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LAW OFFICES
KOTEEN & NAFTALIN, L.L.P.
1150 CONNECTICUT AVENUE
WASHINGTON, D.C. 20036

BERNARD KOTEEN*
ALAN Y. NAFTALIN
ARTHUR B. GOODKIND
GEORGE Y. WHEELER
MARGOT SMILEY HUMPHREY
PETER M. CONNOLLY
M. ANNE SWANSON
CHARLES R. NAFTALIN
GREGORY C. STAPLE
R. EDWARD PRICE

* SENIOR COUNSEL

TELEPHONE
(202) 467-5700
TELECOPY
(202) 467-5915

July 8, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Dear Mr. Caton:

Transmitted herewith, on behalf of Kelly Broadcasting Company, are an original and four copies of a "Response of Kelly Broadcasting Company to Commission Request for Further Information Regarding Television LMAs," filed in connection with MM Docket Nos. 91-221, 87-8, 94-150, 92-51 and 87-154.

In the event there are any questions concerning this matter, please contact the undersigned.

Very truly yours,

Arthur B. Goodkind

Enclosure

cc (w/enc.): Commissioner Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In Re:	)	
	)	
Response to FCC Public Notice	)	MM Docket Nos. 91-221, 87-8,
Requesting Further Information	)	94-150, 92-51 and 87-154
Regarding Television LMAs	)	

RESPONSE OF KELLY BROADCASTING COMPANY
TO COMMISSION REQUEST FOR
FURTHER INFORMATION REGARDING TELEVISION LMAs

Kelly Broadcasting Company hereby responds, by its attorneys, to the Commission's Public Notice released June 17, 1997, which requested further information with respect to television local marketing agreements (LMAs). The responses below correspond to the nine numbered questions in the Commission's June 17 Public Notice.

(1) Kelly Broadcasting Company ("Kelly") is the licensee of television station KCRA-TV, Sacramento, California. It is the time broker under a Time Brokerage Agreement ("TBA") with Channel 58, Inc., the licensee of television station KQCA, Stockton, California. KCRA-TV operates on Channel 3. KQCA operates on Channel 58.

(2) Sacramento-Stockton-Modesto is presently the 20th ranked Nielsen Designated Market Area.

(3) KCRA-TV and KQCA each transmit from locations between Sacramento and Stockton. The calculated signal coverage contours of the two stations are substantially similar although the actual reach of KCRA-TV's Channel 3 signal is greater than the reach of KQCA's Channel 58 signal.

(4) The TBA was entered into on December 8, 1994 as a modified version of a TBA originally executed in March 1994. The modifications included in the December 8, 1994 TBA were made to address specific concerns raised by the Commission's staff with respect to the earlier agreement. The TBA was submitted to the Commission in connection with a pending application for assignment of the license for KQCA (then KSCH-TV) from Pegasus Broadcasting of Stockton/Sacramento, California, Inc. to Channel 58, Inc. (File No. BALCT-940407KG). On the basis of the modifications included in the December 8, 1994 TBA, the KSCH-TV assignment application was granted by the Mass Media Bureau.

(5) The commencement date of the TBA was December 30, 1994. The Agreement's total term is ten years: an initial five year term followed by an automatic five year renewal unless Kelly

provides written notice of non-renewal to Channel 58, Inc. within 180 days prior to the expiration of the initial five year term.

(6) At the present time, Kelly provides substantially all of the programming broadcast by KQCA, with the exception of a half-hour weekly public affairs program, "Focus," produced by Channel 58, Inc. The licensee of KQCA may preempt any Kelly-supplied programming deemed to be unsatisfactory, unsuitable or contrary to the public interest or to substitute programming which, in the licensee's opinion, is of greater local or national importance. In addition, the licensee may present such noncommercial programming as it deems necessary to respond to the ascertained needs and concerns of its community of license and service area, including children's programming. Such noncommercial program substitutions would not reduce the brokerage fees paid by Kelly to the licensee. The licensee may delete or preempt in its sole discretion any brokered programming for the purpose of transmitting such noncommercial licensee programming.

(7) KCRA-TV is an affiliate of the NBC Television Network. KQCA is a UPN affiliate.

(8) The reported Nielsen all-day audience shares (9:00 a.m. through midnight) for KCRA-TV and for KQCA during the three most recent rating periods have been as follows:

Rating Period	KCRA-TV	KQCA
May 1997	18	5
February 1997	20	4
November 1996	21	5

(9) Kelly believes that the following additional information will be of assistance to the Commission in its consideration of the public benefits provided by the TBA described above.

KQCA (formerly KSCH-TV) has been on the air since 1986. The company that become the station's licensee in late 1986 encountered financial difficulties which resulted in the licensee's acquisition in 1990 by General Electric Capital Corporation ("GE"). GE's acquisition was part of a debt restructuring under which GE sought to preserve the assets and operating continuity of KSCH-TV (and other stations under common ownership with KSCH-TV) while seeking new long-term ownership.

Citing Section 73.658(f) of the Rules, the Commission permitted GE to acquire control of KSCH-TV in 1990 only on the condition that GE would divest itself of its connection with the station within 24 months.[1]

Although GE sought diligently to find a buyer for KSCH, it was unable to do so in the time allotted and accordingly received extensions of the two year divestiture date. Among factors cited by GE as having hindered its efforts to sell the station were "a variety of factors specific to the market, including the number of stations in the market, the ranking of KSCH-TV among those stations, the UHF status of the station, its newness in the market, and its marginal financial performance." Prospective purchasers, GE stated, "did not consider KSCH-TV to be attractive or financially viable as a stand-alone station."

More specifically, GE noted that the Sacramento-Stockton market was then served by four network affiliated stations and five commercial independent stations and that:

> [o]f the six English-language stations licensed to the Sacramento-Stockton Designated Market Area competing for

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[1]The facts set forth here concerning KSCH-TV's operating history prior to its acquisition by Channel 58, Inc. are derived from Assignor's Exhibit No. 1 to the 1994 application for Commission consent to assignment of KSCH-TV's license to Channel 58, Inc., File No. BALCT-940407KG.

> commercial dollars and included in the Nielsen ratings, KSCH-TV ranks last in share of household viewers sign-on to sign-off, based on the most recent Nielsen ratings, a position that KSCH-TV has occupied consistently since GE Capital assumed control of the Station. KSCH-TV's financial performance also contributed to its poor marketability. Although the Station's performance improved during GE Capital's stewardship, the Station's profitability has remained consistently marginal, generally at or below the break-even point, and its continued operation has been made possible only by GE Capital's regular infusions of working capital.

GE further stated that serious expressions of interest in buying KSCH-TV had come only from parties who already possessed or were in the process of acquiring another interest in the Sacramento-Stockton market and who wished to enter into a time brokerage agreement with the Station, thereby allowing the Station to achieve the cost-savings believed necessary to make it a viable enterprise in the market. The Channel 58, Inc. proposal, which contemplated a time brokerage agreement with Kelly, was selected from among such expressions of interest. At the time KSCH-TV was purchased, Kelly had for some time been supplying the station with a half-hour daily newscast at 10:00 p.m. under a prior time brokerage arrangement limited to that news program alone.

As set forth below, the TBA has greatly increased the ability of KSCH-TV (now KQCA) to compete in the Sacramento-

Stockton television market, with substantial resulting benefits to the public.

(A) With the exception of KCRA-TV, which is one of the few remaining locally owned and operated television stations in large markets in the United States, the other English language television stations with which KQCA must compete are all owned by large broadcast groups. These groups include Tribune Broadcasting Company, A.H. Belo Corp., Sinclair Communications, Inc., Pappas Telecasting Companies and Paxon Communications Corp. KCRA-TV is itself at a disadvantage in attempting to compete with such large broadcast groups in the program acquisition market, and KQCA would find it wholly impossible to do so as a stand-alone operation.[2] Under the TBA arrangement, Kelly has been able to acquire a number of desirable syndicated program series for broadcast on KQCA, including programs such as "Frasier," "Friends," "Cheers," and "The Simpsons."

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[2]The Kelly family owns only one other television station, KCPQ(TV) in Tacoma, Washington. KCRA-TV's primary method of competing with the group-owned stations in Sacramento-Stockton is to produce and broadcast an extraordinarily large quantity of high-quality, locally produced news. At the present time, the station broadcasts almost six hours of local news programming each weekday, 4.5 hours on Saturday and 4.5 hours on Sunday, in addition to the news programs of the NBC Television Network.

(B) Under the TBA, Kelly now provides KQCA with 8.5 hours of local news programming each week specifically designed for that station, plus five hours of informational programming produced by Kelly's News Department. As a stand-alone station, KQCA would be unable to provide any such news programming at the level of quality necessary to compete in the market, which would necessarily mean that it would not attempt to provide any news programming at all. Indeed, prior to the present TBA, the only news programming broadcast by the old KSCH-TV was the daily half-hour supplied by Kelly.

(C) Kelly has also been able to experiment in broadcasting other innovative public service programs over KQCA. These have including "HealthCall Live," a one-hour call-in program that provides viewers with valuable health information, and "Weather Watch," a 24 hour weather report appearing every hour on the hour on KQCA. KQCA'S weather program utilizes KCRA equipment, including its live doppler radar and KCRA weather personalities. Channel 58, Inc. also utilizes Kelly's production and support facilities in producing its own weekly public affairs program, "Focus." Under the TBA, Kelly has also been able to obtain the rights to broadcast San Francisco's Giants baseball and Oakland A's baseball over KQCA.

(D) Under the TBA, Kelly has been able to enhance the viewership for KQCA's programming through the use of visible Channel 3 news personalities in those programs themselves and in KCRA-TV promotional announcements for such programming. The stations jointly participate in public events and activities in the communities. For example, KQCA is now a co-sponsor of the Pacific Rim Street Fest, an annual event celebrating the diversity of the Central Valley's Asian-Pacific Islander population. In addition, KQCA assists in promoting events such as the Mercy All-Star Weekend, which aids the local Sisters of Mercy in their health care mission. KQCA and KCRA in tandem also obtained donations of more than one million dollars worth of food for those in need locally through KQCA's "Kids Can" and Kelly Broadcasting's "Food for Families" programs.

(E) KCRA-TV is an affiliate of the NBC Television Network. When special NBC sports programs occasionally preempt programs normally seen on KCRA-TV, Kelly has the ability to shift the broadcast of the preempted programs to KQCA.

(F) KCRA's promotional support of KQCA has been a key element in the Station's success. KCRA promotional campaigns for the launch of programming such as "Star Trek: Voyager" and the

UPN network have proven invaluable to KQCA's audience development.

(G) Finally, Kelly's brokerage operations for KQCA have permitted the consolidation of most non-sales staff functions and physical plant, with substantial cost savings. (The stations continue to have separate sales staffs, and advertising on the two stations is sold separately by different Kelly employees.) These efficiencies and the larger audience shares KQCA now obtains in certain critical time periods have converted a less than marginal operation that could never have competed successfully with the other group-owned stations in its market into a viable television station that provides substantial and continuing benefits to the viewing public.

Respectfully submitted,

KELLY BROADCASTING COMPANY

By: Arthur B. Goodkind

Arthur B. Goodkind
Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036
(202) 467-5700

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