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April 30, 1998

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

In re: CC Docket No. 94-147

Dear Ms. Salas:

On April 28, 1998, we submitted the Status Report of James A. Kay, Jr., in the above-referenced proceeding. For logistical reasons, it was necessary to file facsimile copies of the document at that time, and I understand that some of the copies were not of the best quality. I am submitting herewith a hard copy original and five clean copies of the filing for inclusion in the docket file. This is the identical pleading as filed on April 28--no changes have been made.

Kindly direct any questions or correspondence concerning this matter to the undersigned.

Very truly yours,



Robert J. Keller
Counsel for James A. Kay, Jr.

cc: Hon. Richard L. Sippel (by hand)
John J. Schauble, Esquire (by hand)
William Knowles-Kellett (by mail)

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APR 30 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

AS

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the matter of)
)
JAMES A. KAY, JR.)
)
Licensee of one hundred fifty two Part 90)
licenses in the Los Angeles, California area)

WT Docket No. 94-147

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APR 30 1998

To: The Honorable Richard L. Sippel
Presiding Administrative Law Judge

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

STATUS REPORT OF JAMES A. KAY, JR.

James A. Kay, Jr., by his attorneys, hereby submits his status report in accordance the Presiding Judge's *Order* (FCC 98M-41; issued April 1, 1998; released April 3, 1998).

All of Kay's previously noticed and scheduled depositions have been completed with the exception of the deposition of Roy Jensen. Kay began that deposition of Roy Jensen but it was interrupted due to Mr. Jensen's inability to conform to the schedule previously noticed and arranged. Counsel for both parties have agreed to arrange a date for the completion of the Jensen deposition prior to the current discovery completion deadline.

Kay has substantially complied with the Bureau's most recent document requests and the terms of the Presiding Judge's *Memorandum Opinion and Order* (FCC 98M-43; issued April 8, 1998; released April 10, 1998). The remaining outstanding items are data maps and certain Forest Service reports that are missing from a set of documents previously supplied to the Bureau. After discussion between counsel, it has been agreed that Kay will produce the following documents if any are in his custody or control: (a) any data maps used by Kay prior to December 31, 1994; and (b) any Forest Service reports for the years 1993 and 1994. These documents will be produced to the Bureau on or before the morning of Tuesday, May 5, 1998. As to the control reports, Kay

produced representative samples and has agreed to produce such reports relating to any specific call sign upon request by the Bureau.

Kay recently served further interrogatories on the Bureau. Great care was taken to conform to the scope of inquiry outlined by the Presiding Judge in his *Memorandum Opinion and Order* (FCC 98M-42; released April 3, 1998; issued April 7, 1998), i.e., the Bureau was not asked for substantive information but rather merely to identify documents relating to and persons believed to have knowledge of specific aspects of each alleged violation. The Bureau today has objected to all of Kay's further interrogatories, answering none of them. Meanwhile, the Bureau and the Commission continue to oppose Kay's efforts to obtain relevant documents through FOIA requests. Until Kay obtains some cooperation from the Bureau and a clear statement of precisely when, where, how he is alleged to have violated the numerous rules cited in the designation order, it is impossible for him to evaluate the nature and extent of additional discovery.¹

Respectfully submitted this 28th day of April, 1998

JAMES A. KAY, JR.

By: 

Robert J. Keller
His Attorney

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¹ Kay continues to be frustrated by the fact that the issues designated in this proceeding are extremely vague and general; indeed, the phrasing of the issues simply asks whether Kay has violated numerous rule provisions, but there is no indication in the designation order or in discovery responses thus far provided by the Bureau how, when, or where Kay is alleged to have violated these provisions. This is analogous to a criminal suspect being told to appear for trial on charges of grand larceny, but being provided with no statement of what he is alleged to have stolen, from whom, or when.

CERTIFICATE OF SERVICE

I, Robert J. Keller, counsel for James A. Kay, Jr., hereby certify that on this 28th day of April, 1998, I caused copies of the foregoing *STATUS REPORT OF JAMES A. KAY, JR.* to be sent, first class U.S. mail, postage prepaid, except as otherwise indicated below, to the officials and parties in WT Docket No. 97-56, as follows:

HON RICHARD L SIPPEL
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By:



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