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COPY

June 28, 2012

Joan Stewart
202.719.7438
jstewart@wileyrein.com

Via Hand Delivery

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
445 12th Street, SW
Washington, DC 20554

FILED/ACCEPTED

JUN 28 2012

Federal Communications Commission
Office of the Secretary

Re: Case Identifier: **CGB-CC-0011**

Dear Ms. Dortch:

On behalf of Frank Leto and pursuant to Section 79.1(f) of the Commission's Rules and FCC Public Notice 12-514, counsel hereby submits an updated request for exemption of the closed captioning rules for the show "Zomboo's House of Horror Movies."

The attached affidavit and exhibits update the filing Mr. Leto submitted on November 14, 2005 for exemption from the closed captioning rules and show that captioning "Zomboo's House of Horror Movies" would be economically burdensome.

Thank you for your consideration of this matter.

Respectfully submitted,

Joan Stewart

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

FILED/ACCEPTED

JUN 28 2017

Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
Frank Leto, Request for Exemption from the Closed Captioning Rules)	CG Docket No. 06-181
)	
)	File No. CGB-CC-0011
)	

AFFIDAVIT OF FRANK LETO

1. My name is Frank Leto. I have the capacity to provide this Affidavit and am over the age of 21 and under no disability. I am a citizen and resident of Reno, Nevada.

2. I am the owner of the production company Zomboo, Inc., which was established in 1999. I am seeking a closed captioning exemption for the show “Zomboo’s House of Horror Movies” (“Zomboo’s House”). Zomboo’s House is the sole program produced by Zomboo, Inc.

3. Zomboo’s House airs every Saturday at 11:35 p.m. PST on KOLO-TV in Reno, Nev. (Facility ID 63331).

4. As demonstrated by the attached IRS Form 1040 for a sole proprietorship (see Exhibit A), Zomboo, Inc. operated at a net loss of -\$1,748 in 2010. Zomboo’s House is produced at Zomboo, Inc. by volunteers who receive no compensation. Any monetary gain received through the sale of Zomboo merchandise, such as T-shirts, coffee mugs, or DVDs, funds the website, domain name, props, and makeup used in the show and does not cover all of the costs involved in producing the show, therefore creating a loss.

5. Zomboo's House is a locally-produced program. I host each episode in full costume and make-up as Zomboo. Each episode consists of a campy, public-domain horror or science-fiction movie spliced with comic interludes where Zomboo appears and offers commentary about the movie. When time permits to fill out the two-hour time frame, a serial chapter or cartoon is also included in the show. All of these materials are acquired at no cost.

6. Zomboo's House is much more than a TV show. Zomboo has been a local icon for more than twelve years, and I appear as Zomboo at many charities and events at no charge, such as United Blood Services, the Salvation Army, the Juvenile Diabetes Walk, the Multiple Sclerosis Walk, Camp Git-Along, and appearances for children with disabilities. *See Exhibit B.*

7. It would be economically burdensome to provide closed captioning for Zomboo's House. As Exhibit A demonstrates, Zomboo, Inc. operates at a \$1,748 loss. According to an estimate I received from Denny Barr Captions, it would cost \$350 per show, a total of \$18,200 per year. *See Exhibit C.* Adding captioning costs would push Zomboo, Inc.'s annual loss to nearly \$20,000, an unsustainable amount that would force Zomboo's House off the air.

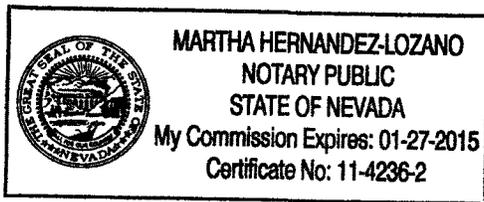
8. My program distributor, broadcast station KOLO-TV, rejected my request for closed captioning assistance. KOLO-TV informed me "that we will no longer be able to air your program, "Zomboo's House of Horror Movies," unless it is closed-captioned or you have a favorable response to your resubmission for an exemption from the F.C.C." *See Exhibit D.*

9. I verify that I have sought and have not been able to secure sponsorship sources to allow closed captioning of Zomboo's House. Reno is a mid-size market that has been hit very hard by the housing crisis. Many businesses have closed, and remaining advertisers have cut back. In addition, Zomboo's House small, cult following is not an advertising draw.

10. In addition, I sent an inquiry to the Described and Captioned Media Program about possible grants for closed captioning, and was informed by its Information Services Specialist that he was "not aware of any grants for captioning programs." See Exhibit E. I later found that grant funding is limited to educational programming shown in multiple markets.

11. As stated above, providing captions at \$350 per show would force Zomboo, Inc. to cease production and remove Zomboo's House from the air.

12. I respectfully that the Commission grant Zomboo's House of Horrors an exemption from the closed captioning rules.



By: Frank Leto
June 26, 2012
June 26, 2012

Sworn to and signed before me
this 26 day of June, 2012

[Signature]
Notary
My Commission Expires: 1/27/2015

Exhibit A

Name of proprietor

Social Security number (SSN)

Frank Leto

REDACTED

A. Principal business or profession, including product or service (see instructions)
ENTERTAINMENT

B. Enter code from instructions

C. Business name, if no separate business name, leave blank
ZOMBOO

D. Employer ID number (EIN), if any

E. Business address (including suite or suite no.)
City, town or post office, state, and ZIP code

F. Accounting method: (1) Cash (2) Accrual (3) Other (specify) _____

G. Did you materially participate in the operation of this business during 2010? If 'No,' see instructions for limit on losses. Yes No

H. If you started or acquired this business during 2010, check here

Income

1. Gross receipts or sales. Caution: See instructions and check the box if: * This income was reported to you on Form W-2 and the 'Statutory employee' box on that form was checked, or * You are a member of a qualified joint venture reporting only rental real estate income not subject to self-employment tax. Also see instructions for limit on losses. <input type="checkbox"/>	1	1,921
2. Returns and allowances	2	
3. Subtract line 2 from line 1	3	1,921
4. Cost of goods sold (from line 42 on page 2)	4	
5. Gross profit. Subtract line 4 from line 3	5	1,921
6. Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	
7. Gross income. Add lines 5 and 6	7	1,921

Expenses. Enter expenses for business use of your home only on line 30.

8. Advertising	8		18. Office expense	18	149
9. Car and truck expenses (see instructions)	9		19. Pension and profit-sharing plans	19	
10. Commissions and fees	10		20. Rent or lease (see instructions): a. Vehicles, machinery, and equipment b. Other business property	20a 20b	
11. Contract labor (see instructions)	11		21. Repairs and maintenance	21	
12. Depreciation	12		22. Supplies (not included in Part III)	22	1,728
13. Depreciation and section 179 expense reduction (not included in Part III) (see instructions)	13		23. Taxes and licenses	23	125
14. Employee benefit programs (other than on line 19)	14		24. Travel, meals, and entertainment: a. Travel b. Deductible meals and entertainment (see instructions)	24a 24b	105
15. Insurance (other than health)	15		25. Utilities	25	1,237
16. Interest: a. Mortgage (paid to banks, etc.) b. Other	16a 16b		26. Wages (less employment credits)	26	
17. Legal & professional services	17		27. Other expenses (from line 48 on page 2)	27	325
28. Total expenses before expenses for business use of home. Add lines 8 through 27	28	3,669			
29. Tentative profit or (loss). Subtract line 28 from line 7	29	-1,748			
30. Expenses for business use of your home. Attach Form 8829	30				
31. Net profit or (loss). Subtract line 30 from line 29. * If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 (if you checked the box on line 1, see instructions). Estates and trusts, enter on Form 1041, line 3. * If a loss, you must go to line 32.	31	-1,748			

32. If you have a loss, check the box that describes your investment in this activity (see instructions).
* If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 (if you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on Form 1041, line 3.
* If you checked 32b, you must attach Form 6198. Your loss may be limited.

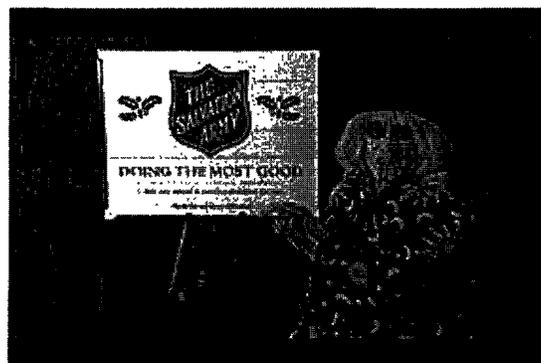
82 a All investment is at risk.
82 b Some investment is not at risk.

Exhibit B

Zomboo's Community Involvement



United Blood Services



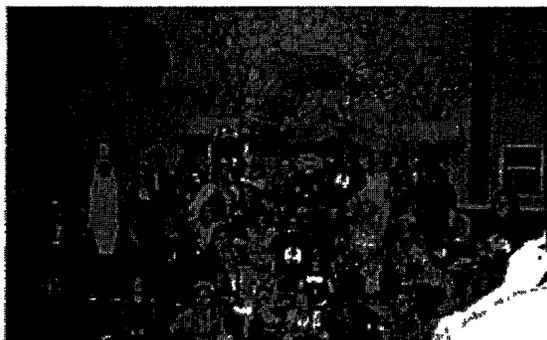
The Salvation Army



Juvenile Diabetes Walk



Children with Disabilities



Camp Git-Along



MS Walk

Exhibit C

Denny Barr Captions
1905 West Thomas Street
Suite D 283
Hammond, LA 70401

Date 6/13/2012
Estimate # 2

Name / Address

Frank Leto
Kolo TV Reno, Nevada
frank.letto@kolotv.com

P.O. #
Terms

Due Date 6/13/2012
Other

Description	Qty	Rate	Total
Transcribe and caption movie Rate for closed captioning a two hour Zomboo TV program	1	350.00	350.00
		Subtotal	\$350.00
		Sales Tax (0.0%)	\$0.00
		Total	\$350.00

Denny Barr Captions
dennybarr@dennybarrcaptions.com
<http://www.dennybarrcaptions.com/>

4349810678

Exhibit D



June 1, 2012

KOLO-TV
4850 Ampere Drive
Reno, NV 89502

Mr. Frank Leto
Zomboo, Inc.
5200 Summit Ridge Drive #4312
Reno, NV 89523

Dear Mr. Leto:

This letter is to inform you that we will no longer be able to air your program, "Zomboo's House of Horror Movies" unless it is closed-captioned or you have a favorable response to your resubmission for an exemption from the F.C.C.

Sincerely,

A handwritten signature in black ink, appearing to read "Miriam Gonzalez". The signature is fluid and cursive.

Miriam Gonzalez
Media & Programming Manager

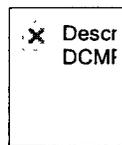
Exhibit E

From: Ted Dawson [TDawson@dcmp.org]
Sent: Tuesday, June 12, 2012 5:29 AM
To: frank.letto@kolotv.com
Subject: RE: Grants for closed-captioning
Hi, Mr. Leto,

Thank you for contacting us. I'm not aware of any grants for captioning programs. My suggestion would be to seek sponsorship for your program to pay for the captioning costs.

Best,

Ted Dawson
Information Services Specialist
tdawson@dcmp.org
800.237.6213



Described & Captioned Media Program

1447 E. Main St. | Spartanburg, SC 29307 | www.dcmp.org

The DCMP is funded by the U.S. Department of Education and administered by the National Association of the Deaf