

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
The Sportzmax, Inc.,) Fac. ID 60812
Licensee of WDSP(AM),) FRN: 0019075977
De Funiak Springs, Georgia)

ORDER TO PAY OR TO SHOW CAUSE

Adopted: August 26, 2019

Released: August 27, 2019

By the Chief, Media Bureau and the Managing Director, Office of Managing Director:

I. INTRODUCTION

1. By this Order to Pay or to Show Cause, we initiate a proceeding to revoke the license held by The Sportzmax, Inc. (Licensee) for WDSP(AM), De Funiak Springs, Florida (Station), for failure to pay delinquent regulatory fees and associated interest, administrative costs, and penalties owed to the Commission. For the reasons set forth below, we direct Licensee to pay the overdue regulatory fees, including any associated interest, penalties, and administrative costs, or show cause why the payment demanded is inapplicable or should otherwise be waived or deferred.

II. DISCUSSION

2. Under Section 9 of the Communications Act of 1934, as amended (Act), and the Commission’s rules (Rules), the Commission is required to “assess and collect regulatory fees” to recover the costs of certain regulatory activities.1 When the required payment is received late or is incomplete, the Commission must assess a penalty equal to “25 percent of the amount of the fee which was not paid in a timely manner.”2

3. For fiscal year (FY) 2010, the deadline for paying regulatory fees was August 31, 2010;3 for FY 2011, it was September 16, 2011;4 for FY 2012, it was September 13, 2012.5 When Licensee failed to pay its regulatory fees by these deadlines, the Commission assessed charges that included the statutory late payment penalty required by the Act6 and Sections 1.1157(c)(1) and 1.1164 of the Rules,7

1 47 U.S.C. § 159(a)(1); 47 CFR §§ 1.1151-1.1167.

2 47 U.S.C. § 159A(c)(1); 47 CFR §§ 1.1157(c)(1), 1.1164.

3 See Payment Methods and Procedures for Fiscal Year 2010 Regulatory Fees, Public Notice, 25 FCC Rcd 10670 (OMD 2010).

4 See FY2011 Regulatory Fee Deadline is Extended to 11:59 PM, ET, September 16, 2011, Public Notice, 26 FCC Rcd 13029 (OMD 2011).

5 See Reminder That FY 2012 Regulatory Fees Are Due No Later Than September 13, 2012, Eastern Time (ET), Public Notice, 27 FCC Rcd 10297 (OMD 2012).

6 47 U.S.C. § 159A(c)(1); 47 U.S.C. § 159A(c)(1) (2017). The RAY BAUM’S Act, Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, Pub. L. No. 115-141, 132 Stat. 348, 1095, modified Section 9 of the Act and added a new Section 9A. Prior to October 1, 2018, when the RAY BAUM’S Act became effective, Section 9(c)(1) set forth the penalties for late payment of regulatory fees. As amended by the RAY BAUM’s Act, Section 9A(c)(1) now sets forth those penalties.

7 47 CFR §§ 1.1157(c)(1), 1.1164.

and interest, penalties, and administrative costs required by Section 3717 of Title 31 of the U.S. Code and Section 1.1940 of the Rules.⁸

4. The Commission's records show that Licensee currently has unpaid regulatory fees of \$955.86 for FY 2010; \$657.00 for FY 2011; and \$908.70 for FY 2012. Additional charges will continue to accrue on these debts until they are paid in full. Demand Letters, which demanded payment of Licensee's delinquent regulatory fees, were previously sent to Licensee.⁹ When Licensee did not pay the FY 2010, FY 2011, and FY 2012 regulatory fee debt, the Commission transferred that debt to the Secretary of Treasury at the Treasury Department for collection.¹⁰ At the Commission's request, and in order to consolidate the collection process, the Secretary of the Treasury has returned all of the previously transferred regulatory fee debt to the Commission for further collection.

5. In addition to financial penalties, Section 9A(c)(4) of the Act,¹¹ and Section 1.1164(f) of the Rules¹² grant the FCC the authority to revoke authorizations for failure to pay regulatory fees (or related interest and penalties) in a timely fashion. Accordingly, we require Licensee to file with the Media Bureau documented evidence within sixty (60) calendar days of the date of this Order that full payment of all outstanding regulatory fee debt has been made in accordance with Section 1.1164(a) of the Rules,¹³ or show cause why the payment is inapplicable or should be waived or deferred. Licensee is hereby notified that failure to provide such evidence of payment or to show cause within the time specified may result in revocation of Licensee's license for the Station.

6. Under Section 9A(c)(4)(C) of the Act and Section 1.1164(f),¹⁴ an adjudicatory hearing will not be designated unless Licensee presents a substantial and material question of fact. Further, disposition of any adjudicatory hearing will be based upon written evidence only, and Licensee will bear the burden to introduce evidence and to provide proof in any such hearing.¹⁵

7. To the extent that Licensee is a respondent in other administrative proceedings, both before this agency and other federal agencies, action in this proceeding is without prejudice to action in those proceedings. Further, the existence of any such proceedings and matters raised therein are not considered in this proceeding.

III. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 9A(c)(4) of the Act and Sections 0.61, 0.283, and 1.1164(f) of the Rules,¹⁶ The Sportzmax, Inc., is hereby **ORDERED TO PAY TO THE FEDERAL COMMUNICATIONS COMMISSION** within sixty (60) calendar days of the date of this Order the outstanding regulatory fees for FY 2010, FY 2011, and FY 2012, **OR SHOW**

⁸ 31 U.S.C. § 3717; 47 CFR § 1.1940.

⁹ In addition to these Demand Letters, the Bureau notified Licensee of its delinquency in paying the Station's regulatory fees for FY 2010, FY 2011, and FY 2012. Letter from Peter H. Doyle, Chief, Audio Division, Media Bureau, to John C. Trent, Esq., Putbrese, Hunsaker, & Trent, P.C. (MB dated June 4, 2015).

¹⁰ See 31 U.S.C. § 3711(g); 31 CFR §§ 285.12(c) & 901.1; 47 CFR § 1.1917.

¹¹ 47 U.S.C. § 159A(c)(4). As noted, *supra* at note 6, the RAY BAUM'S Act modified Section 9 of the Act and added a new Section 9A. Prior to October 1, 2018, when the RAY BAUM'S Act became effective, Section 9(c)(3) authorized the Commission to revoke "any instrument of authorization held by any entity that has failed to make payment of a regulatory fee." 47 U.S.C. § 159(c)(3) (2017). As amended by the RAY BAUM'S Act, Section 9A(c)(4) now authorizes such action.

¹² 47 CFR § 1.1164(f).

¹³ 47 CFR § 1.1164(a).

¹⁴ 47 U.S.C. § 159A(c)(4)(C)(i); 47 CFR § 1.1164(f)(1).

¹⁵ 47 U.S.C. § 159A(c)(4)(C)(ii); 47 CFR § 1.1164(f)(2).

¹⁶ 47 U.S.C. § 159A(c)(4); 47 CFR §§ 0.61, 0.283, 1.1164(f).

CAUSE to the Commission within sixty (60) calendar days of the date of this Order why these regulatory fees are inapplicable or should otherwise be waived or deferred.

9. **IT IS FURTHER ORDERED** that payment of the delinquent regulatory fee debt must be made by wire transfer and must include the FRN referenced above. Additional wire transfer instructions are as follows:

ABA Routing Number 021030004

Receiving Bank:
TREAS NYC
33 Liberty St.
New York, NY 10045

(BNF) Beneficiary: FCC
Account #: 27000001
OBI Field (skip one space between each information item)

The Sportzmax, Inc., must provide the Payer FRN (if different than the FRN referenced above) and a contact phone number.

The Sportzmax, Inc., must fax a copy of the wire transfer confirmation to the FCC at (202) 418-2843 or send the wire transfer confirmation copy to the FCC via email to RROGWireFaxes@fcc.gov on the same day the wire transfer is initiated.

10. **IT IS FURTHER ORDERED** that The Sportzmax, Inc., must submit a completed FCC Form 159 (Remittance Advice) at the time of payment. The FCC Form 159 must be faxed to the FCC at (202) 418-2843. An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Forms 159/159.pdf>. When completing the FCC Form 159, The Sportzmax, Inc., must enter its FRN in block number 23A (call sign/other ID) and enter the following payment codes for the fiscal years involved in block number 24A (payment type code): 1035 (for FY 2010), 1135 (for FY 2011), and 1235 (for FY 2012).

11. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by registered mail, return receipt requested, to The Sportzmax, Inc., 500 Grand Boulevard, Suite 210, Destin, FL 32541, and its counsel, John C. Trent, Esq., Putbrese, Hunsaker, & Trent, P.C., 200 South Church Street, Woodstock, VA 22664.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey
Chief, Media Bureau

Mark Stephens, Managing Director
Office of Managing Director