



MAY 08 2019

Federal Communications Commission
Washington, D.C. 20554

John C. Trent
Putbrese Hunsaker & Trent, P.C.
200 S. Church Street
Woodstock, Virginia 22664

Licensee/Applicant: **Crain Media Group, LLC**
Waiver/Refund Request: Late Payment Penalty
Disposition: **Denied** (47 C.F.R. §§ 1.1157(c)(1),
1.1164)
Stations/Call Signs: KAWW, KSMD, KBGB,
KCNY, KHTE-FM, KRZS, KEAZ, KWCK-FM,
K242AZ
Fee: Fiscal Year (FY) 2017 Regulatory Fee Late
Fee
Date Request Filed: January 2, 2018
Date Regulatory Fee Paid: November 1, 2017
Date Late Penalty Fee Paid: November 1, 2017
Fee Control No.: RROG-PGC3017666

Dear Mr. Trent:

This responds to the request you filed on behalf of your client Crain Media Group, LLC (Crain) for a waiver and refund of the penalties paid for Crain's late payment of its Fiscal Year (FY) 2017 regulatory fees (Request)¹. For the reasons stated below, we deny the Request.

Under 47 U.S.C. § 159 and the Commission's implementing rules, we are required to "assess and collect regulatory fees" to recover the costs of the Commission's regulatory activities,² and when the required payment is received late or it is incomplete, to assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."³ Specifically, "[a]ny late payment or insufficient payment of a regulatory fee, not excused by

¹ Letter from John C. Trent, Putbrese Hunsaker & Trent, P.C., 200 S. Church Street, Woodstock, Virginia 22664, to Marlene H. Dortch (December 29, 2017, *rec'd* January 2, 2018) (Request).

² 47 U.S.C. §159(a)(1); 47 C.F.R. § 1.1151.

³ 47 U.S.C. §159(c)(1); 47 C.F.R. §§ 1.1157(c)(1); 1.1164.

bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee ... which was not paid in a timely manner.”⁴

Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess charges that include the statutory late payment penalty required by 47 U.S.C. § 159(c)(1) and 47 C.F.R. §§ 1.1157(c)(1) and 1.1164. For FY 2017, the deadline for paying regulatory fees was September 26, 2017.⁵ Unfortunately, Crain did not pay its FY 2017 regulatory fees until November 1, 2017.

Crain requests that we waive and refund the late payment charges due to “a technical error of the FRN information log in, computer error and a subsequent clerical error in following up on the regulatory fee payment due date”, as a result of which Crain “inadvertently missed the payment deadline”.⁶


When we evaluate such matters, we consider whether the Request establishes the existence of bank error or presents legal grounds or clear mitigating circumstances to waive collection of the penalty payments. Crain’s *Request* does not.

Repeatedly, the Commission has held that “[I]licensees are expected to know and comply with the Commission’s rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances.”⁷

Crain does not present valid grounds for relief. The penalty required by 47 U.S.C. § 159(c)(1) is not limited to situations where the failure to pay was knowing or willful, but include mistakes made by and circumstances within the control of the licensee, as is the case here.

If Crain has any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,


Kathleen Heyer
For Chief Financial Officer

⁴ 47 C.F.R. § 1.1164.

⁵ Although the Commission extended the September 26, 2017 deadline to September 29, 2017 for regulatees affected Hurricanes Harvey, Irma and Maria in certain states and territories, the extended deadline did not apply to Crain. See Effective Date of FY 2017 Regulatory Fees and Multi-Year Wireless Fees, *Public Notice* (September 29, 2017); Regulatory Fee Filing Window for Those Regulatees Affected by Hurricane Maria is Extended to Friday, September 29, 2017, *Public Notice*, DA 17-940 (September 27, 2017).

⁶ *Request*.

⁷ See *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).