

**Before the
Federal Communications Commission
Washington, DC 20554**

In Re Application of:)	
)	
Fort Myers Broadcasting Company)	FCC File No. 0000120834
Station W239CL)	
Golden Gate, Florida)	
For License)	

To: The Chief, Media Bureau

Motion to Dismiss Reply to Opposition

On October 27, 2020, Sumarrase, Inc. (“Sumarrase”) filed a document titled “Reply to Opposition” in this proceeding. The document, LMS Pleading File No. 0000125099, was not signed by counsel for Sumarrase. Instead it was signed by Dwyane Williams as President; Sumarrase, Inc. and contained numerous factual assertions concerning matters pertinent to the relief sought in Sumarrase’s October 6, 2020, Petition for Reconsideration, LMS Pleading File No. 0000124025. None of Sumarrase’s factual assertions was supported by signed affidavit or declaration under penalty of perjury. Mr. Williams, who signed the reply, did not swear under oath or declare under penalty of perjury to the truthfulness of the reply, as required by FCC procedural rules.¹

Fort Myers Broadcasting Company asks that the Commission dismiss Sumarrase’s reply ,

¹ This same observation holds true with respect to Mr. Williams’ signature on the Petition for Reconsideration, LMS Pleading File 0000124025. The rule governing petitions for reconsideration incorporates the signature requirements of Rule 1.52 by reference. See 47 CFR §1.106(i).

without further consideration, for failure to comply with the subscription and verification provisions of Rules 1.52 and 1.16. In support of this request, FMBC submits that Rule 1.52 states, in pertinent part:

The original of all petitions, motions, pleadings, briefs, and other documents filed by any party represented by counsel shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign and verify the document and state his address....

Absent a sworn affidavit attesting to a pleading's truthfulness, the verification required by Rule 1.52 can be supplied by a declaration under penalty. Specifically, Rule 1.16 provides in part:

Any document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person.... Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form:

(1)*****

(2)If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)".

Sumarrase, however, has not availed itself of either means of verifying the truthfulness of its filing.

In view of the foregoing, FMBC asks that Sumarrase's Reply to Opposition be dismissed without further consideration. See Letter to Wolfgang Kurtz, FCC File No. BNPFT-20130327AND (Chief, Audio Division, May 15, 2019), aff'd sub nom Alaska Educational Radio System, Inc., 34 FCC Rcd 9289 (2019). See also County of Douglas, Wisconsin, 33 FCC Rcd 7362 (Chief, Policy and Licensing Div., 2018).

November 4, 2020
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Respectfully submitted,



Joseph A. Belisle III
Counsel for
Fort Myers Broadcasting Company

CERTIFICATE OF SERVICE

I, Joseph A. Belisle III, hereby certify that I have this 4th day of November, 2020 caused a copy of the foregoing Motion to Dismiss Reply to Opposition to be served by email and by U.S. First Class Mail, postage prepaid, to the following:

Mr. Dwayne Williams
Sumarrase Inc.
3507 Lee Blvd
Suite 254
Lehigh Acres, FL 33971

info@suga957.com


Joseph A. Belisle III