



Federal Communications Commission  
Washington, D.C. 20554

August 3, 2020

*In Reply Refer to: 1800B3-VM*

**SENT BY EMAIL TO CARLCOMO@AOL.COM**

Mr. Carl Tutera  
357 Ocean Shore Blvd.  
Ocean Beach, FL 32176

In re: **W284CT/W292GE, Miami, FL**  
Facility ID No. 156649  
File Nos. BLSTA-20190925ABL,  
BLESTA-20200413AAE, BLFT-  
20190910AFX, 0000082169,  
0000100877, 0000112236, BALFT-  
20200430AAH

**Letter of Inquiry**

Dear Licensee:

This letter concerns the referenced applications involving Station W292GE (formerly W284CT), Miami, Florida (Station), licensed to Carl Tutera (Tutera). Pursuant to Section 73.1015 of the Commission's Rules,<sup>1</sup> you are required to clarify this matter in writing within thirty days of the date of this letter.

Our records show that you filed the 2019 License Application on September 10, 2019, in which you certified that the Station had been constructed.<sup>2</sup> On September 19, 2019, the staff granted the application. On September 25, 2019, you filed a request for special temporary authority to remain silent (STA), stating the following:

LPFM Station WAYG-FM on Co-channel 284 has alleged interference from W284CT. The parties entered into a settlement agreement whereby W284CT has agreed not to operate on Channel 284. W284CT has gone silent while it looks for a new channel.<sup>3</sup>

This STA application was granted on October 10, 2019, and expired on April 7, 2020.

On January 28, 2020, you filed an application for minor modification to change the Station's channel to Channel 292.<sup>4</sup> This was granted on February 11, 2020, but the grant is not a final order because South Broadcasting System, Inc. (SBS) filed a petition for reconsideration of the grant on March 13, 2020.<sup>5</sup> An application for license to cover

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<sup>1</sup> 47 CFR § 73.1015.

<sup>2</sup> See File No. BLFT-20190910AFX, Section III, (4) (The facility was constructed as authorized in the underlying construction permit) (2019 License Application).

<sup>3</sup> See File No. BLSTA-20190925ABL, Exh. 1.

<sup>4</sup> See File No. 0000100877

<sup>5</sup> See Pleading File No. 0000107918.

was filed on April 14, 2020 and granted on April 23, 2020.<sup>6</sup> The 2020 License Application certified that the Station was operating pursuant to program test authority from the authorized site at the authorized power level of 0.07 kW effective radiated power.<sup>7</sup>

On April 16, 2020, you filed the Station's application for renewal of license, which remains pending.<sup>8</sup> On April 13, 2020, you filed a request to extend the silent STA with for the following reason:

The licensee is in the process on implementing its new construction permit (0000100877). It is about ready to go back on the air and is working with the building on final preparations. It expected to file its license application last week but needs a few more days and thus it requests an extension of STA. For this reason, this STA extension is being filed a few days late.

On April 30, 2020, you filed an application on FCC Form 314 for consent to assignment of the Station's license to SBS.<sup>9</sup> The Assignment Application included a copy of an Asset Purchase Agreement, dated April 20, 2020, among you and a company controlled by you as Seller, and SBS as Buyer (the APA).<sup>10</sup> Section 4.8 of the APA provides:

Seller shall use commercially reasonable efforts to continue and complete construction of the facilities authorized by the W292GE CP. Buyer may provide assistance to Seller in the construction of the W292GE facilities and may incur expenses in the acquisition of technical equipment in connection with such construction. All such expenses shall be subject to the prior approval of Seller, which shall not be unreasonably withheld and may be deducted from the Purchase Price at Closing.

By this letter, we are requiring that you provide information and documentation relating to your certifications in the 2019 License Application and the 2020 License Application. We hereby provide 30 days for you to provide the following:

- (1) A narrative statement for the 2019 License Application providing (i) the date on which the Station's construction was completed, (ii) the names, addresses and telephone numbers of all persons who participated in the Station's construction, (iii) the transmitter site's address and coordinates, and (iv) the transmitter make and model number and supplier, the antenna's make and model number and supplier, and the antenna height above ground level.
- (2) All Documents in your possession relating to the construction and operability of the Station's facilities at the the time the 2019 License Application was filed, and the time it was granted, including, but not limited to, (i) all written communications with and bills and/or invoices from engineering or other consultants, contractors,

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<sup>6</sup> See File No. 0000112236 (2020 License Application)

<sup>7</sup> *Id.*

<sup>8</sup> File No. 0000082169.

<sup>9</sup> File No. BALFT-20200430AAH (Assignment Application).

<sup>10</sup> The company controlled by you is Star Over Orlando, Inc. (SOO), a Florida corporation.

- equipment suppliers, land or tower lessors, and your employees engaged in Station-specific work, as well as evidence of payment to same, (ii) tower lease (including any amendments) and all Documents relating to the negotiation of the lease and the Station's use of the leased space, (iii) proof of electrical hook-up, (iv) proof of programming source, and (v) all Documents involving interference received by or caused by the Station or efforts to resolve any interference issues.
- (3) A narrative statement for the 2020 License Application providing (i) the date on which the Station's construction was completed, (ii) the names, addresses and telephone numbers of all persons who participated in the Station's construction, (iii) the transmitter site's address and coordinates, and (iv) the transmitter make and model number and supplier, the antenna's make and model number and supplier, and the antenna height above ground level.
- (4) All Documents in your possession relating to the construction and operability of the Station's facilities at the the time the 2020 License Application was filed, and the time it was granted, including, but not limited to, (i) all written communications with and bills and/or invoices from engineering or other consultants, contractors, equipment suppliers, land or tower lessors, and your employees engaged in Station-specific work, as well as evidence of payment to same, (ii) tower lease (including any amendments) and all Documents relating to the negotiation of the lease and the Station's use of the leased space, (iii) proof of electrical hook-up, (iv) proof of programming source, and (v) all written communications with any party concerning the status of the Station's construction, and (vi) exterior and interior photographs of the Station's licensed transmission facilities.

“Document(s)” 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, file, invoice, memorandum, note, text message, 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, or versions of all of the above, and computer material (print-outs, drives, disks and such codes or instructions as will transform such computer materials into easily understandable form).

In addition to the documentation noted above, you must 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 requested by this letter which is in your possession, custody, control or knowledge has been produced. Such declaration must comply with Section 1.16 of the Commission's rules,<sup>1</sup> and be substantially in the form set forth therein. We remind you that to knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.<sup>1</sup> Moreover, failure to respond appropriately to this letter of inquiry may constitute a violation of the Communications Act and the Commission's rules.

Your response is due thirty (30) calendar days from the date of this letter. Please submit the response to the Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup>

Street, S.W., Washington, DC 20554, and serve copies by email to Tom Hutton, [tom.hutton@fcc.gov](mailto:tom.hutton@fcc.gov), and Victoria McCauley, [victoria.mccauley@fcc.gov](mailto:victoria.mccauley@fcc.gov).

Sincerely,

*Albert Shuldiner*

Albert Shuldiner  
Chief, Audio Division  
Media Bureau

cc: Scott Woodworth, Esq. by email to [swoodworth@edingerlaw.net](mailto:swoodworth@edingerlaw.net)  
Nancy A. Ory, Esq. by email to [nory@lermansenter.com](mailto:nory@lermansenter.com)