

 **Fletcher, Heald & Hildreth**

ROBERT J. BUTLER
HARRY F. COLE
ANNE GOODWIN CRUMP
PAUL J. FELDMAN
CHRISTINE GOEPP
KEVIN M. GOLDBERG
FRANK R. JAZZO
M. SCOTT JOHNSON
DANIEL A. KIRKPATRICK
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RAYMOND J. QUIANZON
JAMES P. RILEY
DAVINA SASHKIN
PETER TANNENWALD
KATHLEEN VICTORY
HOWARD M. WEISS

1300 NORTH 17th STREET, 11th FLOOR
ARLINGTON, VIRGINIA 22209

OFFICE: (703) 812-0400
FAX: (703) 812-0486
www.fhhlaw.com
www.commlawblog.com

RETIRED MEMBERS
VINCENT J. CURTIS, JR.
RICHARD HILDRETH
GEORGE PETRUTSAS

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

January 18, 2012 FILED/ACCEPTED

JAN 18 2012

Federal Communications Commission
Office of the Secretary

ANNE GOODWIN CRUMP
(703) 812-0426
CRUMP@FHHLAW.COM

* NOT ADMITTED IN VIRGINIA

BY HAND DELIVERY

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

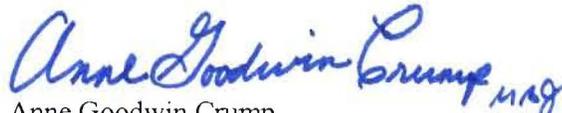
**Re: Van Buren First Assembly of God
CG Dockets 06-181 and 11-175
Petition for Waiver of Closed Captioning Rules**

Dear Ms. Dortch:

Transmitted herewith, on behalf of Van Buren First Assembly of God, are an original and two copies of its "Petition for Waiver of Closed Captioning Rules."

Should any questions arise concerning this matter, please communicate with the undersigned.

Very truly yours,


Anne Goodwin Crump
Counsel for Van Buren First Assembly of God

AGC:dl

Enclosures

of 0-1ps rec'd 0+4

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

In the Matter of)
)
VAN BUREN FIRST ASSEMBLY OF GOD) CG Docket 06-181
) CG Docket 11-175
Petition for Exemption Pursuant to)
Section 79.1(f) of the Commission's Rules)

FILED/ACCEPTED

JAN 18 2012

Federal Communications Commission
Office of the Secretary

Directed to: Office of the Secretary
Attention: Chief, Consumer and Governmental Affairs Bureau

PETITION FOR WAIVER OF CLOSED CAPTIONING RULES

Van Buren First Assembly of God ("Van Buren"), by its attorneys and pursuant to Section 79.1(f) of the Commission's Rules, hereby respectfully requests a three-year waiver of the Commission's rules and policies requiring closed captioning for all new video programming broadcast on television for Van Buren's program "Reach Out." This waiver request is based upon the economically burdensome nature of complying with this requirement. With respect thereto, the following is stated:

Van Buren previously sought and was granted a waiver of the Commission's closed captioning rules based upon a finding that the cost of providing captioning for "Reach Out" would create an undue burden for the church. That action was reversed, however, through the Commission's action in *Anglers for Christ Ministries, Inc.*, FCC 11-159, released October 20, 2011. Van Buren is now submitting a new petition for a waiver of the closed captioning rules pursuant to that ruling and based upon the heavy economic burdens that would be created by the need to provide captions for its program. In fact, the burden would be so great that Van Buren is unlikely to be able to continue with offering "Reach Out" to the viewers of the community of Van Buren, Arkansas, and elsewhere in the state of Arkansas as a whole.

Van Buren began its broadcast ministry in 1987 in order to reach others outside of the church by television to bring them the gospel message. Over the past 24 years, this broadcast has helped many people in the community who tune in each week to hear the gospel message and receive the comfort, hope, and joy that it brings.

In the recent hard economic times, however, it has become more and more difficult to continue with this ministry that is important to the church. Funding for the program is derived entirely from the donations and tithes given to the church. Incoming funds to the church have declined with the downturn in the economy, even as other demands on the church's funds have continued apace. Attached hereto as Exhibit 1 are copies of the Compilations of Income and Expense associated with Van Buren's TV ministry for the years of 2009 through 2011. These show that over the past three years, even with a closed captioning waiver in place, the program lost \$50,437.55 in 2009, \$46,601.00 in 2010, and \$36,656.94 in 2011. In fact, the financial situation became so tight in 2011 that Van Buren was forced to reduce the show from one hour in duration to 30 minutes. The addition of captioning costs to the already stretched budget would be prohibitive and would likely cause the program to cease operation altogether.

Those expenses would be significant. Van Buren has sought information concerning the cost of obtaining captioning for "Reach Out" as a 30 minute program. One option would be to contract with an outside company to do the captioning. Van Buren received a bid of \$8,684 per year for such services. Another alternative would be to purchase software to do the captioning in-house, but this process would require additional services in filming the program and editing it. The bid for this alternative was \$9,000, plus additional expenses of \$125 to \$175 per hour for the person filming the show and \$167 to \$200 per program for editing services. Either option that Van Buren could select would thus add significantly to the expenses of the program. Given that

the current weekly cost of production is \$950 per week, the addition of captioning expenses would add at least 18 percent to the cost of the program.

Despite its financial difficulties, Van Buren would like to be able to add captions to its show in order to be able to reach more viewers with its message. Accordingly, Van Buren has sought assistance with captioning from the television station on which its show is aired, but that station has indicated that it will not provide the closed captioning or pay for the cost of it. Van Buren has also sought sponsors for the captioning in the community, but it has been unable to obtain any, in large part due to the unavailability of funds with the downturn in the economy. Despite its fervent efforts, Van Buren has been unsuccessful in finding any assistance with the expenses connected with captioning "Reach Out."

Attached hereto as Exhibit 2 are copies of Van Buren's Financial Statements for 2009 through 2011. As can be seen from these financial statements, while Van Buren has had some significant income, contributions to the General Fund dropped by over \$500,000 from 2010 to 2011. Moreover, Van Buren also has substantial long-term liabilities in the form of loans which must be paid regularly and other fixed expenses. Accordingly, it is limited in its ability to reappropriate much of its income. Furthermore, its most significant assets consist of buildings and equipment. While these assets are valuable to the church, they are anything but liquid and thus do not by themselves provide any ready income that could be used to pay costs such as those for captioning. Indeed, in 2009 and 2010, Van Buren suffered net losses at year end.

Additionally, it is clear that the Commission has previously considered a level of income such as Van Buren's to be so small as to warrant an exemption from the closed captioning rules. In adopting its closed captioning rules, the Commission specifically exempted any channel producing revenues of less than \$3,000,000 from exempting any funds in order to provide

captions for programs broadcast on that channel. 47 C.F.R. §79.1(d)(12). While Van Buren does not itself operate a channel, it is the level of income chosen as the threshold which is significant. As reflected in its financial statements, Van Buren's total revenues are well below \$3,000,000. Therefore, based on the reasoning behind this exemption, just as channels earning less than \$3,000,000 in gross revenues should be exempted from closed captioning.

Likewise, the Commission has provided an exemption for locally produced and distributed non-news programming with no repeat value. 47 C.F.R. §79.1(d)(8). This exemption is available only to video programming distributors rather than video programming providers, but in Van Buren's case, the same reasoning would apply. Van Buren produces its programming locally and covers topical subjects, and its program would have little or no repeat value. Accordingly, if it were the broadcaster, the program would have a self-executing exemption. The policy determinations which support the exemption for a television broadcaster that might produce and broadcast a similar show also support an exemption for Van Buren's program.

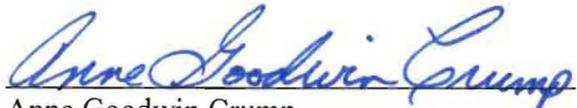
Accordingly, Van Buren should be granted a three-year waiver from closed captioning requirements. Van Buren is hopeful that in the coming three years, economic conditions will improve and it will be able to offer closed captioning on its program. At the current time, however, as demonstrated above, Van Buren is unable to afford the significant expense that captioning its program would entail. Van Buren is a non-profit entity that has reached out to provide a significant local service through its television ministry for the past 24 years. Recent years have proved to be a struggle, as Van Buren has had to deal with falling revenues and significant expenses, and it has already been forced to cut the length of its program in half. Adding on the expense of captioning would simply be too much, and the program would be

forced to go off the air altogether, thereby depriving viewers of a local program upon which they have come to rely.

WHEREFORE, the premises considered, Van Buren respectfully requests a three-year waiver of the Commission's closed captioning rules.

Respectfully submitted,

VAN BUREN FIRST ASSEMBLY OF GOD

By: 
Anne Goodwin Crump

Its Counsel

FLETCHER, HEALD & HILDRETH, P.L.C.
1300 N. 17th Street - Eleventh Floor
Arlington, Virginia 22209
(703) 812-0400

EXHIBIT 1.



BOBBY L. JOHNSON, PASTOR

First Assembly of God, Van Buren, AR
Compilation of Income & Expense
TV Ministry
For the Period Ending December 31, 2009

Income	\$20,140.00
Expense	70,577.50
Net Income (Loss)	(50,437.55)

Van Buren First Assembly of God



BOBBY L. JOHNSON, PASTOR

First Assembly of God, Van Buren, AR
Compilation of Income & Expense
TV Ministry
For the Period Ending December 31, 2010

Income	\$21,474.00
Expense	68,075.00
Net Income (Loss)	(46,601.00)

Van Buren First Assembly of God



BOBBY L. JOHNSON, PASTOR

First Assembly of God, Van Buren, AR
Compilation of Income & Expense
TV Ministry
For the Period Ended December 31, 2011

Income	16,671.33
Expenses	53,328.27
Net Income (Loss)	(36,656.94)

Van Buren First Assembly of God

EXHIBIT 2.

Financial Statements

of
FIRST ASSEMBLY OF GOD - VAN BUREN
For the Period Ended August 31, 2011

See accountant's compilation report

**LEONARD N. RICKETTS, P.A.
LICENSED PUBLIC ACCOUNTANT
416 EAST PICKENS - P. O. BOX 672
DUMAS, ARKANSAS 71639
(870) 382-2211 FAX: (870) 382-2115**

FIRST ASSEMBLY OF GOD - VAN BUREN
VAN BUREN, AR 72956

We have compiled the accompanying statement of financial position of FIRST ASSEMBLY OF GOD - VAN BUREN (a nonprofit entity) as of August 31, 2011 and the related statement of activities for the year then ended. I have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or provide any assurance about whether the financial statements are in accordance with the modified cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles in the United States of America.

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the modified cash basis of accounting and designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statements.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist management in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements.

Management has elected to omit substantially all of the disclosures required by modified cash basis accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles in the United States of America. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the Organization's financial position, changes in net assets, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.


Leonard N. Ricketts
Licensed Public Accountant

September 21, 2011

FIRST ASSEMBLY OF GOD - VAN BUREN
Statement of Financial Position
(Modified Cash Basis)
August 31, 2011

ASSETS

Current Assets

CITIZENS BANK	\$	230,828.38
MERRILL LYNCH - TOY SAVINGS		6,891.61
CITIZENS - BLDG ACCT		5,720.00
INTERNET ACCOUNT		1,972.93
Departmental Savings Accts		<u>58,112.17</u>

Total Current Assets

\$ 303,525.09

Land, Buildings and Equipment

BUILDINGS	8,545,963.70
BUILDING - LEGACY	4,992,000.00
FURNITURE & EQUIPMENT	1,850,752.36
AUTOS & BUSES	176,591.00
ACCUM DEPRECIATION	(2,885,173.97)
ACCUM DEPR - LEGACY BLDG	<u>(405,600.00)</u>

Total Land, Buildings and Equipment

12,274,533.09

Other Assets

LAND	421,073.20
N'REC - LEGACY	<u>491,554.53</u>

Total Other Assets

912,627.73

Total Assets

\$ 13,490,685.91

FIRST ASSEMBLY OF GOD - VAN BUREN
Statement of Financial Position
(Modified Cash Basis)
August 31, 2011

LIABILITIES AND NET ASSETS:

Current Liabilities

CURRENT PORTION N/P BANK	\$	86,288.99
CURR PORTION LT DEBT - CITIZEN		96,514.17

Total Current Liabilities		\$ 182,803.16
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Long Term Liabilities

N/P - CITIZENS BANK		6,246,279.91
N/P - BANK OF OZARK		4,917,544.53
LESS CURRENT PORTION		(96,514.17)
LESS CURR PORTION - OZARK		(86,288.99)

Total Long Term Liabilities		10,981,021.28
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Net Assets:

UNDESIGNATED		230,828.38
BUILDING AND EQUIPMENT		1,997,073.76
TEMPORARILY RESTRICTED		72,696.71
Current Income (Loss)		26,262.62

Total Net Assets		2,326,861.47
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Total Liabilities and Net Assets	\$	13,490,685.91
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