

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

In the Matter of Application of)
)
Bulgari Corporation of America) File No. D134186
)
For Private Land Mobile Radio Service Station at)
New York, New York)

ORDER ON RECONSIDERATION

Adopted: September 19, 2000

Released: September 20, 2000

By the Acting Chief, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On March 20, 2000, Bulgari Corporation of America (Bulgari) petitioned for reconsideration¹ of the March 9, 2000, action of the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch (Branch) dismissing Bulgari’s application for Mobile Radio Service Authorization.² For the reasons discussed herein, we dismiss Bulgari’s petition.

II. BACKGROUND

2. On October 10, 1999, Bulgari filed the above-captioned application for authorization to conduct private land mobile radio service operations in New York, New York.³ Specifically, Bulgari applied for a conventional radio service to operate five paging receivers for the security department of Bulgari, a retail jewelry store.⁴ In its application, Bulgari answered “No” to item number 38, which states, “Does the undersigned certify (by responding ‘Y’ to this question), that neither the applicant nor any other party to the application is subject to a denial of Federal benefits, that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance?”⁵ On March 9, 2000, the Branch dismissed the application, on the grounds that Bulgari was not eligible for an FCC license.⁶

¹ Letter from Anthony P. Picarillo, Security Administrator, Bulgari Corporation of America to Mary M. Shultz, Federal Communications Commission (dated March 20, 2000) (Petition).

² Notice of Application Dismissal, dated March 9, 2000 (Branch Letter).

³ FCC File No. D134186 (filed October 10, 1999).

⁴ *Id.*

⁵ *Id.*

⁶ Branch Letter at 1.

3. On March 20, 2000, Bulgari petitioned for reconsideration of the Branch decision. The Petition was addressed to the Chief of the Branch, which is located in Gettysburg, Pennsylvania. Bulgari states that it misunderstood the question and answered “No” to item 38 when it should have answered “Yes.”⁷ Bulgari attached to the Petition a corrected application, which answers “Yes” to item 38.

III. DISCUSSION

4. Section 405 of the Communications Act, as amended, sets forth the requirements that a petitioner must satisfy before we may consider the petitioner’s pleadings on reconsideration.⁸ Section 405, as implemented by Section 1.106(f) of the Commission’s Rules, requires that a petition for reconsideration be filed within thirty days of the release date of the Commission’s action.⁹ Furthermore, Section 1.106(i) states that a petition for reconsideration must be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.¹⁰

5. The Commission maintains different offices for different purposes, and persons filing documents with the Commission must take care to ensure that their documents are filed at the correct location as specified in the Commission’s Rules.¹¹ A document is filed with the Commission upon its receipt at the location designated by the Commission.¹² Accordingly, based on the plain language of the Commission’s Rules, a petition for reconsideration submitted to the FCC’s Gettysburg, Pennsylvania office is not properly filed.¹³

6. We conclude that Bulgari did not satisfy the filing requirement in accordance with Section 1.106 of the Commission’s Rules when it submitted its Petition to the Branch in Gettysburg, Pennsylvania instead of submitting it to the FCC’s Office of the Secretary in Washington, D.C. Because the thirty-day window for the filing of a petition for reconsideration, as determined under Section 1.4 of the Commission’s Rules,¹⁴ closed on April 9, 2000, the Petition was not received by the Secretary within the

⁷ Petition at 1.

⁸ 47 U.S.C. § 405.

⁹ 47 U.S.C. § 405; 47 C.F.R. § 1.106(f).

¹⁰ 47 C.F.R. § 1.106(i).

¹¹ 47 C.F.R. § 0.401.

¹² 47 C.F.R. § 1.7; First Auction of Interactive Video and Data Service (IVDS) Licenses, Request for Waiver of Applications Deadline, *Memorandum Opinion and Order*, 11 FCC Rcd 1134, 1135 (1996); Complaints Regarding Cable Programming Service Prices, *Amended Order on Reconsideration*, 10 FCC Rcd 12778, 12780 n.14 (CSB 1995).

¹³ See, e.g., Memorandum of Agreement between the Federal Communications Commission and Elkins Institute, Inc., *Order on Reconsideration*, 14 FCC Rcd 5080 (WTB 1999) (determining that a facsimile copy to a division office neither complied with the Commission’s Rules nor ameliorated the late filing with the Secretary’s office); Columbia Millimeter Communications, LP, *Order on Reconsideration*, 14 FCC Rcd 2782 (WTB PSPWD 1999) (finding that a petition for reconsideration sent to the Commission’s lock box at Mellon Bank neither complied with the Commission’s Rules nor ameliorated the late filing with the Secretary’s office), *aff’d*, *Order on Reconsideration*, 15 FCC Rcd 10251 (WTB PSPWD 2000).

¹⁴ 47 C.F.R. § 1.4(b)(5).

thirty-day period. For the reason stated above, and, in the absence of a request for waiver of the requisite filing location, we hereby dismiss the Petition.¹⁵

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that, pursuant to Section 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 submitted by Bulgari on March 20, 2000, IS DISMISSED.

8. 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

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¹⁵ Moreover, we note that the Branch correctly dismissed Bulgari's application. Because of the large number of applications reviewed by the Commission, an applicant must be responsible for the accuracy and adequacy of any submission it makes. See Request for Review of the Universal Service Administrator by United Talmudical Academy, New York, *Order*, 15 FCC Rcd 423, 431 ¶15 (2000). We nonetheless note that Bulgari has the option of submitting another application. Assistance in completing FCC Form 600 correctly may be obtained from the Consumer Information Bureau at 1-888-225-5322. To receive a refund of the regulatory fees for the original application, Bulgari must send a letter to the Commission's Gettysburg office, indicating the file number and the control number of that application.