

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 25 2008

OFFICE OF
MANAGING DIRECTOR

Benjamin Perez
Abacus Television
1801 Columbia Road, N.W.
Suite 101
Washington, D.C. 20009

Re: ~~Abacus Television~~
FY 2006 Regulatory Fees
Fee Control No. RROG-08-00010018

Dear Mr. Pérez:

This letter responds to your request filed November 21, 2007 (*Request*), on behalf of Abacus Television (Abacus), for waiver of the \$1,575.00 fiscal year (FY) 2006 regulatory fees.¹ Our records reflect that Abacus has not paid the FY 2006 regulatory fees. For the reasons stated herein, we grant your request.

You recite that Abacus "is [in] one of the most competitive broadcast television markets[,] . . . serves [only] . . . 223,360 people . . . [, and] does not sell local or national advertising[.]"² You aver that "[p]ayment of its 2006 regulatory fees will significantly impact the ability of Abacus . . . to provide over the air television broadcast service to the public."³ You assert that "Benjamin Perez is the only principle [*sic*] in Abacus . . . [and h]e draws no salary, is not reimbursed for many of his expenses, and . . . has not received any dividends or profit distribution from his company"⁴ You submit Abacus's Profit & Loss statement for the 2006 calendar year (*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

¹ Abacus is the licensee of Stations WPTG-LP, WIIC-LP, WWBP-LP, WWAT-CA, WQVC-CA, WBYD-CA, WBOA-LP, WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA.

² *Request* at 1.

³ *Id.*

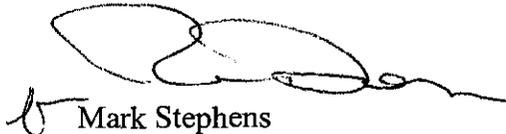
⁴ *Id.* at 2.

financial hardship."⁵ 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 and deductions for depreciation and amortization are considered funds available to pay the fees.

Our review of the record including Abacus's *Financial Statement* indicates that the Abacus suffered a \$9,775.83 financial loss in calendar year 2006, that there were no deductions attributable to depreciation and amortization, and that no funds were paid to principals. Given that Abacus suffered a financial loss in calendar year 2006, we grant your request for a waiver of the \$1,575.00 regulatory fee for FY 2006.

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

Sincerely,



Mark Stephens
Chief Financial Officer

⁵ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995).

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To Marlene H. Dortch, Secretary
Federal Communications Commission
Washington, D.C. 20554

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ATTN: Regulatory Fee Waiver Request 2007

NOV 21 2007
COMMUNICATIONS SECTION

In Regard to:

WIIC-LP	68411
WPTG-LP	272
WWBP-LP	268
WWAT-CA	257
WTOO-CA	68403
WWVW-LP	264
WQVC-CA	269
WBYD-CA	68395
WSSS-LP	270
WBOA-LP	259
WJKF-CA	4754

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Federal Communications Commission
Office of the Secretary

Before the
Federal Communications Commission
Washington, DC 20554

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In the matter of:

Waiver of Regulatory Fee for FY 2007 of Abacus Television)
1801 Columbia Road, N.W., Suite 101, Washington, DC 20009)
Licensee of WIIC-LP, WPTG-LP, WWBP-LP, WWAT-CA, WTOO-CA)
WWVW-LP WQVC-CA, WBYD-CA, WSSS-LP, WBOA-LP, WJKF-CA)

To: Anthony Dale, Managing Director

Request for Waiver of Regulatory Fee

Pursuant to §1.1166 of the Rules and Regulations of the Federal Communications Commission, Abacus Television, hereby requests waiver of the regulatory fee for FY 2007.

Abacus Television was formed in the late 1980's to early 1990's by Pittsburgh-native Benjamin Perez, the sole owner of Abacus Television, using a network of Low Power Television stations to deliver broadcast programming to the Greater Pittsburgh, PA television market. The first programming used by the LPTV network consisted of the Video Jukebox Network ("The Box"), where a viewer could call a 976 number and play the music video of their choice. On January 10, 2001 Abacus began local programming on Channel 35 (WBYD) with local "Live Auction Television."

In November of 2001, Abacus expanded the network of stations carrying "Live Auction Television", added more local programming, and launched the Abacus Television Network. Abacus Television has arranged its stations into a "cellular television network," consisting of a driver station downtown (WPTG-LP) and the repeater stations fed with the off-air signal of the driver station in all of the outlined communities that make up the Pittsburgh A.D.I. The repeater stations include:

WIIC-LP Pittsburgh, PA
WWBP-LP Freedom, PA

WWAT-CA Uniontown, PA
WQVC-CA Greensburg, PA
WBYD-CA Johnstown, PA
WBOA-LP Kittanning, PA

Abacus Television also operates:

WWVW-LP Wheeling, WV
WTOO-CA Altoona, PA
WSSS-LP Steubenville, OH
WJKF-CA Jacksonville, FL

Abacus Television is one of the most competitive broadcast television markets within the United States. The market size of Pittsburgh, PA is approximately 2,233,591 people, making it 21st largest television market. Between cable television and direct-to-home satellite subscribership 90% of these homes are “wired” and do not utilize roof top antennas. None of Abacus Television’s stations are carried on either cable or received by satellite homes. As a result, Abacus Television primarily serves the universe of approximately 223,360 people that do not subscribe to either cable or satellite services. Abacus Television is an affiliate of Americas Collectable Network and Revenue Frontier. Abacus Television does not sell local or national advertising, because without cable carriage such sales were found to be impossible. Abacus Television’s only source of revenue is the affiliation fee paid to it by Americas Collectable Network and the sales commission paid to it by Revenue Frontier.

Payment of its 2007 regulatory fees will significantly impact the ability of Abacus Television to provide over the air television broadcast service to the public. Absent cable carriage, the sales generated by the Abacus Network for Revenue Frontier, and the commission paid as a result, are extremely modest. The affiliation fee paid to Abacus Network by America’s Collectables is also commensurately reduced to reflect Abacus Television serving only the unwired televisions in its market. As a result Abacus Television is cash flow negative. The gross revenue it receives is insufficient to cover its tower rent, electricity and equipment

maintenance costs. Abacus is able to continue operating only because of continued infusion of capital by its owner. Benjamin Perez is the only principle in Abacus Television. He draws no salary, is not reimbursed for many of his expenses, and, because Abacus Television has operated at a loss since its inception, has not received any dividends or profit distribution from his company. He continues to operate Abacus Television in the hope that, with continued format development and the long-shot possibility that LPTV stations will eventually gain Must Carry status, Abacus Television will someday become profitable.

Abacus Television provides its entertainment and home shopping services to the poorest and least mobile television viewers in Pittsburgh – the 10% of Pittsburgh residents that do not pay for cable or satellite services. Payment of the scheduled FCC Regulatory Fees would leave Abacus Television with insufficient funds to pay its tower rent or electricity, forcing Abacus Television to suspend operation. That suspension would deprive (poorer) Pittsburgh residents of one of a very limited number of off-air, free television services. That suspension of service would also very quickly reverse the progress Abacus Television has made to date building its audience and revenue. All of the money invested by Benjamin Perez to cover each years operating deficit would be lost, causing a tremendous financial hardship to this small sole proprietor. Thus, a waiver of the 2007 FCC Regulatory Fees is in the public interest.

Abacus Television submits its Exhibit 1 detailed Profit & Loss statements for year 2007 to date. As of November 1, 2007 Abacus Television had an operating deficit of \$3,478.45. In 2006 Abacus Television had an operating deficit \$9,776. (These operating deficits were covered by cash contributions to the company by Benjamin Perez.) Abacus Television was unable to pay its 2007 Regulatory Fees because it clearly can not afford to pay such fees until its cash flow has

grown to the point that it at least covers the day to day operating costs of Abacus Television.

Therefore, for the reasons cited above, Abacus Television hereby requests waiver of the 2007 regulatory fee and in light of the information attached hereto no fee is provided herewith.

Respectfully submitted,

June 24, 2007

/S/ Benjamin Perez

Benjamin Perez, Owner

Abacus Television
1801 Columbia Road, N.W. Suite 101
Washington, DC 20009
Abacuscommco@covad.net
202 462-3680

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