



Federal Communications Commission
Washington, D.C. 20554

February 9, 2024

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL

Bleu 24 Communications, LLC
Victor Romero
819 SW 10 Avenue
Miami, FL 33130
jtomas@samotconsulting.com

Re: Letter of Inquiry - Operational Status
WEYW-LP, Key West, FL
Facility ID No. 130765

Dear Licensee:

The Video Division (Division) of the Media Bureau is issuing this letter of inquiry (LOI) to develop the record regarding the recent operational status of the above-captioned low-power television (LPTV) station WEYW-LP, Key West, Florida (WEYW-LP or Station), licensed to Bleu 24 Communications, LLC (Bleu or Licensee). Based on information received by the Commission, it appears the Station may have been silent for more than one year and its license may have automatically expired pursuant to section 312(g) of the Communications Act of 1934, as amended (Act).¹ This letter provides you **thirty (30) days** to provide evidence that the Station has either not been silent for more than one year or went silent but returned to the air with authorized facilities prior to its one-year silent anniversary.

Background. Section 312(g) of the Act provides that “[i]f a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license...for any reason to promote equity and fairness.”² The Commission has exercised its discretion under section 312(g) of the Act to extend or reinstate a station’s expired license “to promote equity and fairness” only in limited circumstances, where a station’s failure to transmit a broadcast signals for 12 consecutive months is due to “compelling circumstances” that were beyond the licensee’s control.³ For example, the Commission has granted section 312(g) relief to stations whose facilities were destroyed by natural disasters such as hurricanes;⁴ where silence was necessary in furtherance of public safety,⁵ where

¹ See 47 U.S.C. § 312(g).

² *Id.* See also 47 CFR § 74.15(f).

³ See *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (2008) (*A-O Broad.*) (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”).

⁴ *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259, 14262, para. 8 (2006) (reinstating license where silence due to destruction of towers in hurricanes).

⁵ *Community Bible Church*, Letter Order, 23 FCC Rcd 15012, 15014 (MB 2008) (reinstatement warranted where licensee took all steps needed to return to air, but remained off air to promote air safety after discovering and reporting that FCC and FAA records contained incorrect tower information).

reinstatement of the station's license was necessitated by court order;⁶ or where station silence was the result of governmental closure.⁷ The Commission has declined to exercise its section 312(g) discretion when a station's silence is the result of a licensee's own action or inaction, finances, and/or business judgment.⁸ Further, the Commission has found that unauthorized, unlicensed broadcasts do not constitute transmission of broadcast signals to avoid termination of a station's license under section 312(g).⁹

WEYW-LP is an LPTV station licensed on channel 19.¹⁰ On July 31, 2020, the Station was assigned from Bellizzi Broadcasting Network, Inc. to Bleu.¹¹ Two months later, in October 2020, Bleu submitted an application for renewal of license for the Station and reported that the Station "is currently silent because its licensed site is unavailable. Bleu 24 is in the process of acquiring a new site and expects to resume broadcast operations shortly."¹² Bleu also stated that "WEYW-LP has been silent since July 31, 2020, when Bleu consummated its acquisition of the station, due to the unavailability of its licensed site. Bleu 24 expects to file a Minor Change Application for a replacement site shortly."¹³ Six months later, on April 14, 2021, the Station filed an application for minor modification seeking to relocate the Station to a new tower location that was granted a day later on April 15, 2021, with an expiration date of April 15, 2024.¹⁴ Since that time, the Station has not made any other filings and the Commission has no record of the Station having resumed operations.

Request for Information. Given the fact that Commission records indicate that WEYW-LP went silent on July 31, 2020, and has not reported to have resumed operations, we seek to determine the Station's operational history since that time. The attachment to this LOI includes inquiries to which Licensee must respond, filing requirements, instructions for your response, and definitions for certain

⁶ *Mark Chapman, Court-Appointed Agent*, Letter Order, 22 FCC Rcd 6578, 6580 (MB 2007) (reinstating license where silence necessitated by licensee's compliance with court order).

⁷ *Universal Broadcasting of New York, Inc.*, Letter Order, 34 FCC Rcd 10319, (MB 2019) (finding that station's inability to file an STA to resume service due to a federal government shutdown was a compelling circumstance under section 312(g)).

⁸ *See, e.g., New Visalia Broadcasting, Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 9744 (2014) (record did not show that health problems prevented the principals from resuming operations); *A-O Broadcasting*, 23 FCC Rcd 603 (transmission from unauthorized location not sufficient to avoid the consequences of section 312(g)); *Eagle Broadcasting Group, Ltd.*, Memorandum Opinion and Order, 23 FCC Rcd 588, 592, 589-90 (2008) (operation from unauthorized site insufficient to avoid the consequences of section 312(g)); *Mt. Rushmore Broadcasting, Inc.*, Letter Order, 32 FCC Rcd 3924, 3927 (MB 2017) (discretion unwarranted when station was either silent or engaging in brief periods of unauthorized operation for six years); *Zacarias Serrato*, Letter Order, 20 FCC Rcd 17232 (MB 2005) (station taken off the air due to a business decision); *Kingdom of God*, Letter Order, 29 FCC Rcd 11589 (MB 2014) (station's numerous periods of extended silence were a direct result of licensee's own business decisions); *Christian Broadcasting*, 30 FCC Rcd at 13976 (2015) (licensee provided no evidence that station's silence was beyond its control).

⁹ *See, e.g. Eagle Broadcasting Group, Ltd.*, Memorandum Opinion and Order, 23 FCC Rcd 588, 592, para. 9 (2008), *aff'd sub nom. Eagle Broadcasting Group, Ltd. v. FCC*, 563 F.3d 543, 553 (D.C. Cir. 2009).

¹⁰ *See* CDBS File No. BLDTL-20131108AEZ

¹¹ *See* CDBS File No. BALDTL-20200513AAI.

¹² *See* LMS File No. 0000123545 – Silent Station – WEYW-LP.

¹³ *Id.* – Adherence to Minimum Operating Schedule.

¹⁴ *See* LMS File No. 0000143465.

terms used in this LOI. Licensee's response to this LOI should be filed in accordance with the instructions set forth in the attachment.

This LOI constitutes an order of the Commission to produce the documents and information requested herein.¹⁵ To knowingly or willfully make any false statement,¹⁶ or to provide incorrect or misleading material factual information, or conceal any material fact in reply to this letter,¹⁷ is punishable by imprisonment or fine,¹⁸ and may subject Licensee to sanction, up to and including license revocation.¹⁹ **Furthermore, failure to respond fully to this LOI as directed herein constitutes a violation of the Act and our Rules and may subject Licensee to sanction by the Commission.²⁰ As an alternative to responding, the Licensee may submit the Station's license for cancellation.**

If Licensee fails to provide the information requested **within 30 days from the date of this letter**, we will conclude that the Station has not transmitted a broadcast signal from an authorized facility for more than twelve consecutive months, the Commission's public and internal databases **WILL BE MODIFIED** to indicate that pursuant to 47 U.S.C. § 312(g) the broadcast license for the Station **HAS AUTOMATICALLY EXPIRED** as a matter of law, that the station's license **IS CANCELLED**, and its call sign **IS DELETED**. Furthermore, any pending applications **WILL BE DISMISSED** and its construction permit **WILL BE CANCELED**. As an alternative to a response to this LOI, the **Licensee may choose to relinquish the Station's license for cancellation.**²¹

If you have any questions about this matter, please contact Shaun Maher, Video Division, at (202) 418-2324 or Shaun.Maher@fcc.gov.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Attachment

cc (via electronic mail): Aaron Shainis, Esq.

¹⁵ See 47 U.S.C. § 155(c)(3).

¹⁶ See 18 U.S.C. § 1001.

¹⁷ See 47 CFR § 1.17.

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

¹⁹ See, e.g., *William L. Zawila*, Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order, 18 FCC Rcd 14938, 14964 (2003) (motive present to misrepresent completion of construction), licenses revoked, Summary Decision, FCC 17M-28, 2017 WL 3499740 (ALJ, Aug. 10, 2017).

²⁰ See, e.g., *Net One International, Net One, LLC, Farrahtel International, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014) (imposing \$25,000 penalty for failure to respond to LOI) (forfeiture paid); *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) (forfeiture paid).

²¹ Requests for license cancellation may be filed electronically in the Commission's Licensing and Management System (LMS). After logging in to LMS: (1) click on "Facility" tab on the left top of the page; (2) click on facility ID of the station; (3) click on "File an Application" button; (4) select "Cancellation" from the drop-down menu; and (5) complete the application and click "Submit."

ATTACHMENT

Inquiries: Information and Documents to be Provided

You 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.

Requests for Information

1. Answer the following and produce all Documents that support your responses regarding the construction and operation of WEYW-LP, Key West, FL (Facility ID No. 130765):
 - a. Identify every site at which WEYW-LP has operated since July 31, 2020, and provide the following for each such site:
 - i. the manufacturer, make, and model of all equipment installed at all such sites, and the dates on which construction was completed for each such site;
 - ii. copies of any and all purchase orders, invoices and bills related to the construction of such facilities including equipment invoices, bills of lading, tax invoices, installation and service invoices and copies of payment of such invoices;
 - iii. the exact location (ASRN or geographic coordinates) of WEYW-LP's transmitter and antenna for each relevant time period, including the effective radiated power and antenna height above ground level, the start and stop dates for each period of operation or silence, and the applicable authorization file number for all periods of operation or silence. For any period of operation, provide the Station's programming source (i.e., satellite dish/receiver, playout server, internet, etc.) and a quarterly sample of EAS and program logs. For any period of silence provide the reason the Station was silent;
 - iv. any Person or entity (whether compensated or not) that performed any services, performed any work for, assisted Bleu in securing WEYW-LP's transmitter sites and provided equipment or other goods (whether purchased or loaned), services, or merchandise related to the construction or operation of WEYW-LP. Provide the mailing address, email address, and telephone number for all such Persons; and
 - v. the full legal name, mailing address, and telephone number of all property owners, tower owners, and/or tower managers of all sites WEYW-LP operated from, as well as all Documents related to WEYW-LP's use of any tower or transmitter site, including but not limited to, purchase or rental contracts, invoices, receipts, tax records, electric bills, and/or leasing agreements, and copies of payments made for all such invoices, receipts, leases.
2. Provide time-stamped pictorial evidence of WEYW-LP's Transmitter Site and of the tower from which WEYW-LP has most recently broadcast. Provide an affidavit from the person who took the photographs that describes what is depicted in the photographs, where and when the photographs were taken, and an attestation by the photographer verifying the accuracy of the date of the photographs and the images depicted therein. Provide the mailing address, email address, and telephone number for the photographer.

3. To the extent since July 31, 2021, the Station has been silent for any 12 consecutive month period, but believes that reinstatement of the Station's license is warranted under the "equity and fairness" provision of section 312(g) of the Act,¹ please provide a detailed showing demonstrating why the Station was unable to resume operations prior to its one-year silent anniversary and why reinstatement would promote equity and fairness to reinstate and extend the Station's license. As discussed above, the Commission has exercised its discretion under section 312(g) to extend or reinstate a station's expired license "to promote equity and fairness" only in limited circumstances. If the Station has not been silent for any 12-month period, but instead it failed to file necessary applications, such as special temporary authority to resume operations at variance from its licensed parameters or an application for license to cover its minor modification, please provide an explanation for why the necessary applications were not filed.²
4. Provide any additional information that Licensee believes may be helpful in our consideration and resolution of this matter.
5. Provide copies of all Documents that serve as the basis for the responses to all the Inquiries above, to the extent not already requested above.
6. Provide the full legal name of each Person employed or relied upon by Licensee to respond to or answer this letter of inquiry (LOI). Provide the mailing address, email address, and telephone number for all such Persons.
7. Licensee is expected to reply a complete response by the deadline. **If Licensee 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. We also remind Licensee that it is Commission policy that extensions of time shall not be routinely granted.**³

Filing Requirements

Affidavit Requirement. We direct Licensee to support its responses with an affidavit or declaration **made under penalty of perjury, signed and dated by an authorized officer of Licensee with personal knowledge of the representations provided in Licensee's response.** The affidavit or declaration **must verify the truth and accuracy of the information therein, state that all of the information requested by this letter that is in Licensee'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 Licensee described 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, and if multiple Licensee employees contribute to the response, Licensee 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 such declarations provided must comply with 47 CFR § 1.16, and be substantially in the form set forth therein. They must also provide the mailing

¹ 47 U.S.C. § 312(g).

² Video Division staff will contact the Licensee via e-mail or phone to provide further instructions if the Station has been operational but failed to file necessary applications.

³ 47 CFR § 1.46(a); see Communications Satellite Corporation and Contel Corporation for Approval of Merger, Order, 2 FCC Rcd 76, para. 3 (CCB 1986) (denying request for extension of time due to upcoming holidays as inadequate).

address, e-mail address, and telephone number of the signatory. Failure to support your responses with a sworn affidavit could subject you to forfeiture.

Delivery Requirements. Licensee shall both send its response by commercial overnight courier or by First-Class or overnight U.S. Postal Service mail and transmit an electronic copy to the individuals designated below.

If sent by commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail), the response should be sent to the attention of Shaun Maher, Video Division, Media Bureau, Federal Communications Commission, BrightKey, 9050 Junction Drive, Annapolis Junction, MD 20701.

If sent by first-class, Express, or Priority Mail, the response should be sent to Shaun Maher, Video Division, Media Bureau, Federal Communications Commission, 45 L Street, NE, Room 4-444, Washington, DC 20554.

Electronic Copy. Licensee shall also transmit a copy of the response and any attachments or exhibits via email to Shaun.Maher@fcc.gov and VideoLOI@fcc.gov. 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.

Instructions

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, etc.

Method of Producing Documents. Licensee shall submit each requested Document in its entirety, even if only a portion of that Document is responsive to an inquiry made herein, including all appendices, tables, or other attachments, and all other documents referred to in the Document or attachments. Licensee 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 Licensee submits in response to any inquiry, Licensee 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 stated in the cover letter, indicate, by number, to which inquiry 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. 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 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 Licensee is otherwise unable to produce it.

Retention of Original Documents. With respect only to Documents responsive to the specific Inquiries made herein and any other Documents relevant to those Inquiries, Licensee is directed to retain the originals of those Documents for 60 months from the date of this letter unless (a) Licensee is required

to retain Documents for a longer period of time pursuant to a Commission order or rule; (b) Licensee 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 Media 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, 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 enforcement action brought by the United States Department of Justice, or execution and implementation of a final settlement with the Commission or the Media Bureau.

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,⁴ 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.⁵ 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.⁶

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; and the specific grounds for claiming that the item is privileged.

Prior Responses. If a document responsive to any inquiry made herein has already been provided to the Commission during this or any other investigation, identify each such document, when and how it was produced, and the facility identification number under which such document was filed.

Definitions

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.

"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,

⁴ See 47 CFR § 0.459.

⁵ See 47 CFR § 0.459(b).

⁶ See 47 CFR § 0.459(c). 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 grounds for claiming that the item is privileged.

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

“Bleu” or “Licensee” shall mean Bleu 24 Communications, LLC, 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, trustees, partners or principals, and all directors, officers, employees, time brokers, or agents, including consultants and any other persons working for or on behalf of Bleu 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 Bleu 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.

“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.

“Transmitter Site” shall mean the permanent, physical location, and all associated equipment necessary for the transmission of broadcast television programming consistent with Part 73 and Part 74 of the Rules and as specified in any construction permit or authorization granted to WEYW-LP.

WEYW-LP or Station shall mean low power television station WEYW-LP, Key West, FL (Facility ID No. 130765).