



The Russell Company



P.O. Box 4942
Tyler, Texas 75712
E-mail: JDonRussell@aol.com

Received & Inspected

DEC 05 2011

FCC Mail Room

Jerry Russell
President

November 18, 2011

Mr. Peter H. Doyle, Chief
Audio Division
Media Bureau
Federal Communications Commission
Washington, DC 20554

RE: KOFY (AM) – Gilmer, Texas
Facility ID – 34558
Operational Status Inquiry

Dear Mr. Doyle:

I am in receipt of your letter dated October 27, 2011 regarding KOFY-AM (Gilmer, Texas), and I would like to address your concerns.

KOFY was granted a Special Temporary Authority (STA) on September 23, 2008, giving the station 180 days to return to operational status. Due to scheduling and technical difficulties, we were unable to get the station back on the air within the allotted time (by March 25, 2009). At such time it was determined that we could not meet that deadline, we requested an extension of the STA in a letter dated March 19, 2009.

On July 1, 2009, KOFY returned to limited (low power) operational status and we informed you of such in a letter dated July 3, 2009. After maintenance and repairs, the station returned to full (power) operational status on August 1, 2009 and has since been on the air serving the citizens of Gilmer, Texas and the surrounding area.

After much consideration, I took KOFY silent on November 15, 2011. I fully understand that if the station suspends operations and fails to broadcast for 12 consecutive months, the station's license is canceled and the call sign is deleted. On or before November 14, 2012, I will inform the Commission of the status of KOFY and my plans for the station.

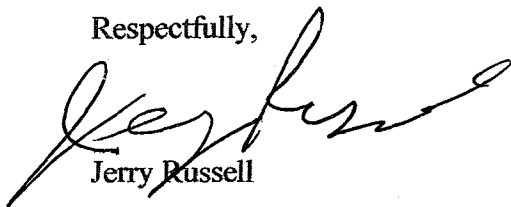
RECEIVED

2011 DEC -5 P 2:32

AUDIO SERVICES DIVISION

As always, thank you and the Commission for your cooperation and patience throughout this process.

Respectfully,

A handwritten signature in black ink, appearing to read "Jerry Russell", with a stylized, flowing script.

Jerry Russell

cc: Denise Williams, Industry Analyst

Enclosures

**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

August 13, 2008

IN REPLY REFER TO:
1800B3 DW

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Gwendolyn Walker
Executive Vice President
The Russell Company
P.O. Box 4942
Tyler, TX 75712

Received & Inspected

DEC 05 2011

FCC Mail Room

**In re: KOFY(AM), Gilmer, Texas
Facility ID No. 34558
Operational Status Inquiry**

Dear Licensee:

A recent letter to our office suggested that AM station KOFY(AM), Gilmer, Texas, is currently silent. Since our records do not reveal any notification, pursuant to 47 C.F.R. Section 73.1740, that the station suspended operations, you are required to clarify this matter in writing within thirty days of the date of this letter.

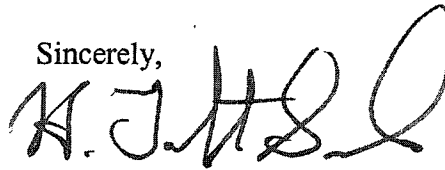
The Commission's Rules, 47 C.F.R. Section 73.1740(a)(4), permit licensees to discontinue operations for good cause and for a period not to exceed 30 days without further authority, provided that the licensee notify the Commission by letter "not later than the 10th day of limited or discontinued operations."

If the station has suspended operations, please indicate both the date broadcasts ceased and the necessity for taking the station off-air. Please note that any station silence over thirty days requires the filing, pursuant to 47 C.F.R. Section 73.1635, of a request for Special Temporary Authority to operate at variance with the Commission's minimum operating schedule requirements, 47 C.F.R. Section 73.1740(a). Certification pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 must accompany any request for special temporary authority. Finally, we note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the station's tower shall be maintained. See 47 C.F.R. Sections 17.6 and 73.1740(a)(4).

Failure to respond to this letter within the specified thirty days will result in adverse actions jeopardizing both the station's license and call letters. If you have any questions

concerning the content of this letter, please contact Allen Myers, Communications Analyst, by phone (202-418-2711), fax (202-418-1410), or e-mail (Denise Williams@fcc.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "H. Taft Snowdon". The signature is stylized with a large, looped "H" and a long, sweeping "S" at the end.

H. Taft Snowdon
Supervisory Attorney
Audio Division
Media Bureau

cc: Tom Davidson, Esq.



The Russell Company



P.O. Box 4942
Tyler, Texas 75712
(903)565-0073 (903)565-0081 fax
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DEC 05 2011

FCC Mail Room

Jerry Russell
President and CEO

September 9, 2008

H. Taft Snowden
Audio Division
Media Bureau
Federal Communications Commission
Washington, DC 20554

RE: KOFY (AM) – Gilmer, Texas
Facility ID – 34558
Operational Status Inquiry

Dear Mr. Snowden:

I am in receipt of your letter of inquiry dated August 13, 2008. After reading your letter to clarify the status of the station, I am a bit confused. In my attempt to clarify the issue, I request your patience and indulgence as I share with you the history of the station.


- (1) License renewal for KOFY was filed in April 2005.
- (2) In August 2005, I learned through a call from a trade publication that the license for KOFY was not renewed.
- (3) Once I learned this, I immediately contacted the FCC to see what happened.
- (4) I was informed by the FCC they had not received the renewal that was filed electronically.
- (5) I immediately filed the renewal, *again*, electronically as well as filing a hard copy via express mail directly to the FCC.
- (6) I learned that the FCC only accepted renewal applications electronically.
- (7) I filed for and received a Special Temporary Authority (STA) in November or December as I worked on the renewal status.
- (8) In May 2007 the STA expired and the FCC had still not found the license renewal application for KOFY. In order to avoid being in violation of FCC rules, I made the decision to cease operation until the matter could be rectified.

- (9) I had an LMA on KOFY with a question about the status of the license. I was subsequently sued in state court for not maintaining a current license.
- (10) I learned in April 2008 from Atty. Linda Hoak (during mediation) that, according to the website, the FCC had found the electronically filed renewal application. Atty. Hoak said she had communicated with Mr. Peter Doyle of the FCC and he advised what needed to be done.
- (11) At present, I am trying to resolve the State Court case and address what I understand to be the requirements of the FCC.

In closing, Mr. Snowden, I want to maintain the KOFY-AM license to broadcast. If you tell me what is required by the FCC to proceed, I will act accordingly. Having said that, I do want to resolve this matter and keep the license.

This is not a simple case. I feel I have been a victim of misfortune. Until I can get this matter resolved with the FCC, I did not want to be guilty of broadcasting illegally.

Respectfully,



Jerry Russell
The Russell Company

cc: Allen Myers
Denise Williams
Tom Davidson, Esq.

FEDERAL COMMUNICATIONS COMMISSION

445 12th STREET, S.W.
WASHINGTON, DC 20554
September 23, 2008

Received & Inspected

DEC 05 2011

FCC Mail Room

In Reply Refer to:
1800B3

Mr. Jerry Russell
P.O. Box 4942
Tyler, TX 75712

In re: **DKOFY(AM), Gilmer, TX**
Facility ID No. 34558

Request for Special Temporary
Authorization

Dear Mr. Russell:

This letter refers to the October 25, 2005, request for Special Temporary Authorization ("STA") filed on behalf of Jerry Russell d/b/a The Russell Company, ("Russell" or "Licensee"), licensee of expired Station KOFY(AM), Gilmer, Texas.

An application for renewal of KOFY(AM)'s license should have been filed by April 1, 2005. No such application apparently was filed, and the KOFY(AM) license expired on August 1, 2005. Accordingly, on September 1, 2005, the staff wrote to the Licensee, indicating that the Station's license had expired and that (1) all authority to operate the station was terminated; and (2) station's call letters were deleted from the Commission's data base. The licensee was advised that any operation of the station was then unauthorized and must cease immediately.¹ Thereafter, Russell filed the subject STA request. In the STA request, Russell indicates that he submitted the license renewal application for KOFY(AM) and his other stations in April of 2005, and did not realize that there was no record of the application at the Commission until he was notified by a trade association in September of 2005 that the application for renewal "had a problem." Russell now requests STA to continue station operations pending consideration of the renewal application for Station KOFY(AM).²

Under Section 309(f) of the Communications Act, 47 U.S.C. Section 309(f), when an appropriate application has been filed, the Commission may grant special temporary authorization if it finds that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of such temporary operations would


¹ Letter to Jerry Russell d/b/a the Russell Company, Ref. 1800B3 (Chief, Audio Division, Media Bureau, Sep. 1, 2005).

² The license renewal application for KOFY(AM), File No. BR-20050408ABH, actually was filed on April 8, 2005, but, due to problems regarding outstanding regulatory fees, was not recognized and was not accepted for filing until March 21, 2008.

seriously prejudice the public interest. In this case, we believe that the public interest in maintaining KOFY(AM)'s service to the residents of Gilmer, Texas, warrants resumed operation of the station pending consideration and disposition of the (untimely) renewal application.

Accordingly, the September 25, 2005, request for Special Temporary Authorization filed by Jerry Russell d/b/a The Russell Company IS GRANTED, and it may resume operation of Station KOFY(AM), Gilmer, Texas, with the facilities for which the license expired on August 1, 2005. This authorization will expire (1) 180 days from the date of this letter; or (2) upon action on the pending KOFY(AM) license renewal application, whichever is sooner.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter H. Doyle", with a long horizontal line extending to the right.

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Kyle Morrison, Esq.



The Russell Company



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Tyler, Texas 75712
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DEC 05 2011

FCC Mail Room

Jerry Russell
President and CEO

October 20, 2008

**Federal Communications Commission
Mass Media Bureau, Audio Division
445 12th Street, S.W.
Washington, DC 20554**

RE: Special Temporary Authority

Dear Secretary:

KOFY-AM, licensed to Gilmer, Texas, was unable to resume operations by October 23, 2008 due to scheduling conflicts with the necessary utility companies (telephone, electric, etc.). However, KOFY-AM will be operational within the timeframe allowed by the granted Special Temporary Authority.

Respectfully,

Jerry Russell

**cc: Peter Doyle
H. Taft Snowden**



The Russell Company



P.O. Box 4942
Tyler, Texas 75712
JDonRussell@aol.com

Received & Inspected

DEC 05 2011

FCC Mail Room

Jerry Russell
President

March 19, 2009

Federal Communications Commission
Attn: Peter H. Doyle, Chief – Audio Division
445 12th Street, S.W.
Washington, DC 20554

In re: KOFY(AM), Gilmer, TX
Facility ID No. 34558
Special Temporary Authority

Dear Mr. Doyle:

KOFY-AM licensed to Gilmer, Texas received a special temporary authority with the effective date September 25, 2008. It is my understanding the special temporary authority is scheduled to expire on March 25, 2009. We have worked diligently since the effective date to comply with the 180 days the STA allowed. In spite of numerous challenges, we were able to rebuild the studio, reestablish tower location, resolved a state court intervention and reestablished a relationship with all utilities except two. We are ready to commence with broadcasting to serve the needs of the citizens of the Gilmer, Texas area, however, due to numerous delays from the two telephone providers (AT&T and Verizon), our ability to broadcast is being held up. We have executed contracts with both companies, but as of this date, they have not completed their installation of a T-1 (point to point) line. I have included copies of the confirmations of the work orders from both AT&T and Verizon along with the many emails I have exchanged with Ron Legarski. I have also included the final order by the state court regarding the state intervention case and copies of other pertinent documents you might find helpful.

I think you will agree after reading the submitted materials, I have worked hard to complete reestablishing KOFY-AM within the timeframe allowed. We have confirmation from AT&T and Verizon, the only thing left to complete the task at hand is the installation of the services. I expect installation to be completed any day now.

Being aware the original deadline was approaching, I felt it prudent to write to you prior to the deadline to request a short extension allowing AT&T and Verizon the time to complete the work they need to do. I will work to complete the task unless I am notified otherwise.

Once again, Mr. Doyle, I greatly appreciate your patience as I work through these challenges.

Respectfully,

Jerry Russell

cc: H. Taft Snowden



The Russell Company



P.O. Box 4942
Tyler, Texas 75712
E-mail: JDonRussell@aol.com

Received & Inspected

DEC 05 2011

FCC Mail Room

Jerry Russell
President and CEO

July 3, 2009

Federal Communications Commission, Mass Media Bureau- Audio Division
Attn: Peter Doyle, Chief of Audio Division
445 12th Street, S.W.
Washington, DC 20554

RE: KOFY (AM) – Gilmer, Texas
Facility ID – 34558
Operational Status

Dear Mr. Doyle:

I wrote to you asking for an extension on the STA for KOFY-AM which is licensed to Gilmer, Texas in a letter dated March 19, 2009. I am writing to inform you that KOFY-AM resumed operations and is on the air effective July 1, 2009. However, we are operating at low power and we have contracted with Tower Specialist of Nacogdoches, Texas to research what is causing the RF readings on the transmitter to not reach full power.

The delay in getting the station back on the air was because we were working with two telephone companies (Verizon and AT&T). The problem was due to the fact we had a digital T-1 line and an analog board and transmitter. We had to covert the board (to digital) to be compatible with the T-1 line and, on the other end, we had to convert the T-1 line (to analog) to be compatible with the transmitter. We have since had a “vendor meeting” whereby we brought in our network engineer to meet with the two phone companies. The two phone companies met at a central point (Longview, Texas) to bring the two circuits together and, it was at this time it became apparent the problem was with a faulty circuit that had to be replaced on Verizon’s end.

Although we are operating at low power, we wanted to notify the FCC that as of July 1, 2009, KOFY-AM (Facility ID #34558) is fully operational.

Respectfully,

Jerry Russell

cc: H. Taft Snowden



The Russell Company



P.O. Box 4942
Tyler, Texas 75712
E-mail: JDonRussell@aol.com

Jerry Russell
President and CEO

Received & Inspected

DEC 05 2011

FCC Mail Room

August 1, 2009

Federal Communications Commission, Mass Media Bureau- Audio Division
Attn: Peter Doyle, Chief of Audio Division
445 12th Street, S.W.
Washington, DC 20554

RE: KOFY (AM) – Gilmer, Texas
Facility ID – 34558
Operational Status

Dear Mr. Doyle:

In a letter dated July 3, 2009, I informed the Commission that KOFY-AM 1060 had resumed operations at low power. As of August 1, 2009, KOFY is back on the air at full power serving the citizens of Gilmer, Texas and the surrounding area.

My previous letter stated the station could not reach full power because of tower problems. We contracted with a tower company out of Nacogdoches, Texas and they addressed the tower problem. Also, Broadcast Works engineering firm of Tyler, Texas did additional work to bring the KOFY-AM 1060 back to full power as of August 1, 2009.

Again, I would like to thank you and the Commission for your patience.

Respectfully,

Jerry Russell

cc: H. Taft Snowden

Cause No. 07-0868-B

JUAN AYALA

Plaintiff,

v.

JERRY RUSSELL

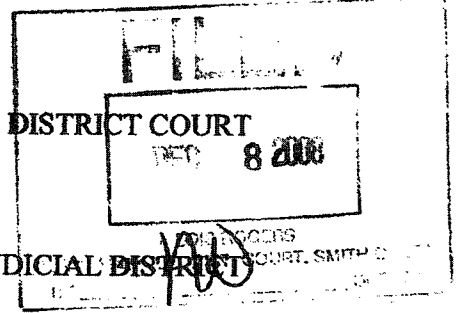
Defendant.

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IN THE DISTRICT COURT

114th JUDICIAL DISTRICT COURT, SMITH COUNTY, TEXAS

SMITH COUNTY, TEXAS



ORDER OF DISMISSAL WITH PREJUDICE

On this date, the Court considered Jerry Russell's Motion for Sanctions and for Dismissal of Case With Prejudice. After consideration of the Motion, the Court finds that the parties agreed to settle the case pursuant to a Rule 11 Agreement dated April 8, 2008 (the "Rule 11 Agreement"). The Court further finds that the Plaintiff breached the Rule 11 Agreement on July 15, 2008, by failing to timely pay the initial amount set forth in the Rule 11 Agreement, and that Jerry Russell has no further obligation to sell or otherwise transfer to Juan Ayala the station license for KOFY AM 1060. This Order does not preclude a future claim by Jerry Russell against Juan Ayala for damages associated with the breach of the Rule 11 Agreement by Juan Ayala, if any. Accordingly, it is

ORDERED that this case is hereby dismissed, with prejudice, in all things. It is further ORDERED that costs shall be paid by the party incurring same.

This Order of Dismissal With Prejudice resolves all claims between all parties to this suit, and is subject to immediate appellate review.

SIGNED _____ 12-8, 2008.

PRESIDING JUDGE

ORDER OF DISMISSAL WITH PREJUDICE

Solo Page

Received & Inspected

DEC 05 2011

FCC Mail Room

JUAN AYALA,
Plaintiff

IN THE DISTRICT COURT

114TH JUDICIAL DISTRICT

JERRY RUSSELL,
Defendant

SMITH COUNTY, TEXAS

**DEFENDANT'S MOTION FOR SANCTIONS AND
FOR DISMISSAL OF CASE WITH PREJUDICE**

JERRY RUSSELL, Defendant, files this MOTION FOR SANCTIONS AND FOR DISMISSAL OF CASE WITH PREJUDICE and for cause would show the court as follows, to-wit:

A trial is set in this matter for January 12, 2009 at 8:30 a.m..

11.

This case was fully and completely settled by a Rule 11 Agreement filed herein on April 9, 2008. Both parties agreed to the terms of the Agreement.

III.

JUAN AYALA, Plaintiff, agreed to pay JERRY RUSSELL \$25,000.00 on July 15, 2008, and thereafter pay JERRY RUSSELL \$3,500.00 per month, beginning October 15, 2008. To date, no payments have been received by the Defendant. Plaintiff is fully in default and in violation of the Rule 11 Agreement.

IV.

WHEREFORE, PREMISES CONSIDERED, JERRY RUSSELL, prays this MOTION FOR SANCTIONS AND FOR DISMISSAL OF CASE WITH PREJUDICE be granted in all things. Further, JERRY RUSSELL prays that he recover all costs, and such other and further relief at law or in equity as the court may deem appropriate.

Received & Inspected

DEC 25 2011

FCC Mail Room

CAUSE NO. 07-0868-B

JUAN AYALA,
Plaintiff

IN THE DISTRICT COURT

114TH JUDICIAL DISTRICT

JERRY RUSSELL,
Defendant

SMITH COUNTY, TEXAS

AFFIDAVIT IN SUPPORT OF DISMISSAL

Received & Inspected

STATE OF TEXAS

DEC 05 2011


COUNTY OF SMITH

FCC Mail Room

On this date, JERRY RUSSELL stated the following after being duly sworn:

"My name is JERRY RUSSELL. I am over the age of eighteen, and I am competent to make this affidavit.

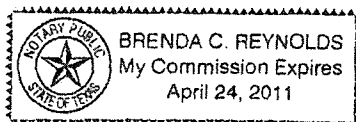
"I have read the foregoing MOTION FOR SANCTIONS AND FOR DISMISSAL OF CASE WITH PREJUDICE and it is true and correct. I have received no payments from Juan Ayala as set out in the Rule 11 Agreement signed and agreed to by both myself and Juan Ayala and filed on April 9, 2008."


JERRY RUSSELL, Affiant

Sworn to and subscribed before me on

October 31, 2008


NOTARY PUBLIC



Respectfully submitted,

Holcomb * Morrison & Hoffman Law Offices
111 N. Spring Ave.
Tyler, TX 75702
Tel: (903) 597-5595
Fax: (903) 597-5596

By: 

Kyle S. Morrison

State Bar No. 14521300

CERTIFICATE OF SERVICE

I hereby certify that on OCTOBER 31st, 2008, a true and correct copy of the foregoing MOTION FOR SANCTIONS AND FOR DISMISSAL OF CASE WITH PREJUDICE was sent to all parties of interest and each attorney of record by first class mail, postage paid, or by electronic means as available, and/or by facsimile.


KYLE S. MORRISON