

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

December 3, 2004

OFFICE OF
MANAGING DIRECTOR

Jack Lotsof, President
Stereo 97, Inc.
276 Nassau Avenue
Buffalo, New York 14217

Re: Stereo 97, Inc.
Request for Waiver of FY 2004 Regulatory Fees
Fee Control No.: 00000RROG-04-091

Dear Mr. Lotsof:

This letter responds to your request (dated September 12, 2004) filed on behalf of Stereo 97, Inc. (Stereo 97) for a waiver of the Fiscal Year (FY) 2004 regulatory fees for Station KAVV(FM), Benson, Arizona, and booster station KAVV-FM1, Tucson, Arizona, on the basis of financial hardship. Our records reflect that the regulatory fees have not been paid.

You recite that "in its fiscal year ended June 30, 2004," Stereo 97, "whose sole business is KAVV," experienced an operating loss that was only partially offset by a deduction for depreciation. You state that no owner or director received compensation. You state that only one of the licensee's three corporate officers received compensation for his work and that he is also the station's full-time general manager. You assert that exclusion of this salary for purposes of determining profitability and whether Stereo 97 warrants a waiver of the regulatory fee "would be inappropriate" because "[t]he compensation he received was not by any means an unearned distribution" and that it "is an extremely low level of compensation for the position." In support of your request for waiver, you submit a financial statement for the years ending June 30, 2003 and June 30, 2004, entitled "Stereo 97, Inc.: Statement of Revenues, Expenses and Deficit - Cash Basis" (*Financial Statement*).

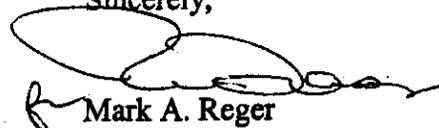
In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

With respect to your assertion that the salary paid to Stereo 97's officer should not be detrimental to its waiver request, we find that whether a salary paid to an officer of principal is "earned" or is of an "extremely low level" is of no merit in determining if a station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Nevertheless, our review of your submission, including the *Financial Statement*, indicates that Stereo 97 suffered an operating loss in the year ending June 2004 and that this deficit was only partially offset by the salary paid to one officer and a deduction for depreciation. Accordingly, in light of your compelling showing of financial hardship, your request for waiver of the FY 2004 regulatory fees is granted.

You have also requested confidential treatment of the materials that you submitted with your fee waiver request. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. §0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your regulatory fees is received, you will be notified and afforded the opportunity to respond at that time.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", is written over a horizontal line.

Mark A. Reger
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

TOM PUTMAN
R&ROG

OFFICE OF
MANAGING DIRECTOR

December 20, 2004

Lawrence Bernstein
Attorney
Suite 700
1818 N Street, NW
Washington, D.C. 20036

Re: FY 2002, 2003 Regulatory Fees
for KOZN(AM)
Fee Control No. 0309238835338001

Dear Mr. Bernstein:

This is in response to your request filed on behalf of Waitt Radio, Inc. (WAITT) for refund of regulatory fees for the fiscal years (FYs) 2002 and 2003 for expanded band station KOZN(AM), 1620 KHz, Bellevue, Nebraska. You provide documentation that shows that WAITT paid regulatory fees for KOZN(AM), an expanded band station, for those two years totaling \$5,450.00.

A review of our records confirms that WAITT paid regulatory fees for AM expanded band station KOZN for FYs 2002 and 2003, along with regulatory fees for several other stations owned by WAITT. Accordingly, we will waive the regulatory fees for its associated expanded band station for good cause shown. We find it is in the public interest to waive the fee because to do so will encourage licensees to move stations to other spectrum such as the AM expanded band in order to reduce interference. See 47 C.F.R. §§ 1.1166. Therefore, we will refund the portions of the regulatory payments attributable to station KOZN. We shall forward a check for \$5,450.00 (\$2,525 for FY 2002 and \$2,925.00 for FY 2003.) to WAITT Radio, Inc. as requested.

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

Sincerely,



Mark A. Reger
Chief Financial Officer

CLOSE OUT: