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FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

July 28, 2011

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

Re: Kasa Family Limited Partnership
Stations: KRBA (AM), KYBI (FM)
KSML (AM), and KSML (FM).
FY 2010 Regulatory Fees
Fee Control No. RROG-10-00013163

Dear Mr. Peltzman:

This letter responds to your request dated August 31, 2010 (*Request*),¹ for a waiver of the Fiscal Year (FY) 2010 regulatory fees owed by Kasa Family Limited Partnership (Kasa Family) for Stations KRBA (AM) and KYBI (FM), Lufkin, Texas, KSML (AM), Diboll, Texas, and KSML (FM), Huntington, Texas. Our records reveal that Kasa Family did not pay the FY 2010 regulatory fees, which total \$7,650, but your Request did petition to defer payment.

As evidence that Kasa Family's general partner, Quadcom Communications, Inc. (Quadcom), is unable to pay Kasa Family's FY 2010 regulatory fees, you provided Quadcom's unaudited Income Statement as of December 31, 2009 (*Income Statement*) and a Balance Sheet at December 31, 2009 (*Balance Sheet*). This information, however, does not present a compelling case of financial hardship to waive the FY 2010 regulatory fees; therefore, we deny your *Request*.

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. 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.² 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.³ Fee relief may be granted based on asserted financial hardship, but only upon a documented

¹ Letter from Lee J. Peltzman, Shainis & Peltzman, Chtd, 1850 M St. NW, Ste 240, Washington, DC 20036 to Office of the Managing Director, FCC (Aug. 31, 2010) (*Request*).

² 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).

³ 9 FCC Rcd at 5344 ¶ 29.

showing that payment of the fee will adversely impact the licensee's ability to serve the public.⁴ "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."⁵ 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.⁶ 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.

As we discuss below, Quadcom's *Income Statement* and the *Balance Sheet* do not fully document each Station's financial position as it pertains to the FY 2010 regulatory fees, and the information does not show compelling and extraordinary circumstances that outweigh the public interest in recouping the Commission's regulatory costs.

First, the *Income Statement* and *Balance Sheet* do not provide the range of required financial documents. Quadcom's consolidated *Income Statement* for the year ended December 31, 2009, and *Balance Sheet* at December 31, 2009, do not provide necessary relevant facts and information showing how payment of the FY 2010 regulatory fees for each of the four Stations will adversely impact Kasa Family's ability to serve the public. In addition to the *Income Statement* (which should have been an audited copy, if available) and the *Balance Sheet* for calendar year 2009, Kasa Family should have included 2010 information and additional relevant information for 2009, 2010, and later, such as a cash flow projection for the next twelve months (with an explanation of how calculated), a list of the partners and/or corporate officers and their individual compensation, together with a list of the entity's highest paid employees, other than officers, and the amount of their compensation, and similar information necessary for Kasa Family to present a compelling case. In this instance, Quadcom's financial information, which was limited to calendar year 2009, falls short of our requirement. Because Kasa Family submitted its *Request* on August 31, 2010, it should have provided relevant calendar year 2010 financial information.

Second, Kasa Family's financial information does not present a compelling case that its service to the public will suffer upon payment of the required regulatory fees. For example, some categories of information are incomplete and some do not relate to the four Stations. Specifically omitted from assets are Kasa Family's real property holdings, e.g., 121 Cotton Square, 114 West Shepherd Avenue, and 2105 Spence Street, Lufkin, Texas. This significant exclusion raises the questions whether those assets are available to fund the FY 2010 fees and whether other assets may have been omitted. Additionally, Quadcom reported income and expenses not related to KRBA (AM), KYBI (FM), KSML (AM) and KSML (FM). In particular,

⁴ 10 FCC Rcd at 12761-62 ¶ 13.

⁵ *Id.*

⁶ *Id.*

Lee J. Peltzman, Esq.

you did not explain how the revenue entries for "KJCS Sales," and "KZXL Sales," as well as consolidated expenses for "Salaries and Wages," "Advertising," "Bad Debt Expense," "KJCS Transmitter," "TU Electric 123 Cotton Square," "Insurance: General," "Rental: Tower," "Lease KJCS," "FCC," and entries related to "TV 42" demonstrate that Kasa Family's payment of the FY 2010 regulatory fees due for each of the four Stations will adversely affect each station's service to the public. Finally, the financial information as a whole does not present a compelling case to waive the fees. Indeed, for example, you provided no explanation why the FY 2010 regulatory fees, \$7,650, which represents 0.88 % of Quadcom's 2009 reported revenue, cannot be garnered from proportional shares of other budget categories of "Sports Gas and Meals," "Advertising," "Promotions," and "Auto Expense," which totaled \$58,310.15 in 2009.

We also note you did not explain why \$123,131.19, which is reported on the *Balance Sheet* as accounts receivable for six stations, is not reflected in the amounts reported on the *Income Statement* under entries for the "Current Month" (*i.e.*, December 2009), and why those accounts receivable amounts are not available to pay the FY 2010 regulatory fees.

Simply, the limited financial information from 2009 does not provide adequate support to Kasa Family's *Request* to waive the FY 2010 regulatory fees, and it does not present compelling and extraordinary circumstances that outweigh the public interest in collecting the regulatory fees.

Payment of \$7,650.00 for the FY 2010 regulatory fees is now due. The full amount owed should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter.⁷ 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

Enclosure

⁷ Under 47 U.S.C. § 159(c) and 31 U.S.C. § 3717, any amount unpaid after that date will incur a late payment penalty of 25% of the amount unpaid, plus interest, penalties and other charges of collection from the date of this letter.