

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 19 1999

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86-285

OFFICE OF
MANAGING DIRECTOR

Mr. Thomas A. Aceituno
Trustee For The Bankruptcy
Estate of Stratcom, Ltd.
Arter & Hadden LLP
1801 K Street, N.W.
Washington, D.C. 20006-1301

Re: Request for Waiver of Regulatory Fee

Dear Mr. Aceituno:

This is in response to the petition for waiver of the Fiscal Year (FY) 1998 regulatory fee, that you filed on behalf of Stratcom, Ltd., licensee of radio broadcast stations KPCO(AM), Quincy, California, and KBNF(FM), Chester, California and FM translator station K253AA, Susanville, California (the "Stations"). The United States Bankruptcy Court, Eastern District of California, Sacramento Division has appointed you as the Interim Trustee of Stratcom, Inc. In support you have submitted documentation from the Bankruptcy Court dated October 20, 1997.

In Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 ¶ 14 (1995), the Commission determined that it would waive the regulatory fees for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or are in receivership.

Accordingly, your request is granted and the FY 1998 regulatory fees for the Radio Stations KPCO(AM) and KBNF(FM) are waived. If you have any questions concerning the waiver, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely yours,



Mark Reger
Chief Financial Officer

Jerry

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

In re the Matter of)
)
Assessment & Collection of) MD Docket 98-36
Regulatory Fees for)
Fiscal Year 1998)

To: The Managing Director

PETITION FOR WAIVER OF 1998 REGULATORY FEES

Thomas A. Aceituno, trustee for the bankruptcy estate of Stratcom, Ltd. and the licensee of radio broadcast stations KPCO(AM), Quincy, California, KBNF(FM), Chester, California and FM translator station K253AA, Susansville, California (the "Stations"), pursuant to Section 1.1166 of the Commission's rules, hereby requests that the Commission waive payment of 1998 regulatory fees for the Stations. Because this Petition is not accompanied by payment for the 1998 fees assessed for the Stations, Mr. Aceituno has filed simultaneously herewith a Petition to Defer Payment of the 1998 Regulatory Fees due to financial hardship as required by Section 1.1166(c) of the Commission's rules.

Section 1.1166 of the Commission's rules provides that requests for waiver of regulatory fees will be granted on a case-by-case basis, where good cause is shown and where waiver would promote the public interest. 47 C.F.R. § 1.1166. A sufficient showing of financial hardship demonstrates "good cause." *In the Matter of Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759, 12761 (1995). Evidence of bankruptcy or receivership is sufficient to establish financial hardship

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and the Commission "will waive the regulatory fees for licensees whose stations are bankrupt . . . or in receivership." *Id.* at 12762.

Based upon the foregoing standard, waiver of payment of the 1998 regulatory fees for the Stations is warranted. The Stations are currently held by Mr. Aceituno as part of the bankruptcy estate of Stratcom, Ltd., the prior licensee of the Stations. While under the ownership of Stratcom, Ltd., the stations discontinued operations in July 1997 and went silent. Stratcom, Ltd. filed a voluntary petition for bankruptcy with the U.S. Bankruptcy Court for the Eastern District of California in October 20, 1997. Subsequently, the Office of the United States Trustee appointed Mr. Aceituno as the trustee of the bankruptcy estate of Stratcom, Ltd. A copy of Mr. Aceituno's notice of appointment is attached hereto as Exhibit A. Mr. Aceituno became licensee of the Stations, with Commission consent, on April 7, 1998 and resumed broadcast operations at the stations in July of this year.

Although the stations are on the air again, the bankruptcy estate which holds the licenses for the Stations currently lacks the financial resources to pay the 1998 regulatory fees; the estate assets are at a level sufficient only to cover the basic operating expenses of the Stations.

Granting Mr. Aceituno's waiver request would promote the public interest. Mr. Aceituno has resumed operations for both stations prior to the one-year silent date on August 1, 1998. To do so, Mr. Aceituno obtained special temporary authority to operate KPCO at variance until a proof of performance study is completed and KBNF at reduced power until a new antenna could be installed. Also, since Mr. Aceituno has become the licensee of the Stations, construction of a new tower and antenna for KBNF, authorized by a construction permit issued on July 9, 1996,¹ has been initiated,

¹ As extended by BPH-980504JD.

and will soon be completed. Thus, grant of the requested waiver would enable Mr. Aceituno to continue to utilize the limited financial resources of the bankruptcy estate in keeping the Stations on the air and in compliance with the Commission's rules. Requiring payment of the regulatory fees at this time would threaten station operations.

Furthermore, in order to best serve the public interest, Mr. Aceituno has negotiated the sale and assignment of the Stations' assets and licenses to a new licensee which has the necessary financial resources to operate the Stations long-term.² Requiring payment of the 1998 regulatory fees, when the Stations' finances are limited and the sale of the Stations to a financially stable party is imminent, could "act as an impediment to the negotiations and the transfer of the station[s] to a new licensee." *See In the Matter of Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd at 12762.

² See Files Nos. BAL-980701EG, BALPH-980701EH and BALFT-980701EI.

In light of the foregoing, Mr. Aceituno respectfully requests that the Commission waive the 1998 regulatory fees for radio broadcast stations KPCO(AM), Quincy, California, KBNF(FM), Chester, California and FM translator station K253AA, Susansville, California.

Respectfully submitted,

THOMAS A. ACEITUNO, TRUSTEE FOR THE
BANKRUPTCY ESTATE OF STRATCOM, LTD.

By: Naomi S. Travers

Naomi S. Travers
ARTER & HADDEN LLP
1801 K Street, N.W.
Suite 400K
Washington, D.C. 20006-1301
(202) 775-7100

September 17, 1998

His Attorneys

Exhibit A

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re

Stratcom, Ltd.

Debtor(s).

Case No. 97-36057-B-7



APPOINTMENT OF INTERIM TRUSTEE AND NOTICE OF SELECTION

Thomas A. Aceituno is hereby appointed Interim Trustee of the above-named Debtor's(s') estate and Trustee if creditors fail to elect a Trustee as provided by the Bankruptcy Code. The Interim Trustee has filed a blanket bond pursuant to Federal Rule of Bankruptcy Procedure 2010(a).

If the Interim Trustee does not notify the Office of the United States Trustee and the Court in writing of rejection of the office within five days after receipt of notice of selection, the Interim Trustee shall be deemed to have accepted the office.

Dated: October 20, 1997

Office of the United States Trustee
Region 17

Linda E. Stanley
United States Trustee

Antonia G. Darling
Assistant United States Trustee

A handwritten signature in the bottom right corner of the page.

Certificate of Service

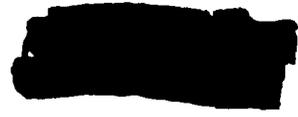
I, Nellie Martinez-Redicks, a secretary in the law firm of Arter & Hadden LLP, hereby certify that on this day, September 17, 1998, a copy of the foregoing "Petition for Waiver of 1998 Regulatory Fees" was served on the following person by hand-delivery:

Regina Dorsey, Chief
Federal Communications Commission
Billings & Collections Branch
1919 M Street, N. W., Room 452
Washington, DC 20554


Nellie Martinez-Redicks

Jerry

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

In re the Matter of)
)
Assessment & Collection of) MD Docket 98-36
Regulatory Fees for)
Fiscal Year 1998)

To: Managing Director

PETITION TO DEFER PAYMENT OF 1998 REGULATORY FEES

Thomas A. Aceituno, trustee for the bankruptcy estate of Stratcom, Ltd. and the licensee of radio broadcast stations KPCO(AM), Quincy, California, KBNF(FM), Chester, California and FM translator station K253AA, Susansville, California (the "Stations"), pursuant to Section 1.1166(c) of the Commission's rules, hereby requests that the Commission defer payment of the 1998 annual regulatory fees for the Stations pending Commission action on the Petition for Waiver of 1998 Regulatory Fees for the Stations filed simultaneously herewith.

Section 1.1166 of the Commission's rules provides that "waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship." 47 C.F.R. § 1.1166(c). Evidence of bankruptcy or receivership is sufficient to establish financial hardship. *In the Matter of Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759, 12762 (1995).

The instant petition and the Petition for Waiver of 1998 Regulatory Fees for the Stations, which it supports, are based on financial hardship. Mr. Aceituno was appointed bankruptcy trustee for the Stations on October 20, 1997 by the Office of the United States Trustee. A copy of the notice of appointment is attached hereto as Exhibit A. Mr. Aceituno is utilizing all available funds to keep the Stations on the air. Payment of the regulatory fees at this time would threaten station operations and, thus, would not be in the public interest.

Based on the evidence that the Stations' assets and licenses are currently being held by Mr. Aceituno in bankruptcy, Mr. Aceituno respectfully requests that the Commission defer payment of the regulatory fees for the Stations until the Commission acts on the Petition for Waiver of 1998 Regulatory Fees for the Stations filed simultaneously herewith.

Respectfully submitted,

THOMAS A. ACEITUNO, TRUSTEE FOR THE
BANKRUPTCY ESTATE OF STRATCOM, LTD.

By: Naomi S. Travers

Naomi S. Travers
ARTER & HADDEN LLP
1801 K Street, N.W.
Suite 400K
Washington, D.C. 20006
(202) 775-7100

September 17, 1998

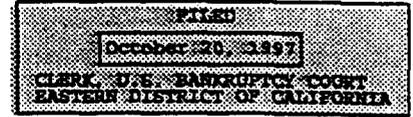
Its Attorneys

Exhibit A

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re)
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Stratcom, Ltd.)
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Debtor(s).)
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Case No. 97-36057-B-7



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If the Interim Trustee does not notify the Office of the United States Trustee and the Court in writing of rejection of the office within five days after receipt of notice of selection, the Interim Trustee shall be deemed to have accepted the office.

Dated: October 20, 1997

Office of the United States Trustee
Region 17

Linda E. Stanley
United States Trustee

Antonia G. Darling
Assistant United States Trustee

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CERTIFICATE OF SERVICE

I, Nellie Martinez-Redicks, a secretary in the law firm of Arter & Hadden LLP, hereby certify that on this day, September 17, 1998, a copy of the foregoing "Petition to Defer Payment of 1998 Regulatory Fees" was served on the following person by hand-delivery:

Regina Dorsey, Chief
Federal Communications Commission
Billings & Collections Branch
1919 M Street, N. W., Room 452
Washington, DC 20554


Nellie Martinez-Redicks