

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

MAR 31 2014

OFFICE OF
MANAGING DIRECTOR

Amanda Wiseman
Wiseman Media
540 Cumberland St., W
Cowan, TN 37318

Licensee/Applicant: **Wiseman Media**
Stations: WZYX and WZ33BN
Waiver Request: Late Payment Penalty
Disposition: Dismissed (47 U.S.C. § 159(c)(1), 31
U.S.C. § 3717, 47 C.F.R. §§ 1.1164, 1.1910)
FRN: 0007657257
Fee: Fiscal Year (FY) 2012 Regulatory Fee Late
Fees
Date Request Filed: Jun. 14, 2013
Date Regulatory Fees Paid in Part: Aug. 6, 2013
Date Partial Late Penalty Fees Paid: Aug. 6, 2013
Fee Control No.: RROG-13-00015263
Payment Amounts: See Fee Filer

Dear Ms. Wiseman:

This responds to Licensee's *Request*¹ for waiver of the statutory penalty that the law requires us to assess because Licensee failed to pay on time its Fiscal Year (FY) 2012 regulatory fees. For the reasons stated herein, we dismiss the *Request* and demand immediate payment of the delinquent regulatory fees and accrued charges, and the delinquent FY 2013 regulatory fees.

Our records show that Licensee failed to pay the required FY 2012 regulatory fees, which were due September 13, 2012.² Instead, on June 14, 2013, Licensee submitted its *Request* to "resolv[e] this matter by waiving the penalties."³ Licensee asserted that it "took control of [of the Station in] December 2011 [and the Licensee] was unaware that [it] needed to [pay the bill]."⁴ Later, on August 6, 2013, Licensee made a partial payment that failed to include the amount of the then-assessed statutory penalty. Our records show also that Licensee failed to pay the FY 2013 regulatory fees. On these records, we note that Licensee's partial payment did not resolve its delinquency and red light⁵ status. Indeed, because a partial payment is first applied to the

¹ Email from Amanda Wiseman, Wiseman Media (awiseman@wzyxradio.net) to ARINQUIRIES, (ARINQUIRIES@fcc.gov)(Jun. 14, 2013)(*Request*).

² See FY 2012 Regulatory Fees Due No Later Than September 13, 2012, *Public Notice*, DA 12-1295 (Aug. 13, 2012).

³ *Request*.

⁴ *Id.*

⁵ 47 C.F.R. § 1.1910.

penalties and accrued charges, the regulatory fee account remained delinquent.⁶ Moreover, Licensee is delinquent in paying the FY 2013 regulatory fees.⁷ Thus, under 47 C.F.R. §§ 1.1164(e)⁸ and 1.1910, we dismiss the *Request* and demand immediate payment. Furthermore, under 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940, we continue to assess interest, penalties, and charges of collection. Finally, until Licensee pays the remaining fee, the late payment penalty,⁹ and charges of collection, the Commission will withhold action on and thereafter dismiss any pending application.¹⁰

As a courtesy, we note that the Commission has a clearly stated procedure that the licensee or holder on the authorization on the date that the fee payment is due is responsible for paying the fee.¹¹ Thus, it was Licensee's responsibility to ensure timely and complete payment, and failing that, Licensee became a delinquent debtor subject to consequences that include withholding action on and dismissal of any pending applications and the continued assessment of interest, penalties, and charges of collection. Moreover, since 2009, the Commission issued numerous orders and public notices explaining that it would no longer mail hardcopy invoices, and that licensees should check the Commission's website for the fee due and payment instructions.¹² Furthermore, because Licensee did not establish "extraordinary circumstances"¹³ for a waiver, even had Licensee first paid the full amount due and then requested a waiver and refund of the statutory penalty for late payment, the accrued interest, penalties, and the charges of collection, we would deny the *Request*.

Refer to the Commission's fee filer website to determine a payoff, and thereafter make full payment without delay. Until Licensee makes full payment of the fee, late payment penalty,¹⁴ and charges of collection, under 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940, we continue to assess interest, penalties, and charges of collection. Also, the Commission will

⁶ 47 C.F.R. §§ 1.1157(c)(1), 1.1164(c).

⁷ See FY 2013 Regulatory Fees due No Later Than September 20, 2013, 11:59 pm Eastern Time (ET), *Public Notice*, DA 13-1796 (Sep. 4, 2013).

⁸ 47 C.F.R. §§ 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment."), 1.1910.

⁹ 47 U.S.C. § 159(c).

¹⁰ 47 C.F.R. § 1.1910(a)(2) & (3) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission ... If a delinquency has not been paid or the debtor has not made other satisfactory arrangements within 30 days of the date of the notice provided pursuant to paragraph (b)(2) of this section, the application or request for authorization will be dismissed.").

¹¹ Assessment and Collection of Regulatory Fees for Fiscal Year 2010, *Report and Order*, 25 FCC Rcd 9278, 9296, ¶ 53 (2010) ("In instances where a permit or license is transferred or assigned after October 1, 2009, responsibility for payment rests with the holder of the permit or license as of the fee due date.").

¹² See *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking and Order*, 24 FCC Rcd 5966, 5972, ¶ 16 (2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10307-09, ¶¶ 18-27 (2009); *Payment Methods and Procedures for Fiscal Year 2009 Regulatory Fees, Public Notice*, 24 FCC Rcd 11513, 11514 (2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2010, Report and Order*, 25 FCC Rcd 9278, 9291, ¶ 37 (2010).

¹³ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

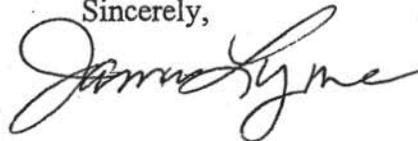
¹⁴ 47 U.S.C. § 159(c).

withhold action on and thereafter dismiss any pending application.¹⁵ Any Commission action taken prior to the payment of delinquent non-tax debt owed to the Commission is contingent and subject to rescission. Interest and penalties continue to accrue from the date of delinquency, and under the law,¹⁶ we will apply debt collection procedures,¹⁷ which may result in additional charges for the full cost of collection to the Federal government pursuant to the provisions of the Debt Collection Improvement Act, 31 U.S.C. § 3717. Also, the Commission may collect amounts due by administrative offset.¹⁸

Moreover, under 31 U.S.C. § 3711(g), without further notice, and usually within 180 days or less of delinquency, we will transfer the delinquent debt to Treasury, which will initiate collection action through private collection activities and assess additional charges. In addition, we may refer the debt to the Department of Justice, which may result in litigation and additional costs.

If Licensee has any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



FOR: Mark Stephens
Chief Financial Officer

¹⁵ 47 C.F.R. § 1.1910(a)(2) & (3).

¹⁶ See 47 C.F.R. § 1.1901, *et seq.*

¹⁷ See 31 C.F.R. § 3717.

¹⁸ 47 C.F.R. § 1.1912.