

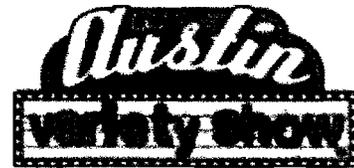
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Received & Inspected

FEB 28 2012

FCC Mail Room

C6B-CP-1219



### **Petition of "Undue Burden" for Closed Captioning Services**

My name is Troy Dillinger, I am the producer and host of The Austin Variety Show. We have been on local television for 2 years now, on KBVO (an affiliated station of MyNetworkTV) which is owned by LIN Broadcasting. The station features syndicated programming some with local content like ours as well as high school football and some other locally produced programming.

Our show is quite unique as television productions go (local or otherwise); it features local music, comedy, other performing talent, games with audience members – and many of the episodes feature a scripted "reality" component about how the show is made. We currently have 15 episodes in rotation, and each runs for one hour each week on KBVO in the Greater Austin, TX Area.

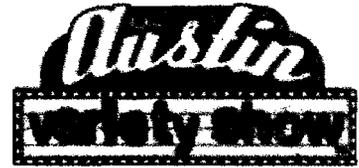
We shoot a portion of each show with a live audience, approximately once every other month, up to 8 times a year. In just over the last year, we have begun scripting and shooting a plotline featuring the show's creators as well. After shooting our script, we then take the live 3-camera digital footage and the scripted footage and edit them together to create each 44 minute episode. The process of creating the first 9 shows took approximately 6-9 weeks, but with the newer narrative portion, we have only created 5 finished episodes in the last 15 months.

Our crew consists of about 20 or so people for our live events, many of whom help create the scripted content, and another 6 or so working in post production. I am materially involved in every step of the process, generally working over 100 unpaid hours per episode. Each of my crew works on a speculative basis, making small stipend for their initial work, and hopefully taking full payment when each episode is sold to cable in the future. The average cost per episode is just under \$15,000, and a portion of that cost (less than 50%) is offset by ticket sales to the show tapings and from sponsorship/advertising /product placement sales. The remainder is offset by myself, and I work 3 jobs to finance the show's remaining production costs and meet my own living expenses.

With the consistent losses per episode, I am building personal debt and cannot afford to incur any other costs. My business model is to create these episodes and sell them as a package to a cable television network and recoup my investment. I am attempting at this time to sell the show onto cable television before I can no longer afford to bear the show's debts.

I have researched current options for offering Closed Captioning for Hearing Impaired Viewers, and have reached a "dead end" finding a solution that would be affordable, technically feasible, or realistic with our current staffing and financial status. As an occasional volunteer for local hearing-impaired organizations, I well understand the need for Closed Captioning. I think it is very important to offer our broadcast to every possible audience member, although this is simply not cost-effective at the current time. My research shows that the financial and time costs of Closed Captioning our show would keep us from being able to produce our show at

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all, and therefore I am petitioning for an "Undue Burden" Exemption, until such time that circumstances allow us to Close Caption The Austin Variety Show.

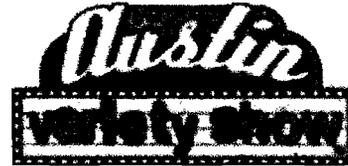
Our reasons for petitioning for Undue Burden are as follows:

- Our ongoing ratings do not represent a large enough audience to justify Closed Captioning Services or ad rates to support the expense. Our average weekly ratings share is approximately 0.002 .
- Weekly "live captioning" from 3<sup>rd</sup> party services are also cost prohibitive and would send our show further into debt without creating a permanent solution to this matter. The most affordable rate I can find would cost an additional \$500-\$650 per month, increasing each episode's expense by nearly 5% each year, and still would not create permanently embedded Closed Captioning.
- Expenses for Captioning Hardware or Software are prohibitive and would increase our show budget by 10%-100%, depending on the solution.
- Our show costs are not currently fully offset by advertising & sponsorship sales and the economy has devastated our sales efforts, making a "Closed Captioning Sponsor" unlikely.
- Very few technologies reliably support our post-production equipment and output requirements for broadcast.
- Technologies for In-house Closed Captioning are so involved that it would require unavailable manpower to implement these technologies, whether software-or-hardware-based.
- The technology involved would create a learning curve that would over-tax our small, barely-paid production staff.
- Captioning Services are unfeasible not only because of cost, but because of the turnaround time creating episodes and bringing them to broadcast. We simply don't have enough staff or time to send each episode off to a Captioning Service, or to transcribe and encode each episode ourselves.
- Our broadcaster doesn't accept CC encoded videotapes any longer, nor the file format we are required to submit with the required CC support.
- Simple on-screen text transcription embedded in the master files of the show would compromise the show's aesthetic and would be distracting for viewers who don't require Closed Captioning services.

The current industry-wide conversion to High Definition and new digital broadcast technology is an amazing process, although it seems that affordable Closed Captioning Services are being lost in the shuffle. We wish to participate, but we realize this will take some time for either the support industry to catch up, or for our success to provide the means to do this ourselves.

Our petition is to be a temporary request, until such a time as either our budget and staff increases, or until the show is licensed or syndicated nationally. We are enthusiastic to offer The Austin Variety Show "Close Captioned for the Hearing Impaired Community" and for audience members who suffer from hearing loss as

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soon as budget and staff constraints allow. In the meantime, we ask that our local broadcast be exempt from providing Close Captioning.

Our per-show expenses are attached, and are broken into production costs for the live taping and production costs for scripted production and post production. As matters currently stand, a basic per-episode statement shows our potential yearly loss to be in the neighborhood of \$50,000 or more, which is far greater than our income. While we highly anticipate moving to national television in 2012, we are unable to afford Closed Captioning services until then. At that time, however, we will gladly build Closed Captioning services into each show's budget and production flow.

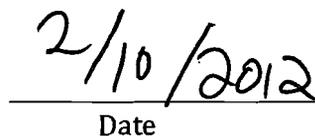
We therefore, as a production ask to be exempt from FCC's requirements for Closed Captioning until our television production reaches national distribution and compensation that supports Closed Captioning Services.

Thank you for your consideration,

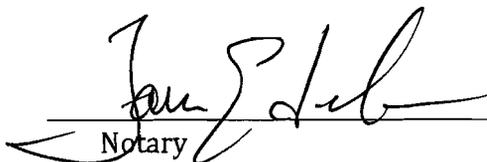
Troy Dillinger

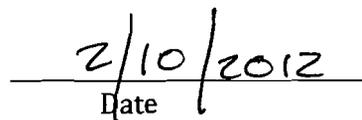
I swear these statements and the information in attached documents to be true and representative.

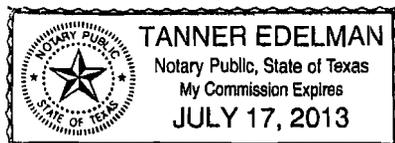
  
Troy Dillinger

  
Date

Notarized on this date by:

  
Notary

  
Date



**Austin Variety Show**  
**LIVE TAPING BUDGET**  
 2011-2012



| DEPARTMENT               | DESCRIPTION          | AMT | TOTAL       |
|--------------------------|----------------------|-----|-------------|
| <b>PRODUCTION CREW</b>   |                      |     | <b>1565</b> |
| Producer                 |                      | 75  |             |
| Stage Manager            |                      | 50  |             |
| Floor Director           |                      | 50  |             |
| Talent Coordinator       |                      | 65  |             |
| Cam 1                    |                      | 150 |             |
| Cam 2                    |                      | 150 |             |
| Cam 3                    |                      | 150 |             |
| Cam 4                    |                      | 150 |             |
| Director/Cam Switch      |                      | 75  |             |
| GrafX Switch             |                      | 50  |             |
| FoH Audio                |                      | 125 |             |
| Sound Recordist          |                      | 125 |             |
| Prod Asst.               |                      | 25  |             |
| Media Manager            |                      | 25  |             |
| <b>EVENT CREW</b>        |                      |     |             |
| Security                 |                      | 75  |             |
| Front Door               |                      | 75  |             |
| Back Door                |                      | 75  |             |
| Bartender                |                      | 75  |             |
| <b>TALENT</b>            |                      |     | <b>800</b>  |
| Comedian                 |                      | 150 |             |
| Band                     |                      | 350 |             |
| Burlesque                |                      | 150 |             |
| Announcer                |                      | 75  |             |
| Game Show Asst           |                      | 75  |             |
| Host                     |                      |     |             |
| <b>ADVERTISING/MKTG.</b> |                      |     | <b>1675</b> |
|                          | Facebook Click       | 250 |             |
|                          | Austin Chronicle     | 750 |             |
|                          | Printing             | 250 |             |
|                          | Flyering             | 350 |             |
|                          | Motorblade Postering | 75  |             |

|                       |               |      |             |
|-----------------------|---------------|------|-------------|
| <b>PROD EXPENSE</b>   |               |      | <b>1700</b> |
|                       | Hard Drives   | 500  |             |
|                       | Props         | 250  |             |
|                       | Gas/Expenses  | 150  |             |
|                       | Printing      | 125  |             |
|                       | Other         | 680  |             |
| <b>HOSPITALITY</b>    |               |      |             |
|                       | Drinks        | 300  |             |
|                       | Ice           | 50   |             |
|                       | Cups/Supplies | 350  |             |
| <b>RENTALS</b>        |               |      | <b>800</b>  |
|                       | P2 Cards      | 200  |             |
|                       | Tables/Chairs | 250  |             |
|                       | P.A.          | 350  |             |
| <b>TOTAL EXPENSES</b> |               |      | <b>7540</b> |
| <b>INCOME</b>         |               |      |             |
|                       | TICKETS       | 1500 |             |
|                       | SPONSORS      | 2500 |             |

**NET PROFIT / LOSS -2540**

**Austin Variety Show**  
**SCRIPTED PRODUCTION BUDGET**  
 2011-2012



| DEPARTMENT                 | DESCRIPTION              | AMT  | TOTAL       |
|----------------------------|--------------------------|------|-------------|
| <b>PRODUCTION CREW</b>     |                          |      | <b>4750</b> |
| Producer/Director          |                          | 100  |             |
| Talent Coordinator         |                          | 150  |             |
| Cam 1                      |                          | 500  |             |
| Cam 2                      |                          | 500  |             |
| Sound Recordist            |                          | 300  |             |
| Prod Asst.                 |                          | 200  |             |
| Media Manager              |                          | 150  |             |
| Lighting/Grip              |                          | 300  |             |
| Hair/Makeup                |                          | 350  |             |
| <b>POST PRODUCTION</b>     |                          |      |             |
| Lead Editor                |                          | 750  |             |
| Editor                     |                          | 400  |             |
| Asst. Editor               |                          | 200  |             |
| Post Audio                 |                          | 500  |             |
| Color Correct/Grafx/Output |                          | 350  |             |
| <b>TALENT</b>              |                          |      | <b>1200</b> |
| Actors                     |                          | 500  |             |
| Extras                     |                          | 500  |             |
| Writers                    |                          | 200  |             |
| <b>PROD EXPENSE</b>        |                          |      | <b>1580</b> |
|                            | Hard Drives              | 500  |             |
|                            | Props                    | 200  |             |
|                            | Gas/Expenses             | 150  |             |
|                            | Printing                 | 75   |             |
|                            | Supplies                 | 200  |             |
| <b>HOSPITALITY</b>         |                          |      |             |
|                            | Drinks                   | 125  |             |
|                            | Ice                      | 30   |             |
|                            | Meals                    | 300  |             |
| <b>RENTALS</b>             |                          |      | <b>850</b>  |
|                            | P2 Cards                 | 200  |             |
|                            | Lighting & Grip          | 650  |             |
| <b>TOTAL EXPENSES</b>      |                          |      | <b>8880</b> |
| <b>INCOME</b>              | <b>PRODUCT PLACEMENT</b> | 750  |             |
|                            | <b>ADVERTISING SALES</b> | 1400 |             |
|                            | <b>SPONSORS</b>          | 1000 |             |

**NET PROFIT / LOSS -5230**