

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

APR 30 1993

DOCKET FILE COPY ORIGINAL

Bradford D. Carey, Esq.
Hardy and Carey
111 Veterans Boulevard
Metairie, Louisiana 70005

Dear Mr. Carey:

This is in response to your request for refund of hearing fee submitted on behalf of Robert M. Richmond, et al (Richmond), former applicant for a new FM radio broadcast station at Beaumont, California (MM Docket No. 92-310).

You state that Richmond tendered its hearing fee along with the Notice of Appearance by the appropriate deadline. You also state that Richmond voluntarily dismissed his application subsequent to this date. You argue that refund of Richmond's hearing fee is appropriate because the presiding ALJ took no other action regarding Richmond's application other than the Order dismissing the application.

The Commission's rules provide for refund of the hearing fee paid by broadcast applicants under certain limited circumstances. See 47 C.F.R. § 1.1111(b). We are unable to refund Richmond's fee because he dismissed his application subsequent to his filing a Notice of Appearance in this proceeding. Therefore, his dismissal, while voluntary, was not executed in a timely fashion, see 47

7/2/93

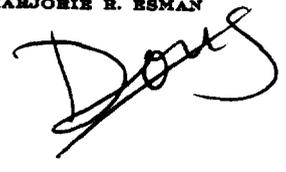
RECEIVED ✓

APR - 2 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
TELEPHONE: 504-880-4646
TELEFAX 504-880-4659
OUR FILE NO.

HARDY AND CAREY
ATTORNEYS AT LAW
111 VETERANS BOULEVARD
METAIRIE, LOUISIANA 70005

ASHTON E. HARDY
BRADFORD D. CAREY
MARJORIE R. ESMAN



April 1, 1993

2072-001

911218170315001

via Federal Express

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

APR 2 1993

FCC - MAIL ROOM

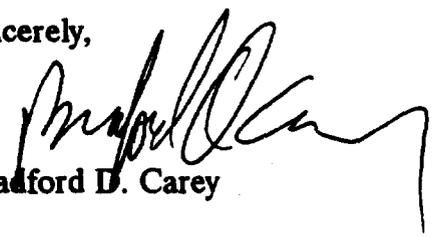
Re: MM Docket 92-310
Robert M. Richmond, et al
Application for a Construction Permit
Beaumont, California
FCC FILE NUMBER BPH-910703MD

Dear Ms. Searcy:

Transmitted herewith for filing is an original and four (4) copies of a letter addressed to Andrew S. Fishel, Managing Director, **requesting a refund of the hearing fee previously paid by Robert Richmond in this proceeding.** An extra copy of this letter is provided for date-stamping and return along with a self-addressed stamped envelope.

Should the Commission have any questions, kindly direct them to the undersigned.

Sincerely,



Bradford D. Carey

BDC/bgc
Enclosures

RECEIVED

APR - 2 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

HARDY AND CAREY
ATTORNEYS AT LAW
111 VETERANS BOULEVARD
METAIRIE, LOUISIANA 70005

ASHTON E. HARDY
BRADFORD D. CAREY
MARJORIE R. ESMAN

TELEPHONE: 504-830-4646
TELEFAX 504-830-4659
OUR FILE NO.

April 1, 1993

2072.001
033193.fcl

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

APR 2 1993

FCC - MAIL ROOM

Re: MM Docket 92-310
Robert M. Richmond, et al
Application for a Construction Permit
Beaumont, California
FCC FILE NUMBER BPH-910703MD

Dear Mr. Fishel:

This letter is written on behalf of Robert M. Richmond, a now dismissed applicant in the Commission's proceeding regarding which, if any, of the mutually exclusive applicants should be awarded a construction permit to build a new FM station at Beaumont, California.

Mr. Richmond had timely paid his Hearing Fee. Then, in response to the *Hearing Designation Order*, a Notice of Appearance was filed on his behalf.

After the Notice of Appearance date, but before the exchange of the Standardized Document Production and Integration Statements, Mr. Richmond, through the undersigned, requested of the Presiding Judge the **VOLUNTARILY DISMISSAL** of his application.

Mr. Richmond's voluntary dismissal was before the Presiding Judge was required to take any action regarding Mr. Richmond's application. No interlocutory motions had been filed and no special issues had been designated.

The dismissal of Mr. Richmond's application was not part of any settlement. No ruling on Mr. Richmond's application, other than grant of his request for dismissal was sought from, or made by, the Presiding Judge.

HARDY AND CAREY
ATTORNEYS AT LAW

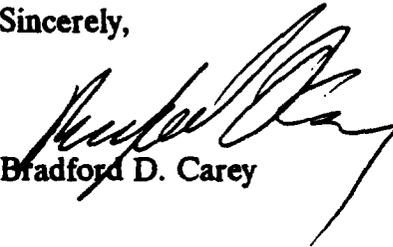
Mr. Andrew S. Fishel
April 1, 1993
Page 2

When an applicant does not file a Notice of Appearance, the Presiding Officer must enter an Order (or Orders) dismissing the application. In those cases, a refund of the Hearing Fee is appropriate under the Commission's policies. In the case of Mr. Richmond's Beaumont application, neither the Commission nor the Presiding Judge were required to take any more actions than would have occurred were Mr. Richmond a "non-appearing" applicant.

In view of the foregoing, Mr. Richmond respectfully requests that THE HEARING FEE PREVIOUSLY PAID BY MR. RICHMOND BE REFUNDED.

Should the Commission have any questions regarding this matter, kindly contact the undersigned Counsel. Additionally, I would be appreciative if a copy of any correspondence regarding this matter would be directed to my attention.

Sincerely,



Bradford D. Carey

cc: Robert Richmond