

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Shelley Broadcasting Co., Inc.)	Fac. ID 60100
Licensee of WGEA(AM), Geneva, Alabama)	FRN: 0003756806

ORDER TO PAY OR TO SHOW CAUSE

Adopted: June 6, 2019**Released: June 6, 2019**

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

I. INTRODUCTION

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

II. DISCUSSION

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

3. For fiscal year (FY) 2008, the deadline for paying regulatory fees was September 25, 2008;³ for FY 2009, it was September 22, 2009;⁴ for FY 2010, it was August 31, 2010;⁵ for FY 2011, it was September 14, 2011;⁶ for FY 2012, it was September 13, 2012;⁷ for FY 2013, it was September 20,

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

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

³ See *Payment Methods and Procedures for Fiscal Year 2008 Regulatory Fees*, Public Notice, 23 FCC Rcd 12849 (OMD 2008).

⁴ See *Payment Methods and Procedures for Fiscal Year 2009 Regulatory Fees*, Public Notice, 24 FCC Rcd 11513 (OMD 2009).

⁵ See *Payment Methods and Procedures for Fiscal Year 2010 Regulatory Fees*, Public Notice, 25 FCC Rcd 10670 (OMD 2010).

⁶ See *Payment Methods and Procedures for Fiscal Year 2011 Regulatory Fees*, Public Notice, 26 FCC Rcd 11371 (OMD 2011).

⁷ See *Reminder That FY 2012 Regulatory Fees Are Due No Later Than September 13, 2012, Eastern Time (ET)*, Public Notice, 27 FCC Rcd 10297 (OMD 2012).

(continued...)

2013;⁸ for FY 2014, it was September 23, 2014;⁹ for FY 2015, it was September 24, 2015;¹⁰ and for FY 2016, it was September 27, 2016.¹¹ When SBC failed to pay or only partially paid its regulatory fees by these deadlines, the Commission assessed charges that included the statutory late payment penalty required by the Act,¹² and Sections 1.1157(c)(1), and 1.1164 of the Rules,¹³ and interest, penalties, and administrative costs required by Section 3717 of Title 31 of the U.S. Code, and Section 1.1940 of the Rules.¹⁴

4. As of the date of this Order, SBC has unpaid regulatory fees of \$1,172.14 for FY 2008; \$1,239.47 for FY 2009; \$1,212.73 for FY 2010; \$1,207.72 for FY 2011; \$903.00 for FY 2012; \$970.35 for FY 2013; \$1,163.17 for FY 2014; \$1,075.80 for FY 2015; and \$1,029.42 for FY 2016.¹⁵ Additional charges continue to accrue on these debts until they are paid in full. Demand Letters, which demanded payment of SBC's delinquent regulatory fees, were previously sent to SBC.¹⁶ When SBC did not fully pay the FY 2008, FY 2009, FY 2010, FY 2011, FY 2012, FY 2013, FY 2014, FY 2015, and FY 2016 regulatory fee debt, the Commission transferred the debt to the Secretary of Treasury at the Treasury Department for collection.¹⁷ At the Commission's request, and in order to consolidate the collection process, the Secretary of the Treasury has returned all of the previously transferred regulatory fee debt to the Commission for further collection.

⁸ See *Payment Methods and Procedures for Fiscal Year 2013 Regulatory Fees*, Public Notice, 28 FCC Rcd 12635 (OMD 2013).

⁹ See *FY 2014 Regulatory Fees Due No Later Than September 23, 2014, 11:59 pm Eastern Time (ET)*, Public Notice, 29 FCC Rcd 10414 (OMD 2014).

¹⁰ See *Payment Methods and Procedures for Fiscal Year 2015 Regulatory Fees*, Public Notice, 30 FCC Rcd 9941 (OMD 2015).

¹¹ See *Payment Methods and Procedures for Fiscal Year 2016 Regulatory Fees*, Public Notice, 2016 WL 4625515 (OMD rel. Sep. 6, 2016).

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

¹³ 47 CFR §§ 1.1157(c)(1), 1.1164.

¹⁴ 31 U.S.C. § 3717; 47 CFR § 1.1940.

¹⁵ SBC owed no regulatory fees for FY 2017. Because it owed regulatory fees only for the Station, its total regulatory fees for FY 2017 were \$610. *Assessment and Collection of Regulatory Fees for Fiscal Year 2017, Report and Order and Further Notice of Proposed Rulemaking*, 32 FCC Rcd 7057, 709, App. C (2017) (*2017 Regulatory Fee Order*). This fee amount was below the *de minimis* threshold established by the Commission. See *2017 Regulatory Fee Order*, 32 FCC Rcd at 7072-74, paras. 38-42 (increasing *de minimis* threshold from \$500 to \$1000). Thus, SBC was exempted from payment of FY 2017 regulatory fees.

¹⁶ In addition to these Demand Letters, the Bureau notified SBC of its delinquency in paying the Station's regulatory fees for FY 2008, FY 2009, FY 2010, FY 2011, FY 2012, FY 2013 and FY 2014. Letter from Peter H. Doyle, Chief, Audio Division, Media Bureau, to H. Jack Mizell, Shelley Broad. Co., Inc. (MB dated June 8, 2015).

¹⁷ See 31 U.S.C. § 3711(g), 31 CFR §§ 285.12(c) & 901.1; 47 CFR § 1.1917.

(continued...)

5. In addition to financial penalties, Section 9A(c)(4) of the Act,¹⁸ and Section 1.1164(f) of the Rules¹⁹ grant the Commission the authority to revoke authorizations for failure to pay regulatory fees (or related interest and penalties) in a timely fashion. Accordingly, we require SBC to file with the Media Bureau documented evidence within sixty (60) calendar days of the date of this Order that full payment of all outstanding regulatory fee debt has been made in accordance with Section 1.1164(a) of the Rules,²⁰ or show cause why the payment is inapplicable or should be waived or deferred. SBC is hereby notified that failure to provide such evidence of payment or to show cause within the time specified may result in revocation of SBC's license for the Station.

6. Under Section 9A(c)(4) of the Act, and Section 1.1164(f)(1),²¹ an adjudicatory hearing will not be designated unless SBC presents a substantial and material question of fact. Further, disposition of any adjudicatory hearing shall be based upon written evidence only, and SBC will bear the burden to introduce evidence and to provide proof in any such hearing.²²

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

III. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 9A(c)(4) of the Act and Sections 0.61, 0.283, and 1.1164(f) of the Rules,²³ Shelley Broadcasting Co., Inc., is hereby **ORDERED TO PAY TO THE FEDERAL COMMUNICATIONS COMMISSION** within sixty (60) calendar days of the date of this Order the outstanding regulatory fees for FY 2008, FY 2009, FY 2010, FY 2011, FY 2012, FY 2013, FY 2014, FY 2015, and FY 2016, **OR SHOW CAUSE** to the Commission within sixty (60) calendar days of the date of this Order why these regulatory fees are inapplicable or should otherwise be waived or deferred.

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

ABA Routing Number 021030004

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

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

¹⁸ 47 U.S.C. § 159A(c)(4). As noted, *supra* at n. 12, the RAY BAUM'S Act modified Section 9 of the Act and added a new Section 9A. Prior to October 1, 2018, when the RAY BAUM'S Act became effective, Section 9(c)(3) authorized the Commission to revoke "any instrument of authorization held by any entity that has failed to make payment of a regulatory fee." 47 U.S.C. § 159(c)(3) (2017). As amended by the RAY BAUM's Act, Section 9A(c)(4) now authorizes such action.

¹⁹ 47 CFR § 1.1164(f).

²⁰ 47 CFR § 1.1164(a).

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

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

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

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

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

10. **IT IS FURTHER ORDERED** that Shelley Broadcasting Company, Inc., must submit a completed FCC Form 159 (Remittance Advice) at the time of payment. The FCC Form 159 must be faxed to the FCC at (202) 418-2843. An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Forms_159/159.pdf. When completing the FCC Form 159, Shelley Broadcasting Company, Inc., must enter its FRN in block number 23A (call sign/other ID) and enter the following payment codes for the fiscal years involved in block number 24A (payment type code): 0835 (for FY 2008), 0935 (for FY 2009), 1035 (for FY 2010), 1135 (for FY 2011), 1235 (for FY 2012), 1335 (for FY 2013), 1435 (for FY 2014), 1535 (for FY 2015), and 1635 (for FY 2016).

11. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by certified mail, return receipt requested, to Mr. H. Jack Mizell, Shelley Broadcasting Company, Inc, 409 E. Broad Street, Ozark, AL 36360.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey, Chief
Media Bureau

Mark Stephens, Managing Director
Office of Managing Director

Federal Communications Commission
Washington, D.C. 20554

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

1800B3



Tracking No: 70180680000117661062

DIXON, HEATHER
2-A236

Phone: 202-418-1132
Received On: 06-17-2019 09:15am

1:



7018 0680 0001 1766 1062

FIRST CLASS MAIL
RETURN RECEIPT REQUESTED

Mr. H. Jack Mizell

Shelley Broadcasting Company, Inc

409 E.

Ozark,

UTF

36360-15

NIXIE 352 FE 1 0006/12/19
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
BC: 20554
*2117-00488-07-38

Received & Inspected
JUN 17 2019

FCC Mailroom



Hasler
06/06/2019
US POSTAGE \$006.80
FIRST-CLASS MAIL

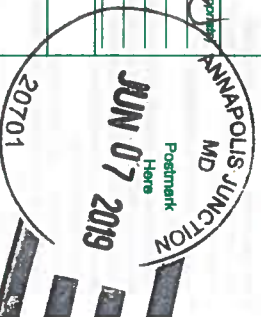
U.S. Postal ServiceTM
CERTIFIED MAIL[®] RECEIPT
Domestic Mail Only

OFFICIAL USE

Certified Mail Fee
\$8.50

Extra Services & Fees (check box and fee):
☐ Return Receipt (hardcopy) \$2.80
☐ Return Receipt (electronic)
☐ Certified Mail Restricted Delivery
☐ Adult Signature Required
☐ Adult Signature Restricted Delivery

Postage
\$1.50
Total Postage and Fees
\$10.00



Sent To: Mr. H Jack Mizell
Street and Apt. No., or PO Box No.
409 E. Broad Street
City, State, ZIP+4[®]
Ozark, AL 36360

7018 0680 0001 1766 1062

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

PLACE TICKET ON TOP OF ENVELOPE TO THE RIGHT OF THE LINE. FOLD AT DOTTED LINE. ADDRESS, FOLD AT DOTTED LINE.

SENDER: COMPLETE THIS SECTION

- ☐ Complete items 1, 2, and 3.
- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. H. Jack Mizell
Shelley Broadcasting Company, Inc
409 E. Broad Street
Orion, AL 36360

9590 9403 0295 5155 4258 62



Article Number (Transfer from service label)

7018 0680 0001 1766 1062

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt