

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Georgia Television, LLC)	FCC File Number 0000128755
WSB-TV License Renewal Application)	
)	

OPPOSITION TO PETITION TO DENY

Georgia Television, LLC d/b/a Cox Media Group (“CMG”), licensee of WSB-TV, Atlanta, Georgia, hereby opposes the Petition to Deny filed by Mr. Darryl Brian Beauford against the license renewal application for WSB-TV, Atlanta, Georgia.¹

In his Petition, Mr. Beauford asks the Commission to deny the license renewal application and revoke the license of WSB-TV largely based on alleged public file violations.² Mr. Beauford also mistakenly claims that CMG failed to respond to complaints Mr. Beauford filed with the Commission and that the WSB-TV license renewal application contains a false

¹ Petition to Deny of Darryl B. Beauford, FCC File Number 0000128755 (Dec. 11, 2020) (the “Beauford Petition” or the “Petition”). The Beauford Petition is listed in the Commission’s LMS database with a filing date of January 7, 2021. Accordingly, this Opposition is timely filed.

² CMG notes that at the time of the alleged violation, WSB-TV was under different ownership. Indeed, the FCC previously considered many of Mr. Beauford’s claims before the ownership change because Mr. Beauford filed a substantially similar opposition in 2019 in connection with the transfer of control of WSB-TV from Cox Enterprises, Inc. to Terrier Media Buyer, Inc. *See* Petition to Deny of Darryl B. Beauford, MB Docket No. 19-98 (Apr. 19, 2019) (the “Objection”). In its decision approving the Terrier Media transaction, the Media Bureau addressed Mr. Beauford’s Objection. The Media Bureau found that the Commission had already investigated the substance of his objection and staff had contacted Mr. Beauford to discuss resolution of the issue. Accordingly, the Bureau rejected “the crux of Beauford’s petition that alleges that the licensee of Cox station WSB-TV violated the public inspection file rule on October 23, 2015.” *See* Consent to Transfer Control of Certain License Subsidiaries of NBI Holdings, LLC to Terrier Media Buyer, Inc., et al., *Memorandum Opinion and Order*, MB Docket No. 19-98, DA 19-1206 (rel. Nov. 22, 2019) at ¶ 37.

certification.³ As explained herein, Mr. Beauford's Petition does not establish that CMG violated Commission rules and does not set forth any basis for the Commission to deny the CMG license renewal application or revoke the WSB-TV license. Mr. Beauford's Petition should be denied and the license renewal application for WSB-TV should be promptly granted.

I. CMG DID NOT VIOLATE THE COMMISSION'S PUBLIC FILE RULE.

Mr. Beauford has asked the Commission to deny the license renewal application and revoke the license of WSB-TV based on alleged public file violations, among other reasons.⁴ As explained herein, neither Mr. Beauford's Petition, nor the associated underlying Complaint,⁵ establishes that WSB-TV violated Commission rules, and neither sets forth any basis for the Commission to deny the WSB-TV license renewal application.

A. CMG Provided the Required Access to the Public File.

Mr. Beauford's Petition discusses his desire to see an email that Mr. Beauford himself sent to WSB-TV's former general manager, Tim McVay, concerning the station's broadcast of a local parade. At the time Mr. Beauford requested to see the WSB-TV public file, the Commission's rules required television stations to place public file information "in the public inspection file on the Commission's website, with the exception of letters and emails from the public" which were to be maintained at the studio but excluded from the online public file for

³ Beauford Petition at 21.

⁴ *See generally* Beauford Petition.

⁵ Attached to Mr. Beauford's Petition is a complaint that Mr. Beauford filed with the Commission on October 24, 2015 and then refiled on December 22, 2015 ("Complaint"). The Complaint alleged that Mr. Beauford was denied access to the station public inspection file when he visited WSB-TV on October 23, 2015. The Complaint also references an earlier complaint, filed on December 25, 2014, regarding programming aired by the station.

privacy reasons.⁶ Later, in 2017, the Commission eliminated the requirement that television stations retain letters and emails from the public entirely.⁷

According to the Beauford Petition and the Complaint, Mr. Beauford visited the WSB-TV studio on October 23, 2015 and requested to view the WSB-TV public inspection file. There is, however, a material difference between how the two documents characterize this visit. The Beauford Petition alleges that Mr. Beauford's public file request included a specific reference to his December 25, 2014 email. That assertion is not supported by the Complaint. In the Complaint, which was first filed on October 24, 2015 (one day after Mr. Beauford's visit to WSB-TV), Mr. Beauford provides a lengthy and detailed description of his interactions with WSB-TV personnel. That description includes multiple alleged statements made by Mr. Beauford and station personnel who responded to his request to review the public file. Mr. Beauford states that a WSB-TV employee asked him which files he wanted to see. He quotes himself as responding "WSB-TV-TV, Q4 of 2014, Q1 and Q2 of 2015."⁸ The Complaint indicates that WSB-TV staff directed Mr. Beauford to the online public file, in compliance with Commission rules.⁹

According to his own contemporaneous account, Mr. Beauford did not indicate to WSB-TV staff that he wanted to see his December 2014 email when he visited the station on October 23, 2015. Rather, he quotes himself as requesting access to WSB-TV's public file covering three

⁶ 47 C.F.R. § 73.3526(b)(2) (version in effect from Feb. 26, 2013-June 23, 2016).

⁷ Revisions to Public Inspection File Requirements — Broadcaster Correspondence File and Cable Principal Headend Location, *Report and Order*, 32 FCC Rcd 1565, 1569, ¶ 11 (2017) ("[R]etention of letters and emails is not necessary to ensure that broadcasters comply with their public interest obligation.").

⁸ Beauford Petition at 36.

⁹ See 47 C.F.R. § 73.3526 (c)(1) ("[T]he portion of the file *that is not included in the online public inspection* file shall be available for public inspection at any time during regular business hours at an accessible place in the community of license.") (emphasis added).

time periods, the records for each of which was available online. It was therefore logical for WSB-TV staff to direct Mr. Beauford to the online public inspection file, where the vast majority of the records CMG is required to keep under Commission rules were maintained. The response from WSB-TV staff was appropriate, in good faith, and compliant with Commission rules.

Mr. Beauford reports that he filed an informal complaint with the Commission about his effort to view the WSB-TV public file and that he followed up several times.¹⁰ He states that in October 2016 he spoke with an agent at an Enforcement Bureau Field Office and that after he explained the situation to the agent, the agent said she would contact the station and that someone from WSB-TV would be in touch with him.¹¹ The Beauford Petition then reports that CMG management did reach out to Mr. Beauford and he returned to the station on October 28, 2016, after receiving a call from Mr. McVay regarding his concerns.¹² Mr. Beauford states that on his second visit, station staff showed him his December 2014 email on a computer terminal, as permitted under then-applicable Commission rules.¹³ While the Beauford Petition indicates that Mr. Beauford remained unsatisfied, it does not indicate that the station failed to meet its obligations.

B. Mr. Beauford's Other Claims Likewise Fail to State a Basis to Deny the WSB-TV License Renewal Application.

Mr. Beauford claims that the license renewal application of WSB-TV should be denied because CMG did not have a policy in place to view the public inspection file.¹⁴ But the Commission does not require a licensee to have a particular procedure for accessing its public

¹⁰ Beauford Petition at 9-10.

¹¹ Beauford Petition at 15.

¹² Beauford Petition at 16.

¹³ Beauford Petition at 18.

¹⁴ Beauford Petition at 5.

inspection file. According to the Beauford Petition, Mr. Beauford was admitted to the WSB-TV studio and the station's receptionist looked for someone who could assist with his request.¹⁵ According to Mr. Beauford's own account, about fifteen minutes later, another staff member came out to ask Mr. Beauford "Are you here to view the Public Inspection File?" and "What are you here to view?"¹⁶ This is a reasonable method of addressing members of the public, and granting public file access.

Mr. Beauford also asserts that he should have had access to "the Resolution Page where WSB-TV Management addressed [his] complaint," and that the Complaint should have been entered into the online public inspection file.¹⁷ With respect to the "Resolution Page" claim, there is no such requirement in the Commission's rules. With respect to the contention that the Complaint should have been entered into the online public inspection file, this appears to reflect a misunderstanding of the Commission's rules. The rule that Mr. Beauford cites, 47 C.F.R. § 1.717, is a rule for common carriers and does not apply to broadcasters.¹⁸ The rule that does apply to broadcasters states that "[m]aterial having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or licensee has been advised... shall be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded."¹⁹ That rule does not, however, require stations to upload to the online public file viewer complaints filed with the Commission that have not led to

¹⁵ Beauford Petition at 5.

¹⁶ Beauford Petition at 5-6.

¹⁷ Beauford Petition at 11.

¹⁸ *See, e.g.*, Beauford Petition at 9-10.

¹⁹ 47 C.F.R. § 73.3526(e)(10).

a Letter of Inquiry or investigative request.²⁰ Indeed, stations have no way of knowing that a complaint has even been filed with the Commission absent an inquiry or request from the Commission for more information, so stations certainly cannot include those complaints in their online public files.

II. CMG PROPERLY DISCLOSED AN FCC VIOLATION IN ITS LICENSE RENEWAL APPLICATION.

The Beauford Petition alleges that the WSB-TV license renewal application contains a false certification on the question regarding FCC violations during the preceding license term because the question is answered as “No.”²¹ As worded, this question includes a double negative, so it is understandable that Mr. Beauford mistakenly believes that an answer of “No” means “No Violations.” In fact, a “No” response means that the licensee is reporting a violation or violations. In this case, CMG properly reported in the WSB-TV license renewal application an admonishment for omitting information from its political public file unrelated to Mr. Beauford’s Complaint. CMG has not been found to have otherwise violated the Commission’s public file rules and no further disclosures in the license renewal application are required.²²

III. WSB-TV’S LICENSE RENEWAL APPLICATION SHOULD BE PROMPTLY GRANTED.

CMG certainly would have preferred to avoid the misunderstanding that evidently took place when Mr. Beauford first visited WSB-TV in October 2015 and requested to review the station’s public file. Mr. Beauford intention to request access to the part of the public file that

²⁰ Contrary to Mr. Beauford’s claim, CMG is not aware that the FCC sent the Complaint to WSB-TV. *See* Beauford Petition at 16.

²¹ Beauford Petition at 21.

²² Mr. Beauford also refers to a decision by the FCC regarding the WSB-TV political public file in which the FCC admonished the station for omitting information from its online political public file. *See* Beauford Petition at 21. One admonishment for a political public file omission is not grounds to deny a station license renewal or revoke a station license.

was not online and that included records of letters and emails to the station from the public was not made clear to WSB-TV staff. Not realizing that he was asking to see the record of his email to the station, WSB-TV staff took the reasonable step of directing him to the station's online records on FCC.gov. Accordingly, Mr. Beauford allegations regarding his access to the WSB-TV public file are not supported by the record or the law and his other claims regarding alleged violations by CMG are equally unpersuasive. Accordingly, there is no reason to deny the WSB-TV renewal application and revoke the WSB-TV license. CMG respectfully requests that the FCC promptly grant the application.

Respectfully submitted,

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February 5, 2021

CERTIFICATE OF SERVICE

I, Michael D. Basile, do hereby certify that, on this 5th day of February, 2021, I caused a copy of the foregoing “Opposition to Petition to Deny” to be served via email upon the following:

Mr. Darryl Brian Beauford
120 Zoie Court
Fayetteville, GA 30215
Email: sarucga@gmail.com

A handwritten signature in black ink, appearing to read 'Michael D. Basile', written over a horizontal line.

Michael D. Basile