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Kristopher E. Twomey, P.C.
Counsel To The Competition®



Hamilton P. Fox, III
Jason R. Horrell
Assistant Disciplinary Counsel
District of Columbia Bar
515 5th Street NW, Building A, Room 117
Washington, DC 20001

March 14, 2023

Re: Twomey/Disciplinary Counsel Disciplinary Docket No. 2021-D198 and 2022-D119

Dear Mr. Fox and Mr. Horrell:

Please see attached Answer to the Specification of Charges delivered by email on February 22, 2023.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Twomey', written over a light blue horizontal line.

Kristopher E. Twomey

cc: BPR Case Manager via email

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Answer to Specification of Charges

1. No allegations contained in paragraph 1. All facts admitted.
2. No allegations contained in paragraph 2. All facts admitted.
3. No allegations contained in paragraph 3. All facts admitted.
4. No allegations contained in paragraph 4. All facts admitted.
5. No allegations contained in paragraph 5. All facts admitted.
6. No allegations contained in paragraph 6. All facts admitted.

Count 1

7. No allegations contained in paragraph 7. All facts admitted.
8. No allegations contained in paragraph 8. All facts admitted. Specifically, LTD hired Respondent on January 4, 2021.
9. No allegations contained in paragraph 9. All facts admitted.
10. Admitted in part, denied in part. Weekly status calls and the tracking sheet between Respondent, Mr. Coran and Mr. Hauer did not begin until March 26, 2021 and continued through June 2021.
11. Admitted.
12. Admitted.
13. Admitted in part and denied in part. Respondent did not provide statements that he knew were false at the time the Petition was filed. Respondent cannot claim knowledge of Mr. Coran's state of mind on June 7, 2021. Respondent did not believe the information contained in the Petition was false.
14. Admitted in part and denied in part. Respondent mailed an application to the CPUC consistent with CPUC filing guidelines on April 26, 2021, As such, the representation is not false. Respondent does not have knowledge of how or if the application was processed by the CPUC docket office. CPUC staff initially acknowledged the filing as well via email before changing their position. Out of an abundance of caution, Respondent e-filed the same application on June 3, 2021 at approximately 7pm PST, the day before Mr. Coran's email requesting filing information. Respondent made a version of the filing receipt for his own records showing the April 26 date that he planned to try and confirm. Respondent kept the original e-filed receipt for his records as well.

15. Admitted in part and denied in part. After receiving confirmation of the e-filing, Respondent reviewed the current docket list to determine what the likely docket number to be assigned would be. The CPUC's naming convention for dockets is A-XX year- XX month- consecutive filing number. Thus far, there had been one other application filed and docketed as A2106001. Because the application was e-filed after hours, Respondent assumed the assigned number would be the next available docket number- A02106002. As such, Respondent did not know that the docket number would be wrong. The docket number was not "made up" out of thin air as the charges suggest. Respondent planned to have the Docket Office eventually acknowledge receipt of the April 26, 2021 paper filing to assist with its request for FCC waiver.

16. Admitted.

17. Admitted in part, denied in part. Respondent did not know that he had sent the wrong filing receipt to Mr. Coran. Mr. Coran never stated that he had any plan to use the filing receipt nor share it with state or federal regulators. Respondent did not provide either document to a state or federal regulator.

18. Admitted, but with additional mitigating information. On July 9, Assistance General Counsel sent an email to Respondent and Mr. Coran stating, "Mr. Twomey and Mr. Coran - This e-mail is to confirm that CPUC Communications Division staff have informed Michael Janson at the FCC that LTD Broadband did file with the CPUC an application for a CPCN and for ETC designation, dated April 26, 2021. Mr. Janson confirmed receipt of our e-mail. Both e-mails appear below. We are still trying to determine why the Communications Division was not informed of the application, which was not assigned a docket number until early June. We will report back when we have an answer."

Upon information and belief, no explanation has been provided by the CPUC as to the drastic change to their "thorough investigation."

19. Admitted in part, with mitigating information. Mr. Coran told Respondent that LTD needed to "paper over" the issues and drafted the declaration. Mr. Coran advised Respondent that the language was necessary to preserve LTD's chances of receiving a waiver. Although uncomfortable with the language, Respondent agreed to sign it for the benefit of LTD. Respondent assumed the "paper over" effort would be a minor affair and did not anticipate it would eventually be used against him in a disciplinary proceeding. In hindsight, Respondent acknowledges that more context should have been provided in the declaration to fully explain the circumstances and protect his integrity.

20. Admitted in part, denied in part. On June 23, 2021, Respondent and Corey Hauer had a cordial phone conversation and jointly decided it would be in LTD's interests for Respondent to step back on any additional RDOF filings. Respondent offered to return a \$10,000 monthly payment from LTD to compensate for the expense of hiring new California counsel and gave suggestions for counsel. Respondent waived the rest of the remaining \$30,000 balance due on the flat fee project as well. Respondent also offered

to file competitive local exchange carrier applications in states where LTD's RDOF awards would eventually be approved and Mr. Hauer agreed. The FCC ultimately denied all RDOF awards to LTD arguing that LTD lacked the technical, managerial, and financial ability to successfully complete its proposed network construction.

21. Denied, the information was provided to Mr. Coran during the weekly status calls.

22. Admitted in part, denied in part. Respondent assumed that the NE PSC would docket the filing closer to the April 28, 2021 filing date leaving sufficient time for the application to be approved during a 30 day review process and prior to June 7, 2021. Instead, the PSC waited a week to docket the application thereby preventing the application from being approved by June 7, 2021. Mr. Coran was aware of this timeline and as stated, the petition was not inaccurate.

23. Admitted, but the PSC used an incorrect filing date as Respondent had proof of the April 28, 2021 filing date. Respondent and Mr. Coran had not seen the seven-day delayed file-stamped copy of the application produced by the PSC on August 3, 2021.

24. Admitted, with mitigation. Respondent could have provided information supporting LTD's accuracy in the Petition, but was not asked by Mr. Coran. In fact, the supplement contains inaccuracies that could have been avoided if Respondent was consulted. Respondent cannot be responsible for inaccuracies made in a filing he did not have any participation or input into.

25. Admitted.

26. Admitted in part, denied in part. Respondent was told by NDPSC staff that would normally approve ETC application within 30 days. This information was conveyed to Mr. Coran via the weekly status calls.

27. Admitted in part, denied in part. At the time of ETC filing with the NDPSC, Respondent did believe there would be sufficient time for review and approval. That is not an inaccurate statement. It was discovered after the ETC filing was made that a comment period was created.

28. Admitted as to the revision by Respondent, remainder denied.

29. Admitted as to the filing, denied as to the contents of the Supplement. Mr. Coran and Mr. Hauer were aware of the timeline in North Dakota and involved in contentious hearings with entities opposed to the application. Respondent cannot be responsible for inaccuracies made in a filing he did not have any participation or input into.

30. Admitted with mitigation. The NDPSC did not provide any proof, simply said that no staff member "recalls."

31. Admitted with mitigation. The FCC ultimately denied LTD's entire RDOF award, approving the waiver would ultimately have been of no consequence in any event.

32. Denied.

Count 2

33. No allegations contained in paragraph 33. All facts admitted.

34. No allegations contained in paragraph 34. All facts admitted.

35. Admitted in part, denied in part. "File directly with the FCC" is the process and it was discussed via phone call with either Mr. Johnston, Mr. Baker, or both.

36. Admitted.

37. Admitted with mitigation. Respondent informed the client it would be best to wait and review other ETC applications to be filed at the FCC to ensure the best quality, least controversial application was filed.

38. Admitted in part, denied in part. Respondent did file the ETC application with the TPUC as a placeholder on January 6, 2021 just as he did for other clients in states that did not regulate ETCs.

39. Admitted in part, final sentence is denied.

40. Admitted in part, final sentence is denied.

41. Admitted in part, denied in part. There is no question or debate as to the Tennessee PUC's refusal to regulate ETCs. Respondent did seek a formal declination of jurisdiction and spoke to the PUC's general counsel via phone.

42. Admitted in part, denied in all aspects that Respondent knew the statements were false.

43. Admitted in part, last sentence is denied. Respondent discussed the issue via phone call with either Mr. Johnston, Mr. Baker, or both.

44. Filing is admitted, remained is denied.

45. Although Respondent discussed the issue with Monster, Respondent has no information regarding its discussions with the FCC on March 4, 2022 and was not afforded the opportunity to respond or assist. During the RDOF process, FCC staff routinely spoke to FCC awardees knowing that they were represented by counsel, but without inviting counsel to a call or email exchanges.

46. Admitted with mitigation, Monster also thanked Respondent for all his assistance over the previous years.

47. Respondent has no knowledge of the facts alleged and has not read the Supplement.

48. Respondent has no knowledge of the facts alleged and has not read the Second Supplement.

49. Admitted.

50. Admitted.

51. Denied.