

CONSENT DECREE**I. Introduction**

1. This Consent Decree is entered into by and between the Media Bureau of the Federal Communications Commission and Vermont State Colleges, by their respective authorized representatives, for the purpose of resolving certain issues that have arisen in the Media Bureau's review of the pending license renewal application for Station WVTC(FM), Randolph Center, Vermont (File No. BRED-20080611ACH).

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) "Bureau" means the Media Bureau of the Federal Communications Commission;
- (c) "Commission" or "FCC" means the Federal Communications Commission;
- (d) "Compliance Plan" means the processes and procedures developed by Licensee in an effort to ensure compliance with the Act and the Rules regarding the maintenance of the public inspection file of Station WVTC(FM), as summarized in the Appendix hereto;
- (e) "Effective Date" means the date on which the Bureau releases the order adopting this Consent Decree;
- (f) "Execution Date" means the date on which this Consent Decree is executed by the last of the Parties to do so;
- (g) "Filing Date Rule" means Section 73.3539 of the Commission's rules, 47 C.F.R. § 73.3539;
- (h) "First STA" means the request for Special Temporary Authorization to continue Station operations pending consideration of the untimely WVTC(FM) license renewal application, File No. BLSTA-20080930ASZ, granted by the staff on October 10, 2008;
- (i) "Licensee" refers to Vermont State Colleges;
- (j) "Order" means the order of the Bureau adopting this Consent Decree;
- (k) "Ownership Report Rule" means Section 73.3615(d) of the Commission's rules, 47 C.F.R. Section 73.3615(d);
- (l) "Parties" means the Bureau and Licensee;
- (m) "Public File Rule" means Section 73.3527 of the Commission's rules, 47 C.F.R. § 73.3527;

- (n) "Rules" means the Commission's rules, found in Title 47 of the Code of Federal Regulations;
- (o) "Station" refers to Station WVTC(FM), (Facility ID No. 69957); and
- (p) "Violations" means the violations of the Filing Date Rule, Section 301 of the Act, the Ownership Report Rule and the Public File Rule.

III. Background

3. On June 11, 2008, Licensee untimely filed the Station's license renewal application in violation of the Filing Date Rule.¹ In addition, it continued to operate the Station after the Station's license had expired in violation of Section 301 of the Act, although it suspended such operation once it realized that the Station's license had previously expired.² Moreover, in the Station's license renewal application, Licensee made disclosures to the Commission concerning compliance issues with the Public File Rule and the Ownership Report Rule. Because of the late filing of the license renewal application, the unauthorized Station operation, the Public File and Ownership Report Rules compliance issues raised in the renewal application, the Parties have agreed to enter into this Consent Decree by which both Licensee and the Bureau intend to be legally bound.

IV. Agreement

4. The Parties acknowledge that any proceeding that might result from the Licensee's violation of the Ownership Report Rule, the Filing Date Rule, Section 301 of the Act, and the Public File Rule, referred to in Paragraph 3 above, could be time-consuming and require substantial expenditure of public and private resources. In order to conserve such resources, to resolve the matter, and to promote the Licensee's compliance with the Ownership Report Rule, the Filing Date Rule, Section 301 of the Act, and the Public File Rule, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

5. The Parties agree to be legally bound by the terms and conditions of this Consent Decree. Both Licensee and the Bureau each represent and warrant that its signatory is duly authorized to enter into this Consent Decree on its behalf. Licensee agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree.

6. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between 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 Licensee, provided that Licensee

¹ The Station's application for renewal was due on or before December 1, 2005. No such application was filed, and the Station's license expired on April 1, 2006.

² After its license had expired, the Station operated for 16 months without authorization. After reportedly suspending broadcasts on October 19, 2007, Licensee filed the First STA on June 11, 2008. The staff granted the First STA on October 10, 2008, and the Station reportedly re-commenced broadcasts on October 16, 2008. The First STA expired on April 10, 2009. Licensee timely sought an extension of the First STA on March 31, 2009, which remains pending. See File No. BELSTA-20090331ARR.

satisfies all of its obligations under this Consent Decree. In the event that 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. Licensee hereby stipulates that it violated the Filing Date Rule by failing to file a license renewal application for the Station on or before December 1, 2005, and that it violated Section 301 of the Act by continuing Station operations after the Station's license had expired.

9. Licensee hereby stipulates that it has violated the Public File and Ownership Report Rules in its maintenance of the public file of the Station during the 1997-2005 license term.

10. Licensee agrees to make a voluntary contribution to the United States Treasury in the amount of Eight Thousand, Five Hundred Dollars (\$8,500.00). Such contribution will be made, without further protest or recourse to a *trial de novo*, by a check or similar instrument, wire transfer or money order payable to the order of the Federal Communications Commission. The payment must include FRN No. 0014343073 and the NAL/Acct. No. MB201141410002. 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-GL, 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. If 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). Licensee will also send electronic notification on the date said payment is made to Kelly.Donohue@fcc.gov and Maureen.McCarthy@fcc.gov.

11. The Bureau agrees to grant the pending renewal application for the Station (File No. BRED-20080611ACH) after the Effective Date, provided that the following conditions have been met: (1) Licensee has fully and timely satisfied its obligation to make the voluntary contribution referenced in paragraph 10 of this Decree; and (2) there are no issues other than the Violations that would preclude the grant of the renewal application.

12. 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, which Compliance Plan is summarized in the Appendix attached hereto. 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.

13. Licensee represents that, as of the date of the execution of this Consent Decree, the Station's public file fully comports with the Public File Rule except for the missing information disclosed in the Station's license renewal application, due to the unavailability of such information at this time.

14. 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 Licensee fails to satisfy any condition or Rule, 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.

15. The Consent Decree will be binding on the Licensee's successors-in-interest and assigns. Licensee agrees that any future application to assign or transfer control of the Station 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.

16. 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.

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

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

19. The Parties 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 Licensee nor the Commission will contest the validity of the Consent Decree or Order, and 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.

20. The Parties 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.

21. 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
William T. Lake, Chief

Date: _____

VERMONT STATE COLLEGES

By: Timothy J. Donovan
Timothy J. Donovan, Chancellor

Date: 3.14.2011

APPENDIX**COMPLIANCE PLAN OF VERMONT STATE COLLEGES.**

Vermont State Colleges, or its successor-in-interest, as appropriate, will institute the following procedures to ensure compliance with the Commission's Public File 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 program hosts and other appropriate staff of the Station will log all broadcasts of public affairs programming. These logs will be compiled into quarterly issues/programs lists, which 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. Late-filed lists will be reviewed and signed by the Station's management and accompanied with a statement indicating the nature of the document, the date placed in the public file, and the reason for the late filing.
 - D. The Station's management will emphasize to all staff volunteers the absolute requirement to follow all the Rules, regulations, and policies and will fully explain the obligations imposed by the Public File Rule to each staff volunteer charged with maintenance of the Station's public files. Should the Station's licensee or its management learn that the Public File Rule has been violated, the staff volunteer responsible will be reprimanded and may be asked not to return to his volunteer position.
- II. For a period of three years from the Effective Date, Licensee or successor licensee, as appropriate, will conduct in-house audits of the Station's public file as detailed below. The three-year period will terminate on the successful completion of the third annual public file audit pursuant to Item II(C). The second and third audits pursuant to Item II(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, by telephone or facsimile, will be conducted by Licensee's counsel or an authorized representative of the Vermont Association of Broadcasters under the Alternative Broadcast Inspection Program;
 - B. A semi-annual review will be conducted by the Station's management; and
 - C. Annual, in-person, audits of the Station's public file will be conducted by an authorized representative of the Vermont Association of Broadcasters under the Alternative Broadcast Inspection Program. The first annual audit shall be completed not less than six (6) months and not more than nine (9) months following the Effective Date.

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- III. Licensee shall (1) submit a sworn certification to the Commission, signed by the Licensee, that it has filed its 2011 biennial ownership report with the Commission; and (2) annually submit a sworn certification to the Commission, signed by an officer of the Licensee, that the Station's public inspection file fully complies with the Public File Rule. If Licensee cannot truthfully make this certification, it shall set forth in detail any public file deficiencies and describe any corrective measures taken. This report shall be filed within ten (10) days of the completion of the first annual public file audit pursuant to Item II(C) above, and on that date yearly thereafter for the following two years. A copy 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. Copies should also be e-mailed to Maureen McCarthy, Esq., at Maureen.McCarthy@fcc.gov.
- V. Licensee will conduct training for all Station volunteers on compliance with FCC Rules applicable to Station operations. To augment this training, outside counsel, or other comparable professionals, will provide a training webinar or similar presentation all Station volunteers. Licensee will require all new volunteers to view the webinar prior to commencing their volunteer activities and will require all volunteers to view the webinar at the beginning of each school year as refresher training.
- IV. The Compliance Plan, set forth above, will be under the direct supervision of Vermont State Colleges' Chancellor, Timothy J. Donovan, or by any designee authorized by Mr. Donovan, or in the event that Mr. Donovan is no longer with Vermont State Colleges or the license has been assigned, by his successor or his successor's designee at Vermont State Colleges or the successor Licensee's Board of Trustees or similar governing body.