



Federal Communications Commission
Washington, D.C. 20554

April 22, 2005

DA05-1116

Via Certified Mail, Return Receipt Requested

Jami Huryan
President
Huryan Family Media, LLC
1309 SW 81 Terrace
North Lauderdale, FL 33068

Re: Notice of Initial Default Payment Obligations for Auction No. 37

Dear Ms. Huryan:

This letter provides notice of initial default payment obligations for Huryan Family Media, LLC ("Huryan Family Media") with respect to its defaults arising out of a Federal Communications Commission ("Commission") auction of FM broadcast construction permits ("Auction No. 37"). Huryan Family Media, a participant and high bidder in Auction No. 37, was the winning bidder on two FM broadcast construction permits.¹ As described below, Huryan Family Media defaulted on its payment obligations for its winning bids. Accordingly, this letter sets forth the initial default obligations of Huryan Family Media for its two defaulted bids.

Under the Commission's rules, a bidder who fails to timely remit the required down or final payment for a license or permit for which it was the high bidder is subject to a default payment.² The default payment has two components. The first component is the difference between the bidder's net defaulted bid and the subsequent net winning bid, or the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time the license or permit is offered by the Commission (so long as the subsequent winning bid is less than the defaulted bid).³ This component of the default payment cannot be determined until after the permits on which Huryan Family Media defaulted are re-auctioned. The second component of the default payment is an additional payment equal to three percent

¹ FM broadcast construction permit nos. FM292-A (Leakey, TX) and FM320-A (Torrey, UT). See "FM Broadcast Construction Permits Auction Closes," *Public Notice*, DA 04-3694, at Attachment A, (rel. Dec. 1, 2004) ("Auction No. 37 Closing Public Notice").

² 47 C.F.R. § 1.2104(g)(2), 1.2109(b).

³ 47 C.F.R. § 1.2104(g)(2).

(3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.⁴ If either bid amount is subject to a bidding credit, the three percent (3%) will be calculated using the same bid amounts and basis (net or gross bids) as in the first component of the default payment.⁵ In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to three percent (3%) of the defaulted bid.⁶

On December 1, 2004, the Wireless Telecommunications Bureau and the Media Bureau (collectively "the Bureaus") announced the winning bidders in Auction No. 37.⁷ The Bureaus also announced that by no later than December 15, 2004, all Auction No. 37 winning bidders were required to submit down payments that would bring each winning bidders' deposits to twenty-percent (20%) of its winning bids.⁸ Huryan Family Media's net winning bids totaled \$143,000.00.⁹ The Bureaus applied Huryan Family Media's \$10,000.00 of upfront money toward the down payment requirement and notified Huryan Family Media of the remaining \$18,600.00 balance due. Huryan Family Media failed to timely submit payment for the remaining balance by December 15, 2004.

Accordingly, Huryan Family Media is considered to be in default on the two FM broadcast construction permits for which it was the high bidder in Auction No. 37 and it is subject to the applicable default payments.¹⁰ Pursuant to Section 1.2104(g)(2) of the Commission's rules, Huryan Family Media owes an initial default payment of \$4,290.00, which is three-percent (3%) of its net winning bids of \$143,000.00.¹¹ Pursuant to Section 1.2106(e) of the Commission's rules, we will apply Huryan Family Media's payments on deposit to satisfy this initial default payment obligation.¹² Once subsequent high bids are established for the

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *See Auction No. 37 Closing Public Notice, supra* note 1.

⁸ *See id.* at 1-2.

⁹ *See id.* at Attachment A. The amounts of Huryan Family Media's net winning bids and initial default payment debt are presented in Attachment A of this letter.

¹⁰ 47 C.F.R. §§ 1.2104(g)(2), 1.2109(c).

¹¹ 47 C.F.R. § 1.2104(g)(2).

¹² *See* 47 C.F.R. § 1.2106(e).

relevant spectrum, we will determine Huryan Family Media's final default payment obligation.¹³ If an additional payment is required, a further order will assess such payment.¹⁴

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.2104(g)(2) of the Commission's rules, 47 C.F.R. § 1.2104(g)(2), Huryan Family Media is ASSESSED an initial default payment of \$4,290.00 for its defaulted high bids for FM broadcast construction permits FM292-A (Leakey, TX) and FM320-A (Torrey, UT) in Auction No. 37.

IT IS FURTHER ORDERED, that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, Huryan Family Media's funds on deposit will be applied to satisfy the initial default payment obligation.

IT IS FURTHER ORDERED, that, pursuant to 47 C.F.R. § 1.2104(g)(2), Huryan Family Media will be subject to a final default payment for its defaulted high bids for FM broadcast construction permits FM292-A (Leakey, TX) and FM320-A (Torrey, UT) in Auction No. 37 once the spectrum associated with these FM broadcast construction permits is re-auctioned and the full default payment amount is determined.

IT IS FURTHER ORDERED that this letter shall be sent to the applicant and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by Section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Rita Cookmeyer
Financial Policy Analyst
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

¹³ *Id.*

¹⁴ *See* Mountain Solutions Ltd., Inc., *Memorandum Opinion and Order*, 13 FCC Rcd 21,983, 21,997 ¶ 25 (1998).

ATTACHMENT A

Initial Default Payment

Permit Number Frequency block	Gross Winning Bids Auction # 37	Net Winning Bids Auction # 37	Initial Default Payment (3% of net winning bid)
FM292-A (Leahey, TX)	\$101,000.00	\$65,650.00	\$1,969.50
FM320-A (Torrey, UT)	\$119,000.00	\$77,350.00	\$2,320.50
		Total	\$4,290.00