

RROG-11-00014090

Before The  
Federal Communications Commission  
Washington, D.C. 20554

In re Matter of )  
)  
JOLI A. LOFSTEDT, ) OMD Docket No. 86-285  
CHAPTER 11 TRUSTEE FOR )  
TRACY BROADCASTING CORP. )  
(FRN 0019671932) )  
)  
Radio Station KOLT-FM ) Facility ID No. 67474  
Warren AFB, WY )

FILED/ACCEPTED

JAN - 3 2012

Federal Communications Commission  
Office of the Secretary

To: Office of the Secretary

Attention: The Managing Director

Petition for Waiver and Refund of  
Fiscal Year 2010 Annual Regulatory Fee Payment

Joli A. Lofstedt, Chapter 11 Trustee for Tracy Broadcasting Corporation (the "Trustee"),<sup>1</sup> licensee of Radio Station KOLT-FM, Warren AFB, Wyoming, by her attorney and pursuant to Section 1.1166 of the Commission's Rules, hereby respectfully requests that the Commission refund the payment of annual regulatory fees in the amount of \$1,490 for Fiscal Year 2010.<sup>2</sup> Because the station was in bankruptcy at the time of payment, the Commission's financial hardship standard is satisfied and good cause exists to justify waiver of the annual regulatory fee and a refund of the previously submitted payment.

<sup>1</sup> Before the Trustee became licensee, the FRN for Tracy Broadcasting was 0002384485. The Trustee's FRN is 0019671932.

<sup>2</sup> A copy of the receipt for payment of the annual regulatory fee, Voucher # E001825440, is attached in Exhibit 1.

The Commission approved the involuntary assignment of the license from Tracy Broadcasting Corporation to the Chapter 11 Trustee on April 9, 2010. *See* FCC File No. BALH-20100322ABD. Section 1.1166 of the Commission's rules provides for a waiver of the need to pay regulatory fees upon a showing of good cause and the finding that the public interest will be served. The Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship. "Evidence of bankruptcy or receivership is sufficient to establish financial hardship." *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12761-62 (1995) (waivers granted for licensees whose "stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership").

Good cause exists in this case to grant the waiver request. The station has been in bankruptcy since August 2009 and continues to be operated by the Trustee.<sup>3</sup> The Trustee is charged with preserving the assets and license for the station under supervision of the Bankruptcy Court in Colorado pending disposition for the benefit of the bankruptcy estate's creditors. The Trustee has limited resources to operate the station pending the sale of the assets. A refund and payment waiver will assist the Trustee with funding the costs of operating the station until the court and the FCC approve the sale of the station.

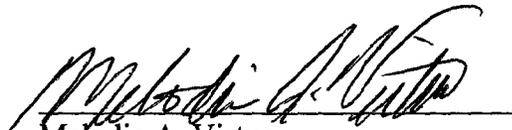
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<sup>3</sup> The attached Exhibit 2 contains a partial copy of the Bankruptcy Petition filed August 19, 2009, and a copy of the Order Appointing Joli A. Lofstedt as the Chapter 11 Trustee, dated February 16, 2010.

Accordingly, the Trustee respectfully requests a refund of the annual regulatory fee payment paid in Fiscal Year 2010 in the amount of \$1,490.00

Respectfully submitted,

JOLI A. LOFSTEDT, CHAPTER 11 TRUSTEE FOR  
TRACY BROADCASTING CORPORATION

By:   
Melodie A. Virtue  
Her Attorney

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(202) 965-7880

January 3, 2012

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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

OFFICE OF  
MANAGING DIRECTOR

August 7, 2012

Barry Friedman, Esq.  
Michelle Cohen, Esq.  
Thompson Hine LLP  
1919 M Street, N.W., 7<sup>th</sup> Floor  
Washington, DC 20036

RE: Request for Refund (Overpayment; 47 C.F.R.  
§ 1.1160(a)(1), 28 U.S.C. § 2401)  
Licensee/Applicant: Holiday Broadcasting  
Company  
Station: KDYL-AM  
Regulatory Fees: Fiscal Years (FY) 2003 – 2011  
Fee Control Number: RROG 11-00014226

Dear Counsel:

This responds to Licensee's *Request*<sup>1</sup> for a refund of the amounts it overpaid in annual regulatory fees for Fiscal Years (FY) 2003 through 2011. For the reasons stated below, we grant a portion of the Request, and we have initiated instructions to Treasury to refund the overpayments made for FYs 2006 through 2011.

Licensee asserts that it requested and obtained a change in station classification from Class B to Class D, and has been operating as a Class D station since 2001.<sup>2</sup> Even so, the classification information was not changed in the Commission's media fee database, thus each year as Licensee paid the amount due, he was paying the incorrect higher fee for a Class B station. Licensee, relying on our rule at section 1.1160(a)(1), requests a refund of the amounts overpaid for each year from 2003 to 2011.

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<sup>1</sup> In the Matter of Holiday Broadcasting Company, Request for Relief of Regulatory Fees Pursuant to Section 1.1160 of the Commission's Rules, Petition for Refund of Regulatory Fees (Mar. 12, 2012) (Request).

<sup>2</sup> Request at 2.

Our records reflect that station KDYL, which until February 2, 2004, operated using call sign KKDS, was once a class B station, and that afterwards that classification continued in our media fee database without correction. Despite our best efforts, sometimes errors do occur, so we ask licensees to verify their station information as they participate in the regulatory fee payment process. Years have passed, and we are unable to determine why the classification change was not made in 2001; however, we have corrected our record pertaining to Mr. Carlson. We apologize to Mr. Carlson for his inconvenience. Under section 1.1160 of our rules,<sup>3</sup> and as permitted under the law that limits payment of a claim that is made more than six years after it accrues,<sup>4</sup> we have processed Mr. Carlson's refund for \$5,450.00.<sup>5</sup>

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

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<sup>3</sup> 47 C.F.R. § 1.1160(a)(1) ("Regulatory fees will be refunded, upon request, only in the following instances: (1) When ... an excessive fee has been paid. In the case of an overpayment, the refund amount will be based on the applicants', permittees', or licensees' entire submission. All refunds will be issued to the payor named in the appropriate block of the FCC Form 159. Payments in excess of a regulatory fee will be refunded only if the overpayment is \$10.00 or more.").

<sup>4</sup> 28 U.S.C. § 2401.

<sup>5</sup> Specifically, our records show that Mr. Carlson overpaid for each of the following years, the indicated amounts: FY 2006, \$950.00; FY 2007, \$775.00; FY 2008, \$975.00; FY 2009, \$800.00; FY 2010, \$800.00; and FY 2011, \$1,150.00.

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554  
APR 16 2012OFFICE OF  
MANAGING DIRECTORJason S. Roberts, Esq.  
Senior Counsel  
Tribune Company  
435 North Michigan Avenue  
Chicago, Illinois 60611-4066Re: Waiver Request (Bankruptcy)  
Licensees: Named Subsidiaries of Tribune  
Company, Debtor-in-Possession  
Stations: 31 Media and International/Satellite  
Stations  
FY 2011 Regulatory Fees  
Fee Control No. RROG-11-00013844

Dear Mr. Roberts:

This responds to Licensees' *Request*<sup>1</sup> for a waiver of the entire \$755,465.00 fiscal year (FY) 2011 regulatory fees or, in the alternative, a partial waiver and deferral of \$500,000.00. Our records reflect that Licensees paid \$255,465.00 in FY 2011 regulatory fees, with a balance owing of \$500,000.00. For the reason set forth below, we grant the request for a partial waiver.

Licensees assert that on December 8, 2008, Tribune Company (Tribune) and 110 of its direct and indirect wholly-owned subsidiaries, 31 of which are relevant to this Request (Named Subsidiaries<sup>2</sup>), filed in the United States Bankruptcy Court for the District of Delaware voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code.<sup>3</sup> On December 17, 2008, the Commission consented to the *pro forma* assignment of licenses from the Named Subsidiaries to the Licensees,<sup>4</sup> which operate each of the 31 stations<sup>5</sup> as debtors-in-possession under the Bankruptcy Court's oversight.<sup>6</sup> Furthermore, on April 28, 2010, Licensees applied to assign its licenses to restructured Licensee Subsidiaries following the Bankruptcy Court's approval of Tribune Company's

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<sup>1</sup> Letter from Jason S. Roberts, Senior Counsel, Tribune Company, 435 North Michigan Ave., Chicago, IL 60611-4066 to Marlene H. Dortch, Secretary, FCC, Attn: Office of the Managing Director, Washington, D.C. 20554 (Sep. 12, 2011)(rec'd Sep. 12, 2011)(*Request*).

<sup>2</sup> See *Request*, Exhibit A. Of the total 110 subsidiaries, and relevant to the Request, 31 are FCC regulated entities.

<sup>3</sup> See *Request* at 1.

<sup>4</sup> *Id.* at 1-2.

<sup>5</sup> *Request*, Exhibit A, Table 1.

<sup>6</sup> *Request* at 2.

Plan of Reorganization.<sup>7</sup> These applications remain pending. In the alternative to a full waiver of the \$755,465.00 for the total of the FY 2011 regulatory fees, Licensees request a waiver of \$500,000.00, the total of the FY 2011 regulatory fees due on 14 listed stations.<sup>8</sup> Licensees included several exhibits, e.g., a copy of Tribune Company's petition for bankruptcy (*Petition for Bankruptcy*) and the court's "Order Granting the Debtors' Motion Pursuant to 11 U.S.C. §§363(b) and 363(c)(1) Authorizing, but not Requiring, the Debtors to Continue to Operate in the Ordinary Course, Including Payment of Pre-Petition Date Claims, with Respect to Brokers," dated December 10, 2008 (*Bankruptcy Court Order*).

The Commission has determined that it will waive regulatory fees for licensees who are bankrupt or are in receivership.<sup>9</sup> Based on Licensees' submission on the September 14, 2011, the due date for filing FY 2011 regulatory fees, the Named Subsidiaries remained in bankruptcy. In that situation, it is our practice to waive the regulatory fees in the amount of \$500,000.00. We note, however, that Tribune explained in its *Disclosure Statement*<sup>10</sup> "the Debtors' television broadcasting stations outperformed the broader television broadcasting industry, the Debtor's 2008 broadcasting revenue nevertheless lagged behind their 2007 performance .... Through November 2008, Tribune's consolidated revenue was down ten percent (10%) versus 2007, with ... broadcasting and entertainment revenues down three percent (3%)," which was measurable better performance than other components. Licensee Subsidiaries are debtors within the bankruptcy proceeding that commenced in 2008; however, we are concerned the extent to which Licensees' disclosed facts for FY 2011 evidence financial hardship to warrant a waiver.<sup>11</sup> Consistent with section 1.1166(e) of our rules, we deny your request for waiver of the FY 2011 regulatory fees in excess of \$500,000.00. Licensees are reminded that any future request must include full documentation to reflect the content of any plan for reorganization and the then current financial situation.

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<sup>7</sup> See FCC MB-CDBS Electronic Filing, WGN-TV WGN Late June 2010 Amendment, FCC 314, Application for Consent to Assignment of Broadcast Station Construction Permit or License, File No.: 20100428AEL, Exhibit 12, Comprehensive Exhibit, *In re: Tribune Company, et al.*, U.S. Bankruptcy Court, Delaware, (Chap 11, Case No. 08-13141 (KJC)), Disclosure Statement for Amended Joint Plan of Reorganization for Tribune Company and its Subsidiaries (*Disclosure Statement*) (Jun. 4, 2010) (*Assignment Application*).

<sup>8</sup> Request, Exhibit A, Table 3.

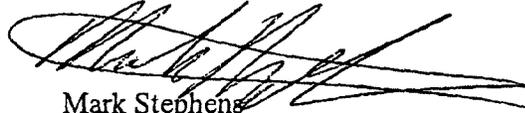
<sup>9</sup> See *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995) ("[W]here a bankruptcy trustee, receiver, or debtor in possession is negotiating a possible transfer of a license, the regulatory fee could act as an impediment to the negotiations and the transfer of the station to a new licensee. Thus, we will waive the regulatory fees for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or in receivership.").

<sup>10</sup> Disclosure Statement, section V., p. 49.

<sup>11</sup> In *The Matter Of Assessment And Collection Of Regulatory Fees For Fiscal Year 2003*, *Report and Order*, 18 FCC Rcd. 15985, 15990, ¶ 13 (2003) ("We also believe that bankruptcy generally represents sufficient evidence of financial hardship to warrant granting a waiver. Our concerns in this regard are distinct from those taken into account by a bankruptcy court .... Bankruptcy law does not limit our ability to forego collecting fees where the public interest warrants, and we therefore act independently of the bankruptcy law to this extent. On the other hand, we continue to believe that very large waivers would excessively impair our ability to comply with our statutory fee collection responsibilities. Even under existing policy, we might decline a request for such a waiver on a case-by-case basis. [footnotes deleted]").

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