

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

In re Application of)	
)	
St. Paul's School)	NAL/Acct. No. MB201041410004
)	FRN. 0014333835
For Renewal of License for)	
Station WSPS(FM))	File No. BRED-20051201ANM
Concord, New Hampshire)	Facility ID No. 62166

ORDER

Adopted: March 18, 2010

Released: March 19, 2010

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau and St. Paul's School (the "Licensee"), licensee of non-commercial educational Station WSPS(FM), Concord, New Hampshire (the "Station"). The Consent Decree resolves issues arising from the Bureau's review of the captioned license renewal application for the Station as to whether the Licensee violated Section 73.3527¹ of the Commission's Rules (the "Rules"), which governs the maintenance of a noncommercial educational station's public file ("Public File Rule") and Section 73.3615 of the Rules, which mandates the filing of ownership reports ("Ownership Report Rule").²

2. The Consent Decree provides, among other things, that the Licensee will institute and maintain, for three years, a Compliance Plan for the Station and make a \$10,000 voluntary contribution to the United States Treasury. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau's consideration of whether the Licensee violated the Public File Rule and the Ownership Report Rule.

4. Based on the record before us, we conclude that nothing in that record creates a substantial or material question of fact whether the Licensee possesses the basic qualifications to remain a Commission licensee.

¹ 47 C.F.R. § 73.3527.

² 47 C.F.R. § 73.3615.

5. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,³ and by the authority delegated by Sections 0.61 and 0.283 of the Rules,⁴ the Consent Decree attached hereto IS ADOPTED.

6. IT IS FURTHER ORDERED that the investigation by the Media Bureau of the matters noted above IS TERMINATED.

7. IT IS FURTHER ORDERED that copies of this Order shall be sent, by first class mail and certified mail, return receipt requested, to St. Paul's School, 325 Pleasant Street, Concord, NH 03301, and to its counsel, Mark Van Bergh, Esquire., 2538C South Arlington Mill Drive, Arlington, VA 22206.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

³ 47 U.S.C. § 4(i).

⁴ 47 C.F.R. §§ 0.61, 0.283.

CONSENT DECREE

I. Introduction

1. This Consent Decree is entered into by and between the Media Bureau of the Federal Communications Commission and St. Paul's School, by their respective authorized representatives, for the purpose of resolving certain issues regarding compliance with the Public File Rule and the Ownership Report Rule, as defined below, that have arisen in the Media Bureau's review of the pending application for the renewal of the license for Station WSPS(FM), Concord, New Hampshire.

II. Definitions

2. For purposes of this Consent Decree, the following definitions shall apply:
- (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §151 *et. seq.*;
 - (b) "Application" means the pending applications for the renewal of the license for Station WSPS(FM), Concord, New Hampshire (File No. BRED-20051201ANNM);
 - (c) "Bureau" means the Media Bureau of the Federal Communications Commission;
 - (d) "Commission" or "FCC" means the Federal Communications Commission;
 - (e) "Compliance Plan" means the processes and procedures developed by the Licensee in an effort to ensure compliance with the Rules at the Station, as summarized in the Appendix hereto;
 - (f) "Effective Date" means the date on which the Bureau releases the Order;
 - (g) "Execution Date" means the date on which this Consent Decree is executed by the last of the Parties to do so;
 - (h) "Licensee" refers to St. Paul's School;
 - (i) "Order" means the Order of the Bureau adopting this Consent Decree;
 - (j) "Parties" means the Bureau and the Licensee;
 - (k) "Public File Rule" means Section 73.3527 of the Commission's rules, 47 C.F.R. Section 73.3527;
 - (l) "Ownership Report Rule" means Section 73.3615 of the Commission's rules, 47 C.F.R. Section 73.3615;
 - (m) "Rules" means the Commission's Rules, found in Title 47 of the Code of Federal Regulations;
 - (n) "Station" means Station WSPS(FM), Concord, New Hampshire (Facility ID No. 62166);

- (o) "Term" means the period of time in which the Compliance Plan is in effect; and
- (p) "Violations" means the violations of the Public File Rule and the Ownership Report Rule.

III. Background

3. On December 1, 2005, the Licensee filed the Application to renew its license for the Station. In the Application, the Licensee made disclosures to the Commission concerning compliance issues with respect to the Public File Rule and the Ownership Report Rule. Because of the compliance issues raised by those disclosures, the Parties have agreed to enter into this Consent Decree, to which both the Licensee and the Bureau intend to be legally bound.

IV. Agreement

4. The Parties acknowledge that any proceeding that might result from the compliance issues referred to in Paragraph 3 above would be time-consuming and require a substantial expenditure of public and private resources. In order to conserve such resources, to resolve the matter, to bring the Station into compliance with the Rules, and to promote the Licensee's compliance with the Public File Rule and the Ownership Report Rule, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

5. The Licensee and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. Each represents and warrants to the other that its signatory is duly authorized to enter into this Consent Decree on its behalf. The Licensee agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

6. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Licensee and the Bureau concerning the Licensee's Violations at the Station, as discussed herein.

7. In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees that it will not use the Violations in any action against the Licensee, provided that the Licensee satisfies all of its obligations under this Consent Decree. In the event that the Licensee fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to each Violation, and/or the violation of this Consent Decree.

8. For the purposes of this negotiated settlement only, the Licensee hereby stipulates that the station violated the Public File rule in the maintenance of the Station's public file, and violated the Ownership Report Rule, during the license term covered by the Application. The parties agree that this Consent Decree constitutes neither an adjudication nor precedent.

9. The Licensee agrees to make a voluntary contribution to the United States Treasury in the amount of Ten Thousand Dollars (\$10,000.00). Such contribution is due within (30) days after the Effective Date. The payment must include FRN No. 0014333835 and the NAL/Act. No. MB-200941410029. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank—Government Lockbox #979088, SL-MO-C2-GI, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS

NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).

10. The Bureau agrees to grant the Application after the Effective Date provided that the following conditions have been met: 1) the Licensee has fully and timely satisfied its obligation to make the voluntary contribution referenced in paragraph 9 of this Decree; and 2) there are no issues other than the Violations that would preclude grant of the Application.

11. The Licensee represents that, in addition to its existing policies and procedures, it has adopted, is currently in the process of implementing, and agrees to abide by the Compliance Plan for the purpose of ensuring compliance with the Public File Rule and the Ownership Report Rule. The Licensee agrees, to the extent that it has not already done so, to implement this Compliance Plan at the Station no later than thirty (30) days after the Effective Date and to keep such Compliance Plan in effect for three (3) years after the Effective Date (the Term).

12. The Licensee represents that, as of the Execution Date of this Consent Decree, the Station's public file fully comports with the Public File Rule, except to the extent that the biennial ownership report for the Station was not timely filed in 2007. As of the Execution Date of this Consent Decree, an ownership report for the Station as of the 2007 filing period for its biennial ownership report under the Ownership Report Rule has been filed with the Commission and a copy placed in the Station's public file.

13. The Licensee agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that the Licensee fails to satisfy any condition or Commission Rule after the Effective Date, in the absence of Commission alteration of the condition or Rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures.

14. The Consent Decree will be binding on the Licensee's successors-in-interest and assigns. The Licensee agrees that any future application to assign or transfer control of the Station filed with the Commission during the Term will include a statement executed by an authorized representative of the proposed assignee or transferee consenting to assumption of the responsibilities and duties set forth in this Consent Decree with regard to the Station.

15. The Licensee waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Order, provided the Order adopts the Consent Decree without change, addition or modification.

16. The Licensee agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. Section 504 and 47 C.F.R. Section 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

17. The Licensee and the Bureau agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided the Order adopts the Consent Decree without change, addition or modification.

18. The Licensee and the Bureau agree that if the Licensee, the Commission or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Order adopting this Consent Decree, neither the Licensee nor the Commission will contest the validity of the Consent

Decree or Order, and the Licensee and the Commission will waive any statutory right to a *trial de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and will consent to a judgment incorporating the terms of this Consent Decree.

19. The Licensee and the Bureau agree that, in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

20. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
William T. Lake, Chief

Date: _____

ST. PAUL'S SCHOOL

By: _____
William R. Matthews, Jr., Rector

Date: _____

APPENDIX

COMPLIANCE PLAN FOR STATION WSPS(FM)

St. Paul's School, or its successor-in-interest, as appropriate, will institute the following procedures during the Term to ensure compliance with the Commission's Public File Rule and Ownership Report Rule. Unless otherwise provided, all terms defined in the Consent Decree apply to this Compliance Plan.

- I. As of the Execution Date of the Consent Decree the Station has filed with the Commission an ownership report reflecting the Licensee's ownership as of 60 days or less of the filing due date for the Station's 2007 biennial ownership report pursuant to the Ownership Report Rule. The Licensee filed its biennial ownership report for 2009 with the Commission on or before December 1, 2009, and shall timely prepare and file with the Commission all future ownership reports as required pursuant to the Ownership Report Rule. Copies of all ownership reports shall be timely placed in the Station's public file upon their filing with the Commission.
- II.
 - A. The General Manager or Station Manager and other appropriate staff of the Station will log all broadcasts of public affairs and public service programming broadcast by the Station. The logs of public affairs and other public service programming will be compiled into quarterly issues/programs lists and will be timely placed in the public file of the Station.
 - B. All such quarterly issues/programs lists will be signed and dated by their preparer before they are placed in the public file.
 - C. Any late-filed lists will be reviewed and signed by the General Manager or Station Manager and accompanied in the Station's public file with a statement indicating the nature of the document, the date it was placed in the public file, and the reason for the late placement in the public file.
 - D. The Station's management will train the applicable employees concerning the absolute requirement to follow all Commission rules, regulations, and policies, specifically, fully explaining the obligations imposed by the Public File Rule to each employee charged with maintenance of the Station's public file. Should the Licensee or the Station's management learn that the Public File Rule has been violated, any employee responsible will be subject to appropriate disciplinary action, which may but is not required to include suspension without pay or termination at the discretion of the Licensee.
- III. During the Term, the Licensee and/or any successor licensee, as appropriate, will conduct in-house audits of the Station's public file as detailed below. The three-year Term period will terminate on the successful completion of the third annual public file audit pursuant to Item III(C). The second and third audits pursuant to Item III(C) will be due on the anniversary of the first audit. The audits of the public file shall be performed as follows:
 - A. quarterly audits of the Station's public file, either in person, by telephone or facsimile, will be conducted by FCC counsel or an authorized representative of the New Hampshire Association of Broadcasters under the Alternative Broadcast Inspection Program; 70 Fed. Reg. 24788 (May 11, 2005) ("ABIP");

- B. a semi-annual review of the Station’s public file will be conducted by the Station’s management, with the first semi-annual review to be completed six (6) months after the Effective Date; and
- C. annual, in-person, audits of the Station’s public file will be conducted by an authorized representative of the New Hampshire Association of Broadcasters under the ABIP. The first annual audit shall be completed not more than nine (9) months following the Effective Date.
- IV. During the Term, the Licensee shall (1) submit a sworn certification to the Commission, signed by the Licensee, that it has filed its biennial ownership report with the Commission (“Ownership Report Certification”); and (2) annually submit a sworn certification to the Commission, signed by the Licensee, that the Station’s public inspection file fully complies with the Public File Rule (“Public File Certification”). If the Licensee cannot truthfully make either certification, it shall set forth in detail the reason(s) why, including as applicable any public file deficiencies, and describe any corrective measures taken. The Ownership Report Certification shall be filed no later than December 10 in calendar years 2009 and 2011; the Public File Certification shall be filed within ten (10) days of the completion of the first annual public file audit pursuant to Item III(C) above, and on that date yearly thereafter during each year of the Term. A copy of the Ownership Report Certification and Public File Certification will be served on Peter H. Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission and e-mailed to him at peter.doyle@fcc.gov, or any successor Chief of the Audio Division.
- V. The Compliance Plan, set forth above, will be under the direct supervision of St. Paul’s School Rector William R. Matthews, Jr., or by any member of St. Paul’s School designated by Mr. Matthews, or in the event Mr. Matthews is no longer Rector of St. Paul’s School or the Station’s license has been assigned, by his successor or his successor’s designee on the St. Paul’s School or successor Licensee’s Board of Trustees or similar governing body.