

Before the
Federal Communications Commission
Washington, DC 20554

FILED/ACCEPTED

SEP 10 2012

Federal Communications Commission
Office of the Secretary

In the Matter of:)

**Victory Temple's Request for
Exemption from the
Commission's Closed
Captioning Rules**)
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Case No. CGB-CC-0406
CG Docket No. 06-181

**Opposition to Victory Temple's Request for Confidential Treatment and Motion to
Extend Public Comment Period by**

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
National Association of the Deaf (NAD)
Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN)
Association of Late-Deafened Adults (ALDA)
Cerebral Palsy and Deaf Organization (CPADO)

Blake E. Reid

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via hand delivery

September 10, 2012

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Pursuant to 47 C.F.R. § 0.459, Telecommunications for the Deaf and Hard of Hearing Inc., (TDI), the National Association of the Deaf (NAD), the Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), the Association of Late-Deafened Adults (ALDA), and the Cerebral Palsy and Deaf Organization (CPADO), collectively, “Consumer Groups,” respectfully submit this opposition to the request for confidential treatment of Victory Temple (“Victory”) in its petition to exempt its programming from the Commission’s closed captioning rules, 47 C.F.R. § 79.1.¹ Because Victory has not satisfied the requirements of 47 C.F.R. § 0.459, we recommend that the Commission deny Victory’s request. Because the information subject to the confidentiality request is important to the public’s consideration of Victory’s exemption petition, we also request that the Commission extend the public comment period on its petition for exemption from the closed captioning rules.

Under 47 C.F.R. § 0.459(b), requests for confidential treatment must “contain a statement outlining a statement of the reasons for withholding the materials from inspection,” including nine specific pieces of information.”² “[F]iling part[ies] must

¹ *Victory Supplement*, Case No. CGB-CC-0406 (April 26, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7021919345>; see also *Public Notice, Request for Comment: Request for Exemption from Commission’s Closed Captioning Rules*, CG Docket No. 06-181 (August 9, 2012), http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0809/DA-12-1309A1.pdf; *Victory Petition for Exemption*, Case No. CGB-CC-0406, CG Docket No. 06-181 (January 12, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7021858067> (“*Victory Petition*”); *Letter from the Consumer and Governmental Affairs Bureau*, Case No. CGB-CC-0406, CG Docket No. 06-181 (March 28, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7021907392> (“*CGB Letter*”).

² This information includes “(1) Identification of the specific information for which confidential treatment is sought; (2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission; (3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged; (4) Explanation of the degree to which the information concerns a service that is subject to competition; (5) Explanation of how disclosure of the information could result in substantial competitive harm; (6) Identification of any measures taken by the submitting party to prevent unauthorized

demonstrate by a preponderance of the evidence that confidential treatment is appropriate”³ Moreover, 47 C.F.R. § 0.459(c) plainly states that “[c]asual requests [for confidentiality] (including simply stamping pages ‘confidential’) which do not comply with the requirements of [47 C.F.R. § 0.459(a) and (b)] will not be considered.

Victory’s cursory request for confidential treatment simply states that it “would like to request Confidential Treatment of for the detail of information” in 2011 profit and loss statement enclosed with a supplemental filing to its petition.⁴ Victory provides no further rationale or support for its request.

Blanket requests for confidentiality that provide further explanation do not satisfy the requirements of § 0.459 must be dismissed.⁵ Therefore, we request that the Commission deny Victory’s request for confidential treatment and make the confidential documents submitted by Victory available for public inspection.

Information regarding a closed captioning exemption petitioner’s finances is of critical importance to determining whether the petitioner has “demonstrate[d] its inability to afford closed captioning,” a prerequisite to receiving an exemption.⁶ Because the public must be able to access petitioners’ financial information to knowledgeably

disclosure; (7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties; (8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure; and (9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.” 47 C.F.R. § 0.459(b)(1)-(9).

³ AMTS Consortium, LLC, 25 FCC Rcd. 526, 529, ¶ 11 (2010) (citations omitted).

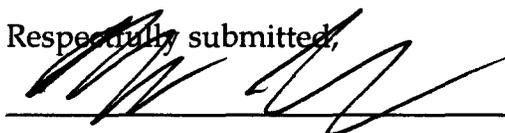
⁴ *Victory Supplement* at 1.

⁵ See generally, e.g., *Kimberly Clark Corporation*, 22 FCC Rcd. 3703 (EB 2007).

⁶ See *Anglers for Christ Ministries, Inc., New Beginning Ministries, Petitioners Identified in Appendix A, Interpretation of Economically Burdensome Standard; Amendment of Section 79.1(f) of the Commission’s Rules; Video Programming Accessibility*, Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking, CG Docket Nos. 06-181 and 11-175, 26 FCC. Rcd. 14,941, 14,956, ¶ 28 (Oct. 20, 2011) (“*Anglers 2011*”) (citation omitted).

comment on exemption petitions, financial information should not be treated confidentially absent extenuating circumstances not present here. Due to the potential significance of the information at issue here to Victory's exemption petition, Consumer Groups request that period for the public to comment on Victory's petition be extended until 15 days following a decision regarding this opposition, pursuant to 47 C.F.R. 79.1(f)(8). A brief delay will serve the public interest by facilitating additional comment. Moreover, because Victory's programming is exempt from the Commission's closed captioning rules during the pendency of its application, Victory will not be prejudiced by a temporary delay.⁷

Respectfully submitted,



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September 10, 2012

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⁷ See 47 C.F.R. 79.1(f)(11).

† Counsel thanks Georgetown Law student Jessica Lee for her assistance in preparing this document.

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 /s/

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CERTIFICATION

Pursuant to 47 C.F.R. § 1.16, I, Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), hereby certify under penalty of perjury that to the extent there are any facts or considerations not already in the public domain which have been relied in the foregoing document, these facts and considerations are true and correct to the best of my knowledge.

Claude L. Stout

Claude Stout
September 10, 2012

CERTIFICATE OF SERVICE

I, Niko Perazich, Office Manager, Institute for Public Representation, do hereby certify that, on September 10, 2012, pursuant to 47 C.F.R. § 0.459, a copy of the foregoing document was served by first class U.S. mail, postage prepaid, upon:

Victory Temple
2630 South 11th Street
Beaumont, TX 77701-7604



Niko Perazich
September 10, 2012