

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DEC 22 2011

OFFICE OF
MANAGING DIRECTOR

Ms. Glenda R. Harders
Post Office Box 93
Wahoo, NE 68066

Re: Roger E. Harders & David F. Harders¹
Stations & Facility IDs: K21ES/15627;
K31EN/15628; K33EM/15629; K63FQ/40546;
K59FT/40562; K32FH/57403; K41FU/57399;
K47FK/57396; K55HX/57395; K63FW/57400.
Regulatory Fees for FY 2002, 2003, 2004, 2005,
and 2006
Fee Control No. RROG-10-00013203

Dear Ms. Harders:

This letter responds to your request dated August 31, 2010, on behalf of Roger E. Harders, which we received on September 8, 2010 (*Request*),² pertaining to the above listed Stations, for a waiver of the \$8,818.75 in delinquent regulatory fees for Fiscal Years (FY) 2003, 2005 and 2006, and for a refund of the \$1,480 previously collected by the Secretary of Treasury. For the reasons discussed below, under the law, we are unable either to grant your *Request* for waiver or to refund the amount previously collected. Instead, we are required to collect the delinquent regulatory fees, statutory penalties, and accrued charges of collection which, after applying a credit from Treasury,³ totals \$12,167.73. That amount is due immediately.

¹ No explanation was provided as to why David F. Harders was identified in the *Request*, *infra*.

² Letter from Glenda R. Harders, Certified Public Accountant, P.O. Box 93, Wahoo, NE 68066 to Mark Stephens, CFO, FCC (Aug. 31, 2010)(*Request*), with the following attachments: In the Matter of Regulatory fees for Mr. Roger E. Harders, *Petition to Request Waiver of Regulatory Fees*, (filed Sep. 8, 2010) (*Petition*) with the following exhibits (Ex): Letter from Mark Stephens, CFO, FCC to Honorable Mike Johanns, United States Senator (Aug. 19, 2010) (Ex A1); Settlement Agreement between Wahoo State Bank and Roger Harders and Glenda Harders, dated May 3, 2000 (*Settlement Agreement*) (Ex A2); Wahoo State Bank v. Roger Harders and Glenda Harders, Dist Ct of Saunders Cty, NE, *Satisfaction of Judgment* (May 3, 2000) (Ex A3); Illustration of Adjustment of Debt to Wahoo State Bank (undated)(Ex B1); Official Nebraska Government Website, Corp & Bus Entity Searches re Town & Country Cable TV, L.L.C. (dated Aug 31, 2010) (Ex B2); Letter from Honorable Mike Johanns, United States Senator to Glenda Harders, 530 North Broadway St., Wahoo, NE 68066-1653 (Aug. 23, 2010) (Ex C1); Letter from Mark Stephens, CFO, FCC to Honorable Mike Johanns, United States Senator (Nov. 23, 2009) (Ex C2); Letter from Honorable Mike Johanns, United States Senator to Roger Harders, 530 North Broadway St., Wahoo, NE 68066 (Nov. 30, 2009) (Ex C3); Letter from Glenda R. Harders to Scott Lloyd, Office of US Senator Mike Johanns (Oct. 20, 2009) (Ex C4).

³ The Secretary of Treasury applies its administrative charges for collection which reduced the creditable amount to \$1,400.00.

We first summarize the content of the *Request*, which includes Mr. Harders's *Petition* and several documents. In his *Petition*, Mr. Harder asserts that his licenses expired on February 1, and June 1, 2006, but that the stations "permanently discontinued operations in 1999" when his cable television company, operated by Town & Country Cable TV, LLC (*Town & Country*), ceased business because of insolvency,⁴ and that the spectrum associated with each license was auctioned during "the late 1990's" for digital television.⁵ Furthermore, Mr. Harders states that he would suffer financial hardship by paying \$8,818.75 in past due regulatory fees, and that \$1,480.00 collected by the Secretary of Treasury should be refunded because it was erroneously collected to pay a penalty associated with the FY 2002 fees.⁶ In addition to his *Petition*, Mr. Harders included some information about *Town & Country's* status and its legal matters, but he did not explain how that information relates directly to Mr. Harders's financial ability to pay the past due regulatory fees. For example, the information appears to show that Mr. and Mrs. Harders (collectively, the Harders) were the sole members of the limited liability company, *Town & Country*, and that they guaranteed two promissory notes on which *Town & Country* defaulted. On May 3, 2000, almost two years after Wahoo State Bank, the holder of the notes, obtained judgment against the Harders, the parties entered into a *Settlement Agreement* that required the Harders to pay the bank approximately \$480,000.00.⁷ Mr. Harders provided an exhibit showing that since June 2, 2007, *Town & Country* has been classified by the State of Nebraska as inactive,⁸ for "non payment of taxes." Mr. Harders did not include any of his relevant financial information, even though that information is critical to reach a determination on the *Request*. Under the Commission's established standards, we consider the information in the *Request* to determine whether to grant a request to waive payment of required regulatory fees.

Section 9(a) of the Communications Act of 1934, as amended, authorizes the Commission to assess and collect annual regulatory fees to recover the costs, as determined annually by Congress, that it incurs in carrying out enforcement, policy and rulemaking, international, and user information activities.⁹ In establishing the regulatory fee program, the Commission recognized that in certain instances, payment of a regulatory fee may impose an undue financial hardship upon a licensee. Such fees may be waived, reduced or deferred, but only upon a showing of good cause and a finding that the public interest will be served thereby.¹⁰ The Commission has narrowly interpreted its waiver authority to require a showing of compelling and extraordinary circumstances that outweigh the public interest in recouping the Commission's regulatory costs.¹¹ Fee relief may be granted based on asserted financial hardship, but only upon a documented showing that payment of the fee will adversely impact the

⁴ *Petition* at 1-2, ¶¶ 2-3.

⁵ *Id.* at 2, ¶ 4.

⁶ *Id.* at 2, ¶¶ 5, 7, & 8.

⁷ *Settlement Agreement*, at 3-6. Mr. Harders did not provide relevant financial information demonstrating they actually fulfilled their responsibilities under the terms of the *Settlement Agreement*, e.g., the calculation the actual amount paid, the net obligation after applying proceeds from the sale of *Town & Country* assets, or an accounting of the payments or contributions by either Mr. Harders or Mrs. Harders. *See Id.* at 7-8, and Ex B1.

⁸ Ex B2.

⁹ 47 U.S.C. § 159(a).

¹⁰ 47 U.S.C. § 159(d); 47 C.F.R. § 1.1166. *See also* Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for Fiscal Year 1994, *Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995).

¹¹ 9 FCC Rcd at 5344 ¶ 29.

licensee's ability to serve the public.¹² "Mere allegations or documentation of financial loss, standing alone," do not suffice and "it [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public."¹³ In reviewing a showing of financial hardship, the Commission relies on a range of financial documents including a licensee's balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. It is on this information that the Commission considers on a case-by-case basis whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public.¹⁴ Thus, for example, 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.

Where relevant, the fact that the licensee is in bankruptcy is some evidence of financial hardship; however, that fact will not relieve the petitioner of meeting its standard. Thus, we review each request, including those in which bankruptcy is asserted, on a case-by-case basis to determine whether the public interest warrants a waiver of the fee, and we may decline such a request.¹⁵

Thus, under those standards, Mr. Harders has the burden of showing good cause for a waiver and that the waiver would promote the public interest. In part, a licensee may furnish specific relevant financial information to demonstrate that payment of the regulatory fees may impose an undue financial hardship.

Before turning to whether Mr. Harders has met his burden, we note that this *Request* pertains to regulatory fees and penalties that have been delinquent for several years, thus as a matter of well established procedure, under 47 C.F.R. §§1.1164(e), 1.1166(c), and 1.1910(b)(2), we would dismiss without considering the merits of the *Request*. In this instance, however, we note the prior history of this matter and our specific invitation that "Mr. Harders may file a request for a waiver . . . under 47 CFR 1.1166(c)," and our caveat that "[a]ll requests must be accompanied by supporting documentation."¹⁶ Here, Mr. Harders did not include documentation to support his assertion that he will suffer financial hardship. Thus, it appears from the content of the *Request* that Mr. Harders did not comply with the terms of our invitation and section 1.1166(c);¹⁷ nonetheless, we considered the *Request* and construed Mr. Harders's exhibits in that

¹² 10 FCC Rcd at 12761-62 ¶ 13.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2003, *Report and Order*, 18 FCC Rcd 15985, 15989-90, ¶¶ 11, 13, 14 (2003).

¹⁶ Ex A1, at 2.

¹⁷ 47 C.F.R. § 1.1166(c) provides:

Petitions for waiver of a regulatory fee must be accompanied by the required fee and FCC Form 159. Submitted fees will be returned if a waiver is granted. Waiver request that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.

context so as to bring finality to the matter. In so doing, however, we note that Mr. Harders did not clarify the content of his petition or provide sufficient supporting information.¹⁸ Thus, where we found it necessary to fill in gaps in necessary information that Mr. Harders failed to furnish; we drew reasonable conclusions from what was available.

Included in Mr. Harders's general statement of reasons why the regulatory fees should be waived, is his claim that after *Town & Country* "became insolvent,"¹⁹ on or about December 31, 1999, all Stations "went 'dark' or discontinued broadcasting."²⁰ Although we recognize that under some limited circumstances, so-called dark status may be a factor in deciding whether waiver is appropriate, we have no evidence from Mr. Harders to support his claims that he discontinued operations in 1999, that he followed our rules to discontinue operations, and that the resulting status was based on reason of documented financial hardship. Thus, we turned to our records, and rather than supporting his claims, the Commission's records rebut the assertion that all stations "went 'dark' or discontinued broadcasting" on or about December 31, 1999.

For example, Mr. Harders took actions as recent as August 19, 2004, entirely consistent with continued active operations of the licensed stations. Specifically, Mr. Harders filed applications with the Commission pertaining to active station operations between January 29, 2000, when he filed a certification of eligibility to convert a station to Class A status,²¹ and October 21, 2002, when he requested a modification to a construction permit.²² Furthermore, on March 24, 2003, Mr. Harders made a late payment of the FY 2002 regulatory fees and included

¹⁸ See *Bartholdi Cable Co., Inc. v. F.C.C.*, 114 F.3d 274, 280 (D.C. Cir. 1997) ("The Commission 'need not sift pleading and documents to identify' argument that are not 'stated with clarity' by the petitioner. See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027, 93 S.Ct. 461, 34 L.Ed.2d 321 (1972). It is the petitioner that has the 'burden of clarifying its position' before the agency. *Northside Sanitary Landfill, Inc. v. Thomas*, 849 F.2d 1516, 1519 (D.C.Cir. 1988), cert. denied, 489 U.S. 1078, 109 S.Ct. 1528, 103 L.Ed.2d 833 (1989).")

¹⁹ *Petition* at 1-2, ¶¶ 2, 3, 5.

²⁰ Ex C4 ("All of the licenses went "dark" or discontinued broadcasting . . . on or about December 31, 1999.")

²¹ Statements of Eligibility for Class A Low Power Television Station Status Tendered for Filing, *Public Notice*, (rel. Feb 8, 2000) 2000 WL 135250 (F.C.C.) (Mr. Harders was certifying in that filing that "during the 90-day period ending November 28, 1999, [the licensee] had]: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station . . . and (3) been in compliance with the Commission's regulations applicable to the low power television service.")

²² See e.g., Broadcast Applications, *Public Notice*, Oct. 24, 2002, 2002 WL 31393951 (F.C.C.) (TV Translator or LPTV Station Applications for Minor Modification to a Construction Permit Accepted for Filing, File # BMTTL-20021021ABS, Call Sign K32FH); Broadcast Applications, *Public Notice*, Jun. 3, 2002, 2002 WL 1161200 (F.C.C.) (TV Translator or LPTV Station Applications for Minor Modification to a Construction Permit Granted, File # BMTTL-20010227AAP, Call Sign K32FH); Broadcast Actions, *Public Notice*, Sep. 19, 2000, 2000 WL 1343462 (F.C.C.) (TV Translator or LPTV Station Applications for License to Cover Granted, File # BLTTL-20000330ACM, Call Sign K32FH); Broadcast Action, *Public Notice*, May 24, 2002, 2002 WL 1042293 (F.C.C.) (TV Translator or LPTV Station Applications for Minor Modification to a Construction Permit Granted, File # BMTTL-20010227AAN, Call Sign K41FU); Broadcast Actions, *Public Notice*, Aug. 15, 2001, 2001 WL 919356 (F.C.C.) (Class A TV Applications for License to Cover Granted, File # BLTTA-20010712AHX, Call Sign K41FU, Application to Convert to Class A Station); Broadcast Actions, *Public Notice*, Nov. 23, 2001, 2001 WL 1478787 (F.C.C. (TV Translator or LPTV Stations Applications for Minor Modification to a Licensed Facility Granted, File # BPTTL-20001122AAK, Call Sign K46GJ, Facility # 57395, Minor Change Call sign K33EM); Low Power/Television Translators: Proposed Construction Permits, *Public Notice*, Sep. 28, 2001, 2001 WL 1142180 (File # BPTTL-20001122ABB, Call Sign K33EM); Low Power/Television Translators: Proposed Construction Permits, *Public Notice*, Dec. 28, 2000, 2000 WL 1876832 (File # BPTTL-20001122ABI, Call Sign K63FQ).

within the payment an amount equal to the penalty because the payment was late.²³ Then, on September 25, 2003, Mr. Harders made a late payment of the FY 2003 regulatory fees due on call signs K32FH and K65GE, although he did not pay amounts due on five other stations. Finally, on August 19, 2004, Mr. Harders made timely payments of the FY 2004 regulatory fees.²⁴ Whether or not *Town & Country* defaulted on its financial obligation or even whether or not it was providing services in support of stations operations is not relevant to the question whether the stations were operating. Thus, we have material information that Mr. Harders took actions entirely consistent with ongoing active station operations, and, in contrast, no evidence that he initiated the effort required by our rules to either suspend or discontinue service.

Mr. Harders was responsible for following the procedures set forth in our rules²⁵ to discontinue operations before the expiration dates of his licenses. Specifically, a licensee is required to notify the Commission not later than the 10th day of limited or discontinued operation and at least two days before “permanent discontinuance of operation.”²⁶ But, neither the *Request* nor the Commission’s records confirm that Mr. Harders either requested Special Temporary Authority (STA) or timely notified the Commission of his intent to discontinue all station operations permanently. Thus, Mr. Harders failed to provide any verified ground to exclude him from the requirement that a licensee holding a license on October 1 of the fiscal year is liable for of the annual regulatory fees.²⁷ Indeed, Mr. Harders did not deliver any notice of cancellation until September 1, 2009, and December 10, 2009.²⁸ Thus, Mr. Harders’s unsupported and factually inaccurate assertion that he disregarded the Commission’s rules and discontinued operations on December 31, 1999, does not establish good cause for a waiver of the requirement to pay the required regulatory fees. Rather than supporting waiver, the apparent facts appear to set the stage for sanctions.²⁹ Accordingly, Mr. Harders remained responsible for paying the regulatory fees for each station until the license was surrendered and cancelled in the manner set forth in our rules.³⁰

Next, we turn to our analysis to determine whether Mr. Harders has established that payment of the fees and accrued penalties now will present undue financial hardship. As we noted above, at all relevant times, Mr. Harders was the licensee of each of the subject stations at the time the fees were due. The financial status of an operating activity, which may have been *Town & Country*, is not relevant to our determination; even in the light of Mr. Harders’s

²³ The FY 2002 regulatory fees were due no later than 11:59 PM, September 25, 2002. FY 2002 Media Services Regulatory Fees, Public Notice, Aug. 7, 2002.

²⁴ Payments were applied to K41FU, K47FK, K43EU, K32FH, K55HX, and K63FW.

²⁵ 47 C.F.R. § 73.1740.

²⁶ 47 C.F.R. § 73.1750 (“The licensee of each station shall notify by letter the FCC in Washington, DC, . . . of the permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC.”).

²⁷ See e.g., *Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, Report and Order, 21 FCC Rcd 8092, 8106-07 (2006); *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, Report and Order, 10 FCC Rcd 13512, 13561(1995).

²⁸ *Petition*, Ex A1.

²⁹ See e.g., *In re Application of South Seas Broadcasting, Inc*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6474, 6478-79 (2008); *Broadcast Media Satellite, Inc.*, Letter, 22 FCC Rcd 17248, 17249 (2007).

³⁰ 47 C.F.R. § 73.1750.

assertions that he owned *Town & Country* and that later he became liable as a co-guarantor to pay certain amounts due after *Town & Country* defaulted on promissory notes. Mr. Harders's *Petition* and its limited supporting information concerning *Town & Country* do not "fully document [Mr. Harders's] financial position and show that [Mr. Harders] lacks sufficient funds to pay the regulatory fee and to maintain its service to the public."³¹

In this instance, Mr. Harders should have provided probative personal financial information disclosing assets, liabilities, income or expenses from which we could determine his present ability to pay the various amounts owed for each of his licenses. Moreover, and related to the terms of the *Settlement Agreement*, Mr. Harders should have provided financial information establishing his final obligation under the *Settlement Agreement*, how that amount from 2000 relates to his present financial ability to pay the delinquent fees, his present assets, and the amounts that he paid, if any, and what amount, if any, now remains unpaid. As the licensee, Mr. Harders remained responsible for "ensur[ing] that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year."³² Now, several years after the fees were due, Mr. Harders requests a waiver because of financial hardship, but he failed to present direct financial information upon which to reach such a determination.

Mr. Harders provided nothing about his current financial status. Rather, Mr. Harders's documents suggest only that in 1995 he and Mrs. Harders demonstrated to the financial institution that they were financially able to guarantee the payment of the two notes and then in 2000, after *Town & Country* defaulted, to pay the amounts in the *Settlement Agreement*. That information is not relevant to his present obligation. But even if Mr. Harders had connected that past information to his current situation, because we have no financial information about Mr. Harders, we have nothing on which to determine whether now he is less able to pay the regulatory fees and associated charges than he was in 2000, when he agreed to pay *Town & Country's* notes, or 2004, when he paid the regulatory fees. Thus, he remains liable to pay the fees and accrued penalties and interest. Under the law, when a regulatory fee is not paid by the date due, we are required to assess a penalty equal to 25% of the amount unpaid,³³ and when the fees remain unpaid, we are required to assess interest and penalties.³⁴

Mr. Harders is delinquent in paying the regulatory fees, and under 47 C.F.R. § 1.1910, the Commission will withhold action on any application. We have calculated total amount due as of December 31, 2011, to be \$12,167.73. At Appendix A, we have provided you with a chart that reflects the station call signs, fees, accrued charges and credit from the funds received by Treasury applied to the oldest debt first. The unpaid delinquent amount includes the unpaid regulatory fees for FY 2003, 2005 and 2006, the 25% penalties, and accrued interest and penalties. To avoid additional interest and penalties, the total due must be received with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. If the licensee fails to pay the full amount due by that date, interest and applicable additional penalties required by 31

³¹ 10 FCC Rcd at 12761-62 ¶ 13.

³² NTT America, *Memorandum Opinion and Order*, 21 FCC Rcd 8088, 8089 (2006).

³³ 47 U.S.C. § 159(c).

³⁴ 31 U.S.C. § 3717.

Glenda Harders

U.S.C. § 3717 will accrue from December 31, 2011, and under the law,³⁵ the Commission will initiate collection proceedings.

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', with a long horizontal flourish extending to the right.

Mark Stephens
Chief Financial Officer

Enclosure

³⁵ See 47 C.F.R. § 1.1901, *et seq.*

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

October 3, 2011

Mr. Rusty R. Smart
Rural Route 3, Box 405-1
Chelsea, OK 74016-9024

Re: Waiver of Application Fee General Mobile
Radio Service
Fee Control No. RROG-10-00013519

Dear Mr. Smart:

This responds to your letter (*Request*),¹ which we construe to be a request for a waiver of the required application fee to obtain authorization to transmit in the General Mobile Radio Service (GMRS).² Under the Commission's rule at 47 C.F.R. § 1.1119(e), which we discuss below, we are required to dismiss your *Request*. However, you may submit a new application and request with the required information.

You assert that you purchased "a couple of Midland GTX GMRS/FRS radios" but "cannot afford to purchase a FCC license [to operate] channels 1-7 and 5-22 [, that you] live off Social Security Disability funds of \$864 per month [and that p]aying for the license fee would cause [you] some hardship."³ You included with your *Request* a letter from the Social Security Administration confirming your receipt of Social Security disability benefits (*Benefits Letter*).⁴ Our records show that effective April 23, 2011, the Commission dismissed your application (*Dismissal*) because you failed to pay the required fee.⁵ The *Dismissal* explained that you may "file a new application, fee, FCC Form 159 for feeable applications, and all required showings."⁶ Under 47 C.F.R. § 1.1119(e), your *Request* must include the application, a request for deferral, and supporting financial information. Your *Request* does not include these materials

¹ Letter from Rusty R. Smart, Rural Route 3, Box 405-1, Chelsea, OK 74016-9024 to FCC, Office of Managing Director, 445 12th St. S.W., Rm 1-A625, Washington, DC (undated) (received Jul. 12, 2011) (*Request*).

² 47 C.F.R. § 95.3.

³ *Request*.

⁴ Letter from Martha J. Lambie, Regional Commissioner, Social Security Administration to Rusty R. Smart, RT 3 Box 405-1, Chelsea, OK 74016-9024 (Jun. 27, 2011).

⁵ Letter from Wireless Telecommunications Bureau, FCC, 10/3/11.

Mr. Rusty R. Smart

(specifically, financial information), thus we are required to dismiss it.⁷ The following discussion is offered to assist you in reaching a decision whether to file your application with the fee or to seek a waiver.

The Commission will “consider waivers or deferrals [of application fees] on a case by case basis” and “those requesting a waiver or deferral will have the burden of demonstrating that . . . a waiver or deferral would override the public interest . . . that the government should be reimbursed for [the services provided].”⁸ A request for a waiver must include payment of the fee with the application unless a petition for deferral of the payment of the fee is provided with the request.⁹ The Commission does not grant a waiver of the fee on the “[m]ere allegations or documentation of financial loss, standing alone, [rather the applicant must] fully document its financial position and show it lacks sufficient funds to pay” the fee.¹⁰

Even though your *Benefits Letter* confirms that you receive \$864 per month in disability benefits, it does not fully document your financial position. Thus, we have no information as to the funds available to you, and we cannot determine from the *Benefits Letter* whether you lack funds to pay the application fee to obtain authorization to operate the GMRS devices on the covered channels.¹¹ For example, you did not state the nature and amounts of your monthly expenses (especially as those amounts relate to your benefits), and you did not show whether you have any other income source and, if so, its basis and amount. You did not provide information to determine whether you are dependent on any other person for income or support, or whether you have access to funds from which you may pay the application fee. Some examples of the documentation you should provide are federal tax returns, bank statements and other bank records, reports of annual income (including income from your spouse or other family member), pension payments, financial distributions from other sources, records demonstrating the extent and nature of assets available to pay the application fee, and records demonstrating recurring monthly and longer term expenses.

⁷ 47 C.F.R. §§ 1.1119(c) (“Petitions for waivers, deferrals, fee determinations, reconsiderations and applications for review will be acted upon by the Managing Director . . . All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission. Requests for deferral of a fee payment for financial hardship must be accompanied by supporting documentation.”); 1.1119(e) (“Applicants seeking waivers must submit the request for waiver with the application or filing, required fee and FCC Form 159, or a request for deferral. A petition for waiver and/or deferral of payment must be submitted to the Office of the Managing Director as specified in paragraph (c) of this section. Waiver requests that do not include these materials will be dismissed in accordance with §1.1111 of this subpart. Submitted fees will be returned if a waiver is granted. The Commission will not be responsible for delays in acting upon these requests.”).

⁸ Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, *Report and Order*, 2 FCC Rcd 947, 961 ¶ 88 (1987).

⁹ 47 C.F.R. § 1.1119. Under the Commission’s rule, an applicant must either make the payment or specifically petition (request) deferral of payment, and provide documentation of financial hardship.

¹⁰ See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, 12761-62 ¶ 13 (1995).

¹¹ See 47 C.F.R. Part 95. As you noted, your device is identified as being able to communicate in the Family Radio Service (FRS), which is licensed by rule. Thus, if you limit operation to the 14 designated FRS channels, an

Mr. Rusty R. Smart

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 Stephens", written over a horizontal line.

Mark Stephens
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

April 12, 2011

Mark D. Davis, Esq.
Kent D. Bressie, Esq.
Wiltshire & Grannis LLP
1200 18th Street, N.W.
Suite 1200
Washington, D.C. 20036-2560

Re: Sensormatic Holdings Corp.
Request for Waiver of Application Fees
Fee Control No. RROG-10-00013420

Dear Mr. Davis and Mr. Bressie:

This is in response to your request filed October 15, 2010 (*Request*), on behalf of Sensormatic Holdings Corp. (Sensormatic) for a waiver of the application fee associated with a request for waiver of section 1.948(d) of the Commission's rules, 47 C.F.R. §1.948(d). Our records reflect that Sensormatic paid the \$8,400.00 application fee. For the reasons stated herein, we deny your request.

You recite that on September 25, 2009, ADT Holdings, Inc. transferred to Sensormatic ownership of ADT Security Services, Inc. as part of an internal reorganization.¹ You state that on April 7, 2010, ADT Holdings, Inc. "sought the Commission's consent for the resulting *pro forma* transfer of control [*Application*]." ² You say that because the *Application* was filed late, ADT Holdings, Inc. "sought a waiver of section 1.948(c) of the rules, 47 C.F.R. §1.948(c), which otherwise would have required consent prior to the transaction, and paid the \$8,400.00 fee associated with the waiver[.]" ³

You say that Sensormatic also filed a request for waiver of section 1.948(d) of the rules and paid an additional \$8,400.00 filing fee because Sensormatic filed a Notice of Consummation more than 30 days after the date the transaction was consummated.⁴ You assert that it was impossible to file a Notice of Consummation within the required timeframe because ADT Holdings, Inc. filed and received approval of the *Application*

¹ *Request* at 1.

² *Id.*

³ *Id.* at 2.

⁴ *Id.*

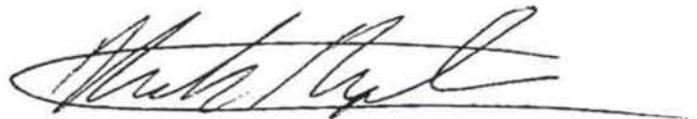
more than 30 days after the date the transaction was consummated.⁵ You claim that “the public interest is not served by requiring an applicant to pay two late fees for the same mistake.”⁶

The Commission has discretion to waive filing fees upon a showing of good cause and a finding that the public interest will be served thereby.⁷ We construe our waiver authority under section 8 of the Communications Act, 47 U.S.C. §158(d)(2), narrowly and will grant waivers on a case-by-case basis to specific applicants upon a showing of “extraordinary and compelling circumstances.”⁸

We find that you have failed to establish good cause for waiver of the application fee associated with the section 1.948(d) waiver request. ADT Holdings, Inc. and Sensormatic filed the *Application* and the Notice of Consummation in an untimely manner. As a result, ADT Holdings, Inc. and Sensormatic filed the section 1.948(c) and section 1.948(d) waiver requests at issue here, both of which required full and substantive review by Commission staff. We therefore find that you have not shown sufficiently extraordinary or compelling circumstances as to warrant a waiver of the fee associated with Sensormatic’s request for waiver of the fee associated with the section 1.948(d) 30-day notification requirement. Accordingly, we deny your request.

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 *Id.*

⁶ *Id.*

⁷ See 47 U.S.C. §158(d)(2); 47 C.F.R. §1.1117(a); *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 5 FCC Rcd 3558, 3572-73 (1990).

⁸ See *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 958 (1987) (1987 Report and Order); *Sirius Satellite Radio, Inc.*, 18 FCC Rcd 12551 (2003) (*Sirius*).

KROG-10-00013420



WILTSHIRE
& GRANNIS RECEIVED - FCC

OCT 15 2010

Federal Communications Commission
Bureau / Office

October 15, 2010

VIA HAND DELIVERY

STAMP AND RETURN

Managing Director Steven VanRoekel
Office of the Managing Director
Federal Communications Commission
445 12th St., S.W.
Room TW-A325
Washington, DC 20554

**Re: Petition of Sensormatic Holdings Corp. for a Fee Waiver
under 47 C.F.R. § 1.1119**

Dear Mr. VanRoekel,

Please find enclosed a request for a fee waiver and its associated Form 603 application for the Office of the Managing Director's review. The application and its associated waivers were filed on ULS today, October 15, 2010.

Should you have any questions or concerns regarding this waiver or application, please contact me at (202) 730-1336.

Respectfully submitted,

A handwritten signature in black ink that reads "Mark Davis". The signature is written in a cursive, flowing style.

Mark D. Davis
Counsel to Sensormatic Holdings Corp.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554OFFICE OF
MANAGING DIRECTOR

May 26, 2011

Mr. Matt Liu
Silicon Business System, Inc.
Post Office Box 1785
Monterey Park, CA 91755Re: Silicon Business System, Inc.
FY 2010 Regulatory Fee and Associated Penalty
Waiver Request
Filed 5-6-11
Fee Control No. RROG -10-00013466
Regulatory Fee Amount: \$ 499.00
Late Penalty Amount: \$ 124.75
Date Regulatory Fee Paid: 4/21/11
Date Late Penalty Paid: 4/21/11

Dear Mr. Liu:

This letter responds to the above-referenced request for waiver of regulatory fees ("Regulatory Fees"). Our records reflect that the Regulatory Fees and the associated penalty for late payment of the Regulatory Fees have been paid. For the reasons stated herein, your waiver request is dismissed.

With respect to your request for waiver of the regulatory fee, the Commission may waive, reduce, or defer regulatory fees only upon a showing of good cause and a finding that the public interest will be served thereby.¹ The Commission will waive, reduce or defer its regulatory fees in those instances where a petitioner presents a compelling case of financial hardship.² Regulatees can establish financial hardship by submitting:

information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.³

¹ See 47 U.S.C. §159(d); 47 C.F.R. §1.1166; see also *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5344 (1994), *on recon.*, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, para. 12 (1995) (*Memorandum Opinion and Order*), (regulatory fees may be waived, deferred, or reduced on a case-by-case basis in extraordinary and compelling circumstances upon a clear showing that a waiver would override the public interest in reimbursing the Commission for its regulatory costs).

² See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd at 5346, *on recon.*, 10 FCC Rcd 12759 (1995).

³ *Memorandum Opinion and Order*, 10 FCC Rcd at 12761-62.

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

You provided none of the information necessary for the Commission to make this determination. In the absence of such documentation or other relevant showing, we dismiss your request for a waiver of the regulatory fee.

With respect to your request for waiver of the late payment penalty, we find you have not presented circumstances sufficient to mitigate your obligation to pay the FY 2010 regulatory fees by the announced deadline of August 31, 2010. The Commission provided ample prior notice that it would not be sending paper pre-bills to regulatees with respect to FY 2010 regulatory fees. On May 14, 2009, the Commission proposed to mandate electronic filing of regulatory fee information through the agency's Fee-Filer system.⁴ The Commission explained that, "[c]onsistent with [its] proposal to require mandatory use of Fee Filer . . . , pre-bill information would be loaded into Fee Filer for viewing, but would not be mailed directly to the licensee via surface mail."⁵ On July 31, 2009, the Commission released its order adopting these proposals.⁶ In that order, the Commission advised regulatees that "because all pre-bills will be loaded into Fee Filer, once Fee Filer becomes operational, this will be the signal by which licensees can view their pre-bill information online."⁷ On August 21, 2009, the Commission issued a public notice entitled "FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET),"⁸ and a second public notice informing regulatees that use of Fee Filer was mandatory in FY 2009 and that "regulatory fee bills will no longer be mailed to the regulatee, but can be viewed by logging on the Fee Filer."⁹ On September 2, 2009, the Commission released a third public notice reiterating that "**HARDCOPY BILLS WILL NO LONGER BE MAILED BY THE FCC**".¹⁰ Thus, it is the obligation of the licensee to make the fee payment by the deadline. Finally, Section 9(c)(1) does not limit the late payment penalty to regulatees whose failure to pay was knowing or willful. In sum, the Commission has waived the Section 9(c)(1) penalty "only in the most extraordinary circumstances"¹¹ and we find no such extraordinary circumstances here.

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking and Order*, 24 FCC Rcd 5966, 5972 ¶ 16 (2009).

⁵ *Id.* at 5973 ¶ 20.

⁶ *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10307-09 ¶¶ 18-27 (2009) (*FY 2009 Regulatory Fees NPRM*).

⁷ *Id.* at 10309 ¶ 26.

⁸ *FY 2009 Fee Due Date Notice*, 24 FCC Rcd 10890.

⁹ *Fee Filer Mandatory for FY 2009 Regulatory Fees, Public Notice*, 24 FCC Rcd 10893 (Aug. 21, 2009).

¹⁰ *Payment Methods and Procedures for Fiscal Year 2009 Regulatory Fees, Public Notice*, 24 FCC Rcd 11513, 11514 (2009) (emphasis in original).

¹¹ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

We therefore deny your request for waiver and/or reduction of the penalty for late payment of the FY 2010 regulatory fee.

In view of your allegation of financial hardship, you may refile your request for waiver of the regulatory fees, together with appropriate supporting documentation, and a request to further defer payment of the fee, within 30 days from the date of this letter.

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

Silicon Business System, Inc
FRN: 001782 2529
Filer ID: 827196

Federal Communications Commission
Office of the Managing Director
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554
Attn: Regulatory Fee Waiver/Reduction Request

To Whom It May Concern:

I would like to apply to request waiver or reduction.

This is my first FRN Annual Regulatory Fee (FY2010 Invoice number 10RE009966, due on 8-31-10). I have been receiving my TRS, NANPA invoice by first class US mail from FCC. So I assume all FCC bill will be in US mail. I wasn't even informed that there's another bill called FCC Annual Regulatory Fee. Notwithstanding that I have never been notified that your FCC Annual Regulatory Fee billing notification method was changed.

Without notifying citizen there's a bill and the bill's due date, then charge citizen 25% late fee, this is not fair business practice. We are tiny company struggling in the telecom market amid worsen economy. Our 499a annual total revenue is about \$100000, given 10% gross profit margin, our net profit is at most about 3% range, which is only \$3000/year. Can you please waive the whole bill and/or the late fee by any chance?

The rich should be taxed more; the poor should be taxed less or even waived. FCC is assessing too much fee to small telecom business. My 2010 TRS and NANPA bill paid was nearly \$800, plus your \$600 bill, total \$1500, which is almost 50% of our \$3000 annual profit. Since FCC is a government entity. I think you may apply the IRS progressive tax doctrine as well.

Sincerely



Matt Liu
4-25-2011

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

Adama

DEC 16 2011

OFFICE OF
MANAGING DIRECTOR

Mr. Ghassan Mourad
Smart Card Services, Inc
15953 NW 16th Court
Pembroke Pines, FL 33028

Re: Smart Card Services, Inc.
FY 2010 Late Penalty Waiver Request
Dated 9-9-2011, received 9/16/2011
Fee Control No. RROG-11-00013877
Regulatory Fee Amount: \$10,146.00
Late Penalty Amount: \$2,536.50
Date Regulatory Fee Paid: 9-7-11
Date Late Penalty Paid: 9-7-11

Dear Mr. Mourad:

This letter responds to the above-referenced *Request*¹ for waiver of the penalty for late payment of FY 2010 regulatory fee. For the reasons stated herein, we must deny your *Request*.

Under 47 U.S.C. § 159 and the Commission's implementing rules, we are required to "assess and collect regulatory fees" to recover the costs of the Commission's regulatory activities,² and when the required payment is received late or it is incomplete, to assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."³ Specifically, "[a]ny late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee . . . which was not paid in a timely manner."⁴

For FY 2010, the deadline for paying regulatory fees was August 31, 2010.⁵ Because you did not pay the FY 2010 regulatory fee until September 7, 2011, you were assessed a penalty fee of \$2,536.50, which you paid at the same time. You request that we waive and refund that penalty because you were not aware of the outstanding bill. You asserted that you were "not aware of this bill, once I logged in to pay this year's bill [FY 2011 fees] . . . there was only this year's bill. . . [FY 2011 fees] . . . a week later

¹ Letter from Ghassan Mourad, Smart Card Services, Inc., 15953 NW 16th Ct., Pembroke, FL 33028 to FCC, Office of Secretary, 455 12th Street, S.W., Washington, DC 20554 (dated Sept. 9, 2011, received Sept 16, 2011)(*Request*).

² 47 U.S.C. §159(a)(1); 47 C.F.R. § 1.1151.

³ 47 U.S.C. §159(c)(1); 47 C.F.R. § 1.1164.

⁴ 47 C.F.R. § 1.1164.

⁵ *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).

[you] logged in again to check the status of the payment and saw [FY 2010 penalty fees]”. Further, you assert “that [you] did not get any alert email or mail regarding this open invoice.”⁶ None of the points you raise presents a legal ground or clear mitigating circumstances to waive collection of the 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.”⁷ As to the annual regulatory fees, the Commission provided ample prior notice that it would not be sending paper pre-bills to regulatees.

On May 14, 2009, the Commission proposed to mandate electronic filing of regulatory fee information through the agency’s Fee Filer system.⁸ The Commission explained that, “[c]onsistent with [its] proposal to require mandatory use of Fee Filer . . . , pre-bill information would be loaded into Fee Filer for viewing, but would not be mailed directly to the licensee via surface mail.”⁹ On July 31, 2009, the Commission released its order adopting these proposals.¹⁰ In that order, the Commission advised regulatees that “because all pre-bills will be loaded into Fee Filer, once Fee Filer becomes operational, this will be the signal by which licensees can view their pre-bill information online.”¹¹ The Commission issued a public notice informing regulatees that use of Fee Filer was mandatory in FY 2009 and that “regulatory fee bills will no longer be mailed to the regulatee, but can be viewed by logging on the Fee Filer.”¹² On September 2, 2009, the Commission released a third public notice reiterating that **“HARDCOPY BILLS WILL NO LONGER BE MAILED BY THE FCC.”**¹³

Similarly, the Commission’s final order on the FY 2010 regulatory fees reaffirmed that regulatees should “check[] the Commission’s website periodically beginning in July” in order to “ascertain the fee due date, and receive instructions on how to access Fee Filer, view their bill, and make a fee payment.”¹⁴ This notification was part of the Commission’s increased effort to notify licensees that hardcopy bills will no longer be mailed.¹⁵

⁶ *Id.*

⁷ 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); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).

⁸ *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking and Order*, 24 FCC Rcd 5966, 5972 ¶ 16 (2009).

⁹ *Id.* at 5973 ¶ 20.

¹⁰ *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10307-09 ¶¶ 18-27 (2009) (*FY 2009 Regulatory Fees NPRM*).

¹¹ *Id.* at 10309 ¶ 26.

¹² *Fee Filer Mandatory for FY 2009 Regulatory Fees, Public Notice*, 24 FCC Rcd 10893 (Aug. 21, 2009).

¹³ *Payment Methods and Procedures for Fiscal Year 2009 Regulatory Fees, Public Notice*, 24 FCC Rcd 11513, 11514 (2009) (emphasis in original).

¹⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2010, Report and Order*, 25 FCC Rcd 9278, 9291 ¶ 37 (2010).

¹⁵ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2010, Notice of Proposed Rulemaking*, 25 FCC Rcd 3918, 3923 ¶ 12 (2010).

Every licensee is obliged to make the fee payment by the deadline. Moreover, a history of timely payment of the regulatory fee does not provide sufficient grounds to support a waiver of the late payment penalty in the situation where the deadline is missed.¹⁶ In such cases, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on the amount of time after the deadline within which the regulatee satisfies its payment obligations; indeed, the penalty for late payment applies even to situations where the deadline is missed by a short period of time.¹⁷ Further, although the Commission has waived late fees on a showing of good cause, neither the statute nor the Commission's regulations contemplates a waiver of or reduction in the late payment penalty based on the amount of time after the deadline within which the regulatee satisfies its payment obligations. As we explained, the penalty required by 47 U.S.C. § 159(c)(1) is not limited to situations where the failure to pay was knowing or willful. If it is to be waived, it is "only in the most extraordinary circumstances,"¹⁸ which are not described by your situation. Thus, we must deny your Request, and we cannot refund the penalty amount paid.

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 in a cursive style.

Mark Stephens
Chief Financial Officer

¹⁶ See *TWC Digital Phone, LLC* (OMD, Sept. 28, 2009); *Big River Telephone Company* (OMD, July 21, 2009).

¹⁷ See *XO Communications, LLC* (OMD, Nov. 10, 2010).

¹⁸ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

*Smart Card Services, Inc.
FRN# 0017270687
15953 NW 16TH CT
Pembroke Pines, FL 33028
President: Ghassan Mourad
Email: ghassanmourad@hotmail.com
Contact # : 954-654-1676
Date 09/09/2011*

Received & Inspected

SEP 16 2011

FCC Mail Room

Dear Marlene H. Dortch, Secretary Federal Communication Commission:

Please accept my apology for late payment on Bill # 10RE009907, I was not aware of this bill, once I logged in to pay this year's bill there was only this year's bill which I paid on time, a week later I log in again to check the status on payment and I saw the new past due bill in my account, I have taken care of the full balance, please accept my apology and refund the penalty fee which was added. I always pay my bills on time, never was aware of this past due balance, I did not get any alert email or mail regarding this open invoice, from now on I know where to look for any open invoices.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

April 14, 2011

Bills needed

OFFICE OF
MANAGING DIRECTOR

Ronald E. Hale, Sr., President
Star Broadcasting, Inc.
21 Miracle Strip Parkway
Fort Walton Beach, FL 32548

Re: Star Broadcasting, Inc.
FYs 2006, 2008 and 2009 Regulatory Fee
Waiver Request
Filed 7-28-10
Fee Control No. RROG-10-00012925
FY 2006 Regulatory Fee Amount: \$ 4,025.00
FY 2008 Regulatory Fee Amount: \$ 5,981.25
FY 2009 Regulatory Fee Amount: \$ 4,125.00

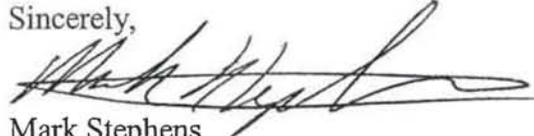
Dear Mr. Hale:

This letter responds to the above-referenced request for waiver of regulatory fees filed on the grounds of financial hardship ("Regulatory Fees"). Our records reflect that the Regulatory Fees at issue have not been paid. For the reasons stated herein, your waiver request is granted.

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.¹ Based on the evidence in the record that the listed licensees were in bankruptcy or in receivership on the date the Regulatory Fees were due, we hereby grant the requested waiver.²

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

² Although you also request a waiver of the FY 2007 regulatory fee, we note that the Office of Managing Director (OMD) granted an earlier request for waiver of the FY 2007 regulatory fee. See letter to Ronald E. Hale, Jr., President, Star Broadcasting, Inc., from Mark Stephens, Chief Financial Officer, OMD, FCC (Dec. 18, 2007). We therefore dismiss your waiver request for FY 2007 as moot.

STAR BROADCASTING, INC.
21 MIRACLE STRIP PARKWAY
FT. WALTON BEACH, FL 32548

Received & Inspected

JUL 28 2010

FCC Mail Room

July 22, 2010

Secretary, Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

RR06-10-000/292

To the Attention of the Office of the Managing Director, Regulatory Fee Collections

RE: Attached NOTICE OF WITHHOLDING OF ACTION, 7/09/10

Dear Ms. Dortch:

Star Broadcasting, Inc. was the licensee of WTKE-(FM) and is the licensee of WZFN-(AM) and WPGG-(AM) radio broadcast stations. WPGG-(AM) is off the air due to the severe economic situation Star was placed in by the economy and bankruptcy. 73372

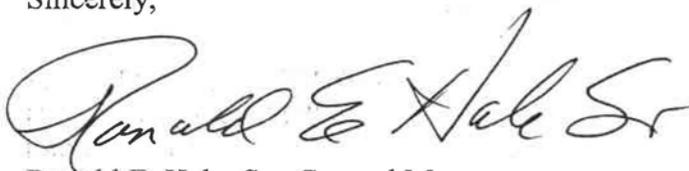
Star Broadcasting, Inc. was in reorganization, pursuant to a petition filed November 14, 2005, with the U.S. Bankruptcy Court for the Northern District of Florida under Chapter 11 of the U.S. Bankruptcy Code. See: BAL-20051213AAA; BOS-20060301ABU; until September 19, 2009 at which time WTKE(FM) was transferred to Qantum Broadcasting, Inc. pursuant to a final judgment on case # 05-21772-CIV- MARTINEZ-BANDSTRA, in UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, Miami Division. 41003

The Commission has determined that regulatory fees are to be waived "for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or in receivership". Implementation of Section 9 of the Communications Act (FCC 95-257), 10 FCC Rcd.12759, paragraph 14 (1995), -56374

Accordingly, the above stations, licensed to Star Broadcasting, Inc., are categorically exempt from the 2006 through 2009 regulatory fee assessments.

We respectfully request that you notify Ms Cheryl Collins and all other FCC collections groups of these facts and have her clear the record of Star Broadcasting regarding the erroneous charges shown in her letter(s) and zero out Star's accounts. Should there be any question concerning this matter, please communicate with the undersigned.

Sincerely,


Ronald E. Hale, Sr., General Manager

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

April 8, 2011

Ms. Barb Knick
State Farm Insurance
Satellite & Wireless Networks
Three State Farm Plaza
Building H-3
Bloomington, IL 61791-0001

Re: Stations E030145 and E050336
FY 2010 Regulatory Fee Penalty Waiver Request
Filed 3-9-11
Fee Control No. RROG-10-00013422
Regulatory Fee Amount: \$ 480.00
Late Penalty Amount: \$ 120.00
Date Regulatory Fee Paid: 10-6-10
Date Late Penalty Paid: Not Paid

Dear Ms. Knick:

This letter responds to the above-referenced requests for waiver of the penalty for late payment of FY 2010 regulatory fee. For the reasons stated herein, your waiver request is denied.

Section 9(a)(1) of the Communications Act states that the Commission "shall assess and collect regulatory fees" to recover the costs of its regulatory activities.¹ Section 9(c)(1) provides that "[t]he Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required" by Section 9(a) and that "[s]uch penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner."² The Commission's regulations provide that "[a]ny late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee . . . which was not paid in a timely manner."³ For FY 2010, the deadline for paying regulatory fees was August 31, 2010.⁴

¹ 47 U.S.C. §159(a)(1).

² 47 U.S.C. §159(c)(1).

³ 47 C.F.R. §1.1164.

⁴ *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) (*FY 2010 Filing Deadline Public Notice*).

You paid your regulatory fee after the August 31, 2010, deadline for filing regulatory fees, and therefore failed to meet this obligation. 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 The assertion in your request, that the deadline was earlier than in previous years and/or that the notice period was shorter or sooner than expected does not constitute circumstances sufficient to mitigate your obligation to pay the FY 2010 regulatory fee by the announced deadline of August 31, 2010.

In *Assessment and Collection of Regulatory Fees for Fiscal Year 2010*, 25 FCC Rcd 9278, 9279 (2010) (*2010 Report and Order*), which was adopted on July 8, 2010, and released on July 9, 2010, the Commission stated that “[c]onsistent with our established practice, we intend to collect these [FY 2010] regulatory fees during an August 2010 filing window.” On August 9, 2010, the Commission announced the August 31, 2010, due date for filing the FY 2010 regulatory fees.⁶ Given that the Commission announced an August 2010 filing window on July 9, 2010, and adopted the August 31, 2010, due date on August 9, 2010, we find that you had ample notice of the filing deadline to ensure compliance with their FY 2010 regulatory fee payment obligations.

Confusion regarding the deadline for payment or concerning the use of the Fee Filer system does not provide sufficient grounds for a waiver of the regulatory fees rules, particularly given the Commission’s announcement regarding the August 2010 filing window and access to instructions for Fee Filer access in the *2010 Report and Order*.⁷ Moreover, history of timely payment of the regulatory fee does not provide sufficient grounds to support a waiver of the late payment penalties.⁸ Further, any assertion that payment was “only a little late” does not rise to the showing required for a waiver; although the Commission has waived late fees on a showing of good cause, neither the statute nor the Commission’s regulations contemplates a waiver of or reduction in the late payment penalty based on the amount of time after the deadline within which the regulatee satisfies its payment obligations.⁹ Finally, Section 9(c)(1) does not limit the late payment penalty to regulatees whose failure to pay was knowing or willful. In short, the Commission has waived the Section 9(c)(1) penalty “only in the most extraordinary circumstances”¹⁰ and we find no such extraordinary circumstances here. Your request for waiver or reduction of the penalties for late payment of the FY 2010 regulatory fee is denied.

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); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).

⁶ See *FY 2010 Filing Deadline Public Notice*.

⁷ See *2010 Report and Order* at 9291 (advising regulatees to “check[] the Commission’s website periodically beginning in July, . . . to ascertain the fee due date, and receive instructions on how to access Fee Filer, view their bill, and make a fee payment”).

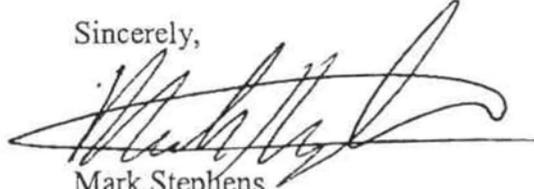
⁸ See *TWC Digital Phone, LLC* (OMD, Sept. 28, 2009); *Big River Telephone Company* (OMD, July 21, 2009).

⁹ See *XO Communications, LLC* (OMD, Nov. 10, 2010).

¹⁰ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

If you have not yet paid FY 2010 regulatory fee and late penalties in full, such payment is now due. The payments should be submitted, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. 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

Enclosure

Stephen French

From: Barb Knick [barb.knick.aysd@statefarm.com]
Sent: Wednesday, March 09, 2011 10:07 AM
To: ARINQUIRIES
Cc: Stephen French
Subject: Request to Waive Late Fees for Licenses E030146 and E050336

Bill Numbers 10RE011662 and 10RE011663 respectfully. And my FRN is 0004278677: Barbara Knick

I have faxed the copies of our canceled checks and received confirmation of them from you, thank you. Now the payments just need to be credited to us; however, there is still a late fee and although I understand, and know now, that the due date was pushed back to 8/31 from the usual 9/22 or so, as an FRN owner, thought I would have gotten some notice on this date change other than having to read it on the web site that I actually only visit in mid August, once a year, to check for our fees. You will see that State Farm has always paid their fees on time and in a timely manner as well. I would hope that we could request that the late fees be waived for both of these licenses this one time, and we will ensure that our processes are changed to meet the 8/31 due date in the future.

Thank you.

How can I get my mailing information documented to received information such as this in the future? When the FRN was switched to my name from Steve Davis when he retired I thought all had been provided. Is Steve Davis still listed as the owner of the FRN above by chance? If so, I should probably move to get this rectified and soon. Thanks again.

Barb Knick

barb.knick.aysd@statefarm.com
State Farm Insurance

Satellite & Wireless Networks
Satellite Team
Work: 309-766-7667
Cell: 309-846-0208