



# PUBLIC NOTICE

DOCKET FILE COPY ORIGINAL

**Federal Communications Commission**  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

News media information 202 / 418-5000  
Fax-On-Demand 202 / 418-2830  
Internet: <http://www.fcc.gov>  
<ftp.fcc.gov>

DA-00-2689

86-285

**Before the**  
**Federal Communications Commission**  
**Washington, D.C. 20554**

## PUBLIC NOTICE

**Released: November 29, 2000**

### FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

**Adelphia Business Solutions, Inc f/k/a Hyperion Telecommunications, Inc** - Request for waiver of the late penalty payment for Adelphia Business Solutions, Inc f/k/a Hyperion Telecommunications, Inc. at Coudersport, PA. **Denied.** (October 18, 2000). [See 47 CFR 1.1164].

**Bessemer Radio, Inc. (WSMQ-AM)** - Request for waiver of late charge penalty for the late payment of regulatory fees for Bessemer Radio, Inc. (WSMQ-AM) at Bessemer, AL. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Brazos Broadcasting Company** - Request for waiver of late charge penalty for late payment of FY 1998 regulatory fees for Brazos Broadcasting Company at Annapolis, MD. **Denied.** (October 26, 2000).

**Business Discount Plan** - Request for waiver and refund of the regulatory fee penalty for Business Discount Plan at Long Beach, CA. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Cornbelt Broadcasting Co.** - Request for waiver of late charge penalty for the late payment of regulatory fees for Cornbelt Broadcasting Co. at Clinton, IL. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Electric Lightwave, Inc.** - Request for waiver of late charge penalty for the late payment of regulatory fees for Electric Lightwave, Inc., Ltd, at Vancouver, WA. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**IDT Corporation** - Request for waiver of late charge penalty for the late payment of regulatory fees for IDT Corporation at Hackensack, NJ. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Intelsat, LLC.** - Request for waiver and deferral of application fee for Intelsat, LLC. at Washington, DC. **Granted.** (May 16, 2000). [See Establishment of a Fee Collection Program to Implement the Provision of the Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 5987 (1988); Consolidated Omnibus Reconciliation Act of 1985, Pub L. No. 99-272 5002(e), (f), 100 Stat. 82, 118-21 (1986). See 47 U.S.C. 158(d)(2) and 47 CFR 1.1117. See also, 47 CFR 25.114, 25.117, 25.118, and 25.140].

**Jackson Radio Works, Inc.** - Request for waiver of late charge penalty for the late payment of regulatory fees for Jackson Radio Works, Inc. at Jackson, MI. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**KAPS Radio** - Request for waiver of the late charge penalty for late payment of FY 1998 regulatory fees for KAPS at Mount Vernon, WA. **Granted.** (October 26, 2000). [See 47 CFR 1.1164].

**KITV Hearst-Argyle Television, Inc.** - Request for waiver of the late charge penalty for late payment of FY 1999 regulatory fees for KITV at Honolulu, HI. **Denied.** (October 26, 2000).

**KPRC** - Request for waiver of the late charge penalty for late payment of FY 1999 regulatory fees for KPRC at Houston, TX. **Denied.** (October 18, 2000).

**Lake Huron Cellular Corp.** - Request for waiver of the late charge penalty for late payment of FY 1999 regulatory fees for Lake Huron Cellular Corp. at Cass City, MI. **Denied.** (October 18, 2000).

**LMGT Astro License, LLC** - Request for partial waiver and refund fees for LMGT Astro License, LLC at Bethesda, MD. **Denied.** (October 18, 2000). [See Establishment of a Fee Collection Program to Implement the Provision of the Omnibus Budget Reconciliation Act of 1989, 5 FCC Rcd 3558, 3574 (1990) and Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947, 961 (1987) and 3 FCC Rcd 5987 (1988): See also, 47 U.S.C. 158(d)(2) and 47 CFR 1.1117(a)].

**Lockheed Martin Corporation** - Request for partial waiver, refund and reduction of the application fees for the assignment of nine geostationary (GSO) space station for Astrolink satellites and for Lockheed Martin Corporation at Bethesda, Md. **Denied.** (October 18, 2000). [See Establishment of a Fee Collection Program to Implement the Provision of the Omnibus Budget Reconciliation Act of 1989, 5 FCC Rcd 3558, 3574 (1990) and Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947, 961 (1987) and 3 FCC Rcd 5987 (1988): See also, 47 U.S.C. 158(d)(2), 47 CFR 1.1117(a) and Public Notice (PN) 56031, Interim Filing Fee Payment Established for Ka-Band Satellite Applications (Sep 28, 1995)].

**Long Distance Consolidated Billing Co.** - Request for waiver of the late charge penalty for late payment of regulatory fee for Long Distance Consolidated Billing Co. at Rochester, MI. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Loral Space & Communications, Ltd.** - Request for refund in connection with application to extend construction completion and launch milestones of its Telestar 9 satellite for Loral Space & Communications, Ltd, at Bedminster, NJ. **Granted.** (October 18, 2000). [See Establishment of Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, FCC No. 86-301 (July 9, 1986) (WESTLAW, FCOM-FCC library). See also, section 1.1107(9)(c) and 47 U.S.C. 158(g), Common Carriers Services, 16g].

**KYZZ (FM)** - Request for waiver of the late charge penalty for late payment of regulatory fee for KYZZ at San Angelo, TX. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Marlin Broadcasting, Inc.** - Request for waiver of the late charge penalty for late payment of regulatory fees for WCCC at Hartford, CT. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Mattoon Broadcasting, Inc.** - Request for waiver of the late charge penalty for late payment of regulatory fees for Mattoon Broadcasting at Mattoon, IL. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Millington CATV, Inc.** - Request for waiver of the late charge penalty for late payment of FY 1998 regulatory fees for Millington CATV, Inc. at Millington, TN. **Denied.** (October 18, 2000).

**Network Service** - Request for waiver of the late charge penalty for late payment of regulatory fees for Network Service at El Segundo, CA. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Tekstar Cablevision, Inc** - Request for waiver of the late charge penalty for late payment of regulatory fees for Tekstar Cablevision, Inc at Perham, MN. **Denied.** (October 26, 2000).

**Tel America, Inc.** - Request for waiver of the late charge penalty for late payment of regulatory fee for Tel America at Salt Lake City, UT. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Trumper Communication II** - Request for waiver of the late charge penalty for late payment of FY 1998 regulatory fees for Trumper Communication II at Westmont, IL. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**US LEC Corp.** - Request for waiver of the late charge penalty for late payment of regulatory fees for US LEC Corp. at Charlotte, NC. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**Valley Communications, Inc.,** - Request for waiver of the late charge penalty for late payment of regulatory fees for Valley Communications, Inc. at Geneva, IL. **Denied.** (October 18, 2000). [See 4 Conference Report, H.R. Rep. No. 453, 99<sup>th</sup> Cong., 1<sup>st</sup> Sess. 423 and 47 CFR 1.1166. See also, Implementation of Section 9 of the Communication, 9 FCC Rcd 5333, 5346 at 35 (Jun 8, 1994) and 10 FCC Rcd 12759, at 13 (Jun 22, 1995)].

**VarTec Telecom** - Request for waiver of the late charge penalty for late payment of regulatory fees for VarTec Telecom at Lancaster, TX. **Denied.** (October 26, 2000).

**WFXO** - Request for waiver of FY 1999 regulatory fees for WFXO at Iuka, MS. **Dismissed.** (October 18, 2000). [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994); recon. granted, 10 FCC Rcd 12759 (1995). See also, 10 FCC Rcd at 12761-62].

**WLTG** - Request for waiver of the late charge penalty for late payment of regulatory fee for WLTG at Panama City, FL. **Denied.** (October 18, 2000). [See 47 CFR 1.1164(b)].

**WHLJ** - Request for waiver of the late charge penalty for late payment of FY 1998 regulatory fees for WHLJ at Statenville, GA. **Denied.** (October 18, 2000).

NOTE: ANY QUESTIONS REGARDING THIS REPORT SHOULD BE DIRECTED TO THE REVENUE & RECEIVABLE OPERATION GROUP AT (202) 418-1995.

OFFICE OF  
MANAGING DIRECTOR

86-285

Susan James  
Senior Accountant  
Adelphia Business Solutions  
Main at Water Street  
Coudersport, PA 16915

RE: Request for Waiver of Regulatory Fee Penalty  
Adelphia Business Solutions, Inc.  
f/k/a Hyperion Telecommunications, Inc.  
Fee Control No. 9809258835273001

Dear Ms. James:

This is in response to your undated request to waive the penalty imposed upon the late payment of the applicable annual regulatory fees for Adelphia Business Solutions, Inc., f/k/a Hyperion Telecommunications, Inc.

Title 47, United States Code, section 159(c) and Commission rule 47 CFR § 1.1164 impose a penalty for untimely payment equal to 25% of the amount of the regulatory fee. The penalty may be excused only where the delay resulted from bank error "as evidenced by an affidavit of an officer of the bank" (47 CFR §1.1164(b)).

The press of business and personnel turbulence in an office; however, are not bank error. Accordingly, the Commission denies your request for a waiver. Payment of the penalty amount, \$5,751.56, is due at the Commission within 30 days from the date of this letter. If you have any questions concerning this letter, please contact the Credit & Debt Management Group at (202) 418-1995.

Sincerely,



Mark A. Reger  
Chief Financial Officer

FCC:WELLEN MAY 10 2000

Federal Communications Commission  
Credit and Debt Management Center  
P.O. Box 358835  
Pittsburgh, PA 15251-5835

Ref: Bill Number 99-9-0959 Hyperion Telecommunications Inc.

Attn: Claudett Pride

Dear Claudett,

Adelphia Business Solutions, Inc f/k/a Hyperion Telecommunications, Inc the holding company for numerous legal entities, respectfully requests the FCC abate the 25% penalty for the 1998 Regulatory Fees. During the time frame of August –September 1998 Adelphia Business Solutions was experiencing turnover in this department as well as tremendous growth, because of this turnover our payment was actually prepared 9/22/1998, two days after the due date.

We would ask that you take into consideration that in 1997 our payment was on time and in 1999 our payment was dated 8/25/2000. We will diligently prepare the documents in a timely fashion in the future.

Your consideration is greatly appreciated. If you have any further questions, feel free to contact us at 814-274-6946.

Sincerely,



Susan James  
Senior Accountant  
[Susan.james@adelphiacom.com](mailto:Susan.james@adelphiacom.com)  
814-274-6946 (v)  
814-260-6124 (f)

# Payment Transactions Detail Report

Date: 06/29/2

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Fcc Account Number	Payer TIN	Received Date							
9809258835273001	HYPERION TELECOMMUNICATIONS IN MAIN AT WATER STREETS  COUDERSPORT PA 16915	FCC2063588		09/24/1998 00:00:00							
Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$23,006.95	\$23,006.95	16	COD8	2481000		MEDIA ONE OF VIRGINIA	23228		\$2,729.10	1	PMT
\$23,006.95	\$23,006.95	10	COD8	1920465	803676	NEW CHANNELS HYPERION TELECOMM	16915		\$2,112.51	1	PMT
\$23,006.95	\$23,006.95	1	COD8	905163	808975	HYPERION OF TENNESSEE L P	37201		\$990.57	1	PMT
\$23,006.95	\$23,006.95	12	COD8	1824680	808979	MULTIMEDIA HYPERION TELECOMMUN	67202		\$2,007.15	1	PMT
\$23,006.95	\$23,006.95	8	COD8	360264	811219	PECO HYPERION TELECOMMUNICATIO	19104		\$396.29	1	PMT
\$23,006.95	\$23,006.95	5	COD8	1221148	811220	HYPERION TELECOMMUNICATIONS OF	171021416		\$1,343.26	1	PMT
\$23,006.95	\$23,006.95	13	COD8	1940236	811222	HYPERION TELECOMMUNICATIONS OF	05495		\$2,134.26	1	PMT
\$23,006.95	\$23,006.95	4	COD8	3000	811223	HYPERION TELECOMMUNICATIONS PA	15017		\$3.30	1	PMT
\$23,006.95	\$23,006.95	3	COD8	420569	811226	HYPERION TELECOMMUNICATIONS OF	22903		\$462.63	1	PMT
\$23,006.95	\$23,006.95	9	COD8	539128	APPLICANTN	HYPERION TELECOMMUNICATIONS OF	07064		\$593.04	1	PMT
\$23,006.95	\$23,006.95	7	COD8	34544	NEWFILER	HYPERION TELECOMMUNICATIONS OF	40507		\$38.00	1	PMT
\$23,006.95	\$23,006.95	6	COD8	810157	NEWFILER	HYPERION TELECOMMUNICATIONS OF	40202		\$691.17	1	PMT
\$23,006.95	\$23,006.95	11	COD8	488339	NEWFILER	HYPERION TELECOMMUNICATIONS OF	13057		\$537.17	1	PMT
\$23,006.95	\$23,006.95	2	COD8	1971885	NEWFILER	HYPERION TELECOMMUNICATIONS OF	14214		\$2,169.07	1	PMT
\$23,006.95	\$23,006.95	14	COD8	67832	NEWFILER	HYPERION SUSQUEHANNA TELECOMMU	174011384		\$74.62	1	PMT
\$23,006.95	\$23,006.95	17	COD8	1649	JNKNOWNNEW	HYPERION TELECOMMUNICATIONS OF	16915		\$1.81	1	PMT
\$23,006.95	\$23,006.95	15	COD8	5930000	JNKNOWNNEW	MEDIAONE FIBER TECHNOLOGIES IN	32217		\$6,523.00	1	PMT
<b>Total</b>		17							<b>\$23,006.95</b>		

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554  
OCT 16 2000

CREDIT & DEBIT MANAGEMENT  
CENTER, OMD

OFFICE OF  
MANAGING DIRECTOR

86-205  
/

Gene Landau  
Bessemer Radio, Inc.  
P.O. Box 368  
Bessemer, Alabama 35021

RE: Request for Waiver of Regulatory Fee, Late Fee  
Bessemer Radio, Inc., (WSMQ, AM), Bessemer, Alabama  
Fee Control No. 00000CDMC-99-021

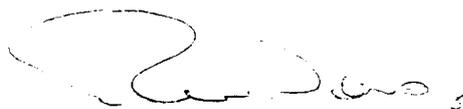
Dear Mr. Landau:

This is in response to your above-styled request of December 8, 1998, to waive the regulatory late fee of \$155 imposed upon the late payment of the applicable annual regulatory fee for Bessemer Radio, Inc.

Title 47, United States Code, section 159(c) and Commission rule 47 CFR §1.1164 impose a penalty for untimely payment equal to 25% of the amount of the regulatory fee. The penalty may be excused only where the delay resulted from bank error "as evidenced by an affidavit of an officer of the bank" (47 CFR §1.1164(b)).

We understand that hospitalization may have incapacitated you for some or all of the period allowed for the payment of the regulatory fee. We note, however, that a corporate officer paid the fee nine days after you were released from the hospital. Accordingly, the Commission denies your request for a waiver. Payment of the penalty, \$155, is due to the Commission within 30 days from the date of this letter. If you have any questions concerning this letter, please contact the Credit & Debt Management Group at (202) 418-1995.

Sincerely,



Mark A. Reger  
Chief Financial Officer

# WSMQ

am 1450  
BESSEMER RADIO, INC.

DECEMBER 8, 1998

MR. TOM PUTNAM, BILLINGS AND COLLECTIONS  
FEDERAL COMMUNICATIONS COMMISSION  
445 12TH STREET SW  
WASHINGTON D. C. 20024

DEAR MR. PUTNAM:

I AM WRITING TO REQUEST A WAIVER AND RELIEF FROM THE FINE OF \$155  
ASSESSED AGAINST WSMQ.

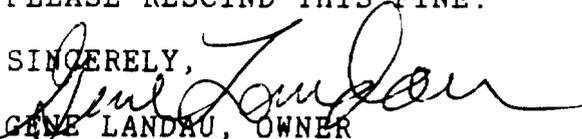
WHEN THIS SHOULD HAVE BEEN ATTENDED TO I WAS IN THE HOSPITAL  
WHERE I HAD A CLOSE BRUSH WITH DEATH. PLEASE FIND EXHIBIT "B1  
&B2" SHOWING DATES OF HOSPITALIZATION.

WE SENT THE REGULATORY FEE AS SOON AS WE COULD GET BACK ON OUR  
FEET.

PLEASE NOTE EXHIBIT "A" SHOWING OUR INCOME THRU SEPTEMBER, 1998.  
THE ITEM MARKED NON BROADCAST INCOME DOES NOT COME FROM THE RADIO  
STATION, THUS THE RADIO STATION HAS LOST \$5000 IN 9 MONTHS AND  
THIS WHOLE FEE BUSINESS AND EMERGENCY ALERT EXPENSES OF 1997 HAVE  
BEEN A SEVERE HANDICAP ON THE LIFE OF WSMQ RADIO STATION.  
WE TRY TO OPERATE WSMQ IN THE PUBLIC INTEREST BUT THE LOAD IS  
GETTING VERY HEAVY.

PLEASE RESCIND THIS FINE.

SINCERELY,

  
GENE LANDRAU, OWNER

## FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 26 2000

OFFICE OF  
MANAGING DIRECTOR

96-285

Mr. Dennis J. Kelly  
Post Office Box 6648  
Annapolis, MD 21401

RE: Request for Waiver of Late Charge  
Penalty for FY 1998 Regulatory Fees  
Brazos Broadcasting Company  
Fee Control No. 00000CDMC-99-005

Dear Mr. Kelly:

This is in response to your request for waiver of the late charge penalty for late payment of the Fiscal Year (FY) 1998 regulatory fees, filed on behalf of Brazos Broadcasting Company (Brazos).

You state that on September 18, 1998, the due date for payment of FY 1998 regulatory fees, you submitted a check from Brazos that, by inadvertent mistake, was made payable to yourself, rather than to the Federal Communications Commission. You further state that the Commission notified Brazos of the mistake directly, rather than yourself, despite section 1.12 of the Commission's rules and resulting in a needlessly longer period of time to correct the mistake. Under these circumstances, you maintain, a 25 percent late penalty is "harsh and unfair."

We have fully considered all of your contentions. The Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner. It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. Your request does not indicate or substantiate that Brazos Broadcasting Company met this obligation. In this regard, we note that even if the Commission had notified you of the mistake directly, the payment would have been late. Therefore, the penalty was properly imposed and your request is denied.

Payment of the late charge penalty in the amount of \$810.75 was assessed and due on September 19, 1998. The late charge penalty must be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. You are cautioned that the failure to submit payment as required may result in further sanctions and the initiating of a proceeding to recover the penalty and accrued interest pursuant to the provisions of the Debt Collection Improvement Act. of 1996.

Mr. Dennis J. Kelly

2.

If you have any questions concerning this letter, please call the Credit & Debt Management Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger  
Chief Financial Officer

Law Office of  
**DENNIS J. KELLY**  
Post Office Box 6648  
Annapolis, Maryland 21401

DUPLICATE

TELEPHONE: 888-322-5291  
202-293-2300

MEMBER, DISTRICT OF COLUMBIA BAR ONLY;  
PRACTICE LIMITED TO FEDERAL COMMUNICATIONS LAW

RECEIVED TELECOPIER: 410-626-1794  
EMAIL: dkellyfcclaw1@msn.com

July 6, 1999

JUL 6 1999

Ms. Claudette E. Pride  
Credit & Debt Management Center  
Federal Communications Commission  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**RE: Brazos Broadcasting Company**  
**Reference Number 98-9-0732**

Dear Ms. Pride:

This letter is to respond to your letter of June 16, 1999 to our client Brazos Broadcasting Company (Brazos), licensee of Television Broadcast Station KBTX-TV, Channel 3, Bryan, Texas, and related broadcast auxiliary stations, in which you demanded a payment of \$810.75. You indicated that "this is the second demand for payment".

As it turned out, Brazos responded to your first demand for payment with a request for waiver of the \$810.75 penalty fee claimed by your office. This request was filed with the Secretary of the Commission on December 11, 1998, within the time allowed by your "first demand" for payment; a copy is attached hereto.

It is respectfully requested that you grant the requested waiver for the reasons stated therein, and that this will resolve the matter.

Should additional information be desired in connection with this matter, kindly communicate with this office.

Ms. Claudette E. Pride  
Federal Communications Commission  
July 6, 1999  
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Kelly", written in a cursive style.

Dennis J. Kelly

cc: Mr. Jon Bennett

RECEIVED

DEC 11 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MEMBER, DISTRICT OF COLUMBIA BAR ONLY;  
PRACTICE LIMITED TO FEDERAL COMMUNICATIONS LAW

Law Office of  
**DENNIS J. KELLY**

Post Office Box 6648  
Annapolis, Maryland 21401

FILE COPY

TELEPHONE: 888-322-5291  
202-293-2300

TELECOPIER: 410-626-1794  
E-MAIL: dkellyfcclaw1@msn.com

December 11, 1998

Regina W. Dorsey, Chief  
Billings & Collections Branch  
Federal Communications Commission  
Washington, DC 20554

**RE: Brazos Broadcasting Company  
Proposed \$810.75 Late Penalty  
Request for Waiver**

Dear Ms. Dorsey:

This letter is to respond to your letter of December 3, 1998 to our client Brazos Broadcasting Company (Brazos), licensee of Television Broadcast Station KBTX-TV, Channel 3, Bryan, Texas, and related broadcast auxiliary stations. Your letter assessed a "25 percent late penalty in the amount of \$810.75". This is to request a waiver of said penalty and to demonstrate just cause why a waiver should be granted.

On September 18, 1998, the undersigned personally drove to Pittsburgh, Pennsylvania to pay regulatory fees for Brazos and other clients of this office. A copy of the submission on behalf of Brazos, including FCC Forms 159 and 159-C, showing the stamp "FCC/Mellon Sep 18 1988" is appended hereto as Exhibit A.

As you will notice, Brazos' check, in the correct amount of \$3,243.00, was made payable to the undersigned, rather than to the FCC. The undersigned did not catch this, and submitted such check to the Mellon Bank's FCC lockbox on September 18, 1998.

Your office caught this mistake on September 30, 1998. Your office on that date sent a form letter to Brazos' headquarters in Bryan, Texas, and request that Brazos "please

Ms. Regina W. Dorsey  
Federal Communications Commission  
December 11, 1998  
Page 2

replace with check payable to FCC" (see Exhibit B). The undersigned was not notified of this, despite having filed the fee submission under the letterhead of this office, and despite Section 1.12 of the Commission's Rules stating as follows:

In any matter pending before the Commission in which an attorney has appeared for, submitted a document on behalf of or been otherwise designated by a person, any notice or other written communication pertaining to that matter issued by the Commission and which is required or permitted to be furnished to the person will be communicated to the attorney, or to one of such attorneys if more than one is designated. If direct communication with the party is appropriate, a copy of such communication will be mailed to the attorney. \_

Had your office contacted me by telephone on September 30, 1998, this matter could have been quickly resolved, by me coming to the FCC's headquarters and endorsing the back of the check to the order of the FCC, thereby making the check an immediately collectible item.

As it turns out, Brazos' accounting department responded immediately to your September 30, 1998 letter by sending a replacement check in the amount of \$3,243.00 to the FCC. Your letter was received by Brazos on or about October 2, 1998, and the replacement check was dispatched the same day, October 2, 1998. Copies of the front and back of this replacement check are appended hereto as Exhibit C. It appears from the back of the check that either the FCC or the Mellon Bank negotiated it on October 08, 1998.

Under these circumstances, a "25% late penalty of \$810.75" is harsh and unfair for what was an inadvertent mistake. In this regard it should be noted that Brazos has a record of timely annual regulatory fee payments in each of the other years that such fees were required to be paid. As noted above, the matter could have been quickly resolved, without the need for your December 3, 1998 letter, had the Billings and Collections Branch notified the undersigned in accordance with Section 1.12 of the Rules; the undersigned would have immediately come to the Commission's headquarters, and the

Ms. Regina W. Dorsey  
Federal Communications Commission  
December 11, 1998  
Page 3

\$3,243.00 check delivered to the Commission on September 18, 1998 would not have been uncollectible, and therefore a penalty fee pursuant to Section 1.1164(a) of the Rules could not have been proposed.

For the foregoing reasons, and since Brazos made a good faith effort to timely pay the 1998 regulatory fee, there is just cause for waiver of the 25% penalty fee, and it is urged that the Billings and Collections Branch treat the \$3,243.00 paid by Brazos as payment in full for its regulatory fee obligation in fiscal year 1998.

A courtesy copy of this item is being hand delivered to you this date; an original and two copies of this letter are being filed with the Secretary of the Commission this date, within 20 days of the December 3, 1998 date of your letter.

Should additional information be desired in connection with this matter, kindly communicate with this office.

Very truly yours,



Dennis J. Kelly

cc: Mr. Jim Baronet

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 03 1998

OFFICE OF  
MANAGING DIRECTOR

BRADCO BROADCASTING COMPANY  
4141 E 29TH STREET  
BRYAN TX 77802

Dear Sir or Madam:

This letter is a follow-up to your delinquent payment of your 1998 annual regulatory fee(s) in the amount of \$3,243.00.

Payment of the fees was due to the Federal Communications Commission (FCC) by September 18, 1998. In accordance with Section 9 [47 U.S.C. 159(c)(1)], a 25 percent late penalty in the amount \$810.75 has been assessed. Unless you can show just cause why the penalty is inapplicable or should otherwise be waived or deferred, payment is due within 20 days from the date of this letter.

Payment should be sent to the Federal Communications Commission, Regulatory Fees, P.O. Box 358835, Pittsburgh, PA 15251-5835 along with the enclosed Remittance Advice (FCC Form 159). Instructions on how to complete this form are also enclosed. The payment type code to be used in Block 20A of FCC Form 159 for this penalty payment is "FINE".

If you have any documentation that will establish that the fee was paid by September, 18, 1998, such as a courier-dated receipt, please include this in your response so that we can clear our records.

You are cautioned that failure to respond and/or pay the penalty will subject you to further sanctions as defined by 47 CFR Section 1.1164 of our Rules. These sanctions include subjecting the delinquent payor's pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be revoked. Further sanctions include interest charges, and the full cost of collection to the Federal Government pursuant to section 3720A of the Internal Revenue Code, 31 U.S.C. 3717, and the provisions of the Debt Collection Act, 31 U.S.C. 3717.

If you have any questions, you may contact me at (202) 418-1995.

Sincerely,



Regina W. Dorsey, Chief  
Billings & Collections Branch

Enclosures

**EXHIBIT A**

Law Office of  
**DENNIS J. KELLY**  
Post Office Box 6648  
Annapolis, Maryland 21401

FCC/MELLON

SEP 18 1998

MEMBER, DISTRICT OF COLUMBIA BAR ONLY;  
PRACTICE LIMITED TO FEDERAL COMMUNICATIONS LAW

TELEPHONE: 888-322-5291  
202-293-2300

TELECOPIER: 410-626-1794  
E-MAIL: dkellyfcc1aw1@msn.com

September 18, 1998

BY HAND TO MELLON BANK/FCC MODULE

Federal Communications Commission  
Regulatory Fees  
Post Office Box 358835  
Pittsburgh, PA 15251-5835

RE: **KBTX-TV, Bryan, Texas**  
**1998 Regulatory Fee Payment**

Gentlemen:

There is transmitted herewith FCC Form 159 and a check payable to the Commission in the amount of \$3,243.00 in full payment for the 1998 annual regulatory fees for Brazos Broadcasting Company, licensee of Television Broadcast Station KBTX-TV, Bryan, Texas and related auxiliary stations.

A letter issued by the Commission's Office of Managing Director which ruled that KBTX-TV is to be treated as being located in a "remaining television market" for purposes of the regulatory fees is appended to this submission.

Should additional information be desired in connection with this matter, kindly communicate with this office.

Very truly yours,



Dennis J. Kelly

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

August 16, 1995

OFFICE OF  
MANAGING DIRECTOR

Dennis J. Kelly, Esquire  
Cordon and Kelly  
P.O. Box 6648  
Annapolis, MD 21401

Re: Brazos Broadcasting Company  
Fee control # 9408028835124001  
Fee Paid: \$5,000

Dear Mr. Kelly:

This is in response to your petition, filed on behalf of Brazos Broadcasting Company, for a reduction of the FY 1994 regulatory fee assessed for VHF Television Station KBTX-TV, Bryan, Texas.

You maintain that although KBTX-TV is located in the Waco-Temple, Texas, ADI (Area of Dominant Influence) Market, it does not serve Waco or Temple, and that it should be regarded and assessed the regulatory fee for a non-top 100 or remaining market station. Brazos paid a FY 1994 regulatory fee of \$5,000, the regulatory fee for a remaining market VHF Television Station.

Our review of the record shows that KBTX-TV is within the Waco - Temple, Texas, Television Market, which is the 96th largest market. However, KBTX-TV's predicted Grade B contour does not reach Waco or Temple, Texas. The Television and Cable Fact Book, Vol. 62, A-1111(1994), indicates that KBTX-TV's service area encompasses 202,900 television households, which are fewer than the number of television households served by a television station located in a top 100 market. Thus, KBTX-TV will be assessed a regulatory fee comparable to that of a VHF Station in the remaining market category, or \$5,000. Absent significant changes in population or coverage area, KBTX-TV will be considered as a remaining market station in succeeding years. A copy of this letter should be retained and included with any future correspondence concerning the imposition of regulatory fees for KBTX-TV.

Dennis J. Kelly, Esquire  
Page 2

Accordingly, your petition is granted. The \$5,000 previously submitted by Brazos, fully satisfies its FY 94 regulatory fee obligation for KBTX-TV. If you have any questions concerning the regulatory fees for KBTX-TV, please call the Chief, Fee Section at (202) 418-1995.

Sincerely,



Marilyn J. McDermett  
Associate Managing Director  
for Operations

**EXHIBIT B**

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

9-30-98

IN REPLY REFER TO:

Brazos Broadcasting Company  
4141 E. 29th Street  
Bryan TX 77802

Dear FCC Customer

Re: Return of Unprocessable Application

This is to notify you that your application package is being returned for the following reasons:

- No application filing accompanied your submission.
- Application Form \_\_\_\_\_ is not accepted in this P. O. Box.
- No remittance accompanied your submission. Please refer to the appropriate Fee Filing Guide.
- The remittance for fee code \_\_\_\_\_ is now \$ \_\_\_\_\_.
- Your check is not acceptable for this reason PAYABLE TO DENNIS J. KELLY  
PLEASE REPAIR WITH CHECK PAYABLE TO FCC
- Multiple checks for a single application are not accepted.
- No remittance advice (FCC Form 159) accompanied your submission.
- The payment type code is incorrect.
- The remittance advice form is incomplete or obsolete.
- Multiple quantities ( quantities greater than 1 ) are not accepted for this payment type code. Each transaction must be listed separately on FCC Form 159 Remittance Advice.
- When paying with a single remittance and filing for more than one applicant, or filing more than one call sign identifier, each item must be listed individually on FCC Form 159/159C Remittance Advice.
- Multiple payment type codes listed are not accepted in this P. O. Box. Please refer to the Filing Guide and prepare a separate filing for each P. O. Box.
- The credit card section of FCC Form 159 Remittance Advice needs \_\_\_\_\_ Expiration date \_\_\_\_\_ Signature \_\_\_\_\_
- Block 3 must be completed to authorize a credit card charge.
- OTHER

Please refer to the enclosed fee filing guide for further instructions, and mail your corrected application, remittance advice form and payment to the appropriate P. O. Box in Pittsburgh, PA.

If you have further questions, please contact the Fee Section at 1-888-225-5322 202-418-1995

Sincerely,  
Billings & Collections Branch

Enclosures  
Filing Guide \_\_\_\_\_  
Check(s) # \_\_\_\_\_  
Fee Form \_\_\_\_\_

For Office Use Only

Proc #1 \_\_\_\_\_

BUCKET FILE COPY ORIGINAL  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554  
OCT 18 2000

CREDIT & DEBT MANAGEMENT  
GROUP, OMD

86-285

OFFICE OF  
MANAGING DIRECTOR

Ms. Allison Bloom  
Controller  
Business Discount Plan  
3780 Kilroy Airport Way, Suite 200  
Long Beach, CA 90806

RE: Request for Waiver (Section 9, Late Fee)  
Business Discount Plan  
Fee Control Number 0006098835295002

Dear Ms. Bloom:

This is in response to Ms. Suzanne L. Edwards' request on June 28, 2000 to waive and refund the regulatory fee penalty of \$18,079.89 imposed because your payment was late. We are responding directly to you because Ms. Edwards did not provide a mailing address.

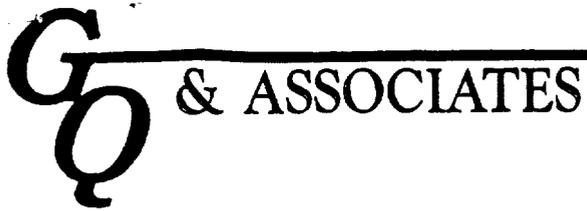
Ms. Edwards states that the company did not receive the Public Notice; therefore, it could not pay the fee. The stated reason is neither compelling nor grounds for relief. Title 47, United States Code, §159(c) and Commission rule 47 CFR §1.1164 impose a penalty for untimely payment equal to 25% of the amount of the regulatory fee. The penalty may be excused only where the delay resulted from bank error "as evidenced by an affidavit of an officer of the bank" (47 CFR §1.1164(b)).

Accordingly, the Commission denies your request for a waiver and refund of the penalty. If you have any questions concerning this letter, please contact the Credit & Debt Management Group at (202) 418-1995.

Sincerely,



for Mark A. Reger  
Chief Financial Officer



June 28, 2000

Mr. Andrew Fishel  
Office of the Managing Director  
Federal Communications Commission  
445 Twelfth Street Southwest, Suite 1C144  
Washington D.C. 20554

RE: Business Discount Plan, 2000-9-2441

Dear Ladies and Gentlemen:

The above licensee submitted checks #16370 on May 22, 2000 for the annual regulatory fees of \$72,320.00 (payment type code COD9) and check #16371 on the same day for penalties assessed \$18,079.89 (payment code FINE). Business Discount Plan is an upstanding company that pays its obligations in a timely manner. Unfortunately, the company did not receive the Public Notice dated August 2, 1999, and therefore could not pay a fee to which it was not informed. Upon receiving the letter from the Federal Communications Commission dated May 17, 2000, the licensee immediately submitted fees and to show good faith, also submitted the penalty assessed.

We respectfully request the Federal Communications Commission refund the 25% penalties in the amount of \$18,079.89 unjustly assessed Business Discount Plan for reasonable cause as allowed by 47 USC Sec. 159 (c)(2).

Mr. Walter F. O'Connor, MBA, PhD, CPA, a Professor of Taxation and Accounting and Director of the Masters in Taxation Program at Fordham University Graduate School of Business Administration states, "The Omnibus Reconciliation Act of 1993 is confusing, lacks a central theme, and appears to be an attempt to increase revenue instead of to reform taxation."

We contend the Act, which provides for the collection of the regulatory fees, is unjust in that a 25% penalty is exorbitant and should not be imposed until some more direct communication is made to the licensee. This was the first time Business Discount Plan ever had to pay the fee, so there were no historical

payments to base an expected fee upon or for which to forecast an expected payment to the Federal Communications Commission. There would have been no way Business Discount Plan could have know about this fee in order to pay it.

If we do not get satisfactory results with this request, we intend to contact our congressional representative Edward R. Royce and request further action on our behalf. We appreciate your consideration in this matter. If you should have any questions, please call Allison Bloom, Controller of Business Discount Plan at (949) 798-7020 or myself at (714) 523-3970.

Sincerely,  
GENE QUERRY & ASSOCIATES, CPAS



Suzanne L. Edwards  
Certified Public Accountant

cc: Allison Bloom, Business Discount Plan

# Payment Transactions Detail Report

Date: 08/15/2000

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name				Fcc Account Number	Payer TIN	Received Date				
0006098835295002	BUSINESS DISCOUNT PLAN INC 3780 KILROY AIRPORT WAY SUITE 200 LONG BEACH CA 90806				WP00023904	0330544520	6/08/2000 00:00:0				
Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$18,079.89	\$18,079.89	1	FINE	1	200092441	BUSINESS DISCOUNT PLAN INC	90806		\$18,079.89	1	PMT
<b>Total</b>									<u>\$18,079.89</u>		

# Payment Transactions Detail Report

Date: 08/15/2000

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name				Fcc Account Number	Payer TIN	Received Date				
0006098835295003	<b>BUSINESS DISCOUNT PLAN INC</b> 3780 KILROY AIRPORT WAY SUITE 100 LONG BEACH CA 90806				WP00023905	0330544520	6/08/2000 00:00:0				
Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$72,320.00	\$72,320.00	1	COD9	1	200092441	BUSINESS DISCOUNT PLAN INC	90806		\$72,320.00	1	PMT
<b>Total</b>									<u>\$72,320.00</u>		