aug. 17, 2022); Informal Objection of David Hart, Pleading File No. 0000197881 (filed Aug. 18, 2022); Informal Objection of Henry Ira Bernstein, Pleading File No. 0000197910 (filed Aug. 19, 2022); and Informal Objection of Stephen Sacks, Pleading File No. 0000198051 (filed Aug. 22, 2022).

<sup>3</sup> See Opposition of Pacifica Foundation, Inc., Pleading File No. 0000192805 (filed June 1, 2022); Reply of Pacifica Safety Net, Pleading File No. 0000193548 (filed June 20, 2022).

<sup>4</sup> See 47 U.S.C. §§ 4(i), 4(j), 308(b), and 403; 47 CFR § 73.1015 ("The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission...").

## Background

NCEs are permitted to engage in fundraising activities on behalf of their stations, and under certain circumstances, on behalf of nonprofit organizations.<sup>5</sup> NCEs also are permitted to air announcements promoting program-related materials sold by nonprofit organizations, including the station itself.<sup>6</sup> The nonprofit organization sponsoring the offering must be clearly identified in the announcement, a requirement in keeping with the mandate of section 317 of the Act and section 73.1212 of the Commission's rules.<sup>7</sup> Announcements for the sale of program-related materials by for-profit entities are permitted so long as the licensee (1) receives no consideration for the announcement;<sup>8</sup> (2) the materials are offered on the basis of public interest considerations and not the private economic interests of the offeror; or (3) the price of the materials offered is only nominal.<sup>9</sup>

No promotional announcements or advertisements on behalf of for-profit entities may be broadcast at any time in exchange for the receipt, in whole or in part, of consideration to the licensee, its principals, or employees.<sup>10</sup> An "advertisement" is programming material broadcast "in exchange for any remuneration" and intended "to promote any service, facility, or product" offered by for-profit entities.<sup>11</sup> Although contributors of funds to NCEs may receive on-air acknowledgements of their support, such acknowledgements may be for identification purposes only, and must not promote the contributors' businesses, products, or services.<sup>12</sup> Such announcements also must not contain calls to action, comparative or qualitative descriptions, inducements to buy, sell, rent, or lease, or price information.<sup>13</sup>

This inquiry arises from the Petition and Objections filed against the Application. Among the allegations raised in the Petition and Objections are specific claims concerning several programs (i.e., the "Gary Null Show," the "Christine Blodale Special," and "Off the Hook") purportedly aired over WBAI

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<sup>5</sup> 47 CFR § 73.503.

<sup>6</sup> *Noncommercial Education Broadcasting Service; Clarification of Underwriting Guidelines*, 51 Fed. Reg. 21800 (June 16, 1986), *republished*, *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice, 7 FCC Rcd 827, 828 (1992) (*Enhanced Underwriting Policy*), citing *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, 90 FCC 2d 895, 907 (1982) (*1982 Order*).

<sup>7</sup> 47 U.S.C. § 317; 47 CFR § 73.1212; *Enhanced Underwriting Policy*, 7 FCC Rcd at 828.

<sup>8</sup> "Consideration" is a broad term that denotes anything of value provided to the broadcaster, licensee, its principals or its employees, and encompasses contribution of programming material and funds, goods or services used for programming, as well as in-kind contributions. See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Report and Order, 90 FCC 2d 895, 911, para. 26 (1982), *recons.*, 97 FCC 2d 255 (1984) ("*1982 Policy Statement*").

<sup>9</sup> *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Second Report and Order, 86 FCC 2d 141, 152 (1981).

<sup>10</sup> See 47 U.S.C. § 399B(b)(2); 47 CFR § 73.503(d) (stating that NCE stations may not broadcast advertisements or other messages promoting for-profit entities in exchange for the receipt of consideration to the licensee, its principals, or employees).

<sup>11</sup> 47 U.S.C. § 399B(a).

<sup>12</sup> *Enhanced Underwriting Policy*, 7 FCC Rcd at 827-28.

<sup>13</sup> *Id.*; see *Xavier University*, Memorandum Opinion and Order, 5 FCC Rcd 4920, 4921, para. 6 (1990), citing *1982 Order*.

that contain comparative and qualitative descriptions, price information, calls to action, and inducements to buy products or services provided by program guests. The products and services were created by either the respective WBAI program host or their guests on the shows, and purportedly related to the topics of their respective program's discussions and interview topics. The Petitioner and Objectors allege that the WBAI program hosts promoted these products and services without proper sponsorship identification. The Petitioner has provided the Commission with full written transcripts of the broadcast programs in question.

### **Documents and Information To Be Provided**

In light of the foregoing, we seek additional information, as set forth in the Attachment, to determine whether Pacifica has violated the Act and/or the Commission's rules. This LOI constitutes an Order of the Commission to produce the documents and information requested.<sup>14</sup> To knowingly or willfully make any false statement, or conceal any material fact in reply to this LOI, is punishable by fine or imprisonment.<sup>15</sup> **Failure to respond appropriately to this LOI constitutes a violation of the Act and section 73.1015 of the Commission's rules.**<sup>16</sup> In addition, a failure to respond appropriately to this LOI may result in **dismissal of the referenced application.**<sup>17</sup>

The Attachment to this LOI includes filing requirements and instructions for your response and definitions for certain terms in the LOI. Requests for confidential treatment or claims of attorney-client privilege or attorney work product must strictly meet the requirements stated in the attached instructions.

If you have any questions about this matter, please contact Dana Bradford, Attorney at 202-418-2700, or Dana.Bradford@fcc.gov. In the event that a response by email would exceed 5 MB, you must first contact Ms. Bradford to explain the nature of the documentation and seek guidance as to whether the submission should be reduced by providing representative documents, rather than all documents, of a particular nature.

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<sup>14</sup> 47 U.S.C. § 155(c)(3).

<sup>15</sup> See 18 U.S.C. § 1001; see also 47 CFR § 1.17.

<sup>16</sup> See 47 U.S.C. § 503(b)(1)(B); see also e.g., *Aura Holdings of Wisconsin, Inc.*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 3688, 3696, para. 21 (2018), *aff'd*, Forfeiture Order, 34 FCC Rcd 2540 (2019) (imposing a \$19,693 penalty for failure to respond to letter of inquiry); *ABC Fulfillment Services LLC d/b/a HobbyKing USA LLC and HobbyKing.com, and Indubitably, Inc. d/b/a HobbyKing USA LLC, HobbyKing and HobbyKing.com*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5530 (2018) *aff'd*, Forfeiture Order, 35 FCC Rcd 7441 (2020), *recon. denied*, Memorandum Opinion and Order, 36 FCC Rcd 10688 (2021) (imposing \$39,278 forfeiture for failure to respond to letter of inquiry); 47 CFR § 73.1015.

<sup>17</sup> 47 CFR § 73.3568(a) (“... failure to respond to official correspondence or request for additional information, will be cause for dismissal”); see also *LPFM MX Group 37*, Memorandum Opinion and Order, 31 FCC Rcd 7512, 7517, para. 12 (2016) (dismissing application for failure to respond to letter of inquiry).

Pacifica is expected to provide a complete response by the deadline. If Pacifica cannot provide all requested information or Documents by the deadline, it must submit all information it is able to obtain by the deadline, fully explain why certain information could not be provided, and indicate when such information will be submitted.

Sincerely,

Albert Shuldiner  
Chief, Audio Division  
Media Bureau

**Attachment**

cc, via email: Sherry Gendelman  
Pacifica Safety Net  
[info@pacificasafetynet.org](mailto:info@pacificasafetynet.org)

Carol Wolfley  
[cgwolfley@comcast.net](mailto:cgwolfley@comcast.net)

Harry Weiner  
[harry@b-town.org](mailto:harry@b-town.org)

Douglas Ross Marshall  
[tercio8@earthlink.net](mailto:tercio8@earthlink.net)

Nancy Schimmel  
[nancyschimmel@mac.com](mailto:nancyschimmel@mac.com)

David Hart  
[davehar77@yahoo.com](mailto:davehar77@yahoo.com)

Henry Ira Bornstein  
[hbornstein@sbcglobal.net](mailto:hbornstein@sbcglobal.net)

Stephen Sacks  
[johnsonsacks@comcast.net](mailto:johnsonsacks@comcast.net)

## ATTACHMENT

### **Inquiries: Information and Documents to be Provided**

Pacifica must provide the following information and documents as requested below, and in accordance with the Instructions and Definitions that follow the inquiries. To ensure you provide complete and full responses to all inquiries, carefully review the Definitions that follow these inquiries and the Instructions regarding Document production and retention. Unless otherwise indicated, the time covered by these Inquiries is June 1, 2014, to the present.

### **Requests for Information**

Provide answers to the following inquiries:

1. Did Licensee Broadcast the Programs or any Underwriting Announcement related to the Programs on WBAI or any of its other Stations? If so, answer the Inquiries and produce the Documents as set forth below. If not, you need not answer any further Inquiries.
2. If WBAI or any other Station Broadcast the Programs or any Underwriting Announcement related to the Programs:
  - a. Produce all recordings, transcripts, or other Documents of such Broadcasts and all communications related to such Broadcasts.<sup>18</sup>
  - b. For each such Broadcast, Identify all date(s), time(s), and Stations on which the Broadcast aired.
  - c. For each such Broadcast, Identify each Person who requested for Licensee to Broadcast the Programs or any Underwriting Announcement related to the Programs, and Identify the amount of monies paid or promised to be paid and the form, nature, or value of any other Consideration paid or promised to be paid to such Person in exchange for each such Broadcast.
  - d. For each such Broadcast, Identify each Person who paid or promised to pay monies or provided other Consideration to Licensee in exchange for such Broadcast, and state whether such Person is a for-profit or nonprofit entity; if the latter, provide all Documents that support this classification.
  - e. For each Person who paid or promised to pay monies or other Consideration to Licensee, Identify the amount of monies paid or promised to be paid and the form, nature, or value of any other Consideration paid or promised to be paid to Licensee in exchange for each such Broadcast.
  - f. For each Person who paid or promised to pay monies or other Consideration to Licensee, Identify the amount of monies retained or promised to be retained and the form, nature, or value of any other Consideration retained or promised to be retained by such Person in exchange for each such Broadcast.

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<sup>18</sup> Label the materials with the file number, and label each recording, transcript, or other Document with the program name, title, and/or identification code and Broadcast date and time.

- g. For each such Person who paid or promised to pay monies or other Consideration to Licensee, Identify any agreement, written or oral, into which Licensee entered in connection with the Programs or any Underwriting Announcement related to the Programs, describe the terms of any such agreement, and produce any such agreement and all Documents (and a narrative response explaining such Documents) that reproduce, discuss, summarize, or memorialize this agreement.
  - h. As to any Underwriting Announcement, state whether any Person requesting such an Underwriting Announcement is a general contributor of the Station or a sponsor of a specific program and, if the latter, specify the program.
  - i. For any Broadcast of the Programs for which monies or other consideration was paid or promised to be paid to Licensee, state whether Licensee announced that such Programs were aired in exchange for Consideration and, if so, specify the date and time of each such sponsorship identification and the manner in which the sponsorship identification occurred. If no such sponsorship identification occurred for any Broadcast, explain why no such sponsorship identification occurred. If Licensee believes the law did not require such a sponsorship identification, explain why, citing any applicable legal precedent.
3. Identify all Persons that produced the Programs and state whether each such Person is a for-profit or nonprofit entity; if the latter, provide all Documents that support this classification.
  4. If Licensee did not produce the Programs, provide a detailed explanation of when and how Licensee first learned about the Programs and Identify all reasons for Licensee's decision to Broadcast the Programs.
  5. Identify all Persons that were Program guests and state whether each such Person is a for-profit or nonprofit entity; if the latter, provide all Documents that support this classification.
  6. State whether any Station Broadcast any Programs in their entirety and, if so, Identify all date(s), time(s), and Stations on which the Broadcast aired. State whether any Station Broadcast any content related to the Programs, other than content included in the Programs, including but not limited to content created to promote or highlight the attributes of any product, service, or video discussed in the Programs. Describe the circumstances under which any such content was produced, and Identify the Persons that directed that such content be produced and included in the Programs.
  7. Identify any other instance in which Licensee or any affiliate, parent, or subsidiary of Licensee received from or was issued by the Commission an Admonishment, a Citation, a Forfeiture Order, a Letter of Inquiry, a Notice of Apparent Liability, a Notice of Violation, or a Warning Letter or entered into a Consent Decree with the Commission. For each instance, fully describe the underlying conduct by Licensee or any affiliate, parent, or subsidiary of Licensee. Produce all such Documents and any other Documents reflecting or relating to same.
  8. Identify all Persons with knowledge about the Programs and Underwriting Announcements at the time they aired, and describe the nature of each such Person's knowledge.
  9. To the extent not otherwise provided in response to the preceding Inquiries:

- (a) Provide any additional information that Pacifica believes may be helpful in our consideration and resolution of this matter.
- (b) Provide copies of all Documents that serve as the basis for or otherwise support the responses to all the Inquiries above.

Please provide the full legal name of each Person employed or relied upon by Pacifica to respond to or answer this letter. Provide the mailing address, email address, and telephone number for each of such Person. We retain the right to ask for additional documentation.

### **Filing Requirements**

***Affidavit Requirement.*** We direct Pacifica to support its responses with a notarized affidavit or declaration under penalty of perjury, signed and dated by its authorized representative with personal knowledge of the representations provided in the response to the LOI. The affidavit or declaration must verify the truth and accuracy of the information therein, state that all of the information requested by this LOI is in Pacifica's or WBAI's possession, custody, control, or knowledge has been produced, and state that any and all Documents provided in its responses are true and accurate copies of the original documents. In addition to such general affidavit or declaration of the authorized officer of Pacifica, 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, and if multiple Pacifica employees contribute to the response, Pacifica shall 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 declarations made under penalty of perjury, in lieu of an affidavit, must comply with 47 CFR § 1.16, and be substantially in the form set forth therein. Failure to support your responses with a sworn affidavit could subject you to forfeiture.<sup>19</sup>

***Delivery Requirements.*** Pacifica shall transmit a copy of the response and any attachments or exhibits via email to Albert Shuldiner, [Albert.Shuldiner@fcc.gov](mailto:Albert.Shuldiner@fcc.gov), Christopher Clark, [Christopher.Clark@fcc.gov](mailto:Christopher.Clark@fcc.gov), Dana Bradford, [Dana.Bradford@fcc.gov](mailto:Dana.Bradford@fcc.gov), Sherry Gendelman, [info@pacificasafetynet.org](mailto:info@pacificasafetynet.org), Carol Wolfley, [cgwolfley@comcast.net](mailto:cgwolfley@comcast.net), Harry Weiner, [harry@b-town.org](mailto:harry@b-town.org), Douglas Ross Marshall, [tercio8@earthlink.net](mailto:tercio8@earthlink.net), Nancy Schimmel, [nancyschimmel@mac.com](mailto:nancyschimmel@mac.com), David Hart, [davehar77@yahoo.com](mailto:davehar77@yahoo.com), Henry Ira Bornstein, [hbornstein@sbcglobal.net](mailto:hbornstein@sbcglobal.net), and Stephen Sacks, [johnsonsacks@comcast.net](mailto:johnsonsacks@comcast.net). The electronic copy shall be produced in a format that allows the Commission to access and use it, together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source.

***Public File.*** Because this is a preliminary investigative matter, neither this LOI nor the response is required to be included in the online public inspection file for Pacifica unless and until the Media Bureau, Federal Communications Commission states otherwise in writing.

### **Instructions**

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<sup>19</sup> See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing \$100,000 penalty for failing to submit a sworn written response).

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

***Method of Producing Documents.*** Pacifica shall submit each requested Document in its entirety, even if only a portion of that Document is responsive to an inquiry or document request made herein, including all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. Pacifica shall not edit, cut, expunge, or otherwise take any action to modify any Document submitted in response to this LOI. In addition to any Document Pacifica submits in response to any inquiry or document request, Pacifica shall also submit all written materials necessary to understand any Document responsive to these inquiries.

***Identification of Documents.*** For each Document or statement submitted in response to the inquiries and document requests listed here, indicate, by number, to which inquiry or document request it is responsive and identify the persons 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 authors or recipients, state, if known, the names of the authors or recipients. Pacifica must identify with reasonable specificity all Documents provided in response to these inquiries and document requests.

***Prior Responses.*** If a Document responsive to any inquiry or document request made herein has already been provided to the Media Bureau during this or any other investigation, identify each such Document, and when and how it was produced to the Bureau.

***Documents No Longer Available.*** If a Document responsive to any Inquiry made herein existed but is no longer available, or if Pacifica is unable for any reason to produce a Document responsive to any inquiry or document request, 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 Pacifica is otherwise unable to produce it.

***Retention of Original Documents.*** With respect only to Documents responsive to the specific inquiries and document requests made herein and any other Documents relevant to those inquiries and document requests, Pacifica is directed to retain the originals of those Documents for 60 months from the date of this LOI unless (a) Pacifica is required to retain Documents for a longer period of time pursuant to a Commission order or rule; (b) Pacifica is directed or informed by the Media Bureau in writing to retain such Documents for some shorter or longer period of time; or (c) the 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, Pacifica 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 enforcement action brought by the United States Department of Justice, or execution and implementation of a final settlement with the Commission or the Bureau.

***Continuing Nature of Inquiries.*** The specific Inquiries made herein are continuing in nature. Pacifica is required to produce in the future any and all Documents and information that are responsive to the inquiries and document requests made herein but not initially produced at the time, date, and place specified herein. In this regard, Pacifica must supplement its responses (a) if Pacifica 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 Pacifica after the initial production. The requirement to update the record will continue for 60 months from the date of this LOI unless: (a) Pacifica is required by another Commission order or rule to retain documents for a period

longer than 60 months; (b) Pacifica is directed or informed by the Media Bureau in writing that the obligation to update the record will continue for some shorter or longer period of time; or (c) the 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 matter has been finally concluded by payment of any such monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any enforcement action brought by the United States Department of Justice, or execution and implementation of a final settlement with the Commission or the Bureau.

If the Media Bureau determines that Pacifica has continued to act/acted in violation of the Act and/or the Commission's rules, any continued noncompliant conduct after the receipt of this LOI may subject Pacifica to additional penalties.

**Construction.** The terms "any" and "all," "and" and "or," and "each" and "every" shall be construed inclusively to bring within the scope of the inquiries and document requests all information and Documents that might otherwise arguably be construed as outside the scope of the requests. Likewise, the singular of any word or defined term shall include the plural and the plural of any such word or defined term shall include the singular. The words "relating to" or "relate to" shall be construed to mean, whether directly or indirectly, in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, supporting, qualifying, confirming, contradicting, or stating.

**Confidentiality.** In addition to providing the requested information and documents, any request for confidentiality of certain information or documents must strictly comply with the requirements of section 0.459 of the Commission's rules,<sup>20</sup> including a statement of the reasons for withholding the materials from inspection. The request must include a schedule of the information or documents for which confidentiality is requested that states, individually as to each such item, the information required by section 0.459(b) of the Commission's rules including, but not limited to, identifying the specific information for which confidential treatment is sought; explaining the degree to which the information is commercial or financial, or contains a trade secret or is privileged; and explaining how disclosure of the information could result in substantial competitive harm.<sup>21</sup> Accordingly, a "blanket" request for confidentiality or a casual request, including simply stamping pages "confidential," will not be considered a proper request for confidentiality, and those materials will not be treated as confidential.<sup>22</sup>

**Claims of Privilege.** If Pacifica 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 or document request to which each item responds and the type, title, specific subject matter and date of the item; and the specific grounds for claiming that the item is privileged.

## **Definitions**

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<sup>20</sup> See 47 CFR § 0.459.

<sup>21</sup> See 47 CFR § 0.459(b).

<sup>22</sup> See 47 CFR § 0.459(c). If Pacifica 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 grounds for claiming that the item is privileged.

For purposes of this LOI, the following definitions apply. The definitions in this section apply regardless of whether the first letter of the defined term appears in upper or lower case.

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

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

“Christine Blodale Specials” shall mean program-length segments, hosted by Christine Blodale, offering as Pledge Gifts to donors the “Boku Organic Super Lean Pack,” “The Great Lies in History Six Pack DVD Collection,” and discounted online access to “The End of Suffering” program.

“Commission” or “FCC” means the Federal Communications Commission.

“Consideration” shall mean anything of value, including but not limited to, products and services to be awarded as donor premiums during pledge drives, cash, checks, commissions, fees, gifts, honoraria, loans, meals, monies, the purchase of advertising time, and/or any other thing of value, from any source, or given by third parties, to another.

“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, emailed, text messaged, filmed, punched, computer-stored, electronically-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.

“Gary Null Specials” shall mean program-length segments, hosted by Linda Perry, wherein segment guest, Gary Null, offered as Pledge Gifts to donors various health and nutrition supplements, including “Nitric Cell Stuff,” “Sleep Stuff,” and “Triple Pack Stuff.”

“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 a natural Person, shall mean to state his or her full legal name, job title (if any), and current business address, business phone number, and email address.

“Identify,” when used with reference to a non-natural Person or Station, shall mean to state its name, current or last known business address, current or last known business telephone number, and email address and names of all of its directors, members, and officers.

“Identify,” when used with reference to anything other than a Document, Person, or Station, shall mean to identify all significant details, including dates, times, Persons involved, places, terms, and any other detail necessary to provide an accurate, comprehensive, factual, informative, and specific response.

“Licensee/Party/Applicant” shall mean Pacifica, and any employees, time brokers, or agents, including consultants and any other persons working for or on behalf of Pacifica at any time during the period covered by this LOI, whether in exchange for compensation or on a voluntary or other basis.

Although this LOI refers to Pacifica to collectively include each person or entity listed in this definition, any responses must specifically detail and distinguish between the actions or responsibilities of each entity or individual.

“Off the Hook” shall mean program-length segments, hosted by Eric Corley or Emmanuel Goldstein, offering as Pledge Gifts to donors discounted tickets to the annual HOPE Conference.

“Pacifica” shall mean Pacifica Foundation, Inc., the entity that is the licensee of noncommercial educational broadcast station WBAI-FM, New York, New York, Facility ID No. 51249, and any successor-in-interest, regardless of whether that successor was passed upon or approved and authorized by the FCC, any predecessor-in-interest, affiliate, parent, wholly or partially owned subsidiary, and other affiliated business, and all advisers, agents, consultants, directors, employees, members, officers, owners, partners, principals, representatives, and any other Persons working for or on behalf of the foregoing at any time during the period covered by this LOI.

“Person” shall mean any natural person or any non-natural person, including but not limited to a business, company, corporation, enterprise, institution, organization (educational, religious, or otherwise), partnership, proprietorship, or any other entity, whether for-profit or non-profit and whether of general or limited liability and all of such non-natural person’s advisers, agents, consultants, directors, employees, members, officers, owners, partners, principals, representatives, and any other persons working for or on behalf of the foregoing, whether in a paid or unpaid status.

“Pledge Gifts” shall mean products or services prepared or offered by Program hosts or their guests, including health and nutrition supplements, audiotapes, videotapes, CDs, DVDs, books or discounted access to online programs discussing health, nutrition, spiritual wellness, or world history, and access to discounted tickets to the annual HOPE Conference.

“Program” shall mean the material described in the Petition and Objections, including the “Gary Null Specials,” the “Christine Blodale Specials,” and “Off the Hook,” or any other Broadcast that featured or included material from the “Gary Null Specials,” the “Christine Blodale Specials,” and “Off the Hook,” including, but not limited to, Station fund raising programming or pledge drives.

“Renewal Application” shall mean the application, File No. 00000180618, filed on or about January 21, 2022, for renewal of the license of WBAI-FM, New York, New York, Facility ID No. 51249, including all supporting documents, exhibits and agreements thereto.

“Station” shall mean any Broadcast facility licensed to Pacifica including, but not limited to, noncommercial educational broadcast stations KPFA, Berkeley, California, Facility ID No. 51246; KPFBK, Los Angeles, California, Facility ID No. 51252; WBAI, New York, New York, Facility ID No. 51249; KPFT, Houston, Texas, Facility ID No. 51244; WPFW, Washington, D.C., Facility ID No. 51255; and any Station to which Pacifica provides programming under a local marketing agreement, time brokerage agreement, or any other shared services agreement.

“Underwriting Announcement” shall mean any announcement, message, or other program material concerning the Programs that Pacifica broadcast, or agreed to broadcast, over WBAI, or any of its other Stations in exchange for Consideration.

“Underwriting Laws” shall mean, individually or collectively, section 399b of the Act, and

section 73.503(d) of the Commission's rules,<sup>23</sup> and the decisions and orders of the Commission interpreting these provisions.

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<sup>23</sup> 47 U.S.C. § 399B; 47 CFR § 73.503(d).