



Federal Communications Commission  
Washington, D.C. 20554

DA 07-1735

April 16, 2007

**Via Certified Mail, Return Receipt Requested**

Spearman Properties, LLC  
Attn: Monte L. Spearman  
181 Elkhorn Avenue J  
Estes Park, CO 80517

**Re: Final Default Payment For Auction No. 37**

Dear Mr. Spearman:

Spearman Properties, LLC ("Spearman"), a participant in Auction No. 37, defaulted on its final payment obligation with respect to two FM broadcast construction permits (FM296-A and FM302-C2) after the close of the auction. Auction No. 62, the subsequent auction for the permits on which Spearman defaulted on its final payment obligations, has closed. As shown on Attachment A, in accordance with the Federal Communication Commission's ("Commission's") rules, we are now able to calculate Spearman's final default payment obligations.

Under the Commission's rules, a bidder who fails to 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.<sup>1</sup> 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).<sup>2</sup> The second component of the default payment is an additional payment equal to three percent (3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.<sup>3</sup> 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 of the defaulted bid.<sup>4</sup>

As shown in Attachment A, in accordance with Section 1.2104(g)(2), after applying any interim payments or amounts on deposit with the Commission, Spearman has an outstanding balance of \$163,334.50.

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<sup>1</sup> 47 C.F.R. § 1.2104(g)(2), 1.2109(b).

<sup>2</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>3</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>4</sup> 47 C.F.R. § 1.2104(g)(2).

Spearman is in debt to the United States in the amount of \$163,334.50,<sup>5</sup> payable in full, immediately, and without further demand. As permitted under 31 U.S.C. § 3717, the debt is subject to interest, penalties, and administrative costs, and interest accrues from the date of this letter, which is also its mailing date. Spearman, the debtor, may avoid payment of the interest if it tenders to the Commission full payment within 30 days of the date of the letter. Moreover, the debt is subject to an additional charge to cover the cost of processing and handling of delinquent debts, and a penalty charge in the amount permitted by law. The penalty charge for delinquent debt payments permitted by 31 U.S.C. § 3717 currently is 6 percent a year for the failure to pay any part of the debt more than 90 days past due.

### **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), Spearman Properties, LLC is ASSESSED final default payment obligations as computed in Attachment A.<sup>6</sup>

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, Spearman Properties, LLC's interim payments or funds on deposit will be applied towards the sum of the default payments.

IT IS FURTHER ORDERED that Spearman Properties, LLC's debt of \$163,334.50 be paid immediately, in accordance with the payment instructions in Attachment B, within 30 days of the date of this letter, and if it is unpaid 30 days after the date of this letter, interest will accrue from the date of this letter along with penalties and administrative costs permitted by 31 U.S.C. § 3717.

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

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<sup>5</sup> See Attachment A.

<sup>6</sup> 47 C.F.R. § 1.2104(g)(2).

**ATTACHMENT A**

**Multi-Auction Default Payment Report**

Permit Number	Defaulted Gross Bids Auction No. 37	Defaulted Net Bids Auction No. 37	Re-auction Gross Bids Auction No. 62	Re-auction Net Bids Auction No. 62	3% Default Payment	Lower Difference Payment	Final Default Payment (Lower Difference Plus 3% of Winning Bid)
FM296-A	\$230,000.00	\$172,500.00	\$81,000.00	\$81,000.00	\$2,430.00	\$91,500.00	\$93,930.00
FM302-C2	\$216,000.00	\$162,000.00	\$131,000.00	\$85,150.00	\$2,554.50	\$76,850.00	\$79,404.50

Sum of Final Default Payments	\$173,334.50
Less Sum of Interim Payments or Amounts on Deposit	\$10,000.00
<b>Outstanding Balance Due on Final Default Payments</b>	<b>\$163,334.50</b>

## **ATTACHMENT B**

The following information is being provided to assist you in making your payment.

### **PAYMENT INSTRUCTIONS**

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by Mellon Bank by 6:00 PM Eastern Time, no later than thirty days from the date of the ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 043000261

Receiving Bank: Mellon Pittsburgh

BNF: FCC/Account #911-6106

OBI Field: (Skip one space between each information item)

"AUCTIONPAY"

FCC REGISTRATION NO. (FRN) (same as FCC Form 159, Block 11 and/or 21)

PAYMENT TYPE CODE (enter "APEN") same as FCC Form 159, Block 24A FCC CODE 1 (same as FCC Form 159, Block 28A: ("37"))

PAYOR NAME (same as FCC Form 159, Block 2)

LOCKBOX No.: 358850

A completed FCC Remittance Advice Form (FCC Form 159, Version 2/03) must accompany payments. On the same business day that the applicant submits payment to Mellon Bank, the applicant must submit a completed FCC Form 159 via facsimile at (412) 209-6045, at least one-hour prior to placing the order for the wire transfer. The specified debt is due and payable to the United States immediately and without demand, and it is subject to interest, penalties, and additional administrative costs. Interest accrues from the date of the ORDER; however, to avoid the payment of charges (i.e., interest, penalties, and administrative costs) and enforced collection, full payment must be made and received within 30 days from the date of the ORDER. Debtor's failure to make complete timely payment will result in assessment of such charges permitted by 31 U.S.C. § 3717.

For questions regarding the submission of payment, and the FCC Form 159, contact Gail Glasser, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578.