

Before the
Federal Communications Commission
Washington, DC

DOCKET FILE COPY ORIGINAL

In Re:

Jerry Szoka,
Cleveland, Ohio

Order to Show Cause Why a Cease
and Desist Order Should Not Issue

To: The Commission

CIB Docket No. 98-48

RECEIVED

JUL 15 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Petition for Reconsideration

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List A B C D E

Jerry Szoka seeks reconsideration pursuant to 47 U.S.C. § 405 and 47 C.F.R. § 1.106 of the Commission's June 15 decisions (1) imposing an \$11,000 forfeiture and (2) ordering him to cease and desist operation of Grid Radio (GR), Cleveland, Ohio, without a license. The Commission should reconsider the forfeiture because Szoka's speech cannot constitutionally be punished. The cease and desist order should be stayed pending consideration of Szoka's application for a license and/or the completion of the LPFM rulemaking, FCC docket 99-25. The supplemental declaration of Jerry Szoka (with exhibits demonstrating financial incapacity) is attached in support of this Petition.

I. The Commission's Decision Should Be Stayed Pending Completion of the LPFM Rulemaking.

Szoka gratefully acknowledges the Commission's Jan. 28, 1999, decision to implement through rulemaking a low-power FM service. See Creation of a Low Power Radio Service, MM Docket 99-25 (Jan. 28, 1999) (LPFM NPRM). The Commission conceded several critical aspects of this case in the LPFM NPRM. First, the Commission correctly recognized that its regulatory ban on

microbroadcasters¹ wasted a large volume of the spectrum resource, contrary to its statutory mandate, the public interest, and constitutional limitations.

We believe that these new LPFM stations would provide a low-cost means of serving urban communities and neighborhoods, as well as populations living in smaller rural towns and communities. In creating these new classes of stations, our goals are to address unmet needs for community-oriented radio broadcasting, foster opportunities for new radio broadcast ownership, and promote additional diversity in radio voices and program services.

LPFM NPRM at ¶ 1.

The 100-watt class would be intended to meet the demand of people who would like to broadcast affordably to communities of moderate size (whether standing alone in rural areas or as part of a larger urban area). . . . In these situations, LP100 stations could fill the "gaps" between gridlocked full power stations. In the less congested areas of the country, we would expect that displaced LP100 stations could more readily be relocated to alternate frequencies.

¹ The Policy and Rules Division, Mass Media Bureau, explained as follows in its "frequently asked questions" with respect to low power radio: "7) Who can get licenses to operate low power FM stations? No one, at this time. The Federal Communications Commission has proposed rules, which, if adopted, would create a new class of low power radio stations. These stations, and licenses to operate such stations, are not available at the present time. If the Commission adopts rules creating a new low power FM radio service, application and licensing procedures will be established at that time." An April, 1996 policy paper by the Audio Services Division, "Low Power Broadcast Radio Stations," explained: "Please note that new FM stations will not be authorized to operate with less than these minimums. While there are a few Class D FM noncommercial educational stations (also called "10 watt stations") which are permitted to continue operations with smaller facilities, authorizations for new Class D FM stations were discontinued in 1978. No new Class D FM stations will be authorized outside the state of Alaska." That same paper further stated in a supplement: "The Commission is not presently authorizing low power FM broadcast radio stations. Current policy and procedure on such operation may be reviewed in the Low Power Broadcast Radio Stations fact sheet. However, on February 20, 1999, the Commission released a Notice of Proposed Rulemaking in MM Docket 99-25, seeking comment on whether to and how best to implement a low power FM radio service. Three possible power levels are being considered -- 1000 watts, 100 watts, and 1 to 10 watts. No applications or requests for low power FM stations may be filed for nor will authorizations be granted until rules and procedures are in place to handle any applications."

LPFM NPRM at ¶¶ 30-31.

The NPRM also explained that potentially several hundred thousand new FM stations could obtain valid LPFM licenses, in addition to the 7,679 presently licensed FM stations, and that the present licensing scheme erected prohibitive economic barriers to entry of microbroadcasters such as Szoka.

As discussed in our 1998 Biennial Review of broadcast ownership regulations, liberalization of our local radio ownership rules over the past few years has led to increasing ownership consolidation. . . . The Commission has acknowledged the benefits to the public that may accrue from the economies of scale made possible by group station ownership. However, we are concerned that consolidation may have a significant impact on small broadcasters and potential new entrants into the radio broadcasting business by driving up station prices, thereby exacerbating the difficulty of entering the broadcast industry and of surviving as an independent operator.

LPFM NPRM at ¶ 10 (citations omitted).

The consistent demand for various forms of low power radio stations, including microradio stations, indicates that many people interested in community broadcasting cannot afford either their own full power stations or whatever limited access to established stations may be available. Moreover, people with non-mainstream interests or unconventional views would have access to the airwaves only with the consent of a full power station owner, which could severely limit their range of expression. We recognize that the internet offers unprecedented opportunities to communicate inexpensively to others around the world and to receive information or programming of interest. However, at this time, internet access is not sufficiently mobile and ubiquitous to be considered a substitute for radio broadcasting's capability to reach the public, despite some opponents' contentions to the contrary. Thus, it appears that low power radio offers opportunities to potential broadcasters and listeners for which there are currently no comparable alternatives.

LPFM NPRM at ¶ 12.

We expect the very nature of LP100 and microradio stations will ensure that they serve the public. Therefore, we are disinclined to put the burdens of complying with specific programming requirements on these licensees, particularly given the size of the operations we envision and the simplicity we are striving for in this service.

LPFM NPRM at ¶ 72.

Because of the predicted lower construction and operational costs of LPFM stations as opposed to full power facilities, we expect that small entities would be expected to have few economic obstacles to becoming LPFM licensees. Therefore, the proposed new service may serve as a vehicle for small entities and under-represented groups (including women and minorities) to gain valuable broadcast experience and to add their voices to their local communities. . . . The Commission is proposing to create a new broadcast service that may allow hundreds of thousands of small entities to become broadcast licensees for the first time.

LPFM NPRM at App. E (Initial Regulatory Flexibility Analysis) (noting 13,000 inquiries concerning LPFM licenses during past year).

Finally, the Commission correctly recognized that Szoka's broadcasting activities serve a vital public interest, increasingly unmet due to the concentration of license ownership since the 1996 Telecommunications Act, and that the present regulatory ban on microbroadcasters was not due to spectrum efficiency or interference considerations, but more to deference to the economic self-interest of existing FM incumbents.

If we were to create one or more classes of low power radio service, we would expect to receive a very large volume of applications. The expeditious authorization of such service requires a simple, yet effective, means of controlling interference among stations. With this in mind, we believe minimum distance separations between stations

may be the best practical means of governing interference to and from low power radio stations.

LPFM NPRM at ¶ 40.

Making broadcast outlets available to more speakers is a fundamental premise of this rule making effort, and we do not expect that such a limitation [on automatic renewals] would discourage the very modest investment required to build such a station, particularly if the assets would be readily transferable.

LPFM NPRM at ¶ 83.

We are proposing to require that LPFM and microradio applications be filed electronically. We intend that a substantial number of people would be able to locate and afford to construct LP1000 and LP100 stations, and would expect that an even greater number would be able to do so for microradio stations. Moreover, we have seen concrete evidence of significant interest from members of the public who want to start their own LPFM and microradio stations. As a result, we expect to receive a great number of applications, should the new service be authorized.

LPFM NPRM at ¶ 91.

With this Notice of Proposed Rule Making, we explore the possible establishment of new classes of FM radio service to respond to the increasing demand by the public for additional outlets of popular expression which could increase the diversity of voices, views, and sources of information and entertainment available to the American public.

LPFM NPRM at ¶ 112.

As consolidation in the broadcast industry closes the doors of opportunity for new entrants, we must find ways to use the broadcast spectrum more efficiently so that we can bring more voices to the airwaves. The notice adopted today proposes several ways to do so. . . . [W]e cannot deny opportunities to those who want to use the airwaves to speak to their communities simply because it might be inconvenient for those who already have these opportunities. In the past, the Commission has faced incumbents

raising obstacles that might impede the development of new technology. We saw this with the development of cable television service, low power television, direct broadcast satellites, and the digital audio radio service. In each instance, the Commission was able to overcome these obstacles and bring these new technologies to the American people, and in every case, the American people have benefited from new services and competition while the incumbent industry has continued to prosper.

Joint Statement of Chairman William E. Kennard and Commissioner Gloria Tristani.

The only allegation against Szoka is that he is broadcasting without a license. There have been no complaints of interference, harmful or otherwise. The Commission has never disputed Szoka's claim that he is serving a vital public interest, in particular the specialized needs of his primarily gay audience, and that these needs are unmet elsewhere. As explained in Szoka's Supplemental Declaration (attached), ¶¶ 3-5, 7-8, he serves an even greater public interest than set forth in his original declaration a year ago. In particular, much of his informational programming (e.g., concerning drunk driving and AIDS prevention) is, quite literally, life-saving. *Id.* at ¶ 6.

Removal of Szoka from his audience at this time, especially with the pendency of the LPFM NPRM, would be a travesty of justice. Szoka's audience has nowhere to turn for the unique information and entertainment services provided by GR. *Id.* at ¶¶ 9-12.

II. The Decision Should Be Stayed Pending Commission Action of Smoke's Application for License.

From his first communication with the Commission, Szoka has repeatedly stated that he desired to operate GR with an appropriate license from the Commission. It has always been the Commission's ban on microbroadcasters,² rather than his supposed unwillingness to operate with a license, that has prevented Szoka from seeking a license.

Szoka welcomes the Commission's suggestion, Decision at ¶ 14, that it is willing to consider a waiver of various rules so that Szoka can operate with a license. Accordingly, Szoka is preparing the necessary applications for a construction permit and requests for rule waiver and will file them as soon as practicable. See, e.g., *Crosthwait v. FCC*, 584 F.2d 550 (D.C. Cir. 1978); *Albertson v. FCC*, 182 F.2d 397 (D.C. Cir. 1950).

III. Szoka Has Standing to Challenge the Licensing Scheme.

² The Eighth Circuit recently made a factual finding that the Commission has implemented a regulatory ban on microbroadcasters since 1978. See *US v. Any and All Radio Station Equipment*, 169 F.3d 548, 549 (8th Cir., Feb. 26, 1999). "Extremely low-wattage broadcasts do not need to be licensed by the FCC. See 47 C.F.R. § 15.239(b) (emissions which do not exceed 250 microvolts/meter at 3 meters as measured by average detectors). At the present time FCC regulations bar issuing licenses to microbroadcasters, that is, any radio station broadcasting below 100 watts. See 47 C.F.R. § 73.211(a), .511(a), .512(c) (beginning in 1978, FCC refused to issue all future licenses for broadcasting below 100 watts, except in Alaska). It can cost more than \$100,000 for a broadcast license for a 100-watt station." See August 2, 1995 Memorandum and Order denying Dunifer's Application for Review of his Notice of Apparent Liability, 11 F.C.C. Rcd 718 (1995) (restating FCC ban on microbroadcaster similar to Szoka).

As noted above, Szoka welcomes the stated willingness of the Commission to waive the necessary rules so that Szoka may operate with a license (as has been his desire all along). However, with all due respect, Szoka remains convinced that this is a futile act, and that the Commission has repeatedly interposed a hypothetical willingness to consider such waivers (and/or the granting of STA or experimental authorization) solely as a defensive litigation tactic to escape meaningful judicial scrutiny of its regulatory ban on microbroadcasters such as Szoka. The Commission has never granted a waiver of the power rules, special temporary authority, or experimental authority to microbroadcasters such as Szoka.³ Other than in the LPFM NPRM, the Commission has not proposed any guidelines or standards under which waivers will be granted. The caselaw does not mandate ironclad proof that the Commission will never grant Szoka the necessary waivers in order to escape a useless exhaustion effort, only that the Commission have articulated a clear policy on the matter -- which it has done through rule, action, and inaction. *See, e.g., Clouser v. Espy*, 42 F.3d 1522, 1532 (9th Cir. 1990); *SAIF Corp./Oregon Ship v. Johnson*, 908 F.2d 1434, 1441 (9th Cir. 1990); *El Rescate Legal Service v. Executive Office of Immigration Review*, 959 F.2d 742, 747 (9th Cir. 1991). *Cf. U.S. Telephone Ass'n v. F.C.C.*, 28 F.3d 1232, 1235-36 (D.C. Cir. 1994) (in striking down forfeiture "guidelines" as an unlawful rule promulgated without prior notice and comment, court found that FCC's characterization of guideline as a "policy statement" exempt from

³ The FCC has never granted a waiver of the Class D regulations, except to two isolated instances that involved waivers for original programming for retransmitting facilities owned by Native Americans which were in such isolated areas that they received no other programming. *Turro v. FCC*, 859 F.2d 1498, 1500 n.1 (D.C. Cir. 1988). *Turro*, Decision at ¶ 15, has no bearing on this case. In *Turro*, moreover, the Court upheld the FCC's decision not to grant waivers of the its rule banning original programming on low-power translators. The Court accepted the Commission's rationale for the blanket ban, administrative convenience, on the basis of the "floodgate" argument. *Id.* at 1499. The Commission would interpose this "floodgate" justification for rejecting waivers to microbroadcasters such as Szoka.

rulemaking procedures was an improper effort to evade review of its substance since FCC mechanistically applied the “guideline” in all but 8 of 300 cases).

Moreover, in faulting Szoka for not previously filing an application for construction permit and/or license (which Szoka maintains would have been a futile act), the Commission ignores blackletter law which permits Szoka to challenge a licensing scheme on constitutional grounds without first filing for a permit. “[O]ur cases have long held that when a licensing statute allegedly vests unbridled discretion in a government official over whether to permit or deny expressive activity, one who is subject to the law may challenge it facially without the necessity of first applying for, and being denied, a license.” *City of Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 755-56 (1988). “[I]t is well established that one has standing to challenge a statute on the ground that it delegates overly broad licensing discretion to an administrative office, whether or not his conduct could be proscribed by a properly drawn statute, and whether or not he applied for a license.” *Freeman v. Maryland*, 380 U.S. 51, 56 (1965). “One who might have had a license for the asking may therefore call into question the whole scheme of licensing when he is prosecuted for failure to procure it.” *Thornhill v. Alabama*, 310 U.S. 88, 97-98 (1940). “The decisions of this Court have uniformly held that the failure to apply for a license under an ordinance which on its face violates the Constitution does not preclude review. . .” *Staub v. City of Baxley*, 355 U.S. 317, 319-20 (1958).

IV. The Commission Failed to Address Szoka's Constitutional Objections.

The Decision, ¶¶ 11-12, explains the non-controversial argument that the Courts have consistently upheld a licensing scheme as a necessary and appropriate means of avoiding interference among users of the limited spectrum resource. Szoka does not object to licenses per se, and has from the outset sought the Commission's help in obtaining a license, Supl. Szoka Dcl. at ¶ 2. Szoka does object, however, to the licensing scheme imposed on him, in particular the combination of a complete regulatory ban on his operation with a futile procedure for seeking waivers.

The Commission's two "defenses" fail to demonstrate that the Commission has followed the Constitution and the Act with respect to Szoka. First, as noted above, the Commission in the LPFM NPRM has conceded that Szoka can operate in the public interest without causing harmful interference. Accordingly, the Commission's claim, Decision at ¶¶ 18-19, that its regulatory ban on microbroadcasters such as Szoka is indefensible and no longer reasonable.

Even if waivers were available in fact, the overall licensing scheme violates Szoka's First Amendment rights. The FCC's licensing requirements, even if they authorized a license for Szoka, would be unduly burdensome for microbroadcasters and would thus constitute prior restraints, rather than reasonable time, place, manner restrictions on speech. Licensing requirements

cannot impose burdens out of proportion to the scale of the activity the licensee seeks to engage in and the risks. *See Murdock v. Pennsylvania*, 319 U.S. 105, 113-14 (1943) (overturning as unconstitutional a city ordinance requiring all persons canvassing or soliciting within a city to procure a license by paying a flat fee of \$1.50 per day; “the license tax is fixed in amount and unrelated to the scope of activities of petitioners. It is not a nominal fee imposed as a regulatory measure to defray the expenses of policing the activities in question. It is in no way apportioned.”) (emphasis added); *Follett v. McCormick*, 321 U.S. 573, 576 (1944) (overturning as unconstitutional an ordinance which required booksellers to pay a flat fee to procure a license to sell books); *Jimmy Swaggart Ministries v. Board of Equalization of California*, 493 U.S. 378, 386 (1990) (*Murdock* and *Follett* involved “flat license taxes that operated as a prior restraint on the exercise of religious liberty”); *Eastern Connecticut Citizens Action Group v. Powers*, 723 F.2d 1050 (2d Cir. 1983) (voiding fee and liability insurance requirements for public gathering where there was no evidence to support their magnitude); *Central Florida Nuclear Freeze Campaign v. Walsh*, 774 F.2d 1515, 1522 (11th Cir. 1983) (overturning licensing fee, in light of black letter law “authorizing a municipality to charge fees for the use of a public street only when such fees are both nominal and related to the expenses incidental to the policing of the event”); *cf. Cox v. State of New Hampshire*, 312 U.S. 569, 577 (1941) (upholding a sliding scale licensing fee charged for parade permits because the fee was “not a revenue

tax, but one to meet the expense incident to the administration of the [licensing] statute and to the maintenance of public policy in the matter licensed”); *Center for Auto Safety v. Athey*, 37 F.3d 139, 144 (4th Cir. 1994) (upholding a statute that required charities seeking to solicit in Maryland to pay an annual sliding scale fee based on the charity’s nationwide level of public contributions, and to undergo more substantial audits in correlation to their size, because “the statute’s sliding scale [was] narrowly tailored to match the costs incurred by Maryland in implementing the statutes”)⁴.

V. The \$11,000 Forfeiture is Excessive and Unconstitutional.

The Commission does not dispute that excessive fines violate the Eighth Amendment. In its most recent pronouncement, the Court emphasized that a forfeiture is unconstitutional if it is grossly disproportionate to the gravity of the offense charged. *United States v. Bajakajian*, 118 S. Ct. 2028 (1998). Thus, some showing of real and concrete harm or damage would be necessary to support Szoka’s forfeiture. Such a concrete showing is particularly necessary where, as here, the conduct sought to be punished is pure speech protected by the First Amendment. Here, the Commission has pointedly not alleged, much less shown, that GR has caused ANY real harm, for example, by interfering with

⁴ Also relevant is *Minneapolis Star & Tribune Co v. Minnesota Comm’r of Revenue*, 460 U.S. 575, 593 (1983) (tax on ink and newsprint unconstitutional; “A tax that singles out the press or that targets individual publications within the press, places a heavy burden on the State to justify its action”).

aircraft navigation, by interfering with the signals of protected licensees, or by broadcasting unlawful or obscene material. Thus, the Commission's claim is purely theoretical and cannot support the forfeiture. At most, the Commission seeks to punish Szoka because he is speaking without a piece of paper, a license, which it is solely within the Commission's power to issue (an act it has repeatedly stated it will not do).

The forfeiture imposed on Szoka is far worse than that found unconstitutional in *Bajakajian*. Just as was the case for the exported currency in *Bajakajian*, it is entirely lawful for GR to broadcast to his audience. All that was needed to export the currency was the filing of a report. Here, all that is needed for GR to broadcast, and to continue broadcasting, is for the FCC to issue a license, which it undeniably has the power—if not the obligation—to do.

The Commission has not properly balanced the appropriate factors.⁵ In particular, it has not given any credit for Szoka for serving the needs of his community, totally without profit to himself. The Commission has also

⁵ The case cited by the Commission, *Madison Communications, Inc.*, 8 FCC Rcd 1759 (1993), does not support the huge forfeiture here. The Commission actually reduced the fine from \$2,000 to \$1,000 per frequency. Moreover, *Madison* was a profitable CATV operation. Unlike the present case, the Commission had not categorically refused to license the allegedly violative signal. Moreover, the fact that the Commission has imposed \$11,000 forfeitures in "similar" cases, Decision at ¶ 21, does not transform Szoka's forfeiture into a constitutional act, but simply means that the Commission may be repeatedly violating the Eighth Amendment with such excessive fines. *Data Investments, Inc.*, 6 FCC Rcd 4496 (1991), is also inapposite. The licensee withheld material information from the Commission and profited from its unlawful operation.

improperly concluded that Szoka's alleged violation was "willful."⁶ As noted above, Szoka has consistently stated his desire to operate with a license and that it has been FCC policy, not his unwillingness, that has prevented him from obtaining a license.

The Commission correctly notes, Decision at ¶ 23, that agency programs for the mitigation and waiver of fines under SBREFA can exclude "willful" violations under § 223(b)(4) and require "good faith" efforts at compliance under § 223(b)(6). These provisions must be read in light of the Congressional concern that "small businesses bear a disproportionate share of regulatory costs and burdens" and that "fundamental changes that are needed in the regulatory and enforcement of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory mission of the agencies." §§202(2), (3). The relevant purposes of SBREFA included creating "a more cooperative regulatory environment [between the FCC] and [microbroadcasters such as Szoka] that is less punitive and more solution-oriented" and making "[the FCC] more accountable for [its] enforcement actions by providing small entities with a meaningful opportunity for redress of excessive

⁶ Southern California Broadcasting Co, Inc., 6 FCC Rcd 4387 (1991), does not support the conclusion that Szoka acted "willfully" so as to justify a forfeiture. The fine in that case was based on the station's failure to disclose that two long-running talk shows were paid for by outside commercial sponsors, i.e. infomercials. Such conduct has at least the potential to mislead and defraud the public, while no such finding has been made against Szoka. Moreover, that station could have complied with the sponsorship identification rules. Here, it was impossible for Szoka to comply with the requirement that he broadcast with a license because of the Commission's unlawful regulatory ban on such broadcasts.

enforcement activities.” §§ 203(6), (7). Accordingly, for the reasons explained above, his alleged violation cannot be deemed “wilful” because the Commission made compliance impossible.

From the outset, Szoka sought help from the FCC in obtaining a proper license in view of the extraordinary burdens imposed by the present system and the futility of seeking waivers. Until the LPFM NPRM, the Commission remained deaf to Szoka’s pleas for help except to cite statutes and rules and repeat the mantra that he should stop broadcasting. However, with the LPFM NPRM, the Commission has finally extended a reasonable helping hand to Szoka. Under SBREFA’s mandate, he should be encouraged to take advantage of this opportunity rather than punished for what amounts to a failure on the part of the Commission.

Accordingly, the proposed \$11,000 forfeiture “fine” must be viewed as unconstitutionally excessive because it bears no relationship to the gravity of the offense charged by the CIB.

VI. The Commission Should Reduce the Forfeiture Based on Szoka’s Inability to Pay.

The Commission correctly notes, Decision at ¶ 23, that it must consider Szoka’s ability to pay any forfeiture. In addition to the reasons previously argued, i.e. that the forfeiture is unconstitutional, the Commission should reduce the fine to \$1 based on inability to pay. Szoka has been operating GR on a noncommercial

basis, without any profit for him. Indeed, he has financed the station entirely from his own pocket, and earns to salary from its operation. Supl. Szoka Decl. at ¶ 13. As set demonstrated by the exhibits attached to the declaration, Szoka has only \$500 in the bank, makes only a small weekly salary at the Grid nightclub, has current debts that exceed his currently available cash, and that most of his net worth (\$6720.15) net worth is tied up in a used automobile. His tax returns, also attached, show adjusted gross taxable income of only \$5,755, \$13,005, and \$11,119 for the past three years. His now-used radio equipment used to operate GR is worth at most a few hundred dollars, with no present market value until the Commission makes LPFM an “official” service.

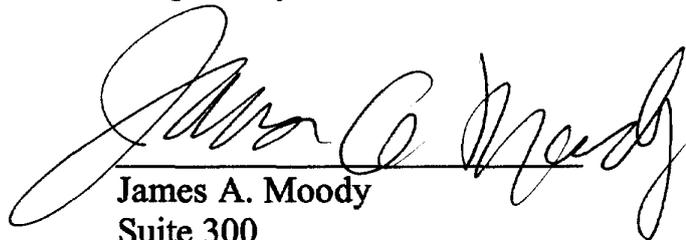
Finally, it is absurd and illogical in the extreme to impose such a draconian forfeiture on Szoka for doing precisely what the Commission has found in the recently issued LPFM NPRM to be in the public interest, and for which there is a grave present need.

Conclusion.

Szoka is serving a vital public interest. His only “crime” is speaking in a public forum (empty space on the radio spectrum) without prior permission from the Government. As a matter of constitutional law, he can neither be banned nor punished for this speech. Moreover, the Commission has now conceded that its regulatory ban on Szoka’s broadcasts is contrary to its statutory mandate. Finally

recognizing this, the Commission has correctly moved ahead to license microbroadcasters. Szoka should not be caught in a regulatory vice. He should be allowed to continue operations pending Commission action to grant him a license, either through waiver or as a result of the LPFM NPRM. Finally, his unconstitutionally excessive fine should be waived, alternatively, on the ground that he has no ability to pay.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James A. Moody", written over a horizontal line.

James A. Moody
Suite 300
Washington, DC 20007
202-298-4766

Hans Bade
Center for Individual Rights
1233 20th Street NW
Suite 300
Washington, DC 20036
202-833-8400

Counsel for Szoka

July 15, 1999

**Before the
Federal Communications Commission
Washington, DC**

In Re:

Jerry Szoka,
Cleveland, Ohio

Order to Show Cause Why a Cease
and Desist Order Should Not Issue

To: The Commission

CIB Docket No. 98-48

Supplemental Declaration of Jerry Szoka

1. I submit this declaration to the Commission in support of Grid Radio's (GR) Petition for Reconsideration of the Commission's decision, released June 15, that I cease broadcasting and pay an \$11,000 forfeiture. As explained in more detail, GR provides a vital public service and should remain on the air so that it can obtain a license, either pursuant to waiver of the existing Commission rules, as suggested by the Commission, or according to the terms of the new low-power FM service presently subject to rulemaking in Docket 99-25. I further explain that it is impossible for me to pay the \$11,000 criminal forfeiture imposed on me by the Commission.

2. I have never been opposed to the FCC's licensing system per se. However, I was advised by my engineering consultant (who performed an initial frequency study) that I did not qualify for any FCC FM license given my intended small power and audience. Furthermore, an application for even the lowest class of FM license, even if one were available for my audience, would have been and remains cost prohibitive. During my first contact with the FCC, in March, 1995, I advised that I wanted a license and sought the FCC's help in obtaining proper authorization. My research led me to the conclusion that the FCC was operating a prohibitively expensive licensing system, in violation of both its statutory mandate and the Constitution, that was deliberately conceived to exclude microbroadcasters from operating in the public interest. My operation of Grid Radio was the result of the FCC's unlawful licensing scheme, not my unwillingness to obtain a license.

3. Grid Radio, 96.9 Mhz., began operation on Sept. 22, 1995, broadcasting only 22 hours on weekends. GR has grown over the last few years from serving a uniquely targeted audience to an audience as diverse as there are radio stations on the dial, and now broadcasts 12 hours daily.

4. Since the inception of Grid Radio 96.9 FM, our community service oriented mission has expanded from not only providing

entertainment and vital information specifically for the large gay community of Cleveland. We now provide local playwrights, independent theaters, local artists, and many other local community residents an outlet for informing educating the community concerning their events and activities.

5. Grid Radio has kept very high standards with regard to it's programming and overall broadcast environment, and has become an asset to the community which it serves. Grid Radio has also made a point to allow as many viewpoints as possible to be aired which is a reflection of the surrounding community. Although Grid Radio is primarily a music station, we pride ourselves on keeping the surrounding community informed of upcoming events, and news items that affect primarily, but not limited to, the gay community. We have made it a point to provide the community with information that is generally taboo and find that the listeners are grateful that were are taking a proactive stance and not a reactive one when it come to the public dissemination of responsible information.

6. We pride ourselves on providing information to our listeners on spousal abuse, an issue seldom discussed on "mainstream" radio, but regrettably all too common; on anonymous AIDS testing facilities; and resources to call concerning issues of safe sex, and preventing to spread of sexually transmitted disease. We are members of the "designated driver"

program of Ohio, and provide listeners opportunities of where they can get free rides home if they have been drinking too much, or where they can call for more information on the program. Other topics include: alternative faith centers, for those who don't feel accepted in "mainstream" churches, local rallies, changes in city ordinance that affect our community, and activism and volunteer opportunities in the community for those who wish to "make a difference." Grid provides essential health and safety information to its audience, and quite literally, saves lives. The "cost" to the community of terminating GR's operations would thus be intolerable.

7. And of course, there is music. We play music that is only heard in the nightclubs. Grid Radio is now the only station in the Cleveland area that plays this kind of music. We take great pride in this as we are cutting edge programming and a large percent of the music we air isn't even available at the record stores yet. And most certainly, our music is definitely unavailable elsewhere in Cleveland on "mainstream" radio. This is just a sampling of the many topics we address in the course of a week on Grid Radio.

8. Although we have no official way of determining the size of the listening audience, we have learned that Grid Radio has been listed in the Arbitron Ratings Service. That in itself is quite an accomplishment since

we are not as yet an “official” station. Another indicator of the impact we have had, and are having, on our community and the size of the audience, are the hundreds of letters, emails and names and addresses we have been receiving and continue to receive in support of Grid Radio, which without exception compliment GR on its entertainment and informational programming. We have several volunteers who have offered their services in various ways to do whatever it takes to keep Grid Radio on the air, from organizing fundraising events, to donating computer equipment, to graphic design for flyers about Grid Radio. I can think of no other radio station in the Cleveland area that would have people volunteering and offering these services for free.

9. The local community has suffered due to the complete lack of community-infused programming in favor of the “air what makes us money mentality,” especially since the recent takeover of most radio stations in Cleveland and throughout the country by a handful of large corporations. This increasing concentration of broadcast resources in such few hands has also left us without diversity in music. After all, most people listen to radio for the music. The last remaining radio stations that aired any kind of “alternative” new music, or any kind of new “pop,” Top 40, or dance music have all but vanished in favor of “urban” or “oldies” music. Cleveland and

the surrounding area is quite unique in the fact that we have a very large, very diverse population. To limit the radio market to urban, classical, oldies or soft adult contemporary music is to deprive literally hundreds of thousands of listeners the enjoyment of the diverse music we have come to enjoy and provide over GR. Grid Radio had built a very solid reputation in the Cleveland market up until the buyout of these stations. But since the buyout of these stations, and the changes in format, Grid Radio has blossomed like we could never have imagined, especially during the past year. We get calls daily from people who were just scanning the dial, found us by accident, and love the format. Almost all of these new listeners want to know why we are not on 24 hours and why they can't get the station at home (due to GR's relatively modest coverage area). We reluctantly have to inform them that we are in a dispute with the FCC, trying to get a license, and do not have the money at this time to get the needed upgrade equipment to go 24 hours and provide a stronger signal.

10. The FCC would commit a travesty of justice and a betrayal of its statutory and constitutional obligations to regulate in the public interest by depriving GR the opportunity to broadcast and our listeners the opportunity to receive our information and entertainment programming. This especially true these past few months and at present, given all the favorable comments

we get about Grid Radio, the unbelievable listing in the Arbitron Ratings, the outpouring of community volunteers wanting to know how they can help us, the commitment we have to our community, the diversity in programming and information, and the cutting edge music. GR has struggled for four years and HAS made a profound difference to the community. Silencing GR would leave the community we serve with a huge void in their lives; worse, it would instill the belief in the many listeners and volunteers, that no matter how hard you try to do the right thing, no matter how hard you try to successfully tailor a radio station to reflect the needs of a community, YOU CAN'T WIN.

11. It is not only the opinion of Grid Radio, but unequivocally the opinion of the surrounding community and station volunteers, that GR be allowed to remain on the air during the rulemaking process, and up to the issuance of a permanent license for Grid Radio.

12. As I stated earlier, I make it a point to keep very high standards in broadcasting, and that goes for the technical aspects as well. Grid Radio has never had one complaint of any kind, either with respect to programming or interference. Grid Radio has never interfered with any other transmissions anywhere and we intend to keep it that way. I am a strong supporter of this fact, and if it were determined that we were

interfering with some kind of communications we would either correct the problem or cease to broadcast.

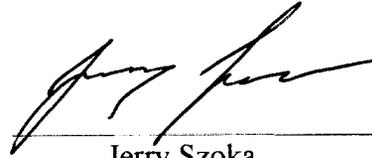
13. Grid Radio was born almost 4 years ago out of the need for radio to reflect more of what the community wanted and not out of how much money can be made with it. Grid Radio has never had an income and all moneys that were required to get the station up and running have come solely out of my personal pocket. It hasn't been easy since I do not make all that much to begin with. But when you have such a strong burning desire to make a change, a change for the betterment of your community, even if you have no idea what may lie in the road ahead, you do whatever it takes to achieve your goal. You make sacrifices! You may not like those sacrifices, but you do them! That is what Grid Radio has been to me. I have sacrificed much in my life to bring a more responsive media outlet to the community in which I live, an outlet that has become a community asset in so many ways. Grid Radio still has no income and anytime something technical is needed, I have to try to find the money to get it. Fortunately these needs are usually few and far between, but it does happen. Whenever these needs arise, however, I sacrifice something else to get whatever it takes to keep the station on the air and serving a community which has come to depend on the consistent and entertaining programming.

14. The criminal forfeiture imposed upon me in the amount of \$11,000 is not only ludicrous, but well out of the realm of my income. This most definitely represents an unreasonable financial hardship that I would never be able to pay.

15. I have attached hereto a personal financial statement and my tax returns for the past three years in support of my complete inability to pay this fine. I have no source of income other than a small salary from The Grid (nightclub). I hold a 37% interest in the club, as McCormick and Associates, but these have never paid a dividend, frequently require small capital calls, and have no current market value. I also hold an undivided 1/12 interest in the Wollen Mill, a commercial building, where I occupy one floor as a residence. This interest is not marketable and has no current market value.

I declare under penalty of perjury that the above statements are true and correct.

7-15-99

A handwritten signature in black ink, appearing to read "Jerry Szoka", written over a horizontal line.

Jerry Szoka



PERSONAL FINANCIAL STATEMENT

U.S. SMALL BUSINESS ADMINISTRATION

As of 7-13, 19 99

Complete this form for: (1) each proprietor, or (2) each limited partner who owns 20% or more interest and each general partner, or (3) each stockholder owning 20% or more of voting stock, or (4) any person or entity providing a guaranty on the loan.

Name: Jerry SZOKA, Business Phone: 216 623 0113, Residence Address: 5611 HOUGH AVE, Residence Phone: 216 391 9813, City, State, & Zip Code: CLEVELAND OHIO 44103, Business Name of Applicant/Borrower:

Table with columns ASSETS and LIABILITIES. Assets include Cash on hands (\$500.00), Savings Accounts (\$0), IRA (\$0), Accounts & Notes Receivable (\$0), Life Insurance (\$0), Stocks and Bonds (\$0), Real Estate (\$0), Automobile-Present Value (\$8,000), Other Personal Property (\$0), Other Assets (\$0). Total Assets: \$8,500. Liabilities include Accounts Payable (\$0), Notes Payable (\$0), Installment Account (Auto) (\$0), Installment Account (Other) VISA x2 (\$1079.85), Loan on Life Insurance (\$0), Mortgages on Real Estate (\$0), Unpaid Taxes (\$700.00), Other Liabilities (\$0). Total Liabilities: \$1779.85. Net Worth: \$6720.15.

Section 1. Source of Income vs Contingent Liabilities. Source of Income: Salary (\$204/wk), Net Investment Income (\$0), Real Estate Income (\$0), Other Income (\$0). Contingent Liabilities: As Endorser or Co-Maker (\$0), Legal Claims & Judgments (\$0), Provision for Federal Income Tax (\$0), Other Special Debt (\$0).

Description of Other Income in Section 1: N/A

*Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income.

(Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

SECTION 2 Table with columns: Name and Address of Noteholder(s), Original Balance, Current Balance, Payment Amount, Frequency (monthly, etc.), How Secured or Endorsed Type of Collateral.

Section 3.					
Number of Shares	Name of Securities	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value
370F100	STOCK	0	0	N/A	0
	McCormick + Assoc.				

Section 4.	(List each parcel separately. Use attachment if necessary. Each attachment must be identified as a part of this statement and signed.)		
	Property A	Property B	Property C
Type of Property			
Address	N/A		
Date Purchased			
Original Cost			
Present Market Value			
Name & Address of Mortgage Holder			
Mortgage Account Number			
Mortgage Balance			
Amount of Payment per Month/Year			
Status of Mortgage			

Section 5. (Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment and if delinquent, describe delinquency)

1/2 Interest in small commercial building.

Section 6. Unpaid Taxes. (Describe in detail, as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

BACK FEDERAL TAXES
PROPERTY TAXES

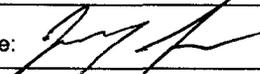
Section 7. Other Liabilities. (Describe in detail.)

VISA 687.43
VISA 392.42

Section 8. Life Insurance Held. (Give face amount and cash surrender value of policies - name of insurance company and beneficiaries)

N/A

I authorize SBA/Lender to make inquiries as necessary to verify the accuracy of the statements made and to determine my creditworthiness. I certify the above and the statements contained in the attachments are true and accurate as of the stated date(s). These statements are made for the purpose of either obtaining a loan or guaranteeing a loan. I understand FALSE statements may result in forfeiture of benefits and possible prosecution by the U.S. Attorney General (Reference 18 U.S.C. 1001).

Signature:  Date: 7-15-99 Social Security Number: 274-74-1619

Signature: _____ Date: _____ Social Security Number: _____

PLEASE NOTE: The estimated average burden hours for the completion of this form is 1.5 hours per response. If you have questions or comments concerning this estimate or any other aspect of this information, please contact Chief, Administrative Branch, U.S. Small Business Administration, Washington, D.C. 20416, and Clearance Officer, Paper Reduction Project (3245-0188), Office of Management and Budget, Washington, D.C. 20503.

For the year Jan 1 - Dec 31, 1996, or other tax year beginning

, 1996, ending

, 19

OMB No. 1545-0074

Label (See instructions.)

Use the IRS label. Otherwise, please print or type.

Presidential Election Campaign (See instructions.)

Personal information section including name (Jerry Szoka), address (5611 Hough Ave., Cleveland, OH 44106), and Social Security Number (274-74-1619).

Filing Status

Check only one box.

- 1 [X] Single
2 [] Married filing joint return
3 [] Married filing separate return
4 [] Head of household
5 [] Qualifying widow(er)

Exemptions

If more than 6 dependents, see the instructions for line 6c.

Exemptions section including 6a (Yourself) and 6b (Spouse) with dependent table and total exemptions claimed (1).

Income

Attach Copy B of your Forms W-2, W-2G, & 1099-R here.

If you did not get a W-2, see the instructions for line 7.

Enclose, but do not attach, any payment. Also, please enclose Form 1040-V (see the instructions for line 62).

Income section with lines 7 through 22, including wages (4,318), business income (1,547), and total income (5,865).

Adjusted Gross Income

If line 31 is under \$28,495 (under \$9,500 if a child did not live with you), see the instructions for line 54.

Adjusted Gross Income section with lines 23 through 31, including IRA deduction and final adjusted gross income (5,755).

Tax Computation	32	Amount from line 31 (adjusted gross income)	32	5,755.	
	33a	Check if: <input type="checkbox"/> You were 65/older, <input type="checkbox"/> Blind; <input type="checkbox"/> Spouse was 65/older, <input type="checkbox"/> Blind Add the number of boxes checked above and enter the total here	33a		
	33b	If you are married filing separately and your spouse itemizes deductions or you were a dual-status alien, see instructions and check here	33b	<input type="checkbox"/>	
	34	Enter the larger of your: Itemized deductions from Schedule A, line 28, Or Standard deduction shown below for your filing status. But see the instructions if you checked any box on line 33a or b or someone can claim you as a dependent. • Single — \$4,000 • Married filing jointly or Qualifying widow(er) — \$6,700 • Head of household — \$5,900 • Married filing separately — \$3,350	34	4,000.	
	35	Subtract line 34 from line 32	35	1,755.	
	36	If line 32 is \$88,475 or less, multiply \$2,550 by the total number of exemptions claimed on line 6d. If line 32 is over \$88,475, see the worksheet in the instructions for the amount to enter	36	2,550.	
	37	Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0-	37	0.	
	38	Tax. See instructions. Check if total includes any tax from a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972	38	0.	
	Credits	39	Credit for child and dependent care expenses. Attach Form 2441	39	
		40	Credit for the elderly or the disabled. Attach Sch R	40	
41		Foreign tax credit. Attach Form 1116	41		
42		Other. Check if from a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8396 c <input type="checkbox"/> Form 8801 d <input type="checkbox"/> Form (spec)	42		
43		Add lines 39 through 42	43		
Other Taxes	44	Subtract line 43 from line 38. If line 43 is more than line 38, enter -0-	44	0.	
	45	Self-employment tax. Attach Schedule SE	45	219.	
	46	Alternative minimum tax. Attach Form 6251	46		
	47	SS and Medicare tax on tip income not reported to employer. Attach Form 4137	47		
	48	Tax on qualified retirement plans, including IRAs. If required, attach Form 5329	48		
	49	Advance earned income credit payments from Form(s) W-2	49		
	50	Household employment taxes. Attach Schedule H	50		
	51	Add lns 44 - 50. This is your total tax	51	219.	
	Payments	52	Federal income tax withheld from Forms W-2 and 1099	52	615.
		53	1996 estimated tax payments and amount applied from 1995 return	53	
54		Earned income credit. Attach Schedule EIC if you have a qualifying child. Nontaxable earned income: amount and type	54		
55		Amount paid with Form 4868 (request for extension)	55		
56		Excess social security and RRTA tax withheld (see instrs)	56		
57		Other payments. Check if from a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136	57		
58		Add lines 52 - 57. These are your total payments	58	615.	
Refund		59	If line 58 is more than line 51, subtract line 51 from line 58. This is the amount you Overpaid	59	396.
	60a	Amount of line 59 you want Refunded to You	60a	396.	
	60b	Routing number			
	60c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings			
Amount You Owe	61	Amount of line 59 you want Applied to Your 1997 Estimated Tax	61		
	62	If line 51 is more than line 58, subtract line 58 from line 51. This is the Amount You Owe. For details on how to pay and use Form 1040-V, see instructions	62		
	63	Estimated tax penalty. Also include on line 62	63		

If you want the IRS to figure your tax, see the instructions for line 37.

Attach Forms W-2, W-2G, and 1099-R to page 1.

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your Signature	Date	Your Occupation
<i>[Signature]</i>		Electrician
Spouse's Signature. If a Joint Return, BOTH Must Sign.	Date	Spouse's Occupation

Keep a copy of this return for your records.

Paid Preparer's Use Only

Preparer's Signature	Date	Check if self-employed <input checked="" type="checkbox"/>	Preparer's Social Security No.
<i>[Signature]</i>	07/14/99		391-48-8442
Firm's Name (or yours if self-employed) and Address	EIN		ZIP Code
Donald Resseguie, CPA P O Box 307 Edgewater Branch Lakewood	OH		44107-0307

**Schedule C
(Form 1040)**

**Profit or Loss from Business
(Sole Proprietorship)**

OMB No. 1545-0074

1996
09

Department of the Treasury
Internal Revenue Service (99)

▶ **Partnerships, joint ventures, etc, must file Form 1065.**
▶ **Attach to Form 1040 or Form 1041.** ▶ **See instructions for Schedule C (Form 1040).**

Name of Proprietor Jerry Szoka		Social Security Number (SSN) 274-74-1619
A Principal Business or Profession, Including Product or Service (see instructions) Electrical Contractor		B Enter Principal Business Code (see instr) ▶ 0273
C Business Name. If No Separate Business Name, Leave Blank. Techman Services		D Employer ID No. (EIN), if Any N/A
E Business Addr (include suite or room no.) ▶ 5611 Hough Ave. City, Town or P.O., State, & ZIP Code Cleveland, OH 44106		
F Accounting method: (1) <input checked="" type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify) ▶ _____		
G Did you 'materially participate' in the operation of this business during 1996? If 'No,' see instructions for limit on losses <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
H If you started or acquired this business during 1996, check here <input type="checkbox"/>		

Part I Income

1 Gross receipts or sales. Caution: If this income was reported to you on Form W-2 and the 'Statutory employee' box on that form was checked, see the instructions and check here <input type="checkbox"/>	1	32,020.
2 Returns and allowances	2	
3 Subtract line 2 from line 1	3	32,020.
4 Cost of goods sold (from line 42 on page 2)	4	17,790.
5 Gross profit. Subtract line 4 from line 3	5	14,230.
6 Other income, including federal and state gasoline or fuel tax credit or refund	6	
7 Gross income. Add lines 5 and 6	7	14,230.

Part II Expenses. Enter expenses for business use of your home **only** on line 30.

8 Advertising	8		19	
9 Bad debts from sales or services (see instructions)	9		20	
10 Car and truck expenses (see instrs)	10		20a	2,574.
11 Commissions and fees	11		20b	
12 Depletion	12		21	764.
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13		22	197.
14 Employee benefit programs (other than on line 19)	14		23	
15 Insurance (other than health)	15	2,027.	24	
16 Interest:			24a	
a Mortgage (paid to banks, etc)	16a		24b	
b Other	16b		24c	
17 Legal and professional services	17		24d	
18 Office expense	18		25	4,343.
19 Pension and profit-sharing plans	19		26	
20 Rent or lease (see instructions):			27	2,778.
a Vehicles, machinery, and equipment			28	12,683.
b Other business property			29	1,547.
21 Repairs and maintenance			30	
22 Supplies (not included in Part III)			31	1,547.
23 Taxes and licenses				
24 Travel, meals, and entertainment:				
a Travel				
b Meals and entertainment				
c Enter 50% of line 24b subject to limitations (see instrs)				
d Subtract line 24c from line 24b				
25 Utilities				
26 Wages (less employment credits)				
27 Other expenses (from line 48 on page 2)				
28 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns				
29 Tentative profit (loss). Subtract line 28 from line 7				
30 Expenses for business use of your home. Attach Form 8829				
31 Net profit or (loss). Subtract line 30 from line 29.				
• If a profit, enter on Form 1040, line 12 , and also on Schedule SE, line 2 (statutory employees, see instructions). Estates and trusts, enter on Form 1041, line 3				
• If a loss, you must go on to line 32				
32 If you have a loss, check the box that describes your investment in this activity.				
• If you checked 32a, enter the loss on Form 1040, line 12 , and also on Schedule SE, line 2 (statutory employees, see instructions). Estates and trusts, enter on Form 1041, line 3			32a	<input type="checkbox"/> All investment is at risk.
• If you checked 32b, you must attach Form 6198			32b	<input type="checkbox"/> Some investment is not at risk.

BAA For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule C (Form 1040) 1996

Part III Cost of Goods Sold

33 Method(s) used to value closing inventory: a Cost b Lower of cost or market c Other (attach explanation)

34 Was there any change in determining quantities, costs, or valuations between opening and closing inventory? If 'Yes,' attach explanation Yes No

35 Inventory at beginning of year. If different from last year's closing inventory, attach explanation	35	
36 Purchases less cost of items withdrawn for personal use	36	17,790.
37 Cost of labor. Do not include salary paid to yourself	37	
38 Materials and supplies	38	
39 Other costs	39	
40 Add lines 35 through 39	40	17,790.
41 Inventory at end of year	41	
42 Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on page 1, line 4	42	17,790.

Part IV Information on Your Vehicle. Complete this part **Only** if you are claiming car or truck expenses on line 10 and are not required to file Form 4562 for this business. See the instructions for line 13 to find out if you must file.

- 43 When did you place your vehicle in service for business purposes? (month, day, year) ▶ 02/01/93
- 44 Of the total number of miles you drove your vehicle during 1996, enter the number of miles you used your vehicle for:
 a Business _____ b Commuting _____ c Other _____
- 45 Do you (or your spouse) have another vehicle available for personal use? Yes No
- 46 Was your vehicle available for use during off-duty hours? Yes No
- 47a Do you have evidence to support your deduction? Yes No
- b If 'Yes,' is the evidence written? Yes No

Part V Other Expenses. List below business expenses not included on lines 8 - 26 or line 30.

Postage	78.
Pager	199.
Advertising	315.
Permits	1,565.
Gas & Oil	621.
48 Total other expenses. Enter here and on page 1, line 27	48 2,778.

**Schedule SE
(Form 1040)**

Self-Employment Tax

OMB No. 1545-0074

1996

17

Department of the Treasury
Internal Revenue Service (99)

▶ See instructions for Schedule SE (Form 1040).

▶ Attach to Form 1040.

Name of Person with Self-Employment Income (as shown on Form 1040)

Social Security Number of Person
with Self-Employment Income ▶

Jerry Szoka

274-74-1619

Who Must File Schedule SE

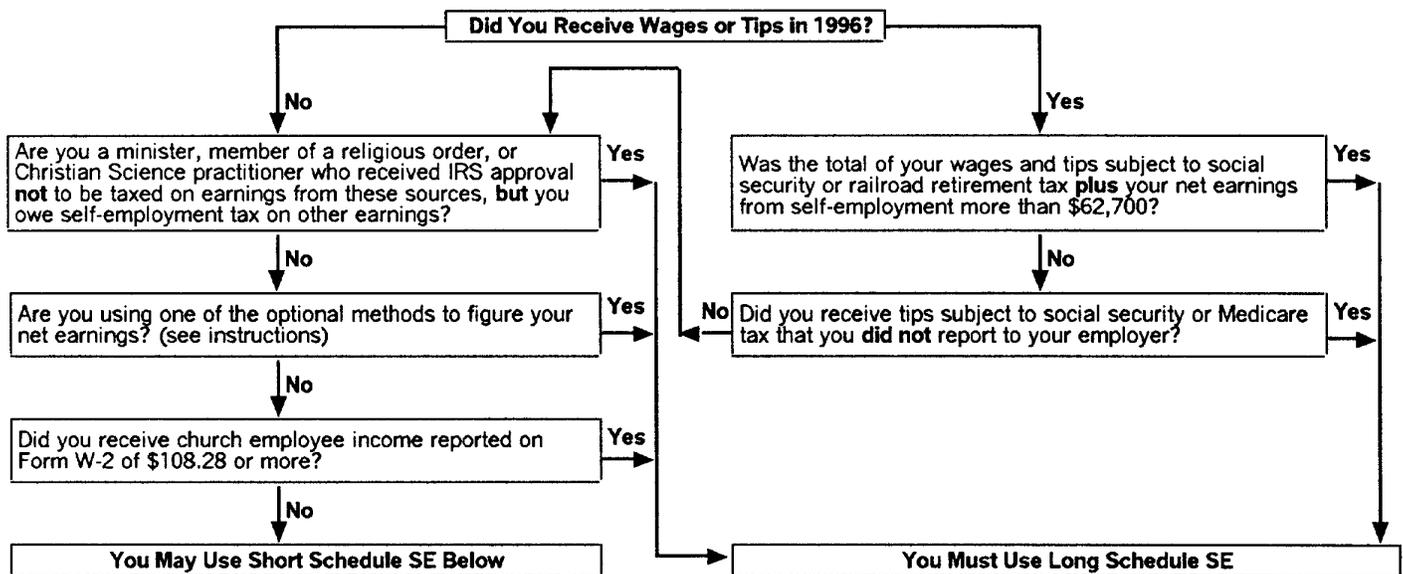
You must file Schedule SE if:

- You had net earnings from self-employment from **other than** church employee income (line 4 of Short Schedule SE or line 4c of Long Schedule SE) of \$400 or more, **Or**
- You had church employee income of \$108.28 or more. Income from services you performed as a minister or a member of a religious order **is not** church employee income. See instructions.

Note: Even if you have a loss or a small amount of income from self-employment, it may be to your benefit to file Schedule SE and use either 'optional method' in Part II of Long Schedule SE. See instructions.

Exception: If your only self-employment income was from earnings as a minister, member of a religious order, or Christian Science practitioner, and you filed Form 4361 and received IRS approval not to be taxed on those earnings, **do not** file Schedule SE. Instead, write 'Exempt - Form 4361' on Form 1040, line 45.

May I use Short Schedule SE or Must I use Long Schedule SE?



Section A – Short Schedule SE. Caution: Read above to see if you can use Short Schedule SE.

1	Net farm profit or (loss) from Schedule F, line 36, and farm partnerships, Schedule K-1 (Form 1065), line 15a	1	
2	Net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; and Schedule K-1 (Form 1065), line 15a (other than farming). Ministers and members of religious orders see instructions for amounts to report on this line. See instructions for other income to report	2	1,547.
3	Combine lines 1 and 2	3	1,547.
4	Net earnings from self-employment. Multiply line 3 by 92.35% (.9235). If less than \$400, do not file this schedule; you do not owe self-employment tax	4	1,429.
5	Self-employment tax. If the amount on line 4 is: • \$62,700 or less, multiply line 4 by 15.3% (.153). Enter the result here and on Form 1040, line 45. • More than \$62,700, multiply line 4 by 2.9% (.029). Then, add \$7,774.80 to the result. Enter the total here and on Form 1040, line 45.	5	219.
6	Deduction for one-half of self-employment tax. Multiply line 5 by 50% (.5). Enter the result here and on Form 1040, line 25	6	110.

BAA For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule SE (Form 1040) 1996

Application for Additional Extension of Time to File U.S. Individual Income Tax Return

1996

Department of the Treasury
Internal Revenue Service

▶ See instructions.
▶ You Must complete all items that apply to you.

Please type or print. File by the due date for filing your return.	Your First Name Jerry	MI	Last Name Szoka	Your Social Security Number 274-74-1619
	If a Joint Return, Spouse's First Name	MI	Last Name	Spouse's Social Security Number

Home Address
**5611 Hough Ave.
Cleveland**

City, Town or Post Office, State and ZIP Code
OH 44106

Please fill in the Return Label at the bottom of this page.

- I request an extension of time until Nov 15, 19 97, to file Form 1040EZ, Form 1040A, or Form 1040 for the calendar year 1996, or other tax year ending _____, 19 ____.
- Explain why you need an extension. You must give an adequate explanation ▶
Awaiting information from third party
- Have you filed Form 4868 to request an automatic extension of time to file for this tax year? Yes No
If you checked 'No,' we will grant your extension only for undue hardship. Fully explain the hardship in item 2. Attach any information you have that helps explain the hardship.

If you expect to owe gift or generation-skipping transfer (GST) tax, complete line 4.

- If you or your spouse plan to file a gift or GST tax return (Form 709 or 709-A) for 1996, generally due by April 15, 1997, see the instructions and check here Yourself Spouse

Signature and Verification

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete; and, if prepared by someone other than the taxpayer, that I am authorized to prepare this form.

Signature of Taxpayer ▶ _____ Date ▶ _____

Signature of Spouse ▶ _____ Date ▶ _____
(if filing jointly, BOTH must sign even if only one had income)

Signature of Preparer Other Than Taxpayer ▶ _____ Date ▶ _____

Please fill in the **Return Label** below with your name, address, and social security number (SSN). The IRS will complete the **Notice to Applicant** and return it to you. If you want it sent to another address or to an agent acting for you, enter the other address and add the agent's name.

(Do not detach)

Notice to Applicant

To Be Completed by the IRS

We have approved your application.

We have not approved your application. However, we have granted a 10-day grace period to _____. This grace period is considered a valid extension of time for elections otherwise required to be made on a timely return.

We have not approved your application. After considering the information you provided in item 2 above, we cannot grant your request for an extension of time to file. We are not granting a 10-day grace period.

We cannot consider your application because it was filed after the due date of your return.

Other _____

Director Date

Return Label (Please type or print)

Taxpayer's Name(s) (and agent's name, if applicable) Donald Resseguie, CPA	Taxpayer's SSN 274-74-1619
Number and Street (include suite, room, or apt no.) or P.O. Box Number P O Box 307 Edgewater Branch	Spouse's SSN
City, Town or Post Office Lakewood	State ZIP Code OH 44107-0307

BAA For Paperwork Reduction Act Notice, see instructions.

Form 2688 (1996)

Supporting Statement of:

Schedule C (Electrical Contractor)/Line 27

Description	Amount
Permits	
Insurance	
Auto Insurance	
Telephone	
Advertising	
Office Supplies	
Postage	
Gas & Oil	
Outside Services	
Utilities	
Cable	
Security	
Miscellaneous	

For the year Jan 1 - Dec 31, 1997, or other tax year beginning 1997, ending 19

OMB No 1545-0074

Label (See instructions.)

Your First Name MI Last Name Jerry Szoka

Your Social Security No.

274-74-1619

Use the IRS label. Otherwise, please print or type.

If a Joint Return, Spouse's First Name MI Last Name

Spouse's Social Security No.

Home Address (number and street). If You Have a P.O. Box, See Instructions. Apartment No.

5611 Hough Ave.

For help finding line instructions, see instructions in the booklet.

City, Town or Post Office. If You Have a Foreign Address, See Instructions. State ZIP Code

Cleveland OH 44106

Presidential Election Campaign (See instructions.)

Do you want \$3 to go to this fund? If a joint return, does your spouse want \$3 to go to this fund?

Yes No Note: Checking 'Yes' will not change your tax or reduce your refund.

Filing Status

- 1 [X] Single
2 [] Married filing joint return (even if only one had income)
3 [] Married filing separate return. Enter spouse's SSN above & full name here
4 [] Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here
5 [] Qualifying widow(er) with dependent child (year spouse died 19). (See instructions.)

Check only one box.

Exemptions

- 6a [X] Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a
b [] Spouse
c Dependents: (1) First name Last name (2) Dependent's social security number (3) Dependent's relationship to you (4) No. of months lived in your home in 1997
d Total number of exemptions claimed

If more than six dependents, see instructions.

Income

- 7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 16,750.
8a Taxable interest. Attach Schedule B if required 8a
b Tax-exempt interest. Do not include on line 8a 8b
9 Dividends. Attach Schedule B if required 9
10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions) 10
11 Alimony received 11
12 Business income or (loss). Attach Schedule C or C-EZ 12 -3,745.
13 Capital gain or (loss). Attach Schedule D 13
14 Other gains or (losses). Attach Form 4797 14
15a Total IRA distributions 15a b Taxable amount (see instrs) 15b
16a Total pensions and annuities 16a b Taxable amount (see instrs) 16b
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17
18 Farm income or (loss). Attach Schedule F 18
19 Unemployment compensation 19
20a Social security benefits 20a b Taxable amount (see instrs) 20b
21 Other income. List type and amount - see instructions 21
22 Add the amounts in the far right column for lines 7 - 21. This is your total income 22 13,005.

Attach Copy B of your Forms W-2, W-2G, & 1099-R here.

If you did not get a W-2, see instructions.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

Adjusted Gross Income

- 23 IRA deduction (see instructions) 23
24 Medical savings account deduction. Attach Form 8853 24
25 Moving expenses. Attach Form 3903 or 3903-F 25
26 One-half of self-employment tax. Attach Schedule SE 26
27 Self-employed health insurance deduction (see instructions) 27
28 Keogh and self-employed SEP and SIMPLE plans 28
29 Penalty on early withdrawal of savings 29
30a Alimony paid. b Recipient's SSN 30a
31 Add lines 23 - 30a 31
32 Subtract line 31 from line 22. This is your adjusted gross income 32 13,005.

If line 32 is under \$29,290 (under \$9,770 if a child did not live with you), see EIC in the instructions.

Tax Computation

33 Amount from line 32 (adjusted gross income) 33 13,005.

34a Check if: You were 65/older, Blind; Spouse was 65/older, Blind
Add the number of boxes checked above and enter the total here 34a

b If you are married filing separately and your spouse itemizes deductions or you were a dual-status alien, see instructions and check here 34b

35 Enter the larger of your: **Itemized deductions** from Schedule A, line 28, Or **Standard deduction** shown below for your filing status. But see the instructions if you checked any box on line 34a or 34b or someone can claim you as a dependent.
 • Single - \$4,150 • Married filing jointly or Qualifying widow(er) - \$6,900
 • Head of household - \$6,050 • Married filing separately - \$3,450
 35 4,150.

36 Subtract line 35 from line 33 36 8,855.

37 If line 33 is \$90,900 or less, multiply \$2,650 by the total number of exemptions claimed on line 6d. If line 33 is over \$90,900, see the worksheet in the instructions for the amount to enter 37 2,650.

38 Taxable income. Subtract line 37 from line 36. If line 37 is more than line 36, enter -0- ... 38 6,205.

39 Tax. See instrs. Check if any tax from a Form(s) 8814 b Form 4972 39 934.

Credits

40 Credit for child and dependent care expenses. Attach Form 2441 40

41 Credit for the elderly or the disabled. Attach Sch R 41

42 Adoption credit. Attach Form 8839 42

43 Foreign tax credit. Attach Form 1116 43

44 Other. Check if from ... a Form 3800 b Form 8396
 c Form 8801 d Form (specify) 44

45 Add lines 40 through 44 45

46 Subtract line 45 from line 39. If line 45 is more than line 39, enter -0- 46 934.

Other Taxes

47 Self-employment tax. Attach Schedule SE 47

48 Alternative minimum tax. Attach Form 6251 48

49 SS and Medicare tax on tip income not reported to employer. Attach Form 4137 49

50 Tax on qualified retirement plans (including IRAs) and MSAs. Attach Form 5329 if required 50

51 Advance earned income credit payments from Form(s) W-2 51

52 Household employment taxes. Attach Schedule H 52

53 Add lns 46 - 52. This is your total tax 53 934.

Payments

54 Federal income tax withheld from Forms W-2 and 1099 54 1,717.

55 1997 estimated tax payments and amount applied from 1996 return 55

56a Earned income credit. Attach Schedule EIC if you have a qualifying child. b Nontaxable earned income: amount 56a

57 Amount paid with Form 4868 (request for extension) 57

58 Excess social security and RRTA tax withheld (see instrs) ... 58

59 Other payments. Check if from a Form 2439
 b Form 4136 59

60 Add lines 54, 55, 56a, 57, 58, and 59. These are your total payments 60 1,717.

Refund

61 If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you Overpaid 61 783.

62a Amount of line 61 you want Refunded to You 62a 783.

b Routing number .. c Type: Checking Savings

d Account number ..

63 Amount of line 61 you want Applied to Your 1998 Estimated Tax 63

Amount You Owe

64 If line 53 is more than line 60, subtract line 60 from line 53. This is the Amount You Owe. For details on how to pay, see instructions 64

65 Estimated tax penalty. Also include on line 64 65

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your Signature _____ Date _____ Your Occupation **Electrician**

Spouse's Signature. If a Joint Return, BOTH Must Sign. _____ Date _____ Spouse's Occupation _____

Paid Preparer's Use Only

Preparer's Signature _____ Date **07/14/99** Check if self-employed Preparer's Social Security No. **391-48-8442**

Firm's Name (or yours if self-employed) and Address **Donald Resseguie**
1302 West 111th Street
Cleveland OH ZIP Code **44102**

**Underpayment of
Estimated Tax by Individuals, Estates and Trusts**

1997
06

Department of the Treasury
Internal Revenue Service

▶ See separate instructions.
▶ Attach to Form 1040, 1040A, 1040NR, 1040NR-EZ, or 1041.

Name(s) Shown on Tax Return

Identifying Number

Jerry Szoka

274-74-1619

Note: In most cases, you do not need to file Form 2210. The IRS will figure any penalty you owe and send you a bill. File Form 2210 only if one or more boxes in Part I apply to you. If you do not need to file Form 2210, you still may use it to figure your penalty. Enter the amount from line 20 or line 32 on the penalty line of your return, but do not attach Form 2210.

Part I Reasons for Filing — If 1a, b, or c below applies to you, you may be able to lower or eliminate your penalty. But you must check the boxes that apply and file Form 2210 with your tax return. If 1d below applies to you, check that box and file Form 2210 with your tax return.

- 1 Check whichever boxes apply (if none apply, see the **Note** above):
- a You request a **waiver**. In certain circumstances, the IRS will waive all or part of the penalty. See **Waiver of Penalty** in the instructions.
 - b You use the **annualized income installment method**. If your income varied during the year, this method may reduce the amount of one or more required installments. See the instructions.
 - c You had federal income tax withheld from wages and, for estimated tax purposes, you treat the withheld tax as paid on the dates it was actually withheld, instead of in equal amounts on the payment due dates. See the instructions for line 22.
 - d Your required annual payment (line 13 below) is based on your 1996 tax and you filed or are filing a joint return for either 1996 or 1997 but not for both years.

Part II Required Annual Payment

2 Enter your 1997 tax after credits (see instructions). Caution: Also see instructions for a special rule if claiming the research credit	2	934.
3 Other taxes (see instructions)	3	
4 Add lines 2 and 3	4	934.
5 Earned income credit	5	
6 Credit for federal tax paid on fuels	6	
7 Add lines 5 and 6	7	
8 Current year tax. Subtract line 7 from line 4	8	934.
9 Multiply line 8 by 90% (.90)	9	841.
10 Withholding taxes. Do not include any estimated tax payments on this line (see instructions)	10	1,717.
11 Subtract line 10 from line 8. If less than \$500, stop here; do not complete or file this form. You do not owe the penalty	11	-783.
12 Enter the tax shown on your 1996 tax return (110% of that amount if the adjusted gross income shown on that return is more than \$150,000, or if married filing separately for 1997, more than \$75,000). Caution: See instructions	12	
13 Required annual payment. Enter the smaller of line 9 or line 12	13	

Note: If line 10 is equal to or more than line 13, stop here; you do not owe the penalty. Do not file Form 2210 unless you checked box 1d above.

Part III Short Method (Caution: See the instructions to find out if you can use the short method. If you checked box 1b or c in Part I, skip this part and go to Part IV.)

14 Enter the amount, if any, from line 10 above	14	
15 Enter the total amount, if any, of estimated tax payments you made	15	
16 Add lines 14 and 15	16	
17 Total underpayment for year. Subtract line 16 from line 13. If zero or less, stop here; you do not owe the penalty. Do not file Form 2210 unless you checked box 1d above	17	
18 Multiply line 17 by .05986	18	
19 • If the amount on line 17 was paid on or after 4/15/98, enter -0-.		
• If the amount on line 17 was paid before 4/15/98, make the following computation to find the amount to enter on line 19.		
Amount on line 17 x Number of days paid before 4/15/98 x .00025	19	
20 Penalty. Subtract line 19 from line 18. Enter the result here and on Form 1040, line 65; Form 1040A, line 34; Form 1040NR, line 65; Form 1040NR-EZ, line 26; or Form 1041, line 27	20	

Part IV Regular Method (See the instructions if you are filing Form 1040NR or 1040NR-EZ.)

Section A – Figure Your Underpayment		Payment Due Dates				
		(a) 4/15/97	(b) 6/15/97	(c) 9/15/97	(d) 1/15/98	
21	Required installments. If box 1b applies, enter the amounts from Schedule AI, line 26. Otherwise, enter 1/4 of line 13, Form 2210, in each column	21				
22	Estimated tax paid and tax withheld (see instructions). For column (a) only, also enter the amount from line 22 on line 26. If line 22 is equal to or more than line 21 for all payment periods, stop here; you do not owe the penalty. Do not file Form 2210 unless you checked a box in Part I	22				
	<i>Complete lines 23 through 29 of one column before going to the next column.</i>					
23	Enter amount, if any, from line 29 of previous column	23				
24	Add lines 22 and 23	24				
25	Add amounts on lines 27 and 28 of the previous column	25				
26	Subtract line 25 from line 24. If zero or less, enter -0-. For column (a) only, enter the amount from line 22	26				
27	If the amount on line 26 is zero, subtract line 24 from line 25. Otherwise, enter -0-	27				
28	Underpayment. If line 21 is equal to or more than line 26, subtract line 26 from line 21. Then go to line 23 of next column. Otherwise, go to line 29	28				
29	Overpayment. If line 26 is more than line 21, subtract line 21 from line 26. Then go to line 23 of next column	29				

Section B – Figure the Penalty (Complete lines 30 and 31 of one column before going to the next column.)

		4/15/97	6/15/97	9/15/97	1/15/98
30	Number of days from the date shown above line 30 to the date the amount on line 28 was paid or 4/15/98, whichever is earlier	30	Days:	Days:	Days:
31	Underpayment on line 28 x $\frac{\text{Number of days on line 30}}{365}$ x .09	31	\$	\$	\$
32	Penalty. Add the amounts in each column of line 31. Enter the total here and on Form 1040, line 65; Form 1040A, line 34; Form 1040NR, line 65; Form 1040NR-EZ, line 26; or Form 1041, line 27	32	\$		

BAA

Schedule C
(Form 1040)

Profit or Loss from Business
(Sole Proprietorship)

OMB No. 1545-0074

1997
09

Department of the Treasury
Internal Revenue Service (99)

▶ Partnerships, joint ventures, etc, must file Form 1065.
▶ Attach to Form 1040 or Form 1041. ▶ See instructions for Schedule C (Form 1040).

Name of Proprietor Jerry Szoka		Social Security Number (SSN) 274-74-1619
A Principal Business or Profession, Including Product or Service (see instructions) Electrical Contractor	B Enter Principal Business Code (see instr) ▶ 0273	
C Business Name. If No Separate Business Name, Leave Blank. Techman Services	D Employer ID No. (EIN), if Any N/A	
E Business Addr (include suite or room no.) ▶ 5611 Hough Ave. City, Town or P.O., State, & ZIP Code Cleveland, OH 44106		
F Accounting method: (1) <input checked="" type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify) ▶		
G Did you 'materially participate' in the operation of this business during 1997? If 'No,' see instructions for limit on losses ... <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
H If you started or acquired this business during 1997, check here ▶ <input type="checkbox"/>		

Part I Income

1 Gross receipts or sales. Caution: If this income was reported to you on Form W-2 and the 'Statutory employee' box on that form was checked, see the instructions and check here ▶ <input type="checkbox"/>	1	19,240.
2 Returns and allowances	2	
3 Subtract line 2 from line 1	3	19,240.
4 Cost of goods sold (from line 42 on page 2)	4	19,329.
5 Gross profit. Subtract line 4 from line 3	5	-89.
6 Other income, including federal and state gasoline or fuel tax credit or refund	6	
7 Gross income. Add lines 5 and 6 ▶	7	-89.

Part II Expenses. Enter expenses for business use of your home **only** on line 30.

8 Advertising	8	19 Pension and profit-sharing plans	19
9 Bad debts from sales or services (see instructions)	9	20 Rent or lease (see instructions):	
10 Car and truck expenses (see instrs)	10	a Vehicles, machinery, and equipment	20a
11 Commissions and fees	11	b Other business property	20b
12 Depletion	12	21 Repairs and maintenance	21
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13	22 Supplies (not included in Part III)	22
14 Employee benefit programs (other than on line 19)	14	23 Taxes and licenses	23
15 Insurance (other than health)	15	24 Travel, meals, and entertainment:	
16 Interest:		a Travel	24a
a Mortgage (paid to banks, etc)	16a	b Meals and entertainment	
b Other	16b	c Enter 50% of line 24b subject to limitations (see instrs)	
17 Legal and professional services	17	d Subtract line 24c from line 24b	24d
18 Office expense	18	25 Utilities	25
28 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns ▶		26 Wages (less employment credits)	26
		27 Other expenses (from line 48 on page 2)	3,656.
29 Tentative profit (loss). Subtract line 28 from line 7		28	3,656.
30 Expenses for business use of your home. Attach Form 8829		29	-3,745.
31 Net profit or (loss). Subtract line 30 from line 29.		30	
• If a profit, enter on Form 1040, line 12 , and also on Schedule SE, line 2 (statutory employees, see instructions). Estates and trusts, enter on Form 1041, line 3		31	-3,745.
• If a loss, you must go on to line 32			
32 If you have a loss, check the box that describes your investment in this activity (see instructions).			
• If you checked 32a, enter the loss on Form 1040, line 12 , and also on Schedule SE, line 2 (statutory employees, see instructions). Estates and trusts, enter on Form 1041, line 3		32a <input checked="" type="checkbox"/>	All investment is at risk.
• If you checked 32b, you must attach Form 6198		32b <input type="checkbox"/>	Some investment is not at risk.

BAA For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule C (Form 1040) 1997

Part III Cost of Goods Sold (See instructions)

33 Method(s) used to value closing inventory: a Cost b Lower of cost or market c Other (attach explanation)

34 Was there any change in determining quantities, costs, or valuations between opening and closing inventory? If 'Yes,' attach explanation Yes No

35 Inventory at beginning of year. If different from last year's closing inventory, attach explanation	35	
36 Purchases less cost of items withdrawn for personal use	36	18,479.
37 Cost of labor. Do not include salary paid to yourself	37	850.
38 Materials and supplies	38	
39 Other costs	39	
40 Add lines 35 through 39	40	19,329.
41 Inventory at end of year	41	
42 Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on page 1, line 4	42	19,329.

Part IV Information on Your Vehicle. Complete this part **Only** if you are claiming car or truck expenses on line 10 and are not required to file Form 4562 for this business. See the instructions for line 13 to find out if you must file.

- 43 When did you place your vehicle in service for business purposes? (month, day, year) ▶ _____
- 44 Of the total number of miles you drove your vehicle during 1997, enter the number of miles you used your vehicle for:
 a Business _____ b Commuting _____ c Other _____
- 45 Do you (or your spouse) have another vehicle available for personal use? Yes No
- 46 Was your vehicle available for use during off-duty hours? Yes No
- 47 a Do you have evidence to support your deduction? Yes No
 b If 'Yes,' is the evidence written? Yes No

Part V Other Expenses. List below business expenses not included on lines 8 - 26 or line 30.

Postage		19.
Pager		411.
Telephone		1,844.
Office Supplies		1,292.
Bank Service Charges		90.
48 Total other expenses. Enter here and on page 1, line 27	48	3,656.

For the year Jan 1-Dec 31, 1998, or other tax year beginning _____, 1998, ending _____, 19 OMB No. 1545-0074

Label (See instructions.)	Your First Name Jerry	MI	Last Name Szoka	Your Social Security Number 274-74-1619					
	If a Joint Return, Spouse's First Name MI Last Name			Spouse's Social Security Number					
Use the IRS label. Otherwise, please print or type.	Home Address (number and street). If You Have a P.O. Box, See Instructions.			▲ Important! ▲ You must enter your social security number(s) above.					
	5611 Hough Ave.								
Presidential Election Campaign (See instructions.)	City, Town or Post Office. If You Have a Foreign Address, See Instructions.		State ZIP Code	<table border="1"> <tr> <td>Yes</td> <td>No</td> <td rowspan="2">Note: Checking 'Yes' will not change your tax or reduce your refund.</td> </tr> <tr> <td></td> <td>X</td> </tr> </table>	Yes	No	Note: Checking 'Yes' will not change your tax or reduce your refund.		X
	Yes	No	Note: Checking 'Yes' will not change your tax or reduce your refund.						
	X								
	Cleveland		OH 44103						
	Do you want 3 to go to this fund? If a joint return, does your spouse want 3 to go to this fund?								

Filing Status

Check only one box.

1 Single

2 Married filing joint return (even if only one had income)

3 Married filing separate return. Enter spouse's SSN above & full name here ...

4 Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here ...

5 Qualifying widow(er) with dependent child (year spouse died > 19 _____). (See instructions.)

Exemptions

6a **Yourself.** If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a

6b **Spouse**

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see instructions)	No. of boxes checked on 6a and 6b	No. of your children on 6c who: a lived with you b did not live with you due to divorce or separation (see instructions)	Dependents on 6c not entered above	Add numbers entered on lines above
					1			1

d Total number of exemptions claimed 1

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see instructions.

Enclose, but do not staple, any payment. Also, please use Form 1040-V.

7 Wages, salaries, tips, etc. Attach Form(s) W-2	7	16,900.
8a Taxable interest. Attach Schedule B if required	8a	
b Tax-exempt interest. Do not include on line 8a	8b	
9 Ordinary dividends. Attach Schedule B if required	9	
10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions)	10	
11 Alimony received	11	
12 Business income or (loss). Attach Schedule C or C-EZ	12	
13 Capital gain or (loss). Attach Schedule D	13	
14 Other gains or (losses). Attach Form 4797	14	
15a Total IRA distributions	15a	
b Taxable amount (see instrs)	15b	
16a Total pensions & annuities	16a	
b Taxable amount (see instrs)	16b	
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	-5,781.
18 Farm income or (loss). Attach Schedule F	18	
19 Unemployment compensation	19	
20a Social security benefits	20a	
b Taxable amount (see instrs)	20b	
21 Other income. List type & amount — see instrs	21	
22 Add the amounts in the far right column for lines 7 through 21. This is your total income	22	11,119.

Adjusted Gross Income

If line 33 is under 30,095 (under 10,030 if a child did not live with you), see EIC in the instructions.

23 IRA deduction (see instructions)	23	
24 Student loan interest deduction (see instructions)	24	
25 Medical savings account deduction. Attach Form 8853	25	
26 Moving expenses. Attach Form 3903	26	
27 One-half of self-employment tax. Attach Schedule SE	27	
28 Self-employed health insurance deduction (see instructions)	28	
29 Keogh and self-employed SEP and SIMPLE plans	29	
30 Penalty on early withdrawal of savings	30	
31a Alimony paid. b Recipient's SSN	31a	
32 Add lines 23 through 31a	32	
33 Subtract line 32 from line 22. This is your adjusted gross income	33	11,119.

Tax and Credits

Standard Deduction for Most People
Single: 4,250
Head of household: 6,250
Married filing jointly or Qualifying widow(er): 7,100
Married filing separately: 3,550

Table with 2 columns: Line number and Amount. Rows include: 34 Amount from line 33 (adjusted gross income) 11,119; 35a Check if: You were 65/older, Blind; Spouse was 65/older, Blind; 36 Enter the larger of your itemized deductions from Schedule A, line 28, Or standard deduction shown on the left. But see instructions to find your standard deduction if you checked any box on line 35a or 35b or if someone can claim you as a dependent 4,250; 37 Subtract line 36 from line 34 6,869; 38 If line 34 is \$93,400 or less, multiply \$2,700 by the total number of exemptions claimed on line 6d. If line 34 is over \$93,400, see the worksheet in the instructions for the amount to enter 2,700; 39 Taxable income. Subtract line 38 from line 37. If line 38 is more than line 37, enter -0- 4,169; 40 Tax. See instructions. Check if any tax from a Form(s) 8814 b Form 4972 626; 41 Credit for child and dependent care expenses. Attach Form 2441 41; 42 Credit for the elderly or the disabled. Attach Schedule R 42; 43 Child tax credit (see instructions) 43; 44 Education credits. Attach Form 8863 44; 45 Adoption credit. Attach Form 8839 45; 46 Foreign tax credit. Attach Form 1116 if required 46; 47 Other. Check if from a Form 3800 b Form 8396 c Form 8801 d Form (specify) 47; 48 Add lines 41 through 47. These are your total credits 48; 49 Subtract line 48 from line 40. If line 48 is more than line 40, enter -0- 626.

Other Taxes

Table with 2 columns: Line number and Amount. Rows include: 50 Self-employment tax. Attach Schedule SE 50; 51 Alternative minimum tax. Attach Form 6251 51; 52 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137 52; 53 Tax on IRAs, other retirement plans, and MSAs. Attach Form 5329 if required 53; 54 Advance earned income credit payments from Form(s) W-2 54; 55 Household employment taxes. Attach Schedule H 55; 56 Add lines 49-55. This is your total tax 626.

Payments

Attach Forms W-2 and W-2G to page 1. Also attach Form 1099-R if tax was withheld.

Table with 2 columns: Line number and Amount. Rows include: 57 Federal income tax withheld from Forms W-2 and 1099 1,733; 58 1998 estimated tax payments and amount applied from 1997 return 58; 59a Earned income credit. Attach Schedule EIC if you have a qualifying child. b Nontaxable earned income: amount and type 59a; 60 Additional child tax credit. Attach Form 8812 60; 61 Amount paid with Form 4868 (request for extension) 61; 62 Excess social security and RRTA tax withheld (see instrs) 62; 63 Other payments. Check if from a Form 2439 b Form 4136 63; 64 Add lines 57, 58, 59a, and 60 through 63. These are your total payments 1,733.

Refund

Have it directly deposited! See instructions and fill in 66b, 66c, and 66d.

Table with 2 columns: Line number and Amount. Rows include: 65 If line 64 is more than line 56, subtract line 56 from line 64. This is the amount you Overpaid 1,107; 66a Amount of line 65 you want Refunded to You 1,107; b Routing number; c Type: Checking Savings; d Account number; 67 Amount of line 65 you want Applied to Your 1999 Estimated Tax 67.

Amount You Owe

Table with 2 columns: Line number and Amount. Rows include: 68 If line 56 is more than line 64, subtract line 64 from line 56. This is the Amount You Owe. For details on how to pay, see instructions 68; 69 Estimated tax penalty. Also include on line 68 69.

Sign Here

Joint return? See instructions. Keep a copy for your records.

Declaration of preparer and taxpayer. Includes fields for: Your Signature, Date, Your Occupation, Daytime Telephone Number (optional), Spouse's Signature, Date, Spouse's Occupation.

Paid Preparer's Use Only

Preparer information fields: Preparer's Signature, Date (07/14/99), Check if self-employed (checked), Preparer's Social Security No. (391-48-8442), Firm's Name (Donald Resseguie), Address (1302 West 111th Street, Cleveland, OH), EIN, ZIP Code (44102).

Name (as Shown on Return. Do Not Enter Name and Social Security Number if Shown on Page 1.

Your Social Security Number

Jerry Szoka

274-74-1619

Note: If you report amounts from farming or fishing on Schedule E, you must enter your gross income from those activities on line 41 below. Real estate professionals must complete line 42 below.

Part II Income or Loss from Partnerships and S Corporations

Note: If you report a loss from an at-risk activity, you must check either column (e) or (f) on line 27 to describe your investment in the activity. See instructions. If you check column (f), you must attach Form 6198.

27	(a) Name	(b) Enter P for partnership; S for S Corporation	(c) Check if foreign partnership	(d) Employer identification number	Investment at Risk?	
					(e) All is at risk	(f) Some is not at risk
A	McCormick & Associates	S		34-1746142	X	
B						
C						
D						
E						

Passive Income and Loss		Nonpassive Income and Loss		
(g) Passive loss allowed (attach Form 8582 if required)	(h) Passive income from Schedule K-1	(i) Nonpassive loss from Schedule K-1	(j) Section 179 expense deduction from Form 4562	(k) Nonpassive income from Schedule K-1
A		5,781.		
B				
C				
D				
E				
28a Totals				
b Totals		5,781.		
29 Add columns (h) and (k) of line 28a			29	
30 Add columns (g), (i), and (j) of line 28b			30	-5,781.
31 Total partnership and S corporation income or (loss). Combine lines 29 and 30. Enter the result here and include in the total on line 40 below			31	-5,781.

Part III Income or Loss from Estates and Trusts

32	(a) Name	(b) Employer ID no.
A		
B		

Passive Income and Loss		Nonpassive Income and Loss		
(c) Passive deduction or loss allowed (attach Form 8582 if required)	(d) Passive income from Schedule K-1	(e) Deduction or loss from Schedule K-1	(f) Other income from Schedule K-1	
A				
B				
33a Totals				
b Totals				
34 Add columns (d) and (f) of line 33a			34	
35 Add columns (c) and (e) of line 33b			35	
36 Total estate and trust income or (loss). Combine lines 34 and 35. Enter the result here and include in the total on line 40 below			36	

Part IV Income or Loss from Real Estate Mortgage Investment Conduits (REMICs) – Residual Holder

37	(a) Name	(b) Employer identification number	(c) Excess inclusion from Schedules Q, line 2c (see instructions)	(d) Taxable income (net loss) from Schedules Q, line 1b	(e) Income from Schedules Q, line 3b
38	Combine columns (d) and (e) only. Enter the result here and include in the total on line 40 below				38

Part V Summary

39	Net farm rental income or (loss) from Form 4835. Also, complete line 41 below	39	
40	Total income or (loss). Combine lines 26, 31, 36, 38, and 39. Enter the result here and on Form 1040, line 17	40	-5,781.
41	Reconciliation of Farming and Fishing Income: Enter your gross farming and fishing income reported on Form 4835, line 7; Schedule K-1 (Form 1065), line 15b; Schedule K-1 (Form 1120S), line 23; and Schedule K-1 (Form 1041), line 14 (see instructions)	41	
42	Reconciliation for Real Estate Professionals. If you were a real estate professional (see instructions), enter the net income or (loss) you reported anywhere on Form 1040 from all rental real estate activities in which you materially participated under the passive activity loss rules	42	

For the year Jan 1 - Dec 31, 1998 or other taxable year ending , 19

For Departmental Use Only

OR
PLEASE
CLIP
HERE

Your First Name and Initial Jerry		Last Name Szoka		Your Social Security Number 274-74-1619		Filing Status - check only one <input checked="" type="checkbox"/> Single or Head of Household	
If a Joint Return, Spouse's First Name and Initial		Last Name		Spouse's Social Security No.		<input type="checkbox"/> Married filing joint return	
Home Address (number and street) 5611 Hough Ave.			Apt No.	Ohio County Cuya			<input type="checkbox"/> Married filing separately, enter spouse SSN
City, Town or Post Office Cleveland			State ZIP Code OH 44103		Ohio Public School District Number 1820		
Ohio Residency Status (see instructions): <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Nonresident				Part-year resident From _____ 98 To _____ 98		Ohio Political Party Fund Do you want 1 to go to this fund? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If joint return, does your spouse want \$1 to go to this fund? <input type="checkbox"/> Yes <input type="checkbox"/> No	
(State of Residency)				Note: Checking 'Yes' will not increase your tax or decrease your refund.			

Income			
1	Federal adjusted gross income (from federal Form 1040, line 33, or 1040A, line 18, or 1040EZ, line 4, or 1040-TEL)	1	11,119.
2	Ohio adjustments (from line 45 on page 2 of this return)	2	
3	Ohio adjusted gross income (line 2 subtracted from or added to line 1)	3	11,119.
4	Enter your personal and dependent exemption deduction from the exemption worksheet	4	950.
5	Ohio taxable income (subtract line 4 from line 3)	5	10,169.
Tax and Credits			
6	Ohio tax before credits (see tax tables)	6	106.
7	Credits from Schedule B (line 53 on page 2 of this return)	7	
8	Ohio tax less Schedule B credits (subtract line 7 from line 6. If line 7 is more than line 6, enter zero)	8	106.
9	Exemption credit: Number of personal and dependent exemptions <u>1</u> times 20	9	20.
10	Ohio tax less exemption credit (subtract line 9 from line 8. If line 9 is more than line 8, enter zero)	10	86.
11	Joint filing credit (see instructions and attach documentation) _____ % times line 10 (Limit \$650.00)	11	
12	Ohio tax less joint filing credit (subtract line 11 from line 10)	12	86.
13	Resident/nonresident/part-year credits (Schedules C or D) and nonrefundable business credits (attach Schedule E)	13	
14	Ohio income tax (subtract line 13 from line 12. If line 13 is more than line 12, enter zero)	14	86.

Payments			
15	Ohio tax withheld (attach W-2's to page 2 of this form) Amount Withheld ▶ 15	15	334.
16	Ohio estimated tax, IT-40P payments for 1998 and, 1997 overpayment credited to 1998	16	
17	Refundable Business Jobs Refundable Pass-through Entity Total of 17a and 17b ... 17	17	
18	Add lines 15, 16, and 17 Total Payments ▶ 18	18	334.

Refund or Amount You Owe			
19	If line 18 is less than line 14, subtract line 18 from line 14 and enter the tax due	19	
19a	Interest penalty on underpayment of estimated tax; Check <input type="checkbox"/> if Form IT-2210 is attached	19a	
19b	Amount you owe (add lines 19 and 19a). Attach payment made payable to Treasurer of State of Ohio	19b	
20	If line 18 is greater than line 14, subtract line 14 from line 18 Amount Overpaid ▶ 20	20	248.
21	Amount of line 20 you wish to donate for conservation of endangered species and wildlife diversity: 3 <input type="checkbox"/> 5 <input type="checkbox"/> 10 <input type="checkbox"/> Other <input type="checkbox"/> Check box and enter amount on line 21	21	
22	Amount of line 20 you wish to donate to nature preserves, scenic rivers, and endangered species protection: 3 <input type="checkbox"/> 5 <input type="checkbox"/> 10 <input type="checkbox"/> Other <input type="checkbox"/> Check box and enter amount on line 22	22	
23	Amount of line 20 to be credited to 1999 estimated tax liability Credit ▶ 23	23	
24	Amount of line 20 to be refunded (subtract amounts on lines 19a, 21, 22, and 23 from line 20) Your Refund ▶ 24	24	248.

If the balance due is less than \$1.01 payment need not be made, and if the overpayment is less than \$1.01 no refund will be issued.
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief this return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

OHIA0512 12/18/98

Sign Here	Your Signature _____ Date _____		For Departmental Use Only		
	Spouse's Signature (if filing jointly, both must sign) Telephone Number (optional) _____		15a _____ U _____		
	Preparer's Signature and Address (including ZIP code) _____ Donald Resseguie 1302 West 111th Street Cleveland		Preparer's Phone Number _____ OH 44102		
		Mail refunds and credits to: Ohio Department of Taxation P.O. Box 2679 Columbus, Ohio 43270-2679		Mail tax dues to: Ohio Department of Taxation P.O. Box 2057 Columbus, Ohio 43270-2057	

Schedule A – Adjustments to Income (Additions and Deductions)

Additions – Add to the extent not included in federal adjusted gross income (line 1)		
25	Add non-Ohio state or local government interest and dividends	25
26	Add federal interest and dividends subject to state taxation (attach explanation) and add accumulation distribution from a complex trust (attach Form IT-4970)	26
27	Pass-through entity addback	27
28	Add losses from the sale, exchange, or other disposition of Ohio Public Obligations	28
29	Add non-medical withdrawals or interest thereon from a medical savings account (see instructions and worksheet)	29
30	Total additions (add lines 25, 26, 27, 28 and 29)	30
Deductions – Deduct to the extent included in federal adjusted gross income (line 1)		
31	Deduct federal interest and dividends exempt from state taxation	31
32	Deduct compensation earned in Ohio by full-year residents of neighboring states	32
33	Deduct state or municipal income tax overpayments (line 10 of federal Form 1040)	33
34	Deduct disability and survivorship benefits	34
35	Deduct wage and salary expense not deducted due to the federal targeted jobs or the work opportunity tax credits	35
36	Deduct social security old age benefits and some railroad benefits	36
37	Deduct interest earned from Ohio Public and Purchase Obligations and the gain from the sale or disposition of Ohio Public Obligations	37
38	Deduct increased value of nonrefunded/used tuition credits or decreased value of refunded credits	38
39	Deduct the refund or reimbursements of prior-year federal itemized deductions (from line 21 of federal Form 1040)	39
40	Deduct the repayment of income reported in a prior year	40
41	Deduct your self-employed health insurance costs (see instructions and worksheet)	41
42	Deduct funds deposited into and earnings of a medical savings account for eligible medical expenses (see worksheet)	42
43	Deduct the amount contributed to an Individual Development Account	43
44	Total deductions (add lines 31 through 43)	44
45	Net adjustments – If line 30 is greater than line 44, enter the difference here and on line 2 as a positive amount. If line 30 is less than line 44 enter the difference here and on line 2 as a negative amount	45

Schedule B – Credits

46	Retirement Income Credit (see instructions for credit table) (Limit 200)	46
47	Senior Citizen's Credit (Limit 50 per return)	47
48	Lump Sum Distribution Credit (you must be 65 years of age or older to claim this credit)	48
49	Child and Dependent Care Credit (see instructions and worksheet)	49
50	Lump Sum Retirement Credit	50
51	Job Training Credit (see instructions and worksheet) (Limit 500)	51
52	Ohio Political Contributions Credit	52
53	Total credits (add lines 46 through 52) – enter here and on line 7	53

Schedule C – Ohio Resident Credit

54	Enter the portion of line 3 subjected to tax by other states or the District of Columbia while an Ohio resident	54
55	Enter Ohio adjusted gross income (line 3)	55
56	Divide line 54 by line 55	56
57	Multiply line 56 by the amount on line 12	57
57a	Enter the 1998 income tax less all related credits other than withholding and estimated tax payments and carryforwards from previous years paid to other states or the District of Columbia	57a
57b	Enter the smaller of line 57 or line 57a. This is your Ohio Resident Tax Credit. Enter here and on line 13	57b
List the state(s) other than Ohio with which you filed 1998 income tax returns. _____		

Schedule D – Nonresident/Part-Year Resident

58	Enter the portion of Ohio adjusted gross income (line 3) that was not earned or received in Ohio	58
59	Enter the Ohio adjusted gross income (line 3)	59
60	Divide line 58 by line 59	60
61	Multiply line 60 by the amount on line 12. Enter here and on line 13	61

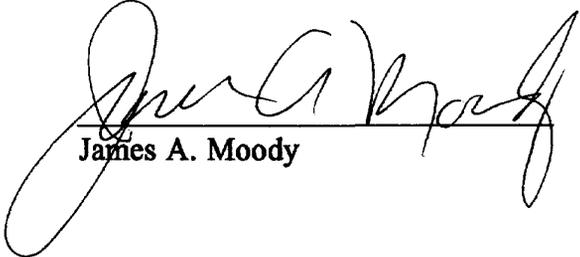
ATTACH W 2 & 1099 FORMS HERE

CERTIFICATE OF SERVICE

I, Hans Bader, hereby certify that copies of the Petition for Reconsideration were served by mail on this 15th day of July, 1999, to the following:

Chief Administrative Law Judge Joseph Chachkin
Federal Communications Commission
2000 L Street, N.W., Suite 226
Washington, D.C. 20554.

Jacqueline Ellington, Esq.
Federal Communications Commission
2025 M Street, NW, Suite 8210
Washington, D.C. 20554.



James A. Moody