

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20054

In the Matter of)
)
Amendment of Section 73.202(b)) MB Docket No. 04-219
Table of Allotments) RM-10986
FM Broadcast Stations)
(Evergreen, Alabama and Shalimar, Florida))

FILED/ACCEPTED

To: Office of the Secretary
Attention: The Commission

MAR 14 2011

Federal Communications Commission
Office of the Secretary

**MOTION FOR LEAVE TO
WITHDRAW PETITION FOR RECONSIDERATION**

Quantum of Ft. Walton Beach License Company, LLC ("Quantum FWB"), through counsel, hereby respectfully requests leave to withdraw the Petition for Reconsideration filed by it with respect to the decision released by the Commission on October 31, 2008, in the above-referenced rule-making proceeding.¹ In support of this motion, Quantum states as follows:

Background

On August 20, 2003, Gulf Coast Broadcasting Company, Inc., filed with the Commission a "Petition for Rule Making and for Order to Show Cause" ("Petition for Rule Making") wherein it proposed that the community of license of the station then operating under the call sign of WPGG(FM) (the "Station") be changed from Evergreen, Alabama, to Shalimar, Florida (the "Shalimar Rule Making"). By *Report and Order* released on March 25, 2005, the Commission staff adopted the proposal.² Ultimately, the Commission affirmed the staff's decision in a

¹ *Evergreen, Alabama, and Shalimar, Florida*, 23 FCC Rcd 15846 (2008).

² *Evergreen, Alabama, and Shalimar, Florida*, 20 FCC Rcd 6300 (2005).

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Memorandum Opinion and Order released on October 31, 2008 (23 FCC Rcd 15846). Quantum FWB thereupon petitioned for reconsideration of that *Memorandum Opinion and Order* on December 22, 2008. That Petition for Reconsideration remains pending.

Request for Dismissal

Quantum FWB and certain of its affiliates (“Quantum”) and the parent of Cumulus Licensing LLC, the current licensee of the Station, (“Cumulus”) have entered into a Confidential Settlement and Release Agreement (the “Settlement Agreement”) which, *inter alia*, requires Quantum FWB to request the dismissal of its Petition for Reconsideration in the Shalimar Rule Making in exchange for payment of Two Thousand, Five Hundred Dollars (\$2,500) by Cumulus.³ As evidenced by the Declaration of Michael F. Mangan, Vice President and Secretary of Quantum FWB, attached hereto as Exhibit 1, the costs expended by Quantum FWB in preparing and filing its comments, its Petition for Reconsideration and its various responsive pleadings in the Shalimar Rule Making exceed the \$2,500 to be paid to Quantum in return for the dismissal of its Petition for Reconsideration.

Also attached hereto as Exhibit 2 is the Declaration of Richard S. Denning, Cumulus’ General Counsel, confirming that Cumulus has not paid and will not pay any monies to Quantum for the withdrawal of its Petition for Reconsideration that are in excess of Quantum’s legitimate and prudent expenses.

As a result, even though Quantum FWB did not file a counterproposal or other expression of interest in this proceeding and is thus not subject to the limitations imposed by Section 1.420(j), the dismissal of the Petition for Reconsideration and the partial reimbursement of

³ The Settlement Agreement requires Quantum to request confidential treatment for the relevant portions of the Settlement Agreement that need to be disclosed in conjunction with this motion. Accordingly, those relevant portions of the Settlement Agreement are being filed separately along with a request pursuant to Section 0.459 of the Commission’s rules that those portions remain confidential.

Quantum in return for such dismissal are consistent with that rule (even if it were deemed to be applicable).⁴

Accordingly, Quantum FWB respectfully requests that the Petition for Reconsideration filed by it in the above-captioned rule making proceeding be dismissed with prejudice.

Respectfully submitted,

QANTUM OF FT. WALTON BEACH LICENSE
COMPANY, LLC

By: 
John M. Pelkey
Its Attorney

GARVEY, SCHUBERT & BARER
Fifth Floor
1000 Potomac St., N.W.
Washington, DC 20007
202/965-7880

March 14, 2011

⁴ In addition to the Petition for Reconsideration that is the subject of this Motion, Quantum also has pending before the Commission both an Application for Review of the staff's decision granting the facilities modification application permitting the construction of the facilities whereby WNCV(FM) provides service to Shalimar and an Application for Review of the staff's decision granting certain assignment applications seeking Commission consent to the assignment of the Commission licenses for WPGG(FM) and a station then using the WTKE(FM) call sign to Cumulus Licensing LLC and the assignment of the Commission licenses for stations then using the WYZB(FM) and WNCV(FM) call signs to Star Broadcasting, Inc. Quantum FWB is concurrently seeking leave to withdraw both of these pleadings.

Exhibit 1

Declaration of Michael F. Mangan

I, Michael F. Mangan, declare under penalty of perjury that the following statements are true and correct to the best of my knowledge, information, and belief:

1. I am Vice President of Qantum of Ft. Walton Beach License Company, LLC ("Qantum FWB").
2. Currently pending before the Commission is a Petition for Reconsideration filed by Qantum FWB on December 22, 2008, wherein Qantum FWB seeks reconsideration by the Commission of its decision affirming a staff rule making reallocating Channel 227 from Evergreen, Alabama, to Shalimar, Florida, and modifying the license for the station now operating as WNCV(FM) to specify Shalimar, Florida, as that station's community of license. Cumulus Licensing LLC ("Cumulus Licensing") is currently the licensee of WNCV(FM).
3. Qantum FWB and certain of its affiliates ("Qantum") and the parent of Cumulus Licensing ("Cumulus") have entered into a Confidential Settlement and Release Agreement which, *inter alia*, requires Qantum FWB to request dismissal of the pending Petition for Reconsideration. Cumulus has agreed to pay Qantum \$2,500 as partial reimbursement of its reasonable and prudent expenses incurred in preparing, filing and prosecuting the Petition for Reconsideration and related pleadings.
4. Other than as set forth in that Confidential Settlement and Release Agreement, neither Qantum FWB, nor any of its corporate parents, affiliates or principals has been paid, or has been promised to be paid, any money or other consideration with respect to the dismissal of the Petition for Reconsideration.
5. Attached hereto are excerpts from the bills received from FCC counsel for Qantum FWB. Those excerpts demonstrate that the legal fees incurred by Qantum FWB by themselves exceed the amount to be reimbursed by Cumulus.

EXECUTED this 11th day of March 2011.



Michael F. Mangan
Vice President

ITEMIZATION OF EXPENSES

Engineering Expenses:	No reimbursement being sought
Legal Expenses:	\$4,720 (actual fees exceeded this amount)
Other Expenses:	No reimbursement being sought
Total:	\$4,720
Total Expenses for which Reimbursement is Being sought:	\$2,500

TAX I.D. 91-0815778

GARVEY SCHUBERT BARER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

1000 potomac street nw
fifth floor
washington, dc 20007
202 965 7880

Qantum Communications
1266 East Main Street, 6th Floor
Stamford, CT 06902

January 15, 2009
Invoice: 402682
Client ID: 21290

BILL SUMMARY

Invoice for legal services billed through December 31, 2008. This invoice does not include costs for which we have not yet received an invoice.

Please call John Pelkey with any questions regarding this invoice.

To ensure proper credit to your account, please send remittance stub to our accounting department at:
1191 Second Avenue, Suite 1800, Seattle, Washington 98101
Thank you.

REMITTANCE STUB

OTHER METHOD OF PAYMENT: VISA ___ MasterCard ___ AmEx ___ Card Number _____
Expiration Date _____ Signature _____

Please contact Bruce Christenson at (206) 816-1458 with any questions.

GARVEY SCHUBERT BARER - washington, dc 20007 - 202 965 7880

This invoice reflects fees, costs and other charges for services provided during this reporting period. Invoice payment is due upon receipt. Interest at the rate of 12% per annum will accrue. Payment received will be applied first to costs and fees then to accrued interest.

TAX I.D. 91-0815778

GARVEY SCHUBERT BARER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

*1000 potomac street nw
fifth floor
washington, dc 20007
202 965 7880*

Qantum Communications
Client ID: 21290

January 15, 2009
INVOICE: 402682
Page 6

<u>Date</u>	<u>Name</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
	J. Pelkey	Petition for Reconsideration		2,440.00
	J. Pelkey	Petition for Reconsideration		1,200.00
	J. Pelkey	Petition for Reconsideration		1,080.00

GARVEY SCHUBERT BARER - washington, dc 20007 - 202 965 7880

This invoice reflects fees, costs and other charges for services provided during this reporting period. Invoice payment is due upon receipt. Interest at the rate of 12% per annum will accrue. Payment received will be applied first to costs and fees then to accrued interest.

Exhibit 2

Declaration

Richard S. Denning hereby states as follows:

1. I am the Senior Vice President and General Counsel of Cumulus Licensing LLC and Cumulus Broadcasting LLC, its parent company ("Cumulus").

2. This Declaration is being executed in support of the Motion of Qantum of Ft. Walton Beach License Company, LLC ("Qantum") to withdraw its Petition for Reconsideration of the order of the Federal Communications Commission to authorize the relocation of the community of license for a radio station previously operating under the call sign of WPGG (and now using the call sign WNCV) from Evergreen, Alabama to Shalimar, Florida. MB Docket No. 04-219, RM 10986. Cumulus has agreed to pay Qantum \$2,500 for the withdrawal of that Petition for Reconsideration.

3. Cumulus has not paid and will not pay any additional monies to Qantum, its affiliates, or its principals for the withdrawal of that Petition for Reconsideration.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Richard S. Denning
Richard S. Denning

3/14/11
Date

Certificate of Service

I, Yvette J. Graves, do hereby certify that copies of the foregoing have been sent via first-class mail, U.S. mail, postage prepaid, this 14th day of March, 2011, to the following:

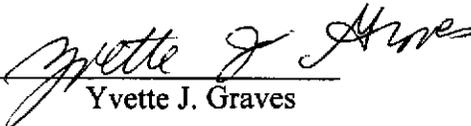
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Yvette J. Graves

*VIA HAND DELIVERY