

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
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Trompex Corporation) File No.0000096244
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ORDER

Adopted: October 24, 2001

Released: October 25, 2001

By the Deputy Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. By this action, we set forth the disqualification and the default payment obligations and procedures for Trompex Corporation (“Trompex”), resulting from its violation of sections 1.2105(b)(2) and (c)(2) of the Commission’s rules during the Commission’s 929 and 931 MHz Paging Auction, Auction No. 26 (“Auction No. 26”). As discussed below, we find that Trompex is disqualified to be a Commission licensee and is subject to an initial default payment in the amount of \$26,343. We also dismiss the long-form application of Supra Telecommunications & Information Systems, Inc. (“Supra”) for 929 MHz B block licenses in Markets MEA 001-051.

II. BACKGROUND

2. On January 19, 2000, Trompex filed a short-form application with the Commission to participate in Auction No. 26.¹ The short-form application contained, among other information, a tax payer identification number (“TIN”) and indicated that Trompex was wholly owned by Tim Okoinyan, a United States citizen.² The final date for submitting changes to the short-form applications for Auction No. 26 was January 20, 2000. Trompex did not submit any changes to its short-form application by that date. Trompex was the high bidder in Auction No. 26 for 51 B block licenses in Markets MEA 001-051 (“Licenses”).³ On March 20, 2000, Supra filed a long-form application with a TIN identical to that of

¹ See Auction of 2,499 929 and 931 MHz Paging Licenses, *Public Notice*, DA 00-179 (rel. Feb. 1, 2000).

² See Auction of 929 and 931 MHz Paging Licenses, *Public Notice*, DA 00-278 (rel. Feb. 14, 2000). The Commission normally keeps the TIN of an applicant confidential. See 47 CFR § 1.923(h).

³ See 929 and 931 MHz Paging Auction Closes, *Public Notice*, DA 00-508 (rel. Mar. 6, 2000).

Trompex, requesting the grant of the same licenses on which Trompex was the high bidder.⁴ The long-form application reflected that Supra is a wholly-owned subsidiary of Idowu, Inc., whose majority shareholder is Olukayode A. Ramos, a citizen of Nigeria.⁵ Supra had not previously filed a short-form application with the Commission or otherwise participated in Auction No. 26. Trompex did not file a long-form application with the Commission.⁶

III. DISCUSSION

3. Under Section 1.2105(b)(2) of the Commission's rules, applicants may modify their short-form applications to reflect changes in ownership at any time before or during an auction, provided that "such changes do not result in a change in control of the applicant."⁷ Such changes in control are deemed "major amendments" and cannot be made to a short-form application after the initial filing deadline.⁸ In addition, section 1.2105(c)(5) of the Commission's rules requires applicants to modify their short-form applications to reflect changes in ownership.⁹

4. In the instant matter, a transfer of control of Trompex was made after the filing deadline for its short-form application. This is reflected by the use of Trompex's TIN on the long-form application submitted by Supra, coupled with a change of name, ownership, and control.¹⁰ Accordingly, Trompex effected a major amendment to its application, which is prohibited under section 1.2105(b)(2) and (c)(2) of the Commission's rules.¹¹ As a result of the unauthorized major amendment to its short-form application, Trompex is disqualified to apply for the licenses.

5. Section 1.2109(c) of the Commission's rules provide that a "winning bidder who is found unqualified to be a licensee or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted," and will be liable for certain default payment obligations.¹² As a result, Trompex now is subject to the default payment provisions specified in section 1.2104(g)(2) of the Commission's rules.¹³ Specifically, Trompex is liable for a default payment equal to

⁴ See Form 601, dated March 20, 2000, filed by Supra.

⁵ See *id.* Supra did not file a Petition for Declaratory Ruling for approval of its foreign ownership percentage in excess of the 25% restrictions contained in 47 U.S.C. § 310(b)(4).

⁶ Due to the unauthorized transfer of control by Trompex to Supra, none of the subject licenses for which it was the high bidder ever appeared on the Accepted for Filing PN from Auction No. 26. See 929 and 931 MHz Paging Auction Applications Accepted for Filing, *Public Notice*, DA 00-508 (rel. May 11, 2000).

⁷ 47 C.F.R. § 1.2105(b)(2).

⁸ See *id.*

⁹ See 47 C.F.R. § 1.2105(c)(5); see also 47 C.F.R. § 1.65.

¹⁰ See Form 601, dated March 20, 2000, filed by Supra.

¹¹ 47 C.F.R. § 1.2105(b)(2), (c)(2).

¹² 47 C.F.R. § 1.2109(c).

¹³ See 47 C.F.R. §§ 1.2104(g), 1.2109(b).

the difference between the amount that it bid and the amount of the winning bids the next time the spectrum associated with the defaulted licenses is auctioned by the Commission.¹⁴ Trompex is also liable for an additional payment equal to three percent of its defaulted bid or the subsequent winning bids, whichever is less.¹⁵ In the event that the total amount of the subsequent winning bids is greater than or equal to Trompex's defaulted bid, the total default payment is equal to three percent of Trompex's defaulted bid.¹⁶

6. Because we cannot fully determine the amount of Trompex's default payment until we re-auction the spectrum associated with the licenses upon which Trompex defaulted, we assess a deposit toward the default payment in the amount of three percent of the total amount of its defaulted bids. Accordingly, by this Order, we assess an initial default payment of \$26,343, three percent of Trompex's winning bids in the auction.¹⁷ Pursuant to section 1.2107(b) of the Commission's rules, we will apply Trompex's upfront payment to satisfy this initial default payment obligation.¹⁸ The remaining default payment will be assessed once a new bid price for the spectrum associated with the defaulted licenses is established in a subsequent auction. If an additional payment is required, a further order will assess such payment.¹⁹

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that, pursuant to sections 0.331, 1.2104(b) and 1.2107(b) of the Commission's rules, 47 C.F.R. §§ 0.331, 1.2104(b), 1.2107(b), Trompex Corporation is assessed an initial default payment in the amount of \$26,343, and we will apply Trompex Corporation's upfront payment to satisfy this initial default payment obligation.

8. IT IS FURTHER ORDERED that, pursuant to sections 1.2107(b) and 1.2104(g) of the Commission's rules, 47 C.F.R. §§ 1.2107(b), 1.2104(g), Trompex Corporation will be subject to the balance of the default payment once the spectrum associated with the 51 defaulted B Block licenses in MEA 001-051 is re-auctioned and the full default payment is determined.

9. IT IS FURTHER ORDERED that, pursuant to sections 0.331 and 1.2104(b) of the

¹⁴ See 47 C.F.R. §§ 1.2109(b), 1.2104(g). The default payment amount, in the event a bidding credit applies, is calculated on the difference between the net bid amounts or the gross bid amounts, whichever is less. See 47 C.F.R. §§ 1.2109(b), 1.2104(g)(2).

¹⁵ See *id.*

¹⁶ See 47 C.F.R. § 1.2109(c).

¹⁷ The Commission has the discretion to assess an initial default payment in an amount up to twenty percent of the defaulting bidder's winning bid. See *Competitive Bidding Third Report and Order*, 13 FCC Rcd 374, 434 ¶ 102 (1998).

¹⁸ See 47 C.F.R. §§ 1.2107(b), 1.2104(g).

¹⁹ See *In the Matter Of Mountain Solutions Ltd., Inc., Order on Reconsideration of Memorandum Opinion and Order*, 13 FCC Rcd at 21,983, 21,997 ¶ 25 (1998).

Commission's rules, 47 C.F.R. §§ 0.331, 1.2104(b), the long-form application of Supra Telecommunications & Information Systems, Inc., filed on March 20, 2000, is DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Linda C. Ray
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