

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

OCT 17 2014

OFFICE OF  
MANAGING DIRECTOR

Davina S. Sashkin, Esq.  
Peter Tannenwald, Esq.  
Fletcher, Heald & Hildreth  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209

Licensee/Applicant: **Southern TV Corporation**  
Waiver and Deferral of Payment; Financial  
Hardship  
Disposition: **Dismissed** (47 U.S.C. § 159(c)(2); 47  
C.F.R. §§ 1.1164(e), 1.1167(b), 1.1910)  
Stations: WGSA (DT), WMU487, W41CR,  
WGCW-LP, W32BJ, WGSA-CA  
Fee: Fiscal Year (FY) 2014 Regulatory Fees  
Date Request Submitted: Sep. 23, 2014  
Date Regulatory Fees Paid: Not paid  
Fee Control No.: RROG-13-00015759

Dear Counsel:

This responds to Licensee's *Request*<sup>1</sup> for a waiver and deferral of the Fiscal Year (FY) 2014 regulatory fees on grounds of financial hardship; however, Licensee failed to include any financial documentation.<sup>2</sup> Because Licensee is a delinquent debtor, we dismiss the *Request* and demand full payment of the required regulatory fees.

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<sup>1</sup> Letter from Peter Tannenwald, Esq., and Davina S. Sashkin, Esq., Fletcher, Heald & Hildreth, 1300 North 17<sup>th</sup> St., 11<sup>th</sup> Floor, Arlington, VA 22209 to FCC, Office of the Managing Director, 445 12th St. S.W., Room 1-A625, Washington, DC 20554 (Sep. 23, 2014) (*Request*). Licensee's submission to the Office of the Managing Director, Room 1-A625, does not comply with the Commission's rule requiring filing with the Commission's Secretary (47 C.F.R. § 1.1166(a)(2)).

<sup>2</sup> Under 47 C.F.R. § 1.1166(c), "[w]aiver requests that do not include the required fees ... will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship." Licensee's failure to provide the documentation is an additional ground for dismissal and imposition of the statutory penalty and additional charges of collection.

Licensee submitted its *Request* on September 23, 2014. The Commission's records show that on that date Licensee was a delinquent debtor because it failed to pay the regulatory fees and accrued charges for FY 2011<sup>3</sup> and FY 2012.<sup>4</sup> Specifically, on February 21, 2013, the Commission denied Licensee's request to waive payment of the FY 2011 regulatory fees (*Denial I*), and notified Licensee \$14,310.00 was due. *Denial I* admonished:

Payment of \$14,310.00 for the FY 2011 regulatory fee is now due. The regulatory fee must be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. If Licensee fails to pay the full amount due by that date, the debt is delinquent, and the statutory penalty of 25% of the unpaid fee,<sup>5</sup> and interest and applicable additional penalties required by 31 U.S.C. § 3717 will accrue from the date of this letter. Under the law,<sup>6</sup> the Commission will initiate collection proceedings.

Thereafter, on March 20, 2013, the Commission denied Licensee's request to waive the FY 2012 regulatory fees (*Denial II*), and notified Licensee \$14,685.00 was due. *Denial II* warned:

Payment of \$14,685.00 for the FY 2012 regulatory fees is now due. The regulatory fees must be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. If Licensee fails to pay the full amount due by that date, the debt is delinquent, and the statutory penalty of 25% of the unpaid fee,<sup>7</sup> and interest and applicable additional penalties required by 31 U.S.C. § 3717 will accrue from the date of this letter. Under the law,<sup>8</sup> the Commission will initiate collection proceedings.

Our records show that Licensee failed to pay those fees, thus it was a delinquent debtor then and on the date of the *Request*, and it remains so now. Accordingly, under 47 C.F.R. § 1.1164(e),<sup>9</sup> we dismiss the *Request*, including the petition to defer payment. Furthermore, because we dismiss the petition to defer payment, and Licensee failed to pay the FY 2014 fees by

<sup>3</sup> Letter from Mark Stephens, Chief Financial Officer, FCC to Peter Tannenwald, Esq. and Davina S. Sashkin, Esq., Fletcher, Heald & Hildreth, 1300 North 17<sup>th</sup> St., 11<sup>th</sup> Fl, Arlington, VA 22209 (Feb. 21, 2013) (*Denial I*).

<sup>4</sup> Letter from Mark Stephens, Chief Financial Officer, FCC to Peter Tannenwald, Esq. and Davina S. Sashkin, Esq., Fletcher, Heald & Hildreth, 1300 North 17<sup>th</sup> St., 11<sup>th</sup> Fl, Arlington, VA 22209 (Mar. 20, 2013) (*Denial II*).

<sup>5</sup> 47 U.S.C. § 159(c)(1). See 9 FCC Rcd at 5346, ¶ 35 ("the petitioner will have 30 days to [pay the fee] in order to avoid the assessment of penalty charges and the invocation of any other available remedy. The filing of a petition for reconsideration will not toll this 30-day period.").

<sup>6</sup> See 47 C.F.R. § 1.1901, *et seq.*

<sup>7</sup> 47 U.S.C. § 159(c)(1). See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Report and Order*, 9 FCC Rcd 5333, 5346, ¶ 35 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995) ("the petitioner will have 30 days to [pay the fee] in order to avoid the assessment of penalty charges and the invocation of any other available remedy. The filing of a petition for reconsideration will not toll this 30-day period.").

<sup>8</sup> See 47 C.F.R. § 1.1901, *et seq.*

<sup>9</sup> 47 C.F.R. § 1.1164(e) "Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment. The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment."

the due date, September 23, 2014,<sup>10</sup> the amount became delinquent. Thus, the Commission applied to the unpaid regulatory fees the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164, and it will assess interest, penalties, and charges of collection required by 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940.

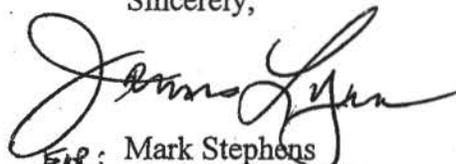
Until the Commission receives the full amounts due, Licensee remains a delinquent debtor, and we are required to dismiss any application that Licensee has pending or that it will file. Additional statutory charges continue to accrue. Furthermore, this notifies Licensee that under 31 U.S.C. § 3711(g), without further notice, and usually within 180 days or less of delinquency, we will transfer the delinquent debt to Treasury, which will initiate collection action through private collection activities and assess additional charges. In addition, we may refer the debt to the Department of Justice, which may result in litigation and additional costs.

Moreover, under 31 U.S.C. § 3716, 31 C.F.R. § 285.5, and 47 C.F.R. § 1.1912, some or all of the debt may be collected by non-centralized or centralized administrative offset. Also, under 31 U.S.C. § 3711(e), this debt and Licensee's payment history will be reported to credit reporting information bureaus. Because we have furnished notice here, Licensee may not receive another notification of this process. Finally, Licensee will be red lighted<sup>11</sup> until it pays the debt or makes other satisfactory arrangements.<sup>12</sup>

Licensee requested confidential treatment of the submitted financial data. Under 47 C.F.R. §§ 0.442(d)(1) and 0.459(d)(3), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records; however, in the meantime, we treat the records confidentially.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

  
FIR: Mark Stephens  
Chief Financial Officer

<sup>10</sup> See Fee Filer is Open For Payment of FY 2014 Regulatory Fees, FY 2014 Regulatory Fee Due September 23, 2014, *Public Notice*, DA 14-1261 (Aug. 29, 2014).

<sup>11</sup> See 47 C.F.R. § 1.1910(b)(2) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or request for authorization by any entity found to be delinquent in its debt to the Commission ...."); 47 C.F.R. § 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment.").

<sup>12</sup> See 47 C.F.R. § 1.1914 ("If a debtor is financially unable to pay a debt in one lump sum, the Commission, in its sole discretion, may accept payment in regular installments.").