



MEMO TO: FCC On-Line Public File Date: February 11 2013

**SUBJECT: FCC – INVESTIGATIONS OR COMPLAINTS AGAINST
WPTV/SCRIPPS MEDIA, INC.
THIS CASE # EB-11-1H-1585**

The following complaint against WPTV/Scripps Media, Inc., is being investigated by the FCC. It was received at WPTV on February 11, 2013.





FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W., Suite 4-C330
Washington, D.C. 20554

February 5, 2013

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND BY FACSIMILE (561) 655-8947

Scripps Media, Inc.
312 Walnut Street
28th Floor
Cincinnati, Ohio 45202 + 4067

Re: WPTV-TV, West Palm Beach, Florida
EB-11-IH-1585

Dear Licensee:

The Enforcement Bureau is investigating allegations contained in the enclosed complaint (Complaint), that Scripps Media, Inc. (Licensee) may have broadcast over Station WPTV-TV, West Palm Beach, Florida (Station) on February 17, 2011, a telephone conversation between Station personnel and another party, without informing that party of its intention to do so, in violation of section 73.1206 of the Commission's rules.¹

The Instructions for responding to this letter and the Definitions for certain terms used in this letter are contained in the attachment hereto. We direct the Licensee, pursuant to sections 4(i), 4(j), 308(b) and 403 of the Communications Act of 1934, as amended,² to provide the information and Documents specified below within thirty (30) calendar days from the date of this letter. **Requests for confidential treatment or claims of attorney-client privilege or attorney work product must meet the requirements stated in the attached Instructions.**

Unless otherwise indicated, the period of time covered by these inquiries is January 1, 2011, to the present.

Documents and Information to be Provided

1. State whether the Licensee participated in any telephone call to the Party identified in the Complaint (Party) on or about February 17, 2011. If so:
 - a. Describe the Licensee's reason for initiating and/or participating in each such telephone call.

¹ 47 C.F.R. § 73.1206.

² See 47 U.S.C. §§ 154(i), 154(j), 308(b), 403.

- b. Identify who on behalf of the Licensee placed or participated in each such telephone call.
 - c. Identify who on behalf of the Licensee authorized each such telephone call to be made.
 - d. Specify the date and time of day each such telephone call took place.
 - e. State whether the Licensee recorded each such telephone call between its employees and the Party.
 - f. State whether the Licensee recorded the conversation between its employees and the Party with the intention of subsequently broadcasting any recording of each such telephone call over the Station.
 - g. State whether the Licensee, at any time, informed the Parties of its intention to broadcast any recording of each such telephone call over the Station, and if not, explain fully why not.
 - h. If the Licensee did inform the Party of its intention to broadcast any recording of each such telephone call over the Station, specify when and in what form the Licensee provided such information to the Parties; and identify who on behalf of the Licensee provided such information to the Parties.
 - i. State whether the Licensee broadcast any recording of each such telephone call over the Station, and if so, specify the date(s) and time(s) of day of such broadcast(s).
2. Provide copies of all Documents, including, but not limited to, video and audio tape recordings and transcripts, supporting and/or otherwise relating to the responses to the above Inquiries.
 3. Provide any additional information that you believe may be helpful to our consideration and resolution of this matter.
 4. Identify each factual error in the Complaint. For each such error identified, if any, describe specifically and in detail why you contend the allegation is factually incorrect.
 5. Provide copies of all Documents that provide the basis for or otherwise support your responses to Inquiries 1- 4, above.
 6. To the extent not otherwise provided in response to the preceding Inquiries, provide any additional information that the Licensee believes may be helpful in our consideration and resolution of this matter.

Filing Requirements

We direct the Licensee to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the Licensee with personal knowledge of the representations provided in the Licensee's response, verifying the truth and accuracy of the information therein and that all of the information requested by this letter that are in the Licensee's possession, custody, control or knowledge have been produced. If multiple Licensee employees contribute to the response, and/or if the authorized officer of the company (or any other affiant or declarant) is relying on

the personal knowledge of any other individual, rather than his or her own knowledge, then in addition to such general affidavit or declaration of the authorized officer of the company noted above, the Licensee must 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 Section 1.16 of the Commission's rules,³ and be substantially in the form set forth therein.

To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.⁴ Failure to respond appropriately to this letter of inquiry may constitute a violation of the Communications Act and our rules.⁵

The Licensee shall direct its response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554, to the attention of Gary A. Oshinsky, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-A330, with a copy to Anjali K. Singh, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-A364, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Gary A. Oshinsky, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-A335, Washington, D.C. 20554, with a copy to Anjali K. Singh, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-A364, Washington, D.C. 20554. The Licensee shall also, to the extent practicable, transmit a copy of the response via email to Gary.Oshinsky@fcc.gov and to Anjali.Singh@fcc.gov.

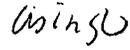
³ See 47 C.F.R. § 1.16.

⁴ See 18 U.S.C. § 1001. See also 47 C.F.R. § 1.17.

⁵ See *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, 19898 n.36 (2003); *World Communications Satellite Systems, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (Enf. Bur. 2004); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003).

Scripps Media Inc.
February 5, 2013
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Sincerely,



Anjali K. Singh
Assistant Chief
Investigations and Hearings Division
Enforcement Bureau

Attachment and Enclosure

ATTACHMENT

Instructions

Request for Confidential Treatment. If the Licensee requests that any information or Documents responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and Documents, a statement in accordance with Section 0.459 of the Commission's rules. 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of section 0.459, including the standards of specificity mandated by Section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of Documents, and casual requests, including simply stamping pages "confidential," are unacceptable. Pursuant to Section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of Section 0.459.

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; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

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.

Method of Producing Documents. Each requested Document, as defined herein, shall be submitted in its entirety, even if only a portion of that Document is responsive to an inquiry made herein. This means that the Document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. All written materials necessary to understand any Document responsive to these inquiries must also be submitted.

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 individual(s) 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 author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The 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 the 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 the 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, the Licensee is directed to retain the originals of those Documents for twelve (12) months from the date of this letter unless: (a) the Licensee is directed or informed by the Enforcement Bureau in writing to retain such Documents for some shorter or longer period of time; or (b) the Enforcement 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, the 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 collection action brought by the United States Department of Justice or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

In accordance with *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535, para. 74 (2012), unless and until otherwise instructed by the Commission, the Enforcement Bureau or their representatives, we hereby direct that the Licensee shall not place in its public file or upload to its online public file this letter, any supplements thereto, or any other correspondence from the Commission concerning this investigation, materials related to such inquiries, Licensee responses to these Commission inquiries, or any Documents in connection with such responses not otherwise required to be placed in the public file or uploaded to the online public file.

Continuing Nature of Inquiries. The specific inquiries made herein are continuing in nature. The Licensee is required to produce in the future any and all Documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, the Licensee must supplement its responses: (a) if the Licensee learns that, in some material respect, the Documents and information initially disclosed were incomplete or incorrect; or (b) if additional responsive Documents or information are acquired by or become known to the Licensee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless: (a) the Licensee is directed or informed by the Enforcement Bureau in writing that the Licensee's obligation to update the record will continue for some shorter or longer period of time; or (b) the Enforcement 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 the obligation to update the record will continue until the release of such item.

Construction. As used herein, the word "any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

Definitions

For purposes of this letter, the following definitions apply:

"Broadcast," when used as noun, shall mean images or sounds or language transmitted or disseminated over a station during the course of a radio or television broadcast.

"Broadcast," when used as a verb, shall mean the transmission or dissemination of radio or television communications intended to be received by the public. The verb "broadcast" may be used interchangeably with the verb "air."

"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, 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 program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip,

chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tape, disks and such codes or instructions as will transform such computer materials into easily understandable form).

“Identify,” when used with reference to an individual or individuals, shall mean to state his/her full legal name, job title (if any), current business address, and business phone number. If business address and/or telephone number are not available, state the individual’s home address and/or telephone number.

“Identify,” when used with reference to a Document, shall mean to state the date, author, addressee, type of Document (e.g., the types of Document, as described above), a brief description of the subject matter, its present or last known location, and its custodian.

“Identify,” when used with reference to an entity other than an individual, shall mean to state its name, current or last known business address, and current or last known business telephone number.

“Licensee” shall mean Scripps Media, Inc. and any predecessor-in-interest, parent company, wholly or partially owned or controlled subsidiary, other company or business under common ownership or control, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other individuals working for or on behalf of the foregoing at any time during the period covered by this letter.

“Station” shall mean Station WPTV-TV, West Palm Beach, Florida.

Form 2000E – Media (General) Complaint

Consumer's Information:

First Name: [REDACTED] Last Name: [REDACTED]

Company Name:

(Complete only if you are filing this complaint on behalf of a company or an organization.)

Post Office Box Number:

(Official Post Office box Number Only)

Address 1: [REDACTED] Address 2:

Mailing Address (where mail is delivered)

City: [REDACTED] State: FL Zip Code: [REDACTED]

Telephone Number (Residential or Business): Phone: [REDACTED]

E-mail Address: [REDACTED]

***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

1. What is the name of the company that is the subject of your complaint? : **SCripps Broadcasting Hearst and WPTV West Palm Beach, Florida**

2. If your complaint is about a radio or television station, provide the following information:

a. Station call sign (e.g., "KDID," "WZUF," "KDIU-FM," "WZUE-TV"): **WPTV**

b. Radio station frequency (e.g., "1020" or "88.5"):
or TV channel (e.g., "13"): **5**

c. Station location: City: **West Palm Beach** State: **FL**

3. If you are complaining about a cable or satellite operator (e.g., Comcast, Time Warner, DirecTV), provide the following information:

a. Operator name: **Scripps Broadcasting**

b. Operator location: City: **West Palm Beach** State: **FL**

4. If you are complaining about a particular program, provide the following information:

a. Network: **Newchannel 5 Local News**

b. Program name: **Local 5 news & Internet**

c. Date of program (mm/dd/yyyy): **02/17/2010 17:05:00:PM**

5. Provide the details of your complaint, including the time, date and nature of any conduct or activity complained of and identifying information for companies, institutions or individuals involved (if not

Form 2000E – Media (General) Complaint

*** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT ***

already described above):

a. Date (mm/dd/yyyy): 02/17/2011 15:35:00:PM

b. I was sent an email by Angela Sachitano senior reporter with WPTV, the email stated that she was doing a story about me and it was in my best interest contact her. I immediately phoned her to understand what was at issue. We spoke by telephone, at NO time was I asked if my voice could be recorded or was told it would be. An hour or so later, I heard my voice on the evening news. The story and recording was also put on their Internet Website. I have suffered from the broadcast. Through court documents the news station is claiming that they discarded the recording and have no record of it. Spoliation of evidence is what this is. How can a newstation have a business practice of taping someone without their consent playing it on the air and maintaining no record of the call or the authorization to use the individual's voice. This belongs with the FCC as the Internet crosses state lines. This illegally obtained recording was run on their website and seen by my many out of state customers.

You may submit this form over the Internet at <http://www.fcc.gov/cgb/complaints.html>, by e-mail to fccinfo@fcc.gov, by fax to 1-866-418-0232, or by postal mail to:

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Complaints
445 12th Street, SW
Washington, D.C. 20554

In addition, you may submit your complaint over the telephone by calling 1-888-CALL-FCC or 1-888-TELL-FCC (TTY). If you choose to submit your complaint over the telephone, an FCC customer service representative will fill out an electronic version of the form for you during your conversation. If you have any questions, feel free to contact the FCC at 1-888-CALL-FCC or 1-888-TELL-FCC (TTY).

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT AND THE PRIVACY ACT

The Federal Communications Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information that we request in this form. This form is used for complaints that involve media (general). The public reporting for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, OMD-PER, Paperwork Reduction Project (3060-0874), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR COMPLETED FORMS TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0874.

Form 2000E – Media (General) Complaint

***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

In addition, the information that consumers provide when filling out FCC Form 2000 is covered by the system of records notice, FCC/CGB-1, Informal Complaints and Inquiries File (Broadcast, Common Carrier, and Wireless Telecommunications Bureau Radio Services). The Commission is authorized to request this information from consumers under 47 U.S.C. 206, 208, 301, 303, 309(e), 312, 362, 364, 386, 507, and 51; and 47 CFR 1.711 et seq.

Under this system of records notice, FCC/CGB-1, the FCC may disclose information that consumers provide as follows: when a record in this system involves a complaint against a common carrier, the complaint is forwarded to the defendant carrier who must, within a prescribed time frame, either satisfy the complaint or explain to the Commission and the complainant its failure to do so; where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order; a record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit; a record on an individual in this system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body; a record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when: (a) the United States, the Commission, a component of the Commission, or, when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Commission determines that the disclosure is relevant or necessary to the litigation; a record on an individual in this system of records may be disclosed to a Congressional office in response to an inquiry the individual has made to the Congressional office; a record from this system of records may be disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

In each of these cases, the FCC will determine whether disclosure of the information in this system of records notice is compatible with the purpose for which the records were collected. Furthermore, information in this system of records notice is available for public inspection after redaction of information that could identify the complainant or correspondent, i.e., name, address and/or telephone number.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507 AND THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. SECTION 552a(e)(3).