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Please reply to MELODIE A. VIRTUE
mvirtue@gsblaw.com TEL EXT 2527

February 24, 2011

FILED/ACCEPTED Our File No. 20921-00106-65

BY HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

FEB 24 2011

STAMP & RETURN

Federal Communications Commission
Office of the Secretary

Re: NCE MX Group 207 – Settlement

Dear Ms. Dortch:

On behalf of Tillicum Foundation, an applicant for a new noncommercial educational FM station to serve Cannon Beach, Oregon, transmitted herewith pursuant to FCC Rule 73.3525 are an original and four copies of the Joint Request for Approval of Settlement Agreement and the accompanying Settlement Agreement between the following applicants:

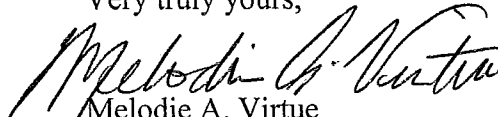
Tillicum Foundation, File No. BNPED-20071019AFA
Channel 205, Cannon Beach, OR, Facility ID # 172020

All Classical Public Media, Inc., formerly known as KBPS Public Radio Foundation
File No. BNPED-20071017AGY
Channel 205, Manzanita, OR, Facility ID # 173887

This settlement resolves the mutual exclusivity between the applicants listed in MX Group 207.

Should there be any questions regarding this matter, kindly contact me directly.

Very truly yours,



Melodie A. Virtue

MAV:cll
Enclosures

cc: Irene Bleiweiss (FCC stamped pdf copy via email: Irene.Bleiweiss@fcc.gov)
James Bradshaw (FCC stamped pdf copy via email: James.Bradshaw@fcc.gov)
John Wells King (FCC stamped pdf copy via email: john@jwkinglaw.com)

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

In re Applications of)	MX Group 207
)	
TILlicum FOUNDATION)	File No. BNPED-20071019AFA
Channel 205, Cannon Beach, OR)	Facility ID # 172020
)	
ALL CLASSICAL PUBLIC MEDIA, INC., FORMERLY)	File No. BNPED-20071017AGY
KNOWN AS KBPS PUBLIC RADIO FOUNDATION)	
Channel 205, Manzanita, OR)	Facility ID # 173887

To: FCC Secretary's Office
Attn: Chief, Audio Division
Media Bureau

**JOINT REQUEST FOR
APPROVAL OF SETTLEMENT AGREEMENT**

Tillicum Foundation ("Tillicum") and All Classical Public Media, Inc. ("All Classical"),¹
pursuant to Section 73.3525 of the Commission's Rules, 47 C.F.R. § 73.3525, respectfully request
that the Commission:

- (i) grant this Joint Request for Approval of Settlement (the "Joint Request");
- (ii) approve the settlement as proposed herein and in the Settlement Agreement attached
hereto as Attachment 1;
- (iii) dismiss the above-captioned application of Tillicum; and
- (iv) grant the above-captioned application of All Classical.²

¹ KBPS Public Radio Foundation changed its corporate name to All Classical Public Media, Inc., but kept the
underlying corporate entity and ownership intact. A search on the Oregon Secretary of State's web site using All
Classical Public Media as the search term will show that the entity remains the same:
http://egov.sos.state.or.us/br/pkg_web_name_srch_inq.login .

² This Joint Request is filed within the time for filing petitions for reconsideration of the Memorandum Opinion &
Order of the Commission in which it resolved MX Group 207, *Comparative Consideration of 18 Groups of Mutually
Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, FCC 11-9,
released January 26, 2011 ("MO&O"). The Commission there named Tillicum as the tentative selectee. *Id.*, at ¶¶ 30-31.
Accordingly, to the extent it may be warranted in order for the Commission to consider the relief requested herein, the
parties request that the Commission treat this as a petition for reconsideration of the MO&O with respect to
MX Group 207.

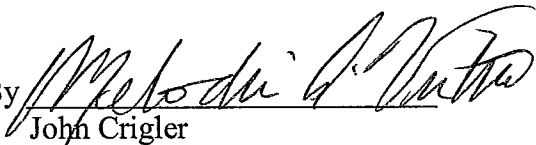
In support of this Joint Request, the parties hereto respectfully submit the following:

1. Appended hereto as Attachment 1 is a true and correct copy of the Settlement Agreement between the parties (the “Settlement Agreement”), pursuant to which Tillicum has agreed to dismiss its application in exchange for reimbursement of reasonable and prudent expenses not to exceed \$10,000 it incurred in conjunction with the preparation, filing, and prosecution of its application and an agreement with respect to the modification of Tillicum’s translators.
2. Since the consideration being paid to Tillicum is limited to its legitimate and prudent expenses as may be approved by the Commission, the settlement proposed in the Settlement Agreement is permitted under Section 73.3525. **Section 14** to the Settlement Agreement includes all of the certifications required by Section 73.3525(a).
3. The Settlement Agreement and this Joint Request are conditioned upon the Commission issuing an order granting this Joint Request, approving the Settlement Agreement, granting the application of All Classical, and dismissing the application of Tillicum, and such order becoming a final order no longer subject to administrative or judicial review, reconsideration, or appeal. Accordingly, the applicants request that the Commission take all of such actions at the same time and preferably in the same Commission order.
4. The parties submit that grant of this Joint Request would serve the public interest by conserving the resources of the parties and of the Commission, facilitating the Commission’s resolution of this mutually exclusive NCE Group, and speeding the initiation of a new FM noncommercial radio broadcast service for Manzanita, Oregon, and the surrounding area. Therefore, prompt action on this Joint Request is requested.

WHEREFORE, the above premises considered, the above-captioned parties respectfully request that the Commission grant this Joint Request, approve the Settlement Agreement, dismiss the Tillicum application, and grant the application of All Classical.

Respectfully submitted,

TILlicum FOUNDATION

By 
John Crigler
Melodie A. Virtue
Its Attorneys
GARVEY, SCHUBERT & BARER
1000 Potomac Street, N.W., 5th Floor
Washington, DC 20007
(202) 965-7880

ALL CLASSICAL PUBLIC MEDIA, INC., FORMERLY
KNOWN AS KBPS PUBLIC RADIO FOUNDATION

By _____
John Wells King
Its Attorney
LAW OFFICE OF JOHN WELLS KING, PLLC
970 Sycamore Drive
Rockledge FL 32955-3932
(321) 208 8582

February 24, 2011

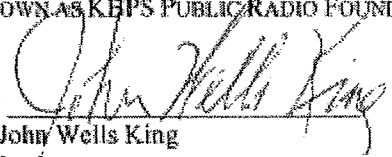
WHEREFORE, the above premises considered, the above-captioned parties respectfully request that the Commission grant this Joint Request, approve the Settlement Agreement, dismiss the Tillicum application, and grant the application of All Classical.

Respectfully submitted,

TILlicum FOUNDATION

By _____
John Crigler
Melodie A. Virtue
Its Attorneys
GARVEY, SCHUBERT & BARER
1000 Potomac Street, N.W., 5th Floor
Washington, DC 20007
(202) 965-7880

ALL CLASSICAL PUBLIC MEDIA, INC., FORMERLY
KNOWN AS KEPS PUBLIC RADIO FOUNDATION

By 
John Wells King
Its Attorney
LAW OFFICE OF JOHN WELLS KING, PLLC
970 Sycamore Drive
Rockledge FL 32955-3932
(321) 208 8582

February 24, 2011

ATTACHMENT 1
SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is entered into this 24th day of February 2011, by and between Tillicum Foundation ("Tillicum") and All Classical Public Media, Inc., formerly known as KBPS Public Radio Foundation ("All Classical"), collectively referred to as the Parties.

WITNESSETH:

WHEREAS, Tillicum has pending before the Federal Communications Commission ("FCC" or the "Commission") an application for a new noncommercial FM station to operate on Channel 205 at Cannon Beach, Oregon (File No. BNPED-20071019AFA); and

WHEREAS, All Classical has pending before the Commission an application for a new noncommercial FM station to operate on Channel 205 at Manzanita, OR (File No. BNPED-20071017AGY); and

WHEREAS, the applications are mutually exclusive with each other, and cannot both be granted by the FCC as they now stand; and

WHEREAS, the Parties believe that settlement upon the terms set forth in this Agreement will serve the public interest in that it will resolve this pending proceeding before the Commission and thereby accelerate the inauguration of new noncommercial FM service to the public.

NOW THEREFORE, in consideration of the mutual covenants, conditions, representations and warranties contained herein, the Parties hereby agree as follows:

1. **Dismissal of Tillicum's Application.** In exchange for the dismissal of Tillicum's application for Cannon Beach, Oregon, All Classical shall pay to Tillicum, in immediately available funds, the expenses it has incurred in conjunction with the filing and prosecution of its application, up to a maximum amount of \$10,000. Within five business days of filing the Joint Request for Approval of the Settlement Agreement with the FCC pursuant to **paragraph 3**, All Classical will deposit that amount with Garvey Schubert Barer to be held in that firm's trust account. The funds will be released to Tillicum upon FCC Final Action as defined in **paragraph 4**. The itemized accounting for the expenses Tillicum seeks to have reimbursed is set forth in Attachment A.

2. **Related Agreement.** Tillicum is the licensee of FM translators K205EU, Wheeler, Etc., Oregon, Facility ID No. 67109 (the "Wheeler Translator"), and K208AZ, Cannon Beach, Oregon, Facility ID No. 67110 (the "Cannon Beach Translator," collectively the "Tillicum Translators"). Upon grant of this Agreement, Tillicum will file one or more displacement applications to modify the Tillicum Translators (the "Modification Applications"). The Modification Applications will not cause predicted interference inside the predicted 60 dBu contour of All Classical's proposed Manzanita station (the "Protection Zone"). Interference that would violate this Agreement is defined as any overlap of the interfering contour of the Tillicum Translators with the protected contour of the proposed 60 dBu contour of the Manzanita station. All

Classical agrees to refrain from objecting to any actual interference that the modified Tillicum Translators may cause to the reception of its station outside the Protection Zone.

3. **Request for FCC Consent.** As soon as possible, the Parties shall file a Joint Request for Approval of Settlement Agreement as required by Section 73.3525 of the Commission's rules, requesting that the FCC issue an order or orders: (a) granting the Joint Request; (b) approving this Settlement Agreement; and (c) granting the application of All Classical.

4. **Final Action.** The obligations of the Parties under this Agreement are expressly conditioned upon the FCC taking "Final Action" approving this Agreement in its entirety, and granting the amended application of All Classical without materially adverse conditions. Payment under this Agreement shall be made within five (5) business days after such FCC Final Action. For purposes of this Agreement, such an action shall be deemed a "Final Action" when the time for filing any requests for administrative or judicial review of such action, or for the FCC to reconsider such action on its own motion, has lapsed and the time for seeking further administrative or judicial review with respect to the action shall have expired, without any request for such further review having been filed.

5. **Authorization and Binding Obligation.** The Parties hereto represent to each other that they each have the power and authority to enter into and carry out this Agreement and that this Agreement constitutes a valid and binding obligation of each of them in accordance with its terms.

6. **Further Assurances.** The Parties covenant to cooperate with each other and with the FCC to accomplish the objectives of this Agreement, including the submission of amendments or additional filings as may be requested by the Commission, or as may be reasonably necessary to effectuate this Agreement, and to refrain from opposing or taking any adverse action with respect to each other's applications.

7. **Notice.** All notices, requests, demands and other communications relating to this Agreement shall be in writing and shall be sent by first class, certified or registered mail, return receipt requested, postage prepaid and, pending the designation of another address, addressed as follows:

If to Tillicum:

President
The Tillicum Foundation
P.O. Box 269
Astoria, OR 97103

With a copy (which shall not constitute notice) to:

John Crigler, Esquire
Garvey Schubert Barer
Fifth Floor
1000 Potomac Street, N.W.
Washington, DC 20007-3501

If to All Classical:

President and CEO
All Classical Public Media, Inc.
515 NE 15th Avenue
Portland, OR 97232

With a copy (which shall not constitute notice) to:

John Wells King, Esquire
Law Office of John Wells King, PLLC
970 Sycamore Drive
Rockledge FL 32955-3932

8. **Entire Agreement.** Except as otherwise set forth herein, this Agreement constitutes the entire understanding of the Parties, and no other consideration, action or forbearance is contemplated or relied upon by them. This Agreement may not be amended or modified except by a writing signed by the Party against whom enforcement is sought.

9. **Enforcement.** The Parties recognize that this Agreement confers unique benefits, the loss of which cannot be compensated for through monetary damages. Thus, in the event of a breach of this Agreement, the Parties acknowledge that specific performance or other equitable relief would be an appropriate remedy, and agree to waive any defense that there is an adequate remedy at law for breach of this Agreement.

10. **Assignment and Binding Effect.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their heirs, successors, executors, legal representatives and assigns.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of Oregon without application of conflicts of laws principles adopted by that jurisdiction. The Parties agree that any action arising out of a dispute under this Agreement must be brought in the state or Federal courts having jurisdiction over Tillamook County, Oregon, and the Parties hereby accept the jurisdiction of those courts for the resolution of any disputes under this Agreement not preempted by the Federal Communications Commission.

12. **Headings.** The headings herein are included for case of reference only and shall not control or affect the meaning or construction of the provisions of this Agreement.

13. **Counterparts.** This Agreement may be executed in one or more counterparts and shall be binding when it has been executed by each of the Parties.

14. **Certifications.** By execution of this Agreement, each Party hereby certifies under the penalty of perjury that the following statements are true and correct with respect to itself as required by Section 73.3525 of the FCC's rules:


- A. Its application was not filed for the purpose of entering into or implementing this or any other settlement agreement.
- B. Neither the applicant nor any of its principals has received, been promised, paid or promised to pay consideration of any type, including merger of interests, except as set forth in this Agreement.
- C. Approval of this Settlement Agreement would serve the public interest because it would conserve the resources of the Parties and of the Commission, and would accelerate the initiation of new noncommercial FM service for the community of Manzanita, Oregon.

[Signature Page Follows]

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement or have caused this Agreement to be executed on their behalf to be effective as of the date first set forth above.

TILlicum FOUNDATION

By


Herb Mindt
President

ALL CLASSICAL PUBLIC MEDIA, INC., FORMERLY
KNOWN AS KBPS PUBLIC RADIO FOUNDATION

By


Jack Allen
President & CEO

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement or have caused this Agreement to be executed on their behalf to be effective as of the date first set forth above.

TILlicum FOUNDATION

ALL CLASSICAL PUBLIC MEDIA, INC., FORMERLY
KNOWN AS KBPS PUBLIC RADIO FOUNDATION

By _____
Herb Mindt
President

By  _____
Jack Allen
President & CEO

Attachment A to Settlement Agreement

Itemized Accounting for Tillicum's Expenses

Invoice #/Date	Amount
Invoice 366730, dated November 26, 2007 (legal fees and costs for October 2007)	2,208.08
Invoice 369710, dated December 20, 2007 (legal fees and costs for November 2007)	172.35
Invoice 379724, dated April 17, 2008 (legal fees and costs for March 2008)	218.90
Invoice 381923, dated May 14, 2008 (legal fees and costs for April 2008)	62.06
Invoice 390296, dated August 26, 2008 (legal fees and costs for July 2008)	166.36
Invoice 446391, dated July 28, 2010 (legal fees and costs for June 2010)	120.30
Invoice 448429, dated August 25, 2010 (legal fees and costs for July 2010)	621.55
Invoice 452838, dated October 29, 2010 (legal fees and costs for September 2010)	140.35
Invoice 460966, dated February 11, 2011 (legal fees and costs for January 2011)	126.90
Charges for Work on Settlement Agreement (legal fees for February 2011):	2,700.00
Subtotal Legal Fees/Costs:	\$6,536.85
Engineering October 2007 – Prepare FCC Form 340 for New FM Station at Cannon Beach	\$3,500.00
Engineering February 2011 – Miscellaneous consulting with regard to settlement with All Classical	\$2,000.00
Total	\$12,036.85