

FEDERAL COMMUNICATIONS COMMISSION

DOCKET FILE COPY ORIGINAL

Washington, D. C. 20554

FEB 9 1999

OFFICE OF
MANAGING DIRECTOR

Lee J. Peltzman, Esquire
Shainis & Peltzman, Chartered
1901 L Street, N.W.
Suite 290
Washington, D.C. 20036

Re: Alan R. Quarnstrom
New FM Station
Siren, Wisconsin
Fee Control # 9703268195187001

Dear Mr. Peltzman:

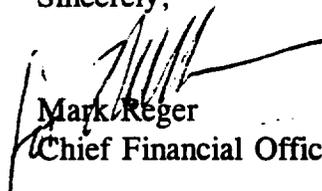
This is in response to your request for refund of the application fee filed on behalf of Alan R. Quarnstrom, a former applicant for a new FM station at Siren, Wisconsin.

You represent that Mr. Quarnstrom "paid his application fee in anticipation that his application would be reviewed and . . . if found to be mutually exclusive, would be designated for hearing." You further represent that at the time he filed his application he did not know that the Siren channel would be awarded through the competitive bidding procedures, and that when he became aware that the Commission adopted such procedures, he decided to dismiss his application pursuant to an universal settlement.

Under the circumstances, because Mr. Quarnstrom timely disavowed any interest in participating in the auction and sought dismissal of his application, and further because his dismissal has been rendered final, refund of the filing fee is appropriate. *See Implementation of Section 309(j) of the Communications Act -- Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, 13 FCC Rcd 15920, 15957 (1998); *see also* 47 C.F.R. § 1.1113(a)(4).

Accordingly, your request is granted. A check, made payable to the maker of the original check and drawn in the amount of \$2,470.00, will be sent to you at the earliest practicable time. If you have any questions concerning this refund, please contact the Chief, Fee Section at (202) 418-1995.

Sincerely,


Mark Reger
Chief Financial Officer

Hell 7

9703268195187001

Shainis & Heltzman, Chartered

Counselors at Large

Suite 290
1901 I Street, N.W.
Washington, D.C. 20036

(202) 293-0011
Fax (202) 293-0810

Aaron P. Shainis
Lee J. Heltzman

Of Counsel
William H. DuRoss, III
Ruth S. Baker-Battist
Robert J. Keller

October 14, 1998

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

RECEIVED

OCT 15 3 11 PM '98

ASSOC. MNG. DIR.
FINANCIAL OPERATIONS
(AHO-FO)

Re: Request for Refund of Application Fee
Alan R. Quarnstrom
Siren, Wisconsin
BPH-970325MD

Dear Mr. Fishel:

This letter is submitted on behalf of Alan R. Quarnstrom ("Quarnstrom"), former applicant for a new FM construction permit at Siren, Wisconsin. By this letter, Quarnstrom requests the refund of his application fee submitted to the Commission as part of that Siren, Wisconsin application. A brief synopsis of the facts follows.

On March 25, 1997, Quarnstrom filed his application for a new FM construction permit on Channel 289 at Siren, Wisconsin. A total of four applications were received by the Commission. None of them was reviewed or accepted for filing at that time. As part of Quarnstrom's Siren filing, he paid a Two Thousand Four Hundred Seventy Dollar (\$2,470.00) filing fee to the Federal Communications Commission. See Attachment A (copy of March 24, 1997 check to FCC in the amount of \$2,470.00). As noted, his application was not accepted for filing. Years later, on January 30, 1998, the four applicants filed a Joint Request for Approval of Settlement Agreements with the Commission, contemplating the grant of the application of Marigen E. Anderson.¹ As part of the Settlement Agreements, Quarnstrom requested dismissal of his application. The Commission, on April 16, 1998, released a Public Notice which approved the Joint Request, dismissed Quarnstrom's application, and granted the application of Casey, as amended. See Attachment B.

¹ The Anderson application was eventually amended to become Casey Communications, Inc. ("Casey").

Shainis & Peltzman, Chartered

Mr. Andrew S. Fishel

October 14, 1998

Page Two

Quarnstrom paid his application fee in anticipation that his application would be reviewed and granted, or, if found to be mutually exclusive, would be designated for hearing. Quarnstrom did not file with knowledge that the Siren channel would be awarded by auction. When Quarnstrom became aware that his application would not undergo a comparative hearing, he made the decision to dismiss his application as part of an overall settlement. Therefore, in light of the facts presented, Quarnstrom respectfully requests that the Commission refund his application fee in the amount of \$2,470.00.²

If the Commission has any questions with respect to this request, kindly contact the undersigned.

Sincerely yours,



Lee J. Peltzman
Counsel for
Alan R. Quarnstrom

Enclosures

² The Commission has noted that it will refund filing fees paid by applicants who do not participate in an auction, stating that such refunds are premised on the fact such applications were filed in anticipation of hearings which were not held. See Implementation of Section 309(j) of the Communications Act, FCC 98-194, released August 18, 1998 at paras. 101, 103. The same principle applies here as well. It should also be noted that Quarnstrom filed his application in anticipation that the Commission would utilize the services of its personnel in reviewing his application. Since no review occurred here -- Quarnstrom's application was never accepted for filing -- it is only fair and equitable that he be reimbursed his filing fee.

ATTACHMENT A

Shainis & Heltzman, Chartered

Counselors at Law

Suite 290

1901 I Street, N.W.
Washington, D.C. 20036

(202) 416-1633

Fax (202) 293-0810

Aaron H. Shainis
Lee J. Heltzman

Of Counsel

William H. BuRoss, III
Ruth S. Baker-Battist

March 25, 1997

Federal Communications Commission
Mass Media Services
P. O. Box 358195
Pittsburgh, PA 15251-5195

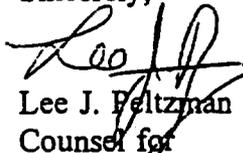
Re: Siren, Wisconsin
Channel 289A
Alan R. Quarnstrom

Dear Sir/Madam:

Transmitted herewith, on behalf of Alan R. Quarnstrom, is an application for new construction permit on Channel 289A at Siren, Wisconsin. Attached hereto is a check in the amount of Two Thousand, Four Hundred Seventy Dollars (\$2,470.00) in payment of the required filing fee.

Please contact the undersigned should questions arise regarding this filing.

Sincerely,



Lee J. Heltzman
Counsel for

ALAN R. QUARNSTROM

Enclosure

FOR
FCC
USE
ONLY

FCC 301

APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

FOR COMMISSION USE ONLY

FILE NO.

Section I - GENERAL INFORMATION

1. APPLICANT NAME (Last, First, Middle Initial) ALAN R. QUARNSTROM			
MAILING ADDRESS (Line 1) (Maximum 35 characters) 1104 Cloquet Avenue			
MAILING ADDRESS (Line 2) (Maximum 35 characters)			
CITY Cloquet	STATE OR COUNTRY (if foreign address) Minnesota		ZIP CODE 55720
TELEPHONE NUMBER (include area code) 218 878 0490	CALL LETTERS	OTHER FCC IDENTIFIER (IF APPLICABLE)	
2. A. Is a fee submitted with this application?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
B. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1113) and go to Question 3.			
<input type="checkbox"/> Governmental Entity <input type="checkbox"/> Noncommercial educational licensee <input type="checkbox"/> Other (Please explain):			
C. If Yes, provide the following information:			
Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).			
(A)	(B)	(C)	FOR FCC USE ONLY
FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	
M T R	0 0 0 1	\$ 2,470.00	
To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.			
(A)	(B)	(C)	FOR FCC USE ONLY
[] [] []	[] [] [] []	\$ []	
ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (2), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.		TOTAL AMOUNT REMITTED WITH THIS APPLICATION	FOR FCC USE ONLY
		\$ 2,470.00	

ATTACHMENT B



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

News media information 202/418-0500. Recorded listing of releases and texts 202/418-2222

NOTICE OF ACTION ON FM BROADCAST SETTLEMENT AGREEMENTS AND APPLICATIONS

Report No. 44221A

Released: 16 April 1998

We have received a Joint Petition for Approval of Settlement Agreement for each group of mutually exclusive applications for FM construction permits listed below ("Settlements"). These Settlements were filed pursuant to the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997) ("Balanced Budget Act").

All applicants have complied with the relevant requirements of the Communications Act of 1934, as amended. Further, each of the applications granted below either conforms to, or warrants a waiver of, any relevant Commission rules. See Balanced Budget Act; *Gonzales Broadcasting, Inc.*, 12 FCC Rcd 12253, 12555-56 (1997).

Accordingly, for each community of license listed below the Joint Petition for Approval of Settlement Agreement IS GRANTED and for:

SMITHS, AL

Cumulus Licensing Corp.'s application (original applicant - Smiths Broadcasting, LP) (File No. BPH-930301MG) IS GRANTED;

Smiths Station Broadcasting's application (File No. BPH-930301MH) IS DISMISSED;

Dan D. Greene's application (File No. BPH-930301MI) IS DISMISSED;

Cheryl Davis's application (File No. BPH-930301MF) IS DISMISSED;

Arthur C. & Margaret R. Angell's application (File No. BPH-930302MJ) IS DISMISSED;

Shirley A. Caswell's application (File No. BPH-930226MD) IS DISMISSED.

ATKINS, AR

KVOM, Inc.'s application (File No. BPH-950724MB) IS GRANTED;

Stephen A. Womack's application (File No. BPH-950724MF) IS DISMISSED.

EL DORADO, AR

Jerome Orr's application (File No. BPH-970116MA) IS GRANTED;

Three Guys Radio Partnership's application (File No. BPH-970115MA) IS DISMISSED.

HARRISBURG, AR

Mid-South Sing's application (File No. BPH-941215MC) IS GRANTED;

Bobby Caldwell's application (File No. BPH-41214MC) IS DISMISSED;

Todd P. Robinson's application (File No. BPH-941216MA) IS DISMISSED.

PARKER'S CROSSROADS, TN

Crossroads Broadcasting's application (File No. BPH-970204MA) IS GRANTED;
Forked Deer Broadcasting, Inc.'s application (File No. BPH-970206MD) IS DISMISSED.

BORGER, TX

Zia Broadcasting Company's application (File No. BPH-950213MC) IS GRANTED;
Romero Broadcasting's application (File No. BPH-950213MJ) IS DISMISSED.

GREGORY, TX

BK Radio's application (File No. BPH-951108MR) IS GRANTED;
Humberto L. Lopez d/b/a Wildcat B/casting's application (File No. BPH-951109ML) IS DISMISSED;
Gerald Benavides' application (File No. BPH-951018MA) IS DISMISSED;
Carl Como Tintera's application (File No. BPH-951107MA) IS DISMISSED;
Reding Broadcasting Co., Inc.'s application (File No. BPH-951108MM) IS DISMISSED.

WAKE VILLAGE, TX

Houston Christian Broadcasters, Inc.'s application (File No. BPED-970630MB) IS GRANTED;
George S. Flinn, Jr.'s application (File No. BPH-970702MJ) IS DISMISSED;
Texas Southern Broadcasting, LLC's application (File No. BPH-970702MK) IS DISMISSED;
RadioSunGroup of Texas, Inc.'s application (File No. BPH-970701MG) IS DISMISSED;
DBM Entertainment Enterprises, Inc.'s application (File No. BPH-970701MF) IS DISMISSED;
BK Radio's application (File No. BPH-970701ME) IS DISMISSED;
Phillip W. O'Bryan's application (File No. BPH-970630MD) IS DISMISSED;
Altus Educ. B/casting Foundation's application (File No. BPED-970625MA) IS DISMISSED;
OARA, Inc.'s application (File No. BPH-970623MD) IS DISMISSED.

JONESVILLE, VA

Regina Kay Moore's application (File No. BPH-960126MA) IS GRANTED;
Holston Valley B/casting Corp.'s application (File No. BPH-960125MC) IS DISMISSED.

SHELTON, WA

Premier Broadcasters, Inc.'s application (File No. BPH-960708MA) IS GRANTED;
Sound Broadcasting, Inc.'s application (File No. BPH-960703MH) IS DISMISSED;
Cherrie P. Reitsch's application (File No. BPH-960708MB) IS DISMISSED.

BARRON, WI

Northwoods Broadcasting, Inc.'s application (original applicant - TKC, Inc.)
(File No. BPH-970221MF) IS GRANTED;
Marigen E. Anderson's application (File No. BPH-970220ME) IS DISMISSED;
Thomas F. Beschta's application (File No. BPH-970220MF) IS DISMISSED.

SIREN, WI

Casey Communications, Inc.'s application (original applicant - Marigen E. Anderson)
(File No. BPH-970319MF) IS GRANTED;
Alan R. Quarnstorm's application (File No. BPH-970325MD) IS DISMISSED;
Charles R. Lutz's application (File No. BPH-970326MT) IS DISMISSED;
Lightwood Broadcasting Company's application (File No. BPH-970326MU) IS DISMISSED.

SALEM, WV

West Virginia Radio Corporation of Salem's application (File No. BPH-960228MC) IS GRANTED;
Salem-Teikyo University Comm., Inc.'s application (File No. BPED-960229MC) IS DISMISSED.

Payment Search Detail

Fee Control Number	Payor Name	Remittance ID	Payment Amount
9609308315362013	C & C LABORATORIES INC	8346	\$895.00
9703268195187001	QUARNSTROM, ALAN R	8346	\$2,470.00

Sequence	Quantity	Payment Type Code	Payment Amount	Trans Code	CallSign Other Id	Treasury Symbol	Date Last Changed	Changer Initials
1	1	MTH	\$2,470.00	PMT		272429	3/29/97	SYS

Print Screen