

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

AMD-FO  
(CHRON)

OFFICE OF  
MANAGING DIRECTOR

February 3, 2005

James P. Riley, Esq.  
Lee G. Petro, Esq.  
Fletcher, Heald & Hildreth, P.L.C.  
11<sup>th</sup> Floor  
1300 North 17<sup>th</sup> Street  
Arlington, VA 22209-3801

Re: Edward G. Atsinger  
Request for Refund of Application Filing Fees  
Fee Control No. 0403268350881083

Dear Counsel:

This letter responds to your request (dated April 9, 2004) submitted on behalf of Edward G. Atsinger (Atsinger) for a refund of the fee filed in connection with an application seeking authorization for the pro forma transfer of control of ninety-three radio broadcast stations.<sup>1</sup> Our records reflect that you paid the \$10,695.00 fees associated with that application.

You recite that "each of the 93 applications has been returned as unacceptable for filing." This action was taken April 5, 2004. You state that "[a]ccording to the Commission's staff, even though separate file numbers were associated with each of the 93 stations, a separate transfer of control application was required to be filed for each of the 26 entities holding the licenses of the 93 stations, rather than one application for all of the stations." You state that "[s]eparate applications have since been filed with the Commission, and were granted on April 6, 2004."

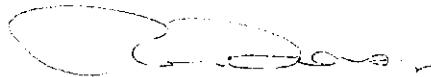
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<sup>1</sup> See Application for Consent to Assign Broadcast Station Construction Permit or License or to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 316 (filed by ATEP Radio, Inc. (identified as "Licensee/Permittee") and New Stockholders (i.e., The Epperson Family 2003 Trust, and Stuart W. and Nancy A. Epperson, Jointly) (identified as "Assignee/Transferee"), with Edward G. Atsinger III (identified as "Trustee")) (*March 26 Transfer of Control Application*).

The Commission staff found the *March 26 Transfer of Control Application* defective and returned the application as unacceptable for filing.<sup>2</sup> Thereafter, the 26 entities holding the licenses of the 93 stations at issue here filed transfer of control applications (along with the appropriate filing fees), which the Commission granted.<sup>3</sup> We therefore find that a refund of the original application filing fee is appropriate. See 47 C.F.R. § 1.1108 and 1.1113(a). We therefore grant your request for a refund of the \$10,695.00 application filing fee associated with the *March 26 Transfer of Control Application*.

A check, made payable to the maker of the original check, and drawn in the amount of \$10,695.00, will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger  
Chief Financial Officer

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<sup>2</sup> See *Public Notice*, Broadcast Actions, 2004 WL 746138 (Apr. 8, 2004); see also 47 C.F.R. § 73.3566(a) (“Applications which are determined to be patently not in accordance with the FCC rules regulations, or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing . . .”).

<sup>3</sup> See *Public Notice*, Broadcast Actions, 2004 WL 7622740 (Apr. 9, 2004).

0403268350881083

"PLEASE STAMP"  
AND RETURN  
THIS COPY TO

FLETCHER, HATCHER, HEALD & HILDRETH, L.L.C.

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April 9, 2004

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petro@fhhlaw.com  
703-812-0453

**VIA HAND DELIVERY**

Marlene Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

RECEIVED

APR - 9 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Request for Reimbursement of Filing Fees  
Edward G. Atsinger, Payer - FRN: 0010-6446-64**

Dear Ms. Dortch:

Pursuant to Section 1.1113 of the Commission's rules, Edward G. Atsinger ("Atsinger"), by and through its counsel, respectfully requests reimbursement of certain application filing fees that were submitted to the Commission on March 26, 2004.

Specifically, Atsinger submitted the filing fee payments for an application seeking authorization for the *pro forma* transfer of control (FCC Form 316) of ninety-three radio broadcast stations.<sup>1</sup> A copy of the application, along with the FCC Form 159 showing the charge of \$10,695.00, is attached hereto as Exhibit One.

As shown in Exhibit Two, each of the 93 applications has been returned as unacceptable for filing. According to the Commission's staff, even though separate file numbers were associated with each of the ninety-three stations, a separate transfer of control application was required to be filed for each of the twenty-six entities holding the licenses of the ninety-three stations, rather than one application for all of the stations. Separate applications have since been filed with the Commission, and were granted on April 6, 2004. See Exhibit Three

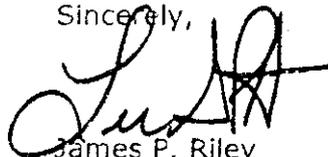
<sup>1</sup> Under Section 1.1113(a) of the Commission's rules, requests for refund must be in the name of the "payer" listed on the FCC Form 159. Atsinger was the payer, via credit card, of the one application relating to the 93 stations. Counsel for Atsinger should be contacted to obtain the credit card number when the Commission is prepared to process the reimbursement.

AUG 27 2004

Therefore, in light of these circumstances, Atsinger requests that the filing fees associated with the referenced applications be returned. The applications for which the fees were associated have been returned as unacceptable, and under the Commission's rules and policies, Atsinger is entitled to the reimbursement of the filing fees. In light of the significant fees associated with this Request, any effort to expedite the processing of this Request would be greatly appreciated.

Should additional information be necessary in support of this Request, or if questions arise regarding this Request, please contact the undersigned counsel.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Riley". The signature is stylized and cursive, with a large initial "J" and "R".

James P. Riley  
Lee G. Petro

Counsel for Edward G. Atsinger

Enclosures

cc: Ms. Claudette Pride  
Office of Managing Director

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

TOM PUTMAN  
R&ROG

OFFICE OF  
MANAGING DIRECTOR

February 4, 2005

Leona Jona  
President/General Manager  
Broadcast House of the Pacific, Inc.  
1734 S. King Street  
Honolulu, Hawaii 96826

Re: Broadcast House of the Pacific, Inc.  
Request for Waiver of FY 2004  
Regulatory Fee Penalty  
Fee Control No. 00000RROG-05-024

Dear Ms. Jona:

This responds to your October 11, 2004 letter requesting waiver of the penalty for late payment of the fiscal year (FY) 2004 regulatory fees for Broadcast House of the Pacific, Inc. (Broadcast House) in Honolulu, Hawaii. Our records show that the FY 2004 regulatory fee penalty of \$731.25 has been paid.

In your letter, you state that Broadcast House mailed its payment before August 19, 2004, and that it was received at the Commission's payment center in Pittsburgh on August 23, 2004. You state that you failed to include your credit card's expiration date when mailing your payment, and did not learn that your payment was not processed until you received your credit card statement. You request waiver of the late penalty on account of the late payment being caused by a small mistake and Broadcast House's prior record of timely payment of regulatory fees. You also cite the additional financial burden that payment of the late penalty would impose on your small station.

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 licensee 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. See 47 C.F.R. § 1.1164. Your request does not indicate or substantiate that you met this obligation. Please also note that, although you state that the late payment was caused by the "small mistake" of failing to include the credit card number on the payment, the documents you submitted show that your mailing was received at the Commission's payment center in Pittsburgh on August 23, 2004, four days after the August 19, 2004 deadline, and thus would have been assessed a late penalty even if the credit card number had been included. Further, although you may not have been aware of or fully understood the Communications Act or the Commission's

Leona Jona, President/General Manager

2.

rules regarding regulatory fees, Commission licensees are expected to know and understand the requirements and rules governing their licenses.<sup>1</sup> Therefore, your request is denied.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', with a large, stylized initial 'M'.

Mark A. Reger  
Chief Financial Officer

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<sup>1</sup> Among other things, the Commission issued Public Notices announcing the due date for payment of fees. *Public Notice*, DA 04-2215, July 21, 2004; *Public Notice*, DA 04-2262, July 23, 2004; *Public Notice*, DA 04-2549, August 18, 2004.