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CLEAR CHANNEL COMMUNICATIONS INC
Form S-8 POS
June 14, 2002

AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON JUNE 14, 2002
REGISTRATION NO. 333-74196

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

POST-EFFECTIVE AMENDMENT NO. 1 TO FORM S-4 ON
FORM S-8*
REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

CLEAR CHANNEL COMMUNICATIONS, INC.
(Exact name of registrant as specified in its charter)

TEXAS
(State or other jurisdiction of incorporation
or organization)

74-17875
(I.R.S. employer ident

200 EAST BASSE ROAD
SAN ANTONIO, TEXAS 78209
(Address, including zip code, of principal
executive offices)

L. LOWRY
200 EAST BAS
SAN ANTONIO, TE
(210) 822-
(Name, address and telepho
area code, of agent

FIFTH AMENDED AND RESTATED EMPLOYEES STOCK OPTION PLAN
(Full Title of the Plans)

COPIES TO:

STEPHEN C. MOUNT, ESQ.
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
1500 Bank of America Plaza
300 Convent Street
San Antonio, Texas 78205
(210) 281-7000
(210) 224-2035 (fax)

CALCULATION OF REGISTRATION FEE

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| TITLE OF SECURITIES TO BE REGISTERED | AMOUNT TO BE REGISTERED (1) | PROPOSED MAXIMUM OFFERING PRICE PER SHARE | PROPOSED MAXIMUM AGGREGATE OFFERING PRICE |
|--------------------------------------------|-----------------------------------|-------------------------------------------------------|----------------------------------------------------|
| Common Stock, par value \$.10 per share | 131,950 shares (2) | (3) | (3) |

- (1) The number of shares of Common Stock registered hereby is subject to adjustment to prevent dilution resulting from stock splits, stock dividends or similar transactions.
- (2) Consisting of, on an as converted basis, 131,950 shares of Common Stock reserved for issuance pursuant to certain option agreements assumed by Registrant in connection with its acquisition of The Ackerley Group, Inc. by merger of a wholly owned subsidiary with and into The Ackerley Group, Inc.
- (3) Not applicable. All filing fees payable in connection with the issuance of these securities were paid in connection with the filing of the Registrant's Registration Statement on Form S-4 (No. 333-74196) filed November 29, 2001.
- (*) Filed as a Post-effective Amendment on Form S-8 to such Form S-4 registration statement pursuant to the procedure described herein in the section captioned "Introductory Statement."

INTRODUCTORY STATEMENT

On June 14, 2002, Clear Channel Communications, Inc. (the "Company" or the "Registrant") and The Ackerley Group, Inc., a Delaware corporation ("Ackerley"), consummated the merger (the "Merger") of CCMM Sub, Inc., a Delaware corporation and a wholly owned subsidiary of the Company ("Merger Sub"), with and into Ackerley as provided by the Agreement and Plan of Merger, dated as of October 5, 2001 (the "Merger Agreement"), by and among the Company, Merger Sub and Ackerley. Ackerley's common stock ("Ackerley Ordinary Common Stock") and Class B common stock ("Ackerley Class B Common Stock" and, together with the Ackerley Ordinary Common Stock, the "Ackerley Common Stock") is no longer transferable, and all certificates evidencing shares of Ackerley Common Stock represent only the right to receive without interest, shares of the Company's common stock ("Company Common Stock") in accordance with the provisions of the Merger Agreement. In connection with the Merger, the Company assumed each unexpired and unexercised outstanding stock option to purchase Ackerley Ordinary Common Stock (each an "Ackerley Option") issued pursuant to Ackerley's Fifth Amended and Restated Employees Stock Option Plan. Each Ackerley Option was automatically converted into an option to purchase or acquire that number of shares of Company Common Stock that the holder of such Ackerley Option would have been entitled to receive pursuant to the Merger had such holder exercised such Ackerley Option immediately prior to the Merger, at a price per share equal to the aggregate exercise price for Ackerley Ordinary Common Stock purchasable pursuant to such Ackerley Option divided by 0.35.

The Registrant hereby amends its registration statement of Form S-4 (No. 333-74196) (the "Form S-4") by filing this Post-effective Amendment No. 1 thereto on Form S-8 ("Post-effective Amendment No. 1") relating to up to 131,950

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shares of Company Common Stock issuable pursuant to the Ackerley Options assumed by the Company in the Merger. All such shares of Company Common Stock were previously registered on the Form S-4, and are being transferred to this Form S-8.

PART I

INFORMATION REQUIRED IN SECTION 10(A) PROSPECTUS

The document(s) containing the information specified in Part I of Form S-8 will be sent or given to option holders as specified by Rule 428(b)(1) of the Securities Act of 1933, as amended (the "Securities Act"). These documents and the documents incorporated herein by reference pursuant to Item 3 of Part II of this Registration Statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act (the "Prospectus").

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents are incorporated herein by reference:

1. The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2001 filed on March 20, 2002.
2. The Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2002 filed on May 14, 2002
3. The Company's Current Report on Form 8-K filed January 18, 2002.
4. The Company's Current Report on Form 8-K filed September 6, 2000, relating to the condensed consolidated financial statements of AMFM Inc. and Subsidiaries (pgs. 2-12 of said Form 8-K).
5. The Company's Current Report on Form 8-K filed June 14, 2000, relating to the consolidated financial statements of AMFM Inc. and Subsidiaries and the report of PricewaterhouseCoopers LLP dated March 13, 2000 (pgs. 2-48 of said Form 8-K).

All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934 subsequent to the date of this registration statement and prior to the termination of the offering made hereby shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents.

ITEM 4. DESCRIPTION OF SECURITIES.

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Alan D. Feld, the sole shareholder of a professional corporation which is a partner of Akin, Gump, Strauss, Hauer & Feld, L.L.P., is a director of the Registrant and, as of May 31, 2002, owned approximately 90,300 shares of Company Common Stock, including presently exercisable options to acquire approximately 74,000 shares of Company Common Stock. Vernon E. Jordan, Jr., of counsel to Akin, Gump, Strauss, Hauer & Feld, L.L.P., is also a director of Clear Channel

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and as of May 31, 2002, held options exercisable to acquire 92,300 shares of Company Common Stock.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Article 2.02-1 of the Texas Business Corporation Act provides for indemnification of directors and officers in certain circumstances. In addition, the Texas Miscellaneous Corporation Law provides that a corporation may amend its Articles of Incorporation to provide that no director shall be liable to the registrant or its shareholders for monetary damages for an act or omission in the director's capacity as a director, provided that the liability of a director is not eliminated or limited (i) for any breach of the director's duty of loyalty to the registrant or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law, (iii) any transaction from which such director derived an improper personal benefit, or (iv) an act or omission for which the liability of a director is expressly provided by an applicable statute. The registrant has amended its Articles of Incorporation adopting such limitations on a director's liability. The registrant's Articles of Incorporation also provide in Article Eight, for indemnification of directors or officers in connection with the defense or settlement of suits brought against them in their capacities as directors or officers of the Company, except in respect of liabilities arising from gross negligence or willful misconduct in the performance of their duties.

Article IX(8) of the registrant's bylaws provides for indemnification of any person made a party to a proceeding by reason of such person's status as a director, officer, employee, partner or trustee of the Company, except in respect of liabilities arising from negligence or misconduct in the performance of their duties.

An insurance policy obtained by the registrant provides for indemnification of officers and directors of the registrant and certain other persons against liabilities and expenses incurred by any of them in certain stated proceedings and under certain stated conditions.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not applicable.

ITEM 8. EXHIBITS.

| Exhibit No. | Description of Exhibit |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1 | Buy-Sell Agreement by and between Clear Channel, L. Lowry Mays, B. J. McCombs, John M. Schaefer, and John W. Barger, dated May 31, 1977. (Incorporated by reference to exhibit 4.0 to Clear Channel's Registration Statement on Form S-1 (Reg. No. 002-89161) dated April 19, 1984.) |
| 4.2 | Fourth Amended and Restated Credit Agreement by and among Clear Channel, Bank of America, N.A., as administrative agent, Fleet National Bank, as documentation agent, the Bank of Montreal and Toronto Dominion (Texas), Inc., as co-syndication agents, and certain other lenders dated June 15, 2000. (Incorporated by reference to exhibit 4.2 to Clear Channel's registration statement on Form S-3 (Reg. No. 333-42028) dated July 21, 2000.) |
| 4.3 | Credit Agreement by and among Clear Channel, Bank of America, N.A., as administrative agent, Chase Securities Inc., as syndication agent, and certain other lenders dated August 30, 2000. (Incorporated by reference |

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to exhibit 10.18 to Clear Channel's Annual Report on Form 10-K for the year ended December 31, 2000.)

- 4.4 Senior Indenture dated October 1, 1997, by and between Clear Channel and The Bank of New York, as Trustee. (Incorporated by reference to exhibit 4.2 to Clear Channel's Quarterly Report on Form 10-Q for the quarter ended September 30, 1997.)
- 4.5 First Supplemental Indenture dated March 30, 1998 to Senior Indenture dated October 1, 1997, by and between Clear Channel and the Bank of New York, as Trustee. (Incorporated by reference to exhibit 4.4 to Clear Channel's Quarterly Report on Form 10-Q for the quarter ended March 31, 1998.)
- 4.6 Second Supplemental Indenture dated June 16, 1998 to Senior Indenture dated October 1, 1997, by and between Clear Channel and the Bank of New York, as Trustee. (Incorporated by reference to exhibit 4.1 to Clear Channel's Current Report on Form 8-K dated August 27, 1998.)
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- 4.14 Tenth Supplemental Indenture dated October 26, 2001, to Senior Indenture dated October 1, 1997, by and between Clear Channel and The Bank of New York, as Trustee. (Incorporated by reference to exhibit 4.12 to Clear Channel's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001.)
- 5* Opinion of Akin, Gump, Strauss, Hauer & Feld, L.L.P.
- 23.1* Consent of Ernst & Young LLP, Independent Auditors.
- 23.2* Consent of KPMG LLP.
- 23.3* Consent of PricewaterhouseCoopers LLP.
- 23.4 Consent of Akin, Gump, Strauss, Hauer & Feld, L.L.P. (included in opinion filed as Exhibit 5).
- 24 Power of Attorney (included on signature page of this Registration Statement).

*Filed herewith.

ITEM 9. UNDERTAKINGS.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of a prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Post-effective Amendment No. 1 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Antonio, State of Texas, on June 14, 2002.

CLEAR CHANNEL COMMUNICATIONS, INC.

By: /s/ L. LOWRY MAYS

L. Lowry Mays
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each of the undersigned directors and officers of Clear Channel Communications, Inc., hereby constitute and appoint L. Lowry Mays, Mark P. Mays, Randall T. Mays and Herbert W. Hill, Jr., and each of them, his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and his name place and stead, in any and all capacities, to execute any and all amendments (including post-effective amendments) to this Post-effective Amendment No. 1, and to file the same with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully and to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said

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attorneys-in-fact and agents or any of them, or their or his substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Post-effective Amendment No. 1 has been signed below by the following persons in the capacities and on the dates indicated below.

| NAME ----- | TITLE ----- |
|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| /s/ L. LOWRY MAYS ----- L. Lowry Mays | Chief Executive Officer and Director |
| /s/ MARK P. MAYS ----- Mark P. Mays | President, Chief Operating Officer and Director |
| /s/ RANDALL T. MAYS ----- Randall T. Mays | Executive Vice President/Chief Financial Officer (Principal Financial Officer) and Director |
| /s/ HERBERT W. HILL, JR. ----- Herbert W. Hill, Jr. | Senior Vice President/Chief Accounting Officer (Principal Accounting Officer) |
| /s/ ALAN D. FELD ----- Alan D. Feld | Director |
| /s/ THOMAS O. HICKS ----- Thomas O. Hicks | Director |
| /s/ VERNON E. JORDAN, JR. ----- Vernon E. Jordan, Jr. | Director |
| /s/ PERRY J. LEWIS ----- Perry J. Lewis | Director |
| | |
| /s/ B.J. MCCOMBS ----- B.J. McCombs | Director |
| /s/ THEODORE H. STRAUSS ----- Theodore H. Strauss | Director |
| /s/ JOHN H. WILLIAMS ----- John H. Williams | Director |

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INDEX TO EXHIBITS

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