

FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, SW
Washington, DC 20554

MEDIA BUREAU
AUDIO DIVISION
TECHNICAL PROCESSING GROUP
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FEB 23 2010

Mitchell A. Beranek
9151 Aspen Point Lane
Cheyenne, WY 82009

In re: **INTERFERENCE COMPLAINT**
W248BI, Jonestown, PA
BLFT-20081112AJD
Facility ID # 157218

Dear Licensee:

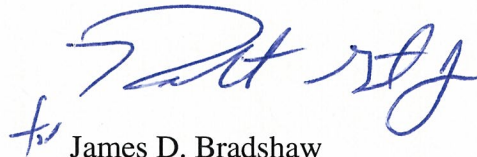
This refers to an interference complaints filed by Greater Philadelphia Radio, Inc. ("GPR") filed April 6, 2009. Copies of the interference complaints are attached. The complaints allege that W248BI is interfering with the reception of WNUW(FM), Burlington, New Jersey.

Pursuant to 47 C.F.R. § 74.1203, W248BI is required to eliminate any actual interference it causes. Therefore, it is necessary for W248BI to submit a detailed report on the attached complaint. For the complaint, the report must include: (1) the name and address of the complainant; (2) specific devices receiving the interference (i.e. type of device, manufacturer's name, model number, and serial number); and (3) any assistance provided by W248BI for each device allegedly receiving the interference and whether such interference persists. Each of the complaints must be addressed individually.

The Commission's Rules regarding FM translators restrict FM translator stations to operate strictly on a secondary basis and limit their service. Section 74.1203(a)(3) states that an FM translator station will not be permitted to continue to operate if it causes any actual radio signal interference to the direct reception by the public of the off-the-air signals of any authorized broadcast station.¹ Actual interference is based on listener complaints indicating that the signal they regularly receive is being impaired by the signal radiated by the FM translator station. Section 74.1203(b) states that if the interference cannot be properly eliminated by the application of suitable techniques, the operation of the offending FM translator station shall be suspended and shall not be resumed until the interference has been eliminated.

¹ An FM translator station creating actual radio signal interference to any authorized broadcast station is obligated to eliminate the interference, regardless of the location where the impaired signal reception occurs.

Within thirty days of this letter, W248BI must take appropriate actions required by the provisions of 47 C.F.R. § 74.1203 to resolve all complaints of interference to fulfill its obligations. Further action on this complaint will be withheld for a period of thirty days from the date of this letter to provide W248BI an opportunity to respond. Failure to correct all complaints within this time may require W248BI to suspend operation pursuant to 47 C.F.R. §§ 74.1203(e) and 74.1232(h).

A handwritten signature in blue ink, appearing to read "J. Bradshaw", with a small "for" written to the left.

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

Attachment

CC: Wray Fitch
John D. Poutasse

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In re Matter of)
)
Mitchell A. Beranek)
)
FM Translator Station W248BI)
Channel 248, Jonestown, Pennsylvania)
(Input Station: WKLA(FM), Tafton, Pennsylvania)

Facility ID No. 157218

To: Secretary, Federal Communications Commission
Attention: Chief, Audio Division, Media Bureau

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Federal Communications Commission
Office of the Secretary
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AUDIO SERVICES DIVISION

COMPLAINT

Greater Philadelphia Radio, Inc. ("Greater Philadelphia"), licensee of Station WNUW(FM), Channel 248 (97.5 MHz), Burlington, New Jersey (Facility ID No. 47427), by its attorneys and in accordance with Section 74.1203 of the Commission's Rules, hereby submits this complaint of actual interference. WNUW(FM)'s signal is being impaired by co-channel FM Translator Station W248BI, Channel 248 (97.5 MHz), Jonestown, Pennsylvania (Facility ID No. 157218), licensed to Mitchell A. Beranek. W248BI is a new FM Translator that is rebroadcasting Station WLKA(FM), Tafton, Pennsylvania (Facility ID No. 41202). The W248BI license was granted on December 16, 2008. See FCC File No. BLFT-20081112AJD.

Section 74.1203 of the Commission's Rules provides that:

[a]n authorized FM translator . . . station will not be permitted to continue to operate if it causes any actual interference to . . . [t]he direct reception by the public of the off-the-air signals of any authorized broadcast station Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the FM translator or booster station, regardless of the quality

of such reception, the strength of the signal so used, or the channel on which the protected signal is transmitted.

FM translator stations “operate strictly on a secondary basis” and “an FM translator will not be permitted to continue to operate if it causes any actual radio signal interference to the direct reception by the public of the off-the-air signals of any authorized broadcast station.”¹

Evidence of interference to “[t]he direct reception by the public of the off-the-air signals” of WNUW(FM) is attached hereto as Exhibit 1, in the form of complaints from five *bona fide* listeners of WNUW(FM) who cite interference from W248BI.² These listeners are not employees or principals of Greater Philadelphia or its affiliates, and, to the knowledge of Greater Philadelphia, have no “legal stake in the outcome of the translator station licensing proceeding.”³ They thus satisfy the Commission’s requirement of “disinterested” complainants.⁴

Pursuant to Section 74.1203(b) of the Commission’s Rules, “operation of the offending FM translator . . . station shall be suspended and shall not be resumed until after the interference has been eliminated.” The Commission has called this rule an “inflexible obligation to resolve all *bona fide* actual interference complaints.”⁵ Accordingly, Greater Philadelphia requests that the operational authority for W248BI be suspended, pursuant to Section 74.1203(b), unless and until the offensive interference caused by the translator is remedied.

¹ *In re: Educational Media Foundation*, Petition for Reconsideration, 22 FCC Rcd 5364 (Media Bureau 2007).

² “Actual interference is based on listener complaints indicating that the signal that the complainant regularly receives is being impaired by the signal radiated by the FM translator station.” *Id.*

³ *Applications of the Association for Community Education, Inc.*, 19 FCC Rcd 12682 at n.37 (2004).

⁴ *Id.* (explaining that “only a complaint from a *bona fide* listener of the desired station can force a translator station off the air”).

⁵ *In the Matter of Creation of a Low Power Radio Service*, 22 FCC Rcd. 21945 (2007).

Greater Philadelphia notes that it has made a good faith effort to resolve this interference issue without invoking the FCC's processes. Specifically, by letter dated March 16, 2009, Greater Philadelphia notified Mr. Beranek of the complaints of interference and requested that Mr. Beranek cooperate with Greater Philadelphia in the resolution of that interference. A copy of that letter is attached hereto as Exhibit 2. Upon receiving no response to its written request, on April 2, 2009 Greater Philadelphia attempted to contact Mr. Beranek by telephone to discuss the interference to WNUW. As of the date of this Complaint, Mr. Beranek has not responded to the voicemail left for him.

As set forth in Section 74.1203(b), Greater Philadelphia will cooperate with Mr. Beranek in order to ascertain whether there are any remedial techniques available to W248BI that will eliminate the interference to WNUW. If that is not possible, however, Greater Philadelphia will demand that operation of W248BI be suspended permanently.

Respectfully submitted,

GREATER PHILADELPHIA RADIO, INC.

By: 

Sally A. Buckman
John D. Poutasse

Lerman Senter PLLC
2000 K Street, NW, Suite 600
Washington, DC 20006
(202) 429-8970

April 6, 2009

Its Attorneys

EXHIBIT 1

Copies of Interference Complaints

Milford Smith

From: ROBERT SEAMAN [r_seaman@verizon.net]
Sent: Monday, February 02, 2009 9:58 PM
To: Milford K. Smith
Subject: Interference to WNUW 97.5

Milford K. Smith Jr.
VP Radio Engineering Greater Media

Mr. Smith,

Recently there has been interference to the WNUW 97.5 signal in the Hazleton area. Apparently a local translator W248BI has come on the air and we can no longer receive WNUW. This translator carries the K-Love radio network.

I live at 1004 E. Ninth Street, Hazleton PA 18201. The WNUW signal previously was quite good with a clean stereo signal. The signal was receivable for many years throughout the area, until the local translator came on the air. Hopefully you can eliminate this interference to the WNUW signal in the Hazleton area. Robert Seaman r_seaman@verizon.net

Milford Smith

From: mlakish [mlakish@ptd.net]
Sent: Saturday, February 21, 2009 9:19 PM
To: msmith@greatermedia.com
Cc: r_seaman@verizon.net
Subject: Interference to WNUW 97.5 near Hazleton, PA

Dear Mr. Smith,

We had been able to listen to WNUW 97.5 until the middle of November 2008. We can no longer receive WNUW. We recently found out that the station that is now on 97.5 is a local low power station W248BI. This station carries the K-Love network and there are station identifications for WLKA Tafton, PA. Hopefully you can eliminate this interference to WNUW, so we can receive WNUW again.

We are located at 39 East 37th Street, Hazle Township, PA 18202. Matt and Leann Kishbaugh mlakish@ptd.net

Milford Smith

From: bret&linda [blhutt@ptd.net]
Sent: Friday, March 06, 2009 4:26 PM
To: msmith@greatermedia.com
Cc: r_seaman@verizon.net
Subject: Interference by Translator W248BI to WNUW

Mr. Smith,

We received WNUW 97.5 until mid November 2008. At that time we could only receive a station which carries the K-Love radio network on 97.5. The station identification is from WLKA 88.3 Tafton, PA. Apparently it is translator W248BI.

We would like to know if there is a way to eliminate the interference from this translator to WNUW. We are located at 110 Coxe St. Hazleton, PA 18201. Brett & Linda Huttenstein. blhutt@ptd.net

Milford Smith

From: Eileen Brenner [kydebren@ptd.net]
Sent: Tuesday, March 31, 2009 4:27 PM
To: msmith@greatermedia.com
Subject: Interference to WNUW in Hazleton, PA

Mr. Smith,

I previously listened to WNUW 97.5. After mid-November 2008, I could not receive WNUW. Instead I am getting a station which identifies itself as WLKA 88.3 Tafton, PA and it carries the K-Love Network. Apparently the station on 97.5 is W248BI. I have discovered that this translator should not be causing interference to WNUW. I live at 540 N. Locust St.; Hazleton, PA 18201. Hopefully you can eliminate the interference to WNUW from this translator. Eileen Brenner kydebren@ptd.net

From: jsew@verizon.net [mailto:jsew@verizon.net]
Sent: Friday, April 03, 2009 5:59 PM
To: msmith@greatermedia.com
Cc: r_seaman@verizon.net
Subject: Interference to WNUW 97.5 in Hazleton,PA Area

Mr. Smith,

I am writing in regard to interference to WNUW in the Hazleton, PA area. Previously I could receive WNUW very well. Since the middle of November 2008, I can only receive a station which identifies as WLKA 88.3 Tafton, PA on 97.5. This station carries the K-Love network programming. Apparently this interfering station is W248BI. I had been able to receive the signal of WNUW for many years prior to this interference. Hopefully you can eliminate the interference to WNUW. I live at 32 W. Broad St. Apt. 1 West Hazleton, PA 18202. Sincerely, Larry Marchetti
jsew@verizon.net

EXHIBIT 2

Letter dated March 16, 2009



Greater Media, Inc.

P.O. Box 6501
Lawrenceville, NJ 08648
609-895-2973
Fax: 609-219-1886
msmith@greatermedia.com

Milford K. Smith, Jr.
Vice President / Engineering

March 16, 2009

MITCHELL A. BERANEK
9151 Aspen Point Lane
Cheyenne, WY 82009

Reference Translator W248BI, Jonestown, PA

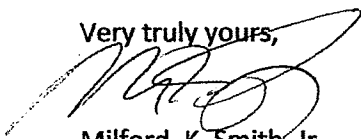
Dear Mr. Beranek:

I am writing to you as the licensee of FM translator W248BI, Jonestown, PA, operating on channel 248, 97.5 MHz. Greater Philadelphia Radio, Inc., a subsidiary of Greater Media, Inc, is the licensee of FM broadcast station WNUW, Burlington, NJ. W248BI operates co channel to WNUW. Over the past several months, WNUW has received several written listener complaints relative to their inability to receive WNUW since the initiation of operation by W248BI. These complaints have identified W248BI (broadcasting the K-Love Radio Network) as the source of the interference and generally originate in the Hazleton, PA area.

To confirm that the interference noted by our listeners is actually the result of the operation of W248BI, we would request that arrangements be made within the next ten days for W248BI to cease transmission for a short period of time so our engineers can make local observations to verify the reported interference. We will be happy to work with you or your designee to establish a mutually convenient time.

Thank you, in advance, for your anticipated cooperation. I look forward to hearing from you.

Very truly yours,



Milford K. Smith, Jr.

CERTIFICATE OF SERVICE

I, Deborah Morris, hereby certify that on this 6th day of April 2009, I caused a true and correct copy of this Complaint to be served on the following by first class mail, postage prepaid:

A. Wray Fitch III, Esq.
Gammon & Grange, P.C.
8280 Greensboro Drive
7th Floor
McLean, VA 22102-3807
Counsel to Mitchell A. Beranek

*James D. Bradshaw
Deputy Chief, Audio Division
Media Bureau
Federal Communications Commission
445 Twelfth St., SW
Washington, D.C. 20554



Deborah Morris

**Via Hand Delivery*