



Federal Communications Commission
Washington, D.C. 20554

December 16, 2022

DA 22-1327

Via Email and Certified Mail, Return Receipt Requested

Nassau Broadcasting Holdings, Inc.
619 Alexander Road
Third Floor
Princeton, NJ 08540

Blank Rome LLP
1201 Market Street, Suite 800
Wilmington, DE 19801
Attn: Regina Stango Kelbon, Esq. and Victoria Guilfoyle, Esq.

National Registered Agents, Inc.
1209 Orange Street
Wilmington, DE 19801

**Re: Final Default Payment Amount for Auction 37 Construction Permit FM216-A
(Jefferson, NH)**

**DO NOT DISCARD THIS IMPORTANT NOTICE
OF A DEMAND FOR PAYMENT
OF A DEBT OWED THE UNITED STATES AND ORDER OF PAYMENT**

To Whom It May Concern:

This Order provides notice and demands payment of a debt owed to the United States based on the default of Nassau Broadcasting Holdings, Inc. (Nassau) on its final payment for a construction permit it won in Auction 37. Nassau was the winning bidder for FM broadcast construction permit FM216-A (Jefferson, NH) (the Permit) with a net winning bid of \$879,000.00. After the close of Auction 37, Nassau failed to prosecute its long-form application for the Permit and its application was dismissed.¹ Thus Nassau became subject to the default provisions of section 1.2104(g) of the Commission's rules.² Nassau owes a default payment, which is a debt owed to the United States.³

¹ *Nassau Broadcasting Holdings, Inc., NEW(FM), Jefferson, NH Facility ID No.: 164219 BNPH-20050103AIE*, Letter Order, Ref. 1800B3 RG (July 14, 2011) (*Jefferson Jul. 2011 Letter*) available at http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=26790.

² See 47 C.F.R. §§ 1.2104(g)(2), 1.2109(c), 73.3568(a); *Auction of FM Broadcast Construction Permits Scheduled for November 3, 2004*, Public Notice, 19 FCC Rcd 10570, 10605-06 (MB/WTB 2004) (*Auction 37 Procedures Public Notice*). In 2018, the functions of the Auctions and Spectrum Access Division were shifted from the Wireless Telecommunications Bureau to the Auctions Division of the Commission's Office of Economics and Analytics. See *Establishment of the Office of Economics and Analytics*, Order, 33 FCC Rcd 1539 (2018); see also 83 Fed. Reg. 63073 (Dec. 7, 2018).

³ 31 U.S.C. § 3701(b)(1); 47 CFR §§ 1.2104(g)(2), 1.2109.

In 2015, the Commission assessed an interim default payment of \$49,230.00 for Nassau's default on its two winning bids in Auction 37.⁴ Nassau's \$328,200.00 down payment for its winning bids in Auction 37 was applied toward its total interim default payment, leaving \$278,970.00 on deposit with the Commission. The Commission explained that it could not determine the full amount of Nassau's default payment until a new construction permit for the relevant allotment is won in a subsequent auction.⁵ A construction permit for the underlying allotment at Jefferson, NH, was won in Auction 109 with a net winning bid of \$7,500.00,⁶ and the Commission accordingly is now able to calculate the amount of the final default payment obligation that Nassau owes.⁷

Under the Commission's rules, at the close of the auction, a winning bidder assumes a binding obligation to pay the full amount of its accepted winning bid.⁸ A bidder who defaults on that obligation or is disqualified is considered to be a defaulting bidder under the Commission's rules and is subject to a default payment.⁹ The default payment has two components: a deficiency payment and an additional payment amount.¹⁰ The deficiency payment component applies only if the subsequent winning bid the next time a construction permit for the allotment is won is less than the defaulted bid. The deficiency payment amount 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.¹¹ The additional payment amount is owed by each defaulting bidder.¹² Under the Commission's rules that were in effect for Auction 37, the additional payment amount is equal to three percent (3%) of the defaulter's bid or the subsequent winning bid, whichever is less.¹³

As shown in Attachment A, and in accordance with section 1.2104(g)(2) of the Commission's rules, we have completed the final default payment calculation and, after applying \$26,370.00 of its interim default payment, which is the portion attributable to this Permit,¹⁴ and the monies it has on deposit against Nassau's debt,¹⁵ have determined that Nassau owes an outstanding balance of \$563,960.00. This

⁴ *Nassau Broadcasting Holdings, Inc., Notice of Interim Default Payment Obligation for Auction 37*, Letter Order, 30 FCC Rcd 612, 615 (WTB 2015) (*Interim Default Letter Order*). Nassau defaulted on its winning bids for broadcast construction permits FM216-A (Jefferson, NH) and FM325-A (Hardwick, VT).

⁵ 47 CFR § 1.2104(g)(2).

⁶ *See Auction of AM and FM Broadcast Construction Permits Closes; Winning Bidders Announced for Auction 109*, Public Notice, DA 21-983, Attach. C (OEA/MB Aug. 12, 2021) (*Auction 109 Closing Public Notice*). The permit for the Hardwick, VT, allotment did not receive a winning bid in Auction 109.

⁷ *See* 47 CFR § 1.2104(g)(2).

⁸ 47 CFR § 1.2104(g)(2).

⁹ 47 CFR §§ 1.2104(g)(2), 1.2109.

¹⁰ 47 CFR § 1.2104(g)(2).

¹¹ 47 CFR § 1.2104(g)(2)(i).

¹² 47 CFR § 1.2104(g)(2).

¹³ *See* 47 CFR § 1.2104(g)(2) (2004); *see also Auction 37 Procedures Public Notice*, 19 FCC Rcd at 10605-06.

¹⁴ \$26,370.00 is the portion of Nassau's interim default payment that is attributable to its default on its winning bid for permit FM216-A (Jefferson, NH). This amount is 3% of Nassau's winning bid of \$879,000.00 for the Permit. The remaining \$22,860 of Nassau's interim default payment is attributable to its default on its winning bid for permit FM325-A (Hardwick, VT) and \$22,860 represents 3% of Nassau's winning bid for that permit.

debt to the United States is payable in full and without further demand within 30 days of the date of this Order in accordance with the Important Notice Information provided below and the Payment Instructions in Attachment B.

Important Notice Information

The following provides notification of procedures and information required by the Debt Collection Improvement Act of 1996 (“DCIA”).¹⁶ The outstanding balance shown in Attachment A is a debt Nassau owes to the United States. It is payable in full and without further demand, and payment must be received no later than the payment due date, which is 30 days from the date of this Order (“Due Date”).¹⁷ Any portion of the debt unpaid at the end of the Due Date will be considered delinquent and administrative charges (incurred for processing and handling delinquent debts),¹⁸ interest,¹⁹ and penalties²⁰ will accrue beginning from that date. Interest accrues at a minimum annual rate established annually by the United States Treasury in accordance with 31 U.S.C. § 3717.²¹ However, the Commission will waive payment of the accrued interest, if the full amount of the debt is paid within 30 days of the Due Date.²² A penalty of up to six percent (6%) accrues on any portion of the debt that remains unpaid for more than 90 days from the Due Date.²³ In addition to these charges, the Commission may initiate administrative offset,²⁴ and it may refer the delinquent debt to the United States Treasury or the Department of Justice (“DOJ”) for further collection action.²⁵ The United States Treasury will impose

¹⁵ Nassau submitted an upfront payment of \$255,000.00 to participate in Auction 37. *FM Broadcast Construction Permits Auction Closes; Auction No. 37 Winning Bidders Announced; Payment and Application Deadlines Established*, Public Notice, 20 FCC Rcd 1021, Attach. A (2004) (*Auction 37 Closing Public Notice*). After the close of Auction 37, the Commission applied a withdrawal payment of \$24,660.00 against Nassau’s upfront payment. *See id.* at 1021, Attach. B. Thus, the Commission applied \$230,340.00 toward Nassau’s down payment requirement. *Id.* Nassau paid an additional \$97,860.00 toward its outstanding down payment balance for its winning bids, resulting in a total down payment amount of \$328,200.00. The Commission subsequently applied \$49,230.00 of the down payment amount to satisfy Nassau’s interim default payment obligations for its defaults in Auction 37, leaving \$278,970.00 on deposit with the Commission. *See Interim Default Letter Order*, 30 FCC Rcd at 613, 615.

¹⁶ Pub. L. No. 104-134, 110 Stat. 1321 (1996) (codified in relevant parts at 31 U.S.C. §§ 3716 (administrative offset) and 3717 (interest and penalty on claims)); *see also* 47 CFR §§ 1.1901, 1.1911, 1.1912, 1.1940 and 1.1941.

¹⁷ As noted in Attachment B, if the 30th day falls on a non-business day, payment must be received on the next business day.

¹⁸ 31 U.S.C. § 3717(e)(1); 47 CFR § 1.1940(c).

¹⁹ 31 U.S.C. § 3717(b); 47 CFR § 1.1940(b).

²⁰ 31 U.S.C. § 3717(e)(2); 47 CFR § 1.1940(d).

²¹ 47 CFR § 1.1940(b).

²² 31 U.S.C. § 3717(d); 47 CFR § 1.1940(g).

²³ 31 U.S.C. § 3717(e)(2); 47 CFR § 1.1940(d).

²⁴ 47 CFR § 1.1912. Under this provision, the Commission may refer the debt to the United States Treasury for centralized administrative offset whereby, subject to certain exceptions, money otherwise payable to the debtor by the United States government may be used to satisfy the debt. In addition, “unless otherwise prohibited by law,” the Commission may conduct non-centralized, ad hoc case-by-case offsets when centralized offset is unavailable or inappropriate. 47 CFR § 1.1912(c).

²⁵ 31 U.S.C. §§ 3711(g), 3716; 28 U.S.C. § 3001 *et seq.*; 47 CFR § 1.1912. Transfer may be made without further notice at any time after the Due Date.

an additional administrative collection charge,²⁶ and it may also commence administrative offset.²⁷ An additional surcharge may be imposed if the DOJ initiates judicial action to recover judgment.²⁸ Furthermore, any portion of the debt that is unpaid after the Due Date specified in this Order is a delinquent debt, which will trigger application of the Commission's red light procedures at section 1.1910 of the Commission's rules.²⁹

Ordering Clauses

Accordingly, IT IS ORDERED that, under 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 CFR § 1.2104(g)(2), Nassau Broadcasting Holdings, Inc. is ASSESSED a final default payment obligation as computed in Attachment A.

IT IS FURTHER ORDERED that, under sections 1.2104 and 1.2106 of the Commission's rules, 47 CFR §§ 1.2104 and 1.2106, Nassau Broadcasting Holdings, Inc. interim payment or funds on deposit with the Commission will be applied towards the final default payment.

IT IS FURTHER ORDERED that Nassau Broadcasting Holdings, Inc. debt of \$563,960.00 is payable in full, immediately, and without further demand, and that it must be paid within 30 days of the date of this Order (the Due Date), in accordance with the payment instructions in Attachment B, and that any portion of the debt unpaid after the Due Date is delinquent, and that under 31 U.S.C. § 3717, administrative charges, interest, and penalties will accrue.

IT IS FURTHER ORDERED that this Order be sent to Nassau Broadcasting Holdings, Inc. by certified mail, return receipt requested. This action is taken pursuant to authority delegated by sections 0.21(m) and 0.271 of the Commission's rules, 47 CFR §§ 0.21(m), 0.271.

Sincerely,

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

Attachments

²⁶ 31 U.S.C. § 3717(e); 31 CFR § 285.12(j).

²⁷ 31 U.S.C. § 3716; 47 CFR § 1.1912(b) (mandatory centralized administrative offset).

²⁸ 28 U.S.C. § 3011.

²⁹ 47 CFR § 1.1910.

ATTACHMENT A

Multi-Auction Default Payment Report

| Construction Permit | Defaulted Gross Bid Auction 37 | Defaulted Net Bid Auction 37 | Re-auction Gross Bid Auction 109 | Re-auction Net Bid Auction 109 | 3% Payment | Lower Difference Payment | Final Payment |
|----------------------------|---------------------------------------|-------------------------------------|---|---------------------------------------|-------------------|---------------------------------|----------------------|
| FM216-A (Jefferson, NH) | \$879,000.00 | \$879,000.00 | \$10,000.00 | \$7,500.00 | \$300.00 | \$869,000.00 | \$869,300.00 |

| | |
|---|---------------------|
| Total Final Default Payment Due | \$869,300.00 |
| Less Interim Default Payment | \$26,370.00 |
| Less Amount on Deposit | \$278,970.00 |
| Outstanding Balance Due on Final Default Payment | \$563,960.00 |

ATTACHMENT B

PAYMENT INSTRUCTIONS

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

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 6:00 PM Eastern Time, no later than thirty days from the date of this Order; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or Federal 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: **021030004**

Receiving Bank: **TREAS NYC**

33 Liberty Street
New York, NY 10045

ACCOUNT NAME: **FCC**

45 L Street, NE 3rd Floor
Washington, DC 20554

ACCOUNT NUMBER: **27000001**

Originating Bank Information (OBI Field): (Skip one space between each information item)
"AUCTIONPAY"

APPLICANT FCC REGISTRATION NUMBER (FRN):

PAYMENT TYPE CODE: ("**ADFT**")

FCC CODE 1: ("**37**")

PAYOR NAME:

CONTACT NAME AND PHONE NUMBER OR EMAIL ADDRESS:

Please Note: The Commission no longer requires the submission of FCC Form 159 (Remittance Advice) with such payments.

For questions, please contact Scott Radcliffe, Office of the Managing Director, Financial Operations Center, Revenue & Receivables Operations Group/Auctions, at (202) 418-7518.