



Federal Communications Commission
Washington, D.C. 20554

DA 21-782

July 1, 2021

VIA ELECTRONIC MAIL AND OVERNIGHT DELIVERY

Sonic Staffing, Inc.
Christopher Maynard
3736 Bee Caves Rd #1-260
West Lake Hills, TX 78746

Re: AM and FM Broadcast Auction 109 – AU Docket No. 21-39
Short-Form Application (FCC Form 175) of Sonic Staffing, Inc.

Dear Mr. Maynard:

On May 11, 2021, Sonic Staffing, Inc. (Sonic) filed an application to participate in Auction 109, an auction of AM and FM broadcast construction permits.¹ On July 1, 2021, the Office of Economics and Analytics (OEA) and the Media Bureau (MB) released a Public Notice announcing the applicants that are qualified to bid in Auction 109.² In that Public Notice, you were found to be non-qualified to bid in Auction 109. This letter explains the reasons for that determination.

Both Sonic and Ekklesia of Texas (Ekklesia) timely submitted short-form applications (FCC Form 175) to participate in Auction 109. Each application identified Christopher Maynard as the applicant's responsible party, contact person, authorized bidder, and certifying official.³ In addition, Mr. Maynard was identified as the vice president of Ekklesia and the sole shareholder, a director, and the president of Sonic. Ekklesia failed to provide any information regarding its disclosable interest holders, as required by the Commission's competitive bidding rules.⁴

On June 3, 2021, OEA and MB released a public notice that identified the status of each short-form application submitted in Auction 109 as complete, incomplete, or rejected and opened a filing window from June 3, 2021 to June 16, 2021 for applicants with incomplete applications to correct deficiencies and resubmit their applications.⁵ This public notice also set the deadline for submitting upfront payments for Auction 109 at 6:00 p.m. Eastern Time (ET) on Wednesday, June 16, 2021. Both the Sonic application and the Ekklesia application were designated as incomplete due to, among other

¹ Short-form Application of Sonic Staffing, Inc. to Participate in Auction 109 (FCC Form 175), File No. 0009546303 (filed May 11, 2021) (*Sonic Form 175*).

² *Auction of AM and FM Broadcast Construction Permits, 114 Bidders Qualified to Participate in Auction 109, One FM Broadcast Construction Permit Removed from Auction 109*, AU Docket No. 21-39, Public Notice, DA 21-780 (OEA/MB July 1, 2021).

³ *Sonic Form 175*; Short-form Application of Ekklesia of Texas to Participate in Auction 109 (FCC Form 175), File No. 0009546291 (filed May 11, 2021).

⁴ 47 CFR §§ 1.2105(a)(2)(ii)(B), 1.2112(a).

⁵ *Auction of AM and FM Broadcast Construction Permits Scheduled for July 27, 2021; Status of Short-Form Applications to Participate in Auction 109*, Public Notice, DA 21-628 (OEA/MB Jun. 3, 2021) (*Auction 109 Status Public Notice*).

issues, Mr. Maynard's overlapping roles with regard to these two applications.⁶ A letter for each application describing the deficiencies in the application was sent to Mr. Maynard.⁷ The *Sonic Deficiency Letter*, instructed Sonic to contact Commission staff to discuss the deficiencies in its application and advised Sonic that in order to be eligible to participate in Auction 109, Sonic must electronically resubmit a corrected short-form application prior to 6:00 pm ET on June 16, 2021. Sonic made a timely upfront payment; it did not, however, contact Commission staff regarding the deficiencies in its short-form application nor resubmit a corrected short-form application by the deadline.⁸

After the deadline for filing a short-form application, all applicants in Auction 109 are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other in any manner the substance of their own, or each other's, or any other applicant's bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline.⁹ An "applicant" for purposes of this rule includes the officers and directors of the entity submitting a short-form application, all "controlling interests" in that entity, as well as all holders of interests amounting to 10% or more of that entity.¹⁰ A party that submits an application becomes an "applicant" under the rule at the application filing deadline, and that status does not change based on later developments, including failure to become a qualified bidder.¹¹ Thus, both Sonic and Ekklesia remain applicants for purposes of this rule and remain subject to the prohibition on certain communications until the down payment deadline for winning bidders in Auction 109.

Pursuant to section 1.2105(c)(5)(i) of the Commission's rules, for the purposes of the prohibited communications rule, Mr. Maynard is an applicant both with respect to the Sonic application and the Ekklesia application due to his officer position in both applicants and his controlling ownership interest in Sonic.¹² Because Mr. Maynard is considered to be the applicant in both instances, he has necessarily conveyed bids and bidding strategies between Sonic and Ekklesia in apparent violation of the prohibited communications rule.¹³ Sonic has not provided us with any information that could allow us to conclude

⁶ See *Auction 109 Status Public Notice*, Attachment B.

⁷ Letter to Sonic Staffing, Inc. c/o Christopher Maynard from the Federal Communications Commission (June 3, 2021) (*Sonic Deficiency Letter*); Letter to Ekklesia of Texas c/o Christopher Maynard from the Federal Communications Commission (June 3, 2021) (*Ekklesia Deficiency Letter*).

⁸ Ekklesia also did not file a corrected short-form application. As such, we do not have complete information regarding the ownership or control of Ekklesia. We note, however, that section 1.2105(a)(3) of the Commission's rules prohibits an individual from having a controlling interest in more than one short-form application. 47 CFR § 1.2105(a)(3).

⁹ 47 CFR § 1.2105(c)(1); see generally *Auction of AM and FM Broadcast Construction Permits Scheduled for July 27, 2021; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 109*, AU Docket No. 21-39, Public Notice, DA 21-361, 13-18, paras. 37-53 (OEA/MB Apr. 1, 2021) (*Auction 109 Procedures Public Notice*).

¹⁰ 47 CFR § 1.2105(c)(5)(i); *Auction 109 Procedures Public Notice* at 13, para. 38.

¹¹ *Auction 109 Procedures Public Notice* at 13, para. 38 (citing *Star Wireless, LLC v. FCC*, 522 F.3d 469, 474-75 (D.C. Cir. 2008)).

¹² 47 CFR § 1.2105(c)(5)(i).

¹³ See, e.g., *Trinity Broadcasting Network*, Letter Order, 20 FCC Rcd 14648, 14648-49 (MB/WTB 2005) (finding apparent violation of communication prohibitions of section 1.2105(c) where applicants with mutually exclusive applications reported sharing same individual as an officer and director and reported having no bidding agreement, which under the rule then in effect, would have made an exception to the prohibition applicable).

that Mr. Maynard's role at Ekklesia does not put both companies in violation of the prohibited communications rule.

Rather the information provided in both applications indicates that Mr. Maynard exercises significant influence over each applicant's participation in Auction 109.¹⁴ For example, as the certifying official for each application, Mr. Maynard had control over whether either application would be corrected and resubmitted during the resubmission window.¹⁵ By having knowledge of and influence over these activities, Mr. Maynard caused both applicants to violate the prohibited communications rule. Because of this violation of the Commission's prohibited communications rule, Sonic was found unqualified to participate in the bidding for Auction 109.

Sincerely,

Gary D. Michaels
Deputy Chief
Auctions Division
Office of Economics and Analytics

Albert Shuldiner
Chief
Audio Division
Media Bureau

¹⁴ See *Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, PP Docket No. 93-253, Memorandum Opinion & Order, 9 FCC Rcd 7684, 7687-88, para. 9 (1994) (defining “applicant” for the purposes of the prohibited communications rule to include the officers of the entity submitting the application on the basis that officers hold attributable interests in such entities under the then-applicable wireless spectrum aggregation rules); *Amendment of the Commission's Rules to Establish New Personal Communication Services*, GEN Docket No. 90-314, Memorandum Opinion and Order, 9 FCC Rcd 4957, 5006, para. 120 (1994) (determining that the officers and directors of a wireless licensee in the personal communications services, or an entity controlling that licensee, have an attributable interest in that licensee due to “the ability of such individuals to exert influence over companies in which they have significant managerial responsibility.”); see also, 47 CFR 73.3555 note 2(g) (the media interests of a broadcast licensee are attributable to its officers, and a licensee may request that the Commission waive attribution only if such officer's duties are wholly unrelated to the broadcast business).

¹⁵ See *Auction 109 Procedures Public Notice* at 17, Attachment B, para. 95 (explaining that the person originally certifying the application will have to certify any changes).