

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 10 2010

FILE ✓

OFFICE OF
MANAGING DIRECTOR

Mark B. Denbo, Esq.
Drinker Biddle & Reath, LLP
1500 K Street, N.W., Suite 1100
Washington, D.C. 20005

Re: Double O Corporation
Fiscal Year 2010 Regulatory Fee Refund Request
Fee Control No. RROG-10-00013231

Dear Mr. Denbo:

This letter responds to your request filed on September 20, 2010 (*Request*), on behalf of Double O Corporation and its subsidiaries (collectively, Double O), licensees of 32 radio stations,¹ for a refund of the fiscal year (FY) 2010 regulatory fees on the basis of financial hardship. Our records reflect that Double O has paid a total of \$59,950 in FY 2010 regulatory fees. For the reasons stated herein, we deny your request.

You state that despite Double O's management experience and the stations' demonstrated devotion to serving their local communities, Double O in 2009 and both Double O and Pilot Double O in the first half of 2010 have suffered financial losses.² You assert that no employee of either company has received a pay raise in the past two years and neither the Chief Executive Officer of Double O or the President of Pilot Double O receives a salary from his company.³ You submit, among other financial documents, an independent auditors' report for Double O covering 2009 and balance sheets, income statements, and cash flow projections for Double O and Pilot Double O for the first half of 2010.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship on 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."⁴ 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.

¹ We note that, pursuant to an internal reorganization effective on January 1, 2010, two subsidiaries of Double O, holding licenses for six radio stations, were transferred to Pilot Double O Corporation (Pilot Double O). *Request* at 2.

² *Request* at 3.

³ *Request* at 3-4.

⁴ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995).

Our review of the record indicates that, although Double O suffered financial losses in 2009, and Double O and Pilot Double O have incurred financial losses up through July 2010, those losses in each year were fully offset by the companies' depreciation, amortization, and impairment deductions and salaries paid to principals and key employees. These amounts the Commission considers as funds available to pay the regulatory fee. In other words, the losses you rely on to support your refund request resulted from deductions that the Commission does not recognize under its fee waiver standard. We therefore deny your request for a refund of the FY 2010 regulatory fees on the grounds of financial hardship.

You have requested confidential treatment of certain of the materials that you submitted with your fee refund 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 matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

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

Mark Stephens
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 10 2010

OFFICE OF
MANAGING DIRECTOR

Paul J. Feldman, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, VA 22209

Re: Station KVAW-DT
Eagle Pass, Texas
FY 2010 Regulatory Fee
Fee Control No. RROG-10-00013008

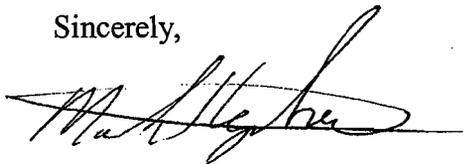
Dear Mr. Feldman:

This is in response to your request dated August 20, 2010 (*Request*), on behalf of the Estate of Dr. Joseph A. Zavaletta, licensee of Station KVAW-DT (the station) for a waiver of the Fiscal Year (FY) 2010 regulatory fee on the grounds of financial hardship. Our records reflect that you have not paid the \$18,900.00 FY 2010 regulatory fee for the station. For the reasons stated herein, we grant your request.

You state, and our records confirm, that the station filed for Special Temporary Authority (STA) to remain silent due to financial hardship on December 17, 2009, and has been silent since December 7, 2009, including on the due date for filing FY 2010 regulatory fees.¹ The Commission has determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.² Because the station was not operating on the date that the regulatory fees for FY 2010 were due (*i.e.*, August 31, 2010), we grant your request for waiver of the regulatory fee for the station for FY 2010.

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

Sincerely,



Mark Stephens
Chief Financial Officer

¹ *Request* at 1-2; *see also* File No. BLSTA-20091217ABC); email from Paul Feldman to Joanne Wall (Oct. 25, 2010). We note that the STA request remains pending.

² *Memorandum Opinion and Order in MD Docket No. 94-19*, FCC 95-257, 10 FCC Rcd 12759, 12762 (1995). Broadcast stations that are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Commission's rules. *Id.*

RR0G-10-00013117

HARRY F. COLE
ANNE GOODWIN CRUMP
PAUL J. FELDMAN
JEFFREY J. GEE
CHRISTINE E. GOEPP*
KEVIN M. GOLDBERG
FRANK R. JAZZO
M. SCOTT JOHNSON
DANIEL A. KIRKPATRICK
MITCHELL LAZARUS
STEPHEN T. LOVELADY*
SUSAN A. MARSHALL
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LEE G. PETRO*
RAYMOND J. QUIANZON
JAMES P. RILEY
DAVINA SASHKIN
PETER TANNENWALD
KATHLEEN VICTORY
HOWARD M. WEISS

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

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GEORGE PETRUTSAS
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OF COUNSEL
ALAN C. CAMPBELL
THOMAS J. DOUGHERTY, JR.
DONALD J. EVANS
ROBERT M. GURSS*
RICHARD F. SWIFT

WRITER'S DIRECT

703-812-0403
FELDMAN@FHHLAW.COM

August 20, 2010

* NOT ADMITTED IN VIRGINIA

BY HAND DELIVERY

Steven VanRoekel , Managing Director
Office of Managing Director
Federal Communications Commission
445 12th Street, SW,
Washington, D.C. 20554

RE: **Request for Waiver of 2010 Annual Regulatory Fee**
Station KVAW-DT, Eagle Pass, Texas (Facility ID No. 32621)
Licensee: The Estate of Joseph A. Zavaletta
FRN 0007-6800-85

Dear Mr. VanRoekel:

The Estate of Joseph A. Zavaletta (the "Licensee"), licensee of Station KVAW-DT, Eagle Pass, Texas (Facility ID No. 32621) (the "Station"), by and through its attorneys, hereby submits this Request for Waiver of 2010 Regulatory Fees on grounds of financial hardship.¹ As detailed below, the Station is licensed and silent and, therefore, under Commission precedent may seek a waiver of regulatory fees without having to further demonstrate the Station's financial hardship.

¹ In addition, the licensee hereby requests that payment of 2010 Regulatory Fees be deferred pending the outcome of this request.

Steven VanRoekel , Managing Director
August 20, 2010
Page 2

In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995), the Commission set the following standard for silent stations seeking a waiver of regulatory fees on grounds of financial hardship:

“We will also grant petitions for waivers of the regulatory fees on grounds of financial hardship from licensees of broadcast stations which are dark (not operating). When a station is dark, it generally is either without or with greatly reduced revenues. Moreover, broadcast stations which are dark must request permission to suspend operation pursuant to Section 73.1740 (a) (4) of the Rules.

47 C.F.R. § 73.1740 (a) (4). Petitions to go dark are generally based on financial hardship. Under these circumstances, imposition of the regulatory fees could be an impediment to the restoration of broadcast service, and it is unnecessary to require a licensee to make a further showing of financial hardship.”

Licensee filed for Special Temporary Authority to remain silent (due to financial hardship) beyond 30 days on December 17, 2009 (File No. BLSTA-20091217ABC) and has been silent since December 7, 2009. The Station remains silent at this time -- and will certainly still be silent on August 31, 2010, the deadline for filing 2010 Regulatory Fees. Therefore, in accordance with the Commission's standards, Licensee hereby respectfully requests a waiver of the Station's 2010 Regulatory Fees.

Should there be any questions regarding this matter, please contact undersigned counsel.

Sincerely,



Paul J. Feldman

Counsel for The Estate of Joseph A. Zavaletta



Station Search Details

FCC > Media Bureau > MB-CDBS > CDBS Public Access > Station Search

Help site map

Search returned: 1 matching station

Station Search Results

Call Sign	Facility Id	Service	Licensee	Status	Details
KVAW	32621	DT	THE ESTATE OF JOSEPH A. ZAVALETTA, DECEASED	LICENSED	Click for Details

[FCC Home](#) | [Search](#) | [Updates](#) | [E-Filing](#) | [Initiatives](#) | [For Consumers](#) | [Find People](#)

Please send comments via standard mail to the Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street, S.W., Washington, D.C., 20554. Questions can also be answered by calling the FCC's National Call Center, toll free, at 1-888-Call FCC (1-888-225-5322).

Federal Communications Commission
445 12th Street SW
Washington, DC 20554
[More FCC Contact Information...](#)

Phone: 1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232
E-mail: fccinfo@fcc.gov

- [Privacy Policy](#)
- [Website Policies & Notices](#)
- [Required Browser Plug-ins](#)
- [Freedom of Information Act](#)



Station Search Details

[FCC](#) > [Media Bureau](#) > [MB-CDBS](#) > [CDBS Public Access](#) > [Station Search](#)

[Help](#) [site map](#)

Station Search Details

Call Sign: KVAW
Facility Id: 32621
Community of License: EAGLE PASS, TX
Service: DT
Fac Type: COMMERCIAL DIGITAL TV
Status: LICENSED
Status Date: 12/07/2009
Frequency: 530
Channel: 24
Virtual Channel: 16
Digital Status:
Lic Expir: 08/01/2014
NTSC TSID: 2818
DTV TSID: 2819
Licensee: THE ESTATE OF JOSEPH A. ZAVALETTA, DECEASED
Address: 4188 N. TALLGRASS AVE
Address 2:
City: MERIDIAN
State: ID
Zip Code: 83646 -
Phone Number: (208) 991-2649
Engineering Data [View Engineering Data](#)
Call Sign History [View Call Sign History](#)
FRN History [View FRN History](#)
Correspondence Folder [View Correspondence Folder](#)

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CHECKLIST TO ACCOMPANY REQUESTS FOR FEE RELIEF FORWARDED FROM OMD TO OGC FOR REVIEW

1. Request for Waiver of Regulatory Fees

Joseph A Zavaletta RROG-10-00013117

Fiscal Year at Issue: 2010

Total regulatory fee amount at issue: \$18,900.00

If there are multiple stations at issue, please also identify the stations and the individual associated fees: _____

Was the regulatory fee paid? No

Total late penalty amount at issue: \$4725.00

If there are multiple stations at issue, please also identify the stations and the individual associated penalties: _____

Was the penalty paid? NO

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 10 2010

OFFICE OF
MANAGING DIRECTOR

Mr. Richard Dean Hodson
Hodson Broadcasting
520 Monticello Drive
Las Vegas, NV 89107-3616

Re: KHOD(FM), Des Moines, NM
FY 2009 Regulatory Fee
Fee Control No. 0908219084894218

Dear Mr. Hodson:

This is in response to your request filed August 28, 2009 (*Request*), on behalf of Hodson Broadcasting (Hodson), for a waiver of the Fiscal Year (FY) 2009 regulatory fee associated with the construction permit for Station KHOD(FM) (the station). Our records reflect that you have paid the \$650.00 FY 2009 fee for the station. For the reasons stated herein, we deny your request.

You state that the construction permit for the station expired on June 28, 2009.¹ Our records reflect that the construction permit for the station was granted on June 28, 2006, and expired on June 28, 2009.² Because Hodson held the construction permit for the station on October 1, 2008, Hodson is required to pay the FY 2009 regulatory fee.³ We therefore deny your request for waiver of the FY 2009 regulatory fee.

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

Sincerely,



Mark Stephens
Chief Financial Office

¹ *Request* at 1.

² See File No. BNPH-29960309ADA; see also *Letter, Mr. Richard Dean Hodson*, 25 FCC Rcd 3282, 3288 (2010) (deleting the call sign for the station because the construction permit expired on June 28, 2009).

³ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10313 (2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2007, Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 15712, 15727 (2007); Regulatory Fees Fact Sheet, What You Owe – Media Services Licensees for FY 2009 (Sept. 2009) (“Who Must Pay: . . . holders of construction permits for new . . . FM stations, provided that such . . . permits were granted on or before October 1, 2008, even if the . . . permit expired after October 1, 2008.”) (emphasis in original).



HODSON BROADCASTING

520 Monticello Drive
Las Vegas, NV 89107-3616
Telephone: (702) 87-87-911
E-mail: khodson@earthlink.net

Received & Inspected

AUG 28 2009

FCC Mail Room

August 21, 2009

11920

Fm #

0004/297/180

0908219084894218

Federal Communications Commission
Office of the Managing Director
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554

RE: ~~2009 Regulatory Fee Waiver~~/Refund (Notification ID# 11988)
Calls: KHOD, Des Moines, NM (Facility ID# 165982)

Dear Steven VanRoekel, FCC Managing Director:

This correspondence requests waiver and refund of the 2009 Regulatory Fees paid recently for Construction Permit Number: BNPH-20060309ADA. This Permit, Hodson's only broadcast interest, expired on June 28, 2009. I have enclosed support documentation, including copies of page 1 of the original CP, depicting the expiration date, online exemption request for a broadcast facility, notification listing from the August 7, 2009, regulatory fee letter, and proof of online payment (Voucher # E001639059, Authorization # 091634), along with this refund request.

If you have any additional questions regarding this submission, please feel free to call me at home, (702) 878-0773, any day between 1:00 p.m. - 4:00 p.m. PDT, and I will immediately address your inquiries. I sincerely appreciate your time, effort, and assistance in this matter.

Prayerfully yours,

Richard Dean Hodson

Richard Dean Hodson, d/b/a/
Hodson Broadcasting

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DEC 10 2010

OFFICE OF
MANAGING DIRECTOR

Anne Goodwin Crump, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street, Eleventh Floor
Arlington, VA 22209

Re: J. & J. Fritz Media, Ltd., Debtor-in-
Possession
FY 2010 Regulatory Fees
Fee Control No. RROG-10-00013024

Dear Ms. Crump:

This letter responds to your request dated August 30, 2010 (*Request*), on behalf of J. & J. Fritz Media, Ltd., Debtor-in-Possession (J. & J. Fritz, DIP), licensee of Stations KNAF(AM), KFAN-FM, KNAF-FM, and KEEP(FM), for a waiver and deferral of the fiscal year (FY) 2010 regulatory fees on the grounds of bankruptcy. Our records reflect that you have not paid the \$575.00 regulatory fee at issue. For the reasons stated herein, we grant your request.

You say that J. & J. Fritz, DIP filed for bankruptcy under Chapter 11 with the United States Bankruptcy Court for the Western District of Texas (Bankruptcy Court) in March of 2010 and that it was in bankruptcy on August 31, 2010, the due date for filing FY 2010 regulatory fees.¹ You state that the Commission has granted an application to assign the stations to J. & J. Fritz, DIP.² You submit a copy of the Bankruptcy Court's "Order Combined with Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines," dated March 17, 2010 (*Bankruptcy Order*).³

The Commission has determined that it will waive regulatory fees for licensees who are bankrupt or are in receivership at the time the fees are due.⁴ Based on the evidence that you provide that J. & J. Fritz, DIP was in bankruptcy on August 31, 2010, the due date for filing FY 2010 regulatory fees,⁵ including the *Bankruptcy Order*, we grant J. & J. Fritz, DIP a waiver of the FY 2010 regulatory fee.

¹ See *Request* at 1; see also email from Anne Crump to Joanne Wall (Oct. 25, 2010).

² *Request* at 1.

³ *Id.*, Attachment.

⁴ See *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995).

⁵ See *Public Notice, FY 2010 Regulatory Fees Due No Later Than August 31, 2010, Eastern Time (ET)*, DA 10-1451, 2010 WL 3133517 (Aug. 9, 2010).

Anne Goodwin Crump, Esq.

2.

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

Sincerely,

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

Mark Stephens
Chief Financial Officer

RR06-10-00013024

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
J. & J. Fritz Media, Ltd.)
FY 2010 Regulatory Fees)

Directed to: Office of the Secretary
Attention: Office of Managing Director

PETITION FOR DEFERRAL AND WAIVER OF REGULATORY FEES

J. & J. Fritz Media, Ltd., Debtor-in-Possession ("Fritz"), licensee of Stations KNAF(AM) (Facility ID No. 22670), KFAN-FM (Facility ID No. 22671), KNAF-FM (Facility ID No. 83212), and KEEP(FM) (Facility ID No. 30106), by its attorneys, hereby respectfully requests deferral and waiver of its Fiscal Year 2010 regulatory fees due to financial hardship. With respect to these requests, the following is stated:

As indicated by its debtor-in-possession status, Fritz filed a Chapter 11 bankruptcy petition earlier this year, and it has not yet emerged from that bankruptcy. The Commission has granted an application for consent to assignment of the above-listed stations' licenses to Fritz as debtor-in-possession, File Nos. BAL-20100708PCR, et seq. A copy of the "Order Combined With Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines" of the United States Bankruptcy Court for the Western District of Texas, which provides further evidence of the bankruptcy proceeding, is attached hereto. Payment of the Fiscal Year 2010 regulatory fees at this time would add a further substantial burden to the stations and would be detrimental to all parties concerned, including the public.

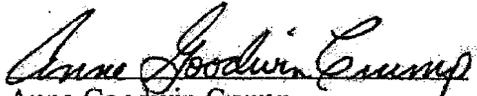
The Commission has previously held that a corporate reorganization under Chapter 11 bankruptcy is, by itself, a demonstration of sufficient financial hardship to justify waiver of regulatory fees. *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759, 12761-62 (1995), (stating that “[e]vidence of bankruptcy or receivership is in and of itself sufficient to establish financial hardship”). Further, as recently as last year, the Commission stated that it “accepts as evidence of financial hardship that licensees’ stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership....The current financial hardship standards have proven useful as bright line tests that can be administered predictably.” *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, FCC 09-62, released July 31, 2009, at ¶30. The Commission additionally indicated that it did “not intend to change these standards at this time.” *Id.* Thus, the Commission has a long-standing policy, which was specifically reconsidered and affirmed just last year and is still in place, that the fact that stations are in Chapter 11 bankruptcy demonstrates adequately that payment of regulatory fees would create a financial hardship and that waiver of such fees is therefore warranted.

Moreover, a waiver of the regulatory fees would serve the public interest by allowing Fritz to conserve its limited resources. This preservation of assets would not only enable Fritz to maintain its service to the public through the operation of its stations but also would protect the interests of its creditors.

WHEREFORE, the premises considered, Fritz hereby respectfully requests that payment of its Fiscal Year 2010 regulatory fees be deferred pending consideration of this request and that those fees be waived.

Respectfully submitted,

J. & J. FRITZ MEDIA, LTD.

By: 
Anne Goodwin Crump

Its Attorney

FLETCHER, HEALD & HILDRETH, P.L.C.
1300 N. 17th Street - Eleventh Floor
Arlington, Virginia 22209
(703) 8122-0400

August 30, 2010

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DEC 10 2010

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert, Esq.
The Law Offices of Dan J. Alpert
2120 N. 21st Road
Arlington, VA 22201

Re: Station W293BK
Facility No. 141195
FY 2009 Regulatory Fee
Fee Control No. 0909139084899145

Dear Mr. Alpert:

This is in response to your request filed September 21, 2009 (*Request*), on behalf of Michael Butler Broadcasting, LLC (the licensee) for a refund of the Fiscal Year (FY) 2009 regulatory fee associated with Station W293BK (the station). Our records reflect that you have paid the \$400.00 FY 2009 fee for the station. For the reasons stated herein, we grant your request.

You state that “[b]oth as of October 1, 2008 and at the time Annual Regulatory Fees were due[,] the Primary Station of Station W293BK was designated as NCE [noncommercial educational] station WAPR.”¹ You also say that the Commission’s records reflect that “no fee is due.”²

Our records reflect that the station is exempt from the FY 2009 regulatory fees as a noncommercial FM translator station under the Commission’s rules.³ Accordingly, we grant your request for a refund of the \$400.00 regulatory fee for FY 2009.

A check made payable to the maker of the original check, and drawn in the amount of \$400.00, will be sent to you at the earliest practicable time. 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

¹ *Request* at 1.

² *Id.*

³ *See* 47 C.F.R. §§1.1116(c) and 74.1201(c).

RECEIVED - FCC

SEP 21 2009

Federal Communications Commission
Bureau / Office

The Law Office of

Dan J. Alpert

2120 N. 21st Rd.
Arlington, VA 22201
DJA@COMMLAW.TV

(703) 243-8690

(703) 243-8692 (FAX)

September 18, 2009

0909139084899145

Mr. Steven VanRoekel
Managing Director
Federal Communications Commission
445 12th St. S.W.
Washington, DC 20554

**Re: Station W293BK
Facility No. 141195**

Dear Mr. VanRoekel:

Michael Butler Broadcasting, LLC, by its attorney, hereby requests a waiver and refund of its 2009 Annual Regulatory Fee. In support thereof, the following is stated.

Licensees of NCE stations are exempt from payment of Annual Regulatory Fees. In the case of FM translators, an FM translator that designates a full-service NCE station as its "primary station" is considered to be an "NCE FM Translator."

Both as of October 1, 2008 and at the time Annual Regulatory Fees were due the Primary Station of Station W293BK was designated as NCE station WAPR. Moreover, as reflected in the Commission's records, no fee is due. See Attachment. Accordingly, a waiver and refund of the \$400.00 2009 Annual Regulatory Fee that has been paid is appropriate.

WHEREFORE, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

Counsel for Michael Butler Broadcasting, LLC

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 10 2010

OFFICE OF
MANAGING DIRECTOR

Peter Tannenwald, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street, Eleventh Floor
Arlington, Virginia 22209

Re: North Pacific International Television, Inc.
Debtor-in-Possession
FY 2010 Regulatory Fees
Fee Control No. RROG-10-00013015

Dear Mr. Tannenwald:

This letter responds to your request dated August 23, 2010, on behalf of North Pacific International Television, Inc., Debtor-in-Possession (North Pacific, DIP), licensee of broadcast and associated auxiliary stations KPST-TV and WPOT863, for a waiver and deferral of the fiscal year (FY) 2010 regulatory fees on the grounds of bankruptcy (*Request*). Our records reflect that you have not paid the \$30,085 regulatory fee at issue. For the reasons stated herein, we grant your request.

You say that North Pacific, DIP filed for bankruptcy under Chapter 11 with the United States Bankruptcy Court for the Western District of Washington (Bankruptcy Court) in January of 2010 and that it was in bankruptcy on August 31, 2010, the due date for filing of FY 2010 regulatory fees.¹ You state that the Commission has granted an application to assign the stations to North Pacific, DIP.² You submit a copy of the Bankruptcy Court's "Order Combined with Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines," dated January 21, 2010 (*Bankruptcy Order*).³

The Commission has determined that it will waive regulatory fees for licensees who are bankrupt or are in receivership at the time the fees are due.⁴ Based on the evidence that you provide that North Pacific, DIP was in bankruptcy on August 31, 2010, the due date for filing FY 2010 regulatory fees,⁵ including the *bankruptcy order*, we grant North Pacific International Television, Inc., DIP a waiver of the FY 2010 regulatory fee.

¹ *Request* at 1.

² *Request* at 1.

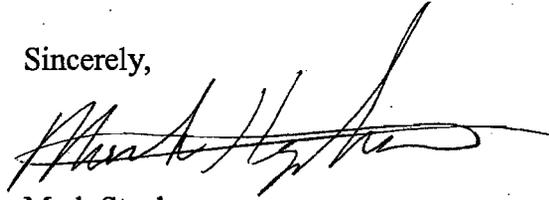
³ *Id.*, Attachment

⁴ *See Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995).

⁵ *See Public Notice, FY 2010 Regulatory Fees Due No Later Than August 31, 2010, Eastern Time (ET)*, DA 10-1451, 2010 WL 3133517 (Aug. 9, 2010).

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

Sincerely,

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Mark Stephens
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
DEC 6 2010

OFFICE OF
MANAGING DIRECTOR

Patricia Ridgley, A/P Manager
NOS Communications, Inc.
4380 Boulder Highway
Las Vegas, NV 89121-3002

Re: NOS Communications, Inc.
Fiscal Year 2009 Regulatory Fee
Fee Control No. 0909239084818002

Dear Ms. Ridgley:

This is in response to your request dated October 14, 2009 (*Request*), on behalf of NOS Communications, Inc. (NOS) for waiver of the penalty for late payment of the Fiscal Year (FY) 2009 regulatory fee. Our records reflect that you have paid the \$28,146.97 regulatory fee, but not the \$7,036.73 penalty. For the reasons stated herein, we **grant** your request.

You state that NOS's payment "was cashed one day late because of the delivery delay by UPS."¹ You attach a letter from UPS accepting "full responsibility for the delivery problem that occurred."²

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.³ It is the obligation of the licensee responsible for the regulatory fee payment to ensure that the payment is received no later than the final date on which regulatory fees are due for the year.⁴ You paid the regulatory fee for NOS on September 23, 2009, after the September 22, 2009, deadline for filing regulatory fees, and therefore failed to meet this obligation.

¹ *Request* at 1.

² *Id.*, Attachment (letter from Christine Myers, Preferred Customer Associate, UPS (Oct. 2, 2009)).

³ 47 U.S.C. §159(c)(1).

⁴ See 47 C.F.R. §1.1164, and see *Public Notice, Payment Methods and Procedures for FY 2009*, 24 FCC Rcd 11513, 11513 (Sept. 2, 2009) (*September 2009 Public Notice*), *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, 24 FCC Rcd 10890, 10890 (Aug. 21, 2009), and *Public Notice, Fee Filer Mandatory for FY 2009 Regulatory Fees*, 24 FCC Rcd 10893, 10893 (Aug. 21, 2009) (stating that FY 2009 regulatory fees must be received by the Commission no later than September 22, 2009, and that payments received after that date will be charged a 25 percent late payment penalty).

The Commission has repeatedly held that “[l]icensees are expected to know and comply with the Commission’s rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances.”⁵ In this case, we find that your reasonable reliance on UPS to deliver the FY 2009 regulatory fee payment by the September 22, 2009, due date and UPS’s acceptance of responsibility for the delivery delay, present mitigating circumstances sufficient to warrant waiver of the late payment penalty. We note that the waiver granted herein is based solely on the unique circumstances of this particular case and is not intended to serve as precedent for any other request to waive late payment penalties.

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

Sincerely,

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

Mark Stephens
Chief Financial Officer

⁵ See *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970).



12234

4380 Boulder Highway • Las Vegas, Nevada 89121-3002
702/547-8000 • Fax 702/547-8073 • Toll Free 888/569-4667 Customer Service 800/772-4667

0909239084818002

October 14th, 2009

Federal Communications Commission
Revenue & Receivables Operations Group
PO Box 979088
St. Louis, MO 63197-9000

RE: NOS Communications/Penalty Fees/0004321006

To Whom It May Concern:

Attached is a letter from UPS regarding the delivery of our Regulatory Fees. The check was cashed one day late because of the delivery delay by UPS. We made every effort to get you the fees on time so we are asking that you please waive the Penalty Fees.

If you have any questions, please contact me at (702) 547-8726.

Thank you in advance for your help in this matter.

Sincerely,

A handwritten signature in black ink that reads "Patricia Ridgley". The signature is written in a cursive style with a large, looping initial "P".

Patricia Ridgley, A/P Manager
NOS Communications, Inc

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 6 2010

OFFICE OF
MANAGING DIRECTOR

Aaron P. Shainis, Esq.
Shainis & Peltzman, Chartered
1850 M Street, N.W., Suite 240
Washington, D.C. 20036

Re: Pocatello Channel 15, L.L.C.
Stations KBEO(TV), Jackson, Wyoming, and
KPIF(TV), Pocatello, Idaho
Request for Waiver of FY 2009 Regulatory Fees
Fee Control No. RROG-09-00012330

Dear Mr. Shainis:

This is in response to the request filed November 12, 2008 (*Request*) and supplemented on August 5, 2010, and October 6, 2010,¹ on behalf of Pocatello Channel 15, L.L.C. (Pocatello), for a waiver of the fiscal year (FY) 2009 regulatory fees for Station KPIF(TV), Pocatello, Idaho, and Station KBEO(TV), Jackson, Wyoming, based upon financial hardship. Our records reflect that Pocatello has not paid the \$1,950.00 FY 2008 regulatory fee for Station KPIF(TV) or the \$5,950.00 FY 2008 regulatory fee for Station KBEO(TV). For the reasons stated herein, we grant your request.

You state that Station KBEO(TV) "ceased analog operations on September 24, 2008 due to financial reasons[.]" had no revenues or employees in 2008 and 2009,² and had its license cancelled in 2010.³ You maintain that Station KPIF(TV) is a new station operating at a net loss with very low revenue and has not been able to generate any significant income from advertising.⁴ You aver that Pocatello has been able to operate the station only by means of loans from Pocatello's "principal and 100 percent owner, Mrs. Myoung Hwa Bae (or other entities 100 percent owned by Mrs. Bae[.]"⁵ You state that "[n]o net payments (including no payroll payments) have been made by . . . [Pocatello or the stations] to Mrs. Bae, or to any entity in which Mrs. Bae has any interest, or to any other principal or owner of . . . [Pocatello or the stations], in 2008 or since the stations were constructed and have been operating."⁶ In support of your

¹ Letters from Aaron P. Shainis, Esq. to Office of the Managing Director (OMD), FCC (Aug. 5, 2010) (*August Letter*) and (Oct. 6, 2010) (*October Letter*).

² *October Letter* at 1.

³ *August Letter* at 1.

⁴ *Request* at 1-2.

⁵ *Id.* at 2.

⁶ *Id.*

request, you submit a copy of Pocatello's unaudited "Profit & Loss" for the 2008 calendar year (*Financial Statement*).⁷ You say that during 2008, Station KPIF(TV) had two employees who earned \$24,000.00 and \$8,000.00, respectively.⁸

The Commission has determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.⁹ Our records reflect that on April 28, 2010, the Media Bureau found that Station KBEO(TV) had been silent since September 24, 2008, and cancelled the license for the station and deleted the call sign.¹⁰ Because Station KBEO(TV) was not operating on the date that the regulatory fees for FY 2009 were due (*i.e.*, September 22, 2009), we grant your request for waiver of the regulatory fee for Station KBEO(TV) for FY 2009.

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."¹¹ 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.¹² Thus, even if a station loses money, any funds paid to principals and deductions for depreciation or amortization are considered funds available to pay the fees.

With respect to Station KPIF(TV), Pocatello's *Financial Statement* indicates that the company suffered a financial loss in the 2008 calendar year of \$210,193.77, which was only partially offset by a depreciation deduction. Given that Pocatello suffered a financial loss in the 2008 calendar year, we grant your request for a waiver of the regulatory fee for Station KPIF(TV) for FY 2009.

⁷ *Id.*; see also *October Letter* (stating that the *Financial Statement* is for Pocatello and not for "CW15 KPIF TV" as erroneously indicated thereon).

⁸ *August and October Letters* at 1.

⁹ *Memorandum Opinion and Order in MD Docket No. 94-19*, FCC 95-257, 10 FCC Rcd 12759, 12762 (1995). Broadcast stations that are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Commission's rules. *Id.*

¹⁰ Letter from Clay C. Pendarvis, Media Bureau, FCC to Pocatello Channel 15, LLC (Apr. 28, 2010).

¹¹ *Report and Order in MD Docket No. 94-19*, FCC 94-140, 9 FCC Rcd 5333, 5346 (1994).

¹² *Memorandum Opinion and Order in MD Docket No. 94-19*, *supra* n.9.

Aaron P. Shainis, Esq.

3.

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

Sincerely,

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

Mark Stephens
Chief Financial Officer

Shainis & Heltzman, Chartered

Counselors at Law

Aaron H. Shainis
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October 6, 2010

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Of Counsel
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Robert J. Keller
bob@s-plaw.com

VIA HAND DELIVERY

Office of the Managing Director
Federal Communications Commission
445 12th Street SW
Room 1-A625
Washington, DC 20554

RECEIVED - FCC

OCT - 6 2010

Federal Communications Commission
Bureau / Office

Attn: Regulatory Fee Waiver Reduction Request
JoAnne Wall, Esquire

Re: Pocatello Channel 15, LLC
Television Station KBEO(TV), Jackson, Wyoming
Television Station KPIF(TV), Pocatello, Idaho

Dear Ms. Wall:

I am responding on behalf of Pocatello Channel 15, LLC (Pocatello) to your August 11, 2010 e-mail.

At the outset, let me confirm that the profit and loss statement which was provided in the November 13, 2009 waiver request was for Pocatello. Pocatello was the licensee of two (2) stations, KBEO(TV) and KPIF(TV).

Station KBEO(TV), Jackson, Wyoming, Facility ID No. 35103, ceased analog operations on September 24, 2008 due to financial reasons. It had no revenues in 2008 and in 2009. Pocatello never constructed its digital facility. The KBEO license has been cancelled. See July 26, 2010 letter from Clay Pendarvis, Associate Chief, Video Division (copy attached). See also April 28, 2010 letter from Clay Pendarvis (copy also attached). In 2008, and 2009, KBEO had no employees.

Station KPIF(TV), Pocatello, Idaho, Facility ID No. 86205, in 2008 had two (2) employees:

William Leach - \$24,000/yr.
Treaver Williams - \$8,000/yr.

Shainis & Heltzman, Chartered

Office of the Managing Director

October 6, 2010

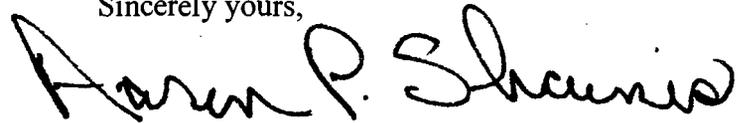
Page 2 of 2

My August 5, 2010 submission contained a typographical error. The employee information was for 2008.

I have also attached financial information for 2009 as well as employee information for 2009. The employee confirmation is for KPIF. Since KBEO(TV) was not operating in 2009, the profit and loss statement deals with KPIF(TV). The balance sheet is for the licensee company (i.e., Pocatello).

If you have any further questions, please don't hesitate to contact me.

Sincerely yours,



Aaron P. Shainis
Counsel for
Pocatello Channel 15, LLC

Enclosures

cc: JoAnne Wall (via-email)