

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APR 26 2010

OFFICE OF
MANAGING DIRECTOR

Ms. Jeanette Lisefski
Accounting Department
Conference Calls Unlimited
1734 Jasmine, Bldg. 18, Suite 155
Fairfield, IA 52556

Re: Conference Calls Unlimited
Fiscal Year 2009 Regulatory Fee
Fee Control No. 0911049088121001

Dear Ms. Lisefski:

This is in response to your request dated November 30, 2009 (*Request*), on behalf of Conference Calls Unlimited (CCU) for waiver of the penalty for late payment of the fiscal year (FY) 2009 regulatory fee. Our records reflect that you paid the \$1,106.00 regulatory fee and the \$276.50 late payment penalty. For the reasons set forth below, we deny your request.

You assert that CCU received an FCC Remittance Advice Bill for Collection (dated October 15, 2009) (*Bill for Collection*) on October 26, 2009, one month after the due date for the FY 2009 regulatory fees.¹ You aver that you did not receive any prior notification about the *Bill for Collection* and did not receive any information about the need to check Public Notices for this and other matters.²

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.³ 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.⁴ You paid the regulatory fee for CCU on November 2, 2009,

¹ *Request* at 1.

² *Id.*

³ 47 U.S.C. §159(c)(1).

⁴ See 47 C.F.R. §1.1164; and see *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10311 (2009); *Public Notice, Payment Methods and Procedures for FY 2009*, 24 FCC Rcd 11513, 11513 (Sept. 2,

after the September 22, 2009, deadline for filing regulatory fees, and therefore failed to meet this obligation. The Commission informs its licensees of the due dates, amounts of the fees, and payment methods in public notices and fact sheets, which information it also posts on its web site, www.fcc.gov. For the FY 2009 regulatory fees, the Commission timely released several public notices and news releases informing licensees of the new filing requirement and the September 22, 2009, deadline for filing regulatory fees and posted these items on its web site.⁵

The Commission has repeatedly held that “[l]icensees are expected to know and comply with the Commission’s rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances.”⁶ You have not presented any circumstances sufficient to mitigate your responsibility as a licensee to apprise yourself of your obligation to pay the FY 2009 regulatory fee by the announced deadline of September 22, 2009. We therefore deny your request for waiver of the penalty for late payment of the FY 2009 regulatory fees for CCU.

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

Sincerely,

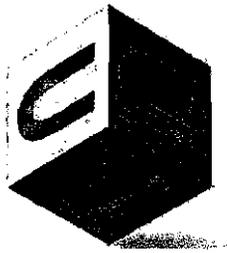


Mark Stephens
Chief Financial Officer

2009) (*September Public Notice*); *Public Notice, FY 2009 Regulatory Fees Due No Later Than September 22, 2009, Eastern Time (ET)*, 24 FCC Rcd 10890, 10890 (Aug. 21, 2009); and *Public Notice, Fee Filer Mandatory for FY 2009 Regulatory Fees*, 24 FCC Rcd 10893, 10893 (Aug. 21, 2009) (stating that FY 2009 regulatory fees must be received by the Commission no later than September 22, 2009, and that payments received after that date will be charged a 25 percent late payment penalty).

⁵ *See supra*.

⁶ *See Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970).



**CONFERENCE CALLS
UNLIMITED**
More than a Conference Call

November 30, 2009

12604

Federal Communications Commission
Office of the Managing Director
445 12th St., S.W., Room 1-A625
Washington, DC 20554
ATTN: Regulatory Fee Waiver/Reduction Request

Dear Sir/Madam,

Enclosed you will find Remittance Advice/Bill for Collection 09RE014384. This document was received at our office on 10/26/09. The due date is a month PRIOR to the bill date. I had not received any notification about this bill prior to this notice. I have never received any information about the need to check Public Notices for this and other information, as explained when I called FCC about this notice and the due date.

Under these circumstances, I believe that the late fee was unwarranted. This bill has been paid in full including the late fees as instructed in the waiver instruction. Our FCC ID# is 827265. I can be contacted at the number or email below.

Thank you for your assistance.

Most sincerely,


Jeanette Lisefski
Accounting Dept.



RAMIS ACCOUNT RECEIVABLES

Receipt Processing Voucher

Header Details :

Fee Control Number : 0911049088121001
 Customer FRN : 0017988429
 Customer Name : Conference Calls Unlimited, Inc.
 CD Number : 100434 Date Received : 11/2/2009
 Type Collection : FEE CD Date : 11/4/2009
 Payment Type : CHECK Transaction Date : 11/2/2009
 Receipt Amount : \$1,382.50

Payer Details :

Payer FRN : 0017988429 Payer Name : CONFERENCE CAL S
 Payer TIN : Address :
 Check No :
 Credit Card No : 0000000000000000
 Transit Routing :

Line Details :

Seq	Applicant FRN	Applicant Name	App. TIN	Call Sign	Rec. Code 1	Rec. Code 2	PTC	Qty	Applied Amt
1	0017988429			827265	323494.82	0	0972	323495	\$1,106.00
2	0017988429						0999		\$276.50

Total : \$1,382.50

Fy09 Payment of \$1,106 Pd 11/2/09
late fee payment Pd 11/2/09
AJ 1/26/10

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAY 14 2010

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert, Esq.
The Law Office of Dan J. Alpert
2120 N. 21st Road, Suite 400
Arlington, VA 22201

Re: Station KPDR-LP
Park City, UT
FY 2008 Regulatory Fee
Fee Control No. 0809079084883314

Dear Mr. Alpert:

This is in response to your request filed November 21, 2008 (*Request*), on behalf of Craig and Marilyn Caples and William Mitchell (the licensees) for a waiver of the Fiscal Year (FY) 2008 regulatory fee associated with Station KDPR-LP (the station). Our records reflect that you have paid the \$365.00 FY 2008 fee for the station. For the reasons stated herein, we grant your request.

You recite that “[t]he station currently is dark and has been dark since September 1, 2008.”¹ In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995) (*Reconsideration Order*), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.²

Our records reflect that on November 18, 2008, the Media Bureau (Bureau) granted the licensees’ request for special temporary authority (STA) for the station to remain silent from September 1, 2008, to March 1, 2009.³ Because the station was not operating at the time the FY 2008 regulatory fee was due on September 25, 2008, we grant your request for waiver of the FY 2008 regulatory fee.

¹ *Request* at 1.

² See *Reconsideration Order* at 12762 (“broadcast stations which are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Rules.”).

³ See FCC File No. BLSTA – 20081112ACN; see also Notification of Suspension of Operations/Request for Silent STA, from Craig and Marilyn Caples and William Mitchell, Station KPDR-LP (Nov. 12, 2008).

A check made payable to the maker of the original check, and drawn in the amount of \$365.00, 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,

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

Mark Stephens
Chief Financial Officer

The Law Office of
Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201
DJA@COMMLAW.TV

0 809079084883314

(703) 243-8690

(703) 243-8692 (FAX)

November 21, 2008

Mr. Anthony Dale
Managing Director
Federal Communications Commission
445 12th St. S.W.
Washington, DC 20554

RECEIVED - FCC
NOV 21 2008
Federal Communications Commission
Bureau / Office

Re: Station KPDR-LP
Park City, UT
Facility No. 128361

Dear Mr. Dale:

Craig & Marilyn Caples and William Mitchell, by their attorney, hereby requests a waiver and refund of its 2008 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waivers of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

Craig & Marilyn Caples and William Mitchell is licensee of Station KPDR-LP, Park City, Utah. The station currently is dark and has been dark since September 1, 2008. See Attachment. Accordingly, a waiver and refund of the \$365.00 2008 Annual Regulatory Fee that has been paid is appropriate.

WHEREFORE, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

*Counsel for Craig & Marilyn Caples and
William Mitchell*



Application Search Details

FCC> [Media Bureau](#)> [MB-CDBS](#)> [CDBS Public Access](#)> [Application Search](#)

[Help](#) [site map](#)

Application Search Details

File Number: BLSTA-20081112ACN
Call Sign: KPDR-LP
Facility Id: 128361
FRN: 0017515537
Applicant Name: CRAIG & MARILYN CAPLES AND WILLIAM MITCHELL
Frequency:
Channel:
Community of License: PARK CITY, UT
Silent Since: 09/01/2008
Silent Reason: TECHNICAL
Application Type: REMAIN SILENT AUTHORITY
Status: GRANTED
Status Date: 11/18/2008
Expiration Date: 03/01/2009
Tolling Code:
Application Service: TX
Disposed Date: 11/18/2008
Accepted Date: 11/13/2008
Last Public Notice:
Last Report Number:
Authorization: [Authorization not available](#)
Legal Actions: [View Legal Actions](#)
PN Comment: [Public Notice Comment](#)
Correspondence Folder: [View Correspondence Folder](#)

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Please send comments via standard mail to the Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street, S.W., Washington, D.C., 20554. Questions can also be answered by calling the FCC's National Call Center, toll free, at 1-888-Call FCC (1-888-225-5322).

Federal Communications Commission
 445 12th Street SW
 Washington, DC 20554
[More FCC Contact Information...](#)

Phone: 1-888-CALL-FCC (1-888-225-5322)
 TTY: 1-888-TELL-FCC (1-888-835-5322)
 Fax: 1-866-418-0232
 E-mail: fccinfo@fcc.gov

[- Privacy Policy](#)
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[- Required Browser Plug-ins](#)
[- Freedom of Information Act](#)

Payment of \$365.00 was received 09/09/08

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 26 2010

OFFICE OF
MANAGING DIRECTOR

Paula Nelson, Station Manager
Diamond Broadcasting
1017 Front Street, 2nd Floor
Sacramento, CA 95814

Re: Diamond Broadcasting
FY 2009 Regulatory Fee
Fee Control No. RROG-09-00012494

Dear Ms. Nelson:

This letter responds to your request dated December 23, 2009 (*Request*), submitted on behalf of Diamond Broadcasting (Diamond), for waiver of the Fiscal Year (FY) 2009 regulatory fee. Our records reflect that Diamond has not paid the \$3,750.00 FY 2009 regulatory fee. For the reasons stated herein, we dismiss your request.

You state that you experienced financial hardship in 2009, that your sales and revenues were "way down[,]” and that you have listed your radio station for sale.¹ You say that you have never been late paying your regulatory fees.²

The Commission may waive, reduce, or defer regulatory fees only upon a showing of good cause and a finding that the public interest will be served thereby.³ The Commission will waive, reduce or defer its regulatory fees in those instances where a petitioner presents a compelling case of financial hardship.⁴ Regulatees can establish financial hardship by submitting:

¹ *Request* at 1.

² *Id.* at 1.

³ See 47 U.S.C. §159(d); 47 C.F.R. §1.1166; see also *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5344 (1994), *on recon.*, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, para. 12 (1995) (*Memorandum Opinion and Order*), (regulatory fees may be waived, deferred, or reduced on a case-by-case basis in extraordinary and compelling circumstances upon a clear showing that a waiver would override the public interest in reimbursing the Commission for its regulatory costs).

⁴ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd at 5346, *on recon.*, 10 FCC Rcd 12759 (1995).

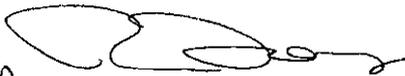
information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.⁵

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

In the absence of such documentation, or other relevant showing, you have failed to establish a compelling case for relief. Therefore, your request for a waiver of the FY 2009 regulatory fees for Diamond is dismissed. Payment of the FY 2009 regulatory fee is now due. The payment should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. However, in view of your allegations of financial hardship, in lieu of payment, you may refile Diamond's request together with appropriate supporting documentation and a request to further defer payment of the fee, within 30 days from the date of this letter.

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

Sincerely,



Mark Stephens
Chief Financial Officer

Enclosure

⁵ *Memorandum Opinion and Order*, 10 FCC Rcd at 12761-12762.

FRN: 0010511350

12494

DIAMOND BROADCASTING
1017 FRONT STREET, 2ND FLOOR
SACRAMENTO, CA 95814

December 23, 2009

Federal Communications Commission
ATTN: Revenue & Receivables Operations Group
445 12th Street, S.W., Room 1A767
Washington, DC 20554

RR06-09-00012494

VIA FACSIMILE: (202) 418-7869

RE: 10RE002089

To Whom It May Concern:

This is in response to your demand for payment (a copy is attached).

Unfortunately, I have been experiencing a financial hardship this year, my sales and revenues are way down and I have not been able to pay many of my bills. Since I cannot continue on this way I have listed the radio station for sale with a local broker.

Attached, are some of the outstanding debts that have accrued that I am trying to pay. I would appreciate an extension and a payment plan to pay the amount owed to you. I have never been late paying my licensing fee and I am sorry I am not able to pay the full amount at this time.

Thank you for your consideration. If you have any questions about this correspondence please contact me at, (916) 553-3000.

Sincerely,



Paula Nelson
Station Manager

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAY 13 2010

OFFICE OF
MANAGING DIRECTOR

Nathaniel J. Hardy, Esq.
Wood, Maines & Nolan, P.C.
4600 Fairfax Dr., Suite 604
Arlington, VA 22203-1553

Re: ETC Communications, Inc.
FYs 2007, 2008, and 2009 Regulatory Fees
Fee Control No. RROG-09-00012661

Dear Mr. Hardy:

This is in response to your request filed September 21, 2009 (*Request*), on behalf of ETC Communications, Inc. (ETC), licensee of Stations WYLE(TV), WLLP-CA, and W53CG, for a waiver of the Fiscal Years (FYs) 2007, 2008, and 2009 regulatory fees. Our records reflect that you have not paid the \$6,300.00, \$345.00, and \$345.00 FY 2007 regulatory fees for Stations WYLE(TV), WLLP-CA, and W53CG, respectively. Our records also indicate that you have not paid the \$6,800.00, \$365.00, and \$365.00 FY 2008 regulatory fees for Stations WYLE(TV), WLLP-CA, and W53CG, respectively. In addition, our records show that you have not paid the \$400.00 FY 2009 regulatory fees for Stations WLLP-CA and W53CG.¹ For the reasons stated herein, we grant your request.

You state that after the owner of ETC purchased WYLE out of bankruptcy in the mid-1990s, the station never achieved financial success.² You say that in April 2005, WYLE suffered a "precipitous" decline in revenue when the entity that provided the majority of the station's programming terminated its contract leaving the station without programming for much of prime time.³ You assert that ETC has not generated revenue since the owner died in 2005 and that ETC does not have any financial data to provide the Commission.⁴

In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.⁵ Our records reflect

¹ We note that no FY 2009 regulatory fee is due for Station WYLE(TV). We further note that no regulatory fees for FY 2007, 2008, and 2009 are due for Station WYLE-DT.

² *Request* at 2.

³ *Id.*

⁴ *Id.*

⁵ *See Reconsideration Order* at 12762 (broadcast stations which are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Rules.”).

that Station WYLE went silent on February 8, 2007, due to financial difficulty.⁶ On March 12, 2009, the Bureau found that the station had been silent for more than a consecutive 12-month period and that the license for Station WYLE(TV) had therefore automatically expired pursuant to section 312(g) of the Communications Act, as amended, 47 U.S.C. §312(g).⁷ The Bureau cancelled the station's license and deleted the call sign effective March 12, 2009.⁸ Because Station WYLE was not operating on the date that the regulatory fees for FY 2007 and 2008 fees were due (*i.e.*, September 19, 2007 and September 25, 2008, respectively), we grant your request for waiver of the regulatory fees for FY 2007 and 2008 for Station WYLE(TV).

Our records indicate that on February 8, 2007, ETC notified the Commission that due to financial difficulty Station W53CG went silent on December 18, 2006, and that the Commission granted the station special temporary authority (STA) to remain silent through June 18, 2007.⁹ On May 24, 2007, ETC requested an extension of the STA, which the Commission granted until December 18, 2007; on January 11, 2008, ETC requested another STA extension, which the Commission granted until June 19, 2008 (*June 19, 2008 STA*).¹⁰ On March 24, 2010, noting that the company had failed to request a timely extension of the *June 19, 2008 STA*, ETC notified the Commission that the station remained dark after June 19, 2008, which remains pending.¹¹ Because Station W53CG was not operating on the date that the FY 2007, 2008, and 2009 regulatory fees were due (*i.e.*, September 19, 2007, September 25, 2008, and September 22, 2009, respectively) because of financial hardship, we grant your request for waiver of the regulatory fees FY 2007, 2008, and 2009 for Station W53CG.

The records show that on January 28, 2008, ETC notified the Commission that due to financial difficulty Station WLLP-CA went off the air on October 1, 2007, and that the Commission granted the station an STA to remain silent until April 1, 2008.¹² On April 1, 2008, ETC filed a request for extension of the STA, which the Commission granted until October 1, 2008; on October 2, 2008, ETC requested another STA extension, which

⁶ See File No. BLSTA-20070308ABE.

⁷ See letter to ETC Communications, Inc. from Barbara A. Kreisman, Media Bureau (Mar. 12, 2009).

⁸ *Id.*

⁹ See File No. BLSTA-20070207AAH.

¹⁰ See File No. BLSTA-20070523ADE (citing financial hardship) and File No. BLSTA-20080111ABL (citing financial hardship and stating that Station W53CG returned to the air on December 17, 2007, and remained on the air until December 19, 2007).

¹¹ See File No. 20100324ACM (citing financial hardship and stating that the station resumed service for 24 hours on December 8, 2008, and December 5, 2009).

¹² See File No. BLSTA-20080128AFR.

remains pending.¹³ On December 23, 2009, ETC again requested an STA extension, which also remains pending.¹⁴ Because Station WLLP-CA was not operating on the date that the regulatory fees for FY 2007, 2008, and 2009 were due because of financial hardship, we grant your request for waiver of the regulatory fees for FY 2007, 2008, and 2009 for Station WLLP-CA.

You have also requested confidential treatment of the financial data that you submitted with your request for fee relief. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. §0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your application fees is received, you will be notified and afforded the opportunity to respond at that time.

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

Sincerely,



Mark Stephens
Chief Financial Officer

¹³ See File No. BLSTA-200800401AZI (citing financial hardship) and File No. BLSTA-20081001AKX (citing financial hardship and stating that the station resumed operation for 24 hours on September 30, 2008).

¹⁴ See File No. BLSTA-20091222ANR (citing financial hardship and stating that the station returned to the air for 24 hours on September 27, 2009).

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APR 22 2010

OFFICE OF
MANAGING DIRECTOR

Don Fowler
Fowlers Holdings, LLLP
Post Office Box 520
Lenoir City, TN 37771

Re: Fowlers Holdings, LLLP
Fiscal Year 2009 Regulatory Fee Waiver Request
Fee Control No. 0910029084620002

Dear Mr. Fowler:

This letter is in response to your request dated October 16, 2009, on behalf of Fowlers Holding, LLLP for waiver of the 25 percent penalty charged to it for late payment of its Fiscal Year ("FY") 2009 regulatory fees ("*Waiver Request*"). Our records show that Fowlers Holdings' payment for fiscal year 2009 regulatory fees was not paid when due (*i.e.*, September 22, 2009), and therefore, Fowlers Holdings was assessed a late payment penalty of \$223.75. For the reasons below, we deny your request for waiver.

In support of your request, you state that Fowlers Holdings "issued a check and put it in the mail along with the correct form, on September 17, 2009—the date of postmark," which "was a full 5 days before the deadline" for timely payment of FY 2009 regulatory fees."¹

Section 9(c)(1) of the Communications Act, as amended, requires the Commission to assess a late payment penalty of 25 percent on any regulatory fee not paid in a timely manner.² The Commission's rules provide that a timely payment of a regulatory fee is one received at the Commission's lockbox bank by the due date.³

It is the obligation of 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, which for FY 2009 was September 22, 2009. The Commission, however, did not receive payment of Fowlers Holdings' FY 2009 regulatory fees until October 1, 2009.

Don Fowler

¹ *Waiver Request*.

² See 47 U.S.C. § 159(c)(1) ("The Commission shall prescribe by regulation an additional charge which *shall* be assessed as a penalty for late payment of fees required by subsection (a) of this section [Regulatory Fees]. Such penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner").

³ 47 C.F.R. § 1.1164.

Although you state in the *Waiver Request* that your payment to the Commission was postmarked on September 17, 2009, according to our files, the actual postmark date (from Knoxville, Tennessee) appearing on your payment envelope is September 29, 2009, or one week beyond the due date. But, as explained above, a payment is timely if it is received by Commission by the due date, and thus the postmark date is not relevant to the determination of timeliness.

We find therefore that Fowlers Holdings failed to meet its obligation to timely pay its FY 2009 regulatory fees and that its request for waiver presents no extraordinary circumstances that would warrant waiver of the penalty. Accordingly, we deny your request for waiver of the 25 percent penalty assessed against Fowlers Holdings for late payment of its FY 2009 regulatory fees.

Payment of the \$223.75 penalty is now due. The payment should be submitted, together with a Form 159 (copy enclosed), within 30 days of the date of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens,
Chief Financial Officer

Enclosure

12186

Sherry Elkheshin

091002908462 0002

From: ARINQUIRIES
Sent: Friday, October 16, 2009 3:51 PM
To: Sherry Elkheshin
Subject: FW: waiver of late penalty

Stephen M. French
Protiviti Government Services
OMD-Financial Operations
Office: 2-A629
Direct Line: 202-418-1878
Fax: 202-418-7869

From: Wlilcountry@aol.com [mailto:Wlilcountry@aol.com]
Sent: Friday, October 16, 2009 12:04 PM
To: ARINQUIRIES
Subject: waiver of late penalty

This is regarding a late penalty for the annual regulatory fee.

Applicant FRN # 0016301145

Bill # 1020000010

Name: Fowlers Holdings, LLLP
PO Box 520
Lenoir City, TN 37771

Penalty Amount \$ 223.75

Around August 1st, 2009 I contacted the FCC and asked if we could go ahead and pay our annual regulatory fee. They said no, because it had not been posted yet.

Near the end of August, I called and asked if we could pay now and again they said no because this year it required a special form and the form had not been finalized yet.

On September 5, 2009 we got the form for payment and sent it to our home office to pay. They issued a check and put it in the mail along with the correct form, on September 17, 2009--the date of postmark. This was a full 5 days before the deadline.

We have since found out that the check was not posted by the FCC until Oct 2, 2009, which was 15 days after it was sent. Subsequently, we received a late notice and penalty

I think we exhibited good faith in trying to not only pay early, but to make sure the payment was received in a timely manner.

I don't know why it took 15 days to post the payment, but we respectfully request that the penalty be waived.

You may contact me--Don Fowler--by e-mail-----wlilcountry@aol.com

10/16/2009

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 26 2010

OFFICE OF
MANAGING DIRECTOR

John P. Janka, Esq.
David D. Burns, Esq.
Brian W. Murray, Esq.
Latham & Watkins LLP
555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004-1304

Re: Freedom Broadcasting of Texas Licensee,
LLC, Debtor-in-Possession (DIP) and Freedom
Broadcasting of New York Licensee, LLC, DIP
Request for Waiver of Application Fees
Fee Control No. RROG-09-00012610

Dear Counsel:

This letter responds to your request filed November 17, 2009 (*Request*), on behalf of Freedom Broadcasting of New York Licensee, LLC, Debtor-in-Possession (DIP), Freedom Broadcasting of Michigan Licensee, LLC, DIP, Freedom Broadcasting of Florida Licensee, LLC, DIP, Freedom Broadcasting of Tennessee Licensee, LLC, DIP, Freedom Broadcasting of Texas Licensee, LLC, DIP, and Freedom Broadcasting of Oregon Licensee, LLC, DIP (collectively, the Petitioners), for waiver of application fees.¹ Our records reflect that the Petitioners paid the \$11,115.00 at issue. For the reasons stated herein, we grant your request.

You state that on September 1, 2009, FCH, the Petitioners, and various other entities controlled by FCH filed voluntary petitions for bankruptcy under Chapter 11 with the United States Bankruptcy Court for the District of Delaware (Bankruptcy Court).² On September 2, 2009, the Bankruptcy Court entered an order directing the joint administration of the FCH-related Chapter 11 cases (*Joint Administration Order*). You submit a copy of the voluntary petition for Chapter 11 bankruptcy protection filed by FCH (*Bankruptcy Petition*) and the *Joint Administration Order*.³ You say that as a result of the bankruptcy, applications were filed with the Commission requesting consent to the *pro forma* assignment of various Commission-issued authorizations to Petitioners as debtors-in-possession.⁴ You state that Petitioners paid \$10,655.00 in connection with the

¹ The Petitioners are the licensees of Stations WCWN(TV), WRGB(TV), WTVC(TV), WLAJ(TV), WWMT(TV), KFDM(TV), KTVL(TV), and WPEC(TV). The Petitioners are the indirect subsidiaries of Freedom Communications Holdings, Inc. (FCH).

² See *Request* at 1-2.

³ *Id.*, Exhibit 2.

⁴ *Id.* at 2.

pro forma assignment applications and \$460.00 in connection with two other applications (i.e., an earth station renewal and a digital television station license) submitted after the filing of the petitions for bankruptcy.⁵

Section 1.1117 of the Commission's rules, 47 C.F.R. §1.1117, provides that filing fees may be waived upon a showing of good cause and a finding that the public interest will be served thereby.⁶ Section 1.1117(e) of the rules, 47 C.F.R. §1.1117(e), requires an applicant seeking a waiver of the filing fee requirement to include the applicable fee with its waiver request, and also provides that the fee will be returned if the waiver is granted.⁷ We find that the *Bankruptcy Petition* and the *Joint Administration Order* substantiate Petitioners' claim of financial hardship and demonstrates good cause for waiver of the filing fees.⁸ Therefore, your request for a refund of the application filing fees is granted.

A check, made payable to the maker of the original check, and drawn in the amount of \$11,115.00, 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 Stephens
Chief Financial Officer

⁵ *Id.* at 2.

⁶ See *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 5 FCC Rcd 3558, 3572-73 (1990).

⁷ See also *id.*

⁸ See *MobileMedia Corporation*, 14 FCC Rcd 8017, 8027 (1999) (bankruptcy establishes good cause for waiver of filing fee).

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

12610

In the Matter of)
)
Freedom Broadcasting of Texas Licensee, L.L.C.,)
Debtor-in-Possession (FRN 0010053064))
)
Freedom Broadcasting of New York Licensee, L.L.C.,)
Debtor-in-Possession (FRN 0010053007))
)
Request for Deferral and Waiver of Application Fees)

FILED/ACCEPTED

DEC 30 2009

Federal Communications Commission
Office of the Secretary

To: The Commission, Office of the Secretary
Attn: Office of the Managing Director
Application Fee Deferral/Waiver Request

RR09-09-00012610

**CONSOLIDATED PETITION FOR DEFERRAL AND WAIVER
OF APPLICATION FEES**

Pursuant to Section 1.1117 of the Commission's rules, and because each currently is the subject of Chapter 11 bankruptcy proceedings, Freedom Broadcasting of Texas Licensee, L.L.C., Debtor-in-Possession ("Freedom Texas"), and Freedom Broadcasting of New York Licensee, L.L.C., Debtor-in-Possession ("Freedom New York," and together with Freedom Texas, "Petitioners"), each a television broadcaster, requests that the Commission grant a deferral and waiver of application fees in the amount of \$340.00. Under established Commission precedent, deferral and waiver of application fees in these circumstances demonstrably would serve the public interest.¹

¹ Because this application fee waiver request is based on financial hardship and includes a request to defer payment, Commission rules allow Petitioners to submit this petition without paying the fees at issue. See 47 C.F.R. § 1.1117(e).

BACKGROUND

Freedom Texas is the licensee of television broadcast station KFDM, Beaumont, Texas, and Freedom New York is the licensee of television broadcast station WRGB, Schenectady, New York. Each of Petitioners is an indirect subsidiary of Freedom Communications Holdings, Inc. ("FCH"). On September 1, 2009, FCH, together with Petitioners and various other entities controlled by FCH, filed voluntary petitions for bankruptcy under Chapter 11 of the U.S. Bankruptcy Code. On September 2, 2009, the U.S. Bankruptcy Court for the District of Delaware entered an order directing the joint administration of the FCH-related Chapter 11 cases. Copies of the bankruptcy petition and that court order are attached as Exhibit 1.

As a result of the bankruptcy, applications were filed with the Commission requesting consent to the *pro forma* assignment of various Commission-issued authorizations to Petitioners and four other television broadcast subsidiaries of FCH as debtors-in-possession. On September 22, 2009, Petitioners and these same subsidiaries filed a petition seeking a deferral and waiver of their FY 2009 regulatory fees, in the amount of \$154,510. The same entities are also seeking the waiver, and refund or deferral, of application fees, primarily relating to their *pro forma* assignment applications, in the amount of approximately \$12,275. As of the date of this submission, those petitions remain pending.

Like the other FCH television broadcaster subsidiaries, Petitioners have continued in operation during the bankruptcy. To that end, each Petitioner is filing an application for extension of existing special temporary authority to operate its respective television station at

variance from licensed parameters.² Absent the relief requested in this petition, Petitioners would owe application fees for those two applications totaling \$340.

DISCUSSION

The Communications Act of 1934, as amended, and the Commission's rules provide for the deferral and waiver of application fees "in any specific instances where good cause is shown and where waiver or deferral of the fee would promote the public interest."³ The Commission has long recognized financial hardship as a basis for waiving application fees,⁴ and, more particularly, has consistently ruled that "[e]vidence of bankruptcy" pursuant to Chapter 11 is, in and of itself, "sufficient to establish financial hardship" for this purpose.⁵ In fact, in the related context of regulatory fees, the Commission has referred to these standards as "bright-line tests that can be administered predictably."⁶ Thus, the Commission has regularly cited a company's bankruptcy as providing good cause to waive and defer application fees.⁷ Under the

² Those applications, filed on December 30, 2009, have been assigned the following file numbers: KFDM: BDSTA-20091230AAX, and WRGB: BDSTA-20091230AAW.

³ 47 U.S.C. § 158(d)(2); *see also* 47 C.F.R. § 1.1117(a) (same).

⁴ *Id.* § 1.1117(f) (waivers of application fees "based on financial hardship" will be subject to the provisions of 47 C.F.R. § 1.1166(e), which also governs waivers of regulatory fees).

⁵ *See Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion and Order, 10 FCC Rcd 12759 ¶ 14 (1995); *see also Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, Notice of Proposed Rulemaking, 18 FCC Rcd 6085 ¶ 10 (2003) (these principles apply to waivers of application fees and regulatory fees).

⁶ *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, Report and Order, MD Docket No. 09-65, FCC 09-62, at ¶ 30 (rel. July 31, 2009); *see also id.* (reiterating that the Commission "accepts as evidence of financial hardship that licensees' stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership").

⁷ *See, e.g., MobileMedia Corp., et al.; Applicant for Authorizations and Licenses of Certain Stations in Various Services*, Memorandum Opinion and Order, 14 FCC Rcd 8017 ¶ 40 (1999) ("bankruptcy establishes good cause for waiver of" several thousand

Commission's rules, application and regulatory fees are waivable in cases of bankruptcy where, as here, the aggregate amount waived for a given fiscal year does not exceed \$500,000.⁸

Under the circumstances presented here, a deferral and waiver of the application fees at issue would serve the public interest. As demonstrated by the recent bankruptcy filing, Petitioners are financially distressed. This financial hardship is particularly acute in light of the ongoing economic recession and other circumstances that uniquely impact the broadcasting industry—namely, the significant costs associated with the recent digital transition, and a decline in advertising revenues.

By deferring and waiving payment of the application fees at issue, the Commission will enable Petitioners to conserve the limited financial resources that their stations use to provide service to the public, while protecting the interests of their creditors as well. Moreover, the amount of fees at issue is well below the cap that applies to waiver requests of this sort under the Commission's rules.

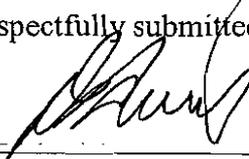
dollars in filing fees paid in conjunction with applications relating to the reorganization, and “waiver of the fee[s] will serve the public interest by enabling MobileMedia to preserve assets”); Letter from Mark A. Reger, Chief Financial Officer, FCC, to Alan S. Tilles, Shulman, Rogers, Gandal, Pordy & Ecker, P.A., Fee Control No. RROG-06-00003589, at 2 (Mar. 14, 2006) (granting deferral and waiver of application fees, finding that proof of bankruptcy “substantiates [the] claim of financial hardship and demonstrates good cause for waiver of the filing fees”); Letter from Mark Stephens, Chief Financial Officer, FCC, to Howard M. Liberman, Drinker Biddle & Reath, LLP, Fee Control No. RROG-09-00011794, at 2 (Aug. 21, 2009) (granting waiver and refund of application fees, finding that company’s proof of bankruptcy “substantiate[d] its claim of financial hardship and demonstrate[d] good cause for waiver of the filing fees” at issue).

⁸ See 47 C.F.R. § 1.1166(e); *Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, Report and Order, 18 FCC Rcd 15985 ¶ 14 (2004) (in computing cap, Commission will aggregate the application fees and regulatory fees owed for a given fiscal year).

CONCLUSION

For the foregoing reasons, the Commission should grant the requested deferral and waiver of application fees.

Respectfully submitted,



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December 30, 2009