

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

In the Matter of Application of)	
)	
MIKE GRUSS)	FCC File No. 0000451709
)	
For Renewal and Reinstatement of License For)	
Conventional Business Radio Service Station)	
WPCM987, Fremont, Ohio)	

ORDER ON RECONSIDERATION

Adopted: January 3, 2002

Released: January 10, 2002

By the Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. On June 7, 2001, Mike Gruss (Mr. Gruss), licensee of Station WPCM987, Fremont, Ohio, filed a petition for reconsideration (Petition) requesting reinstatement of the above-captioned application.¹ The Petition seeks reconsideration of the decision by the Licensing and Technical Analysis Branch (Branch), Public Safety and Private Wireless Division, Wireless Telecommunications Bureau dismissing Mr. Gruss's renewal application on May 9, 2001.² For the reasons set forth below, we deny the Petition.

2. Mr. Gruss's license for Station WPCM987 expired on April 23, 2001. On May 3, 2001, Mr. Gruss submitted the above-captioned application for renewal of license for Station WPCM987 to the FCC's lock box at Mellon Bank. Mr. Gruss did not, however, include the correct amount for the filing fee.³ Consequently, the Branch dismissed the application for insufficient payment.⁴ The dismissal notice is dated May 9, 2001, but Mr. Gruss states that the postmark on the envelope indicates that it was not mailed until May 25, 2001.⁵

3. *Discussion.* Section 1.106 of the Commission's rules specifically requires that petitions for reconsideration cite the findings of fact and/or conclusions of law which petitioner believes to be erroneous, and state with particularity the respects in which such findings and conclusions should be changed.⁶ While acknowledging that his "filing on May 3, 2001 was late," Mr. Gruss provides no basis on

¹ Mike Gruss Petition for Reconsideration, filed June 7, 2001 (Petition).

² Notice of Application Dismissal, dated May 9, 2001.

³ Instead of the required \$180.00, Mr. Gruss submitted a check for only \$120.00.

⁴ Notice of Application Dismissal, dated May 9, 2001.

⁵ Petition at 2. Attached to the Petition is a copy of an envelope from the FCC bearing a May 25, 2001 postmark. *Id.* at 6.

⁶ 47 C.F.R. § 1.106(d)(2). *See also* National Science and Technology Network, Inc., *Order*, 15 FCC Rcd 8648, 8650 ¶ 5 (WTB PSPWD 2000); Federal Express Corporation, *Order*, 15 FCC Rcd 4289, 4293 n.40 (WTB PSPWD 2000).

which to conclude that the Branch action dismissing his application was improper.⁷ We therefore affirm the Branch's dismissal of the renewal application. If Mr. Gruss wishes to obtain a valid authorization for this station, he may file a waiver request seeking renewal of the license in conjunction with an application for renewal. This waiver request should include a detailed explanation of the reasons for the failure to timely file the renewal application, the potential consequences to the public if the license should terminate, and the performance record of the licensee.⁸ In the alternative, Mr. Gruss may file a new properly coordinated application.⁹ If he desires to continue operating this facility until he receives a new or renewed authorization, he must obtain authorization to do so.¹⁰

4. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by Mike Gruss on June 7, 2001 IS DENIED.

5. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Ramona E. Melson, Deputy Chief
Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

⁷ See Petition.

⁸ See Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Memorandum Opinion and Order on Reconsideration*, WT Docket No. 98-20, 14 FCC Rcd 11476 (1999).

⁹ See 47 C.F.R. § 90.175.

¹⁰ See 47 C.F.R. § 1.931.