

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

In re Application of
Framingham State University
For Renewal of License for
Station WDJM-FM, Framingham,
Massachusetts
NAL/Acct. No. MB201441410030
FRN: 0014334403
File No. BRED-20131125BPE
Facility ID No. 22221

ORDER

Adopted: December 31, 2014

Released: January 9, 2015

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (the "Bureau") and Framingham State University (the "Licensee"), licensee of noncommercial educational ("NCE") Station WDJM-FM, Framingham, Massachusetts (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 73.3527 of the Commission's Rules (the "Rules"), which governs the maintenance of an NCE station's public file.

2. Licensee has shown that, at the time of the violation, the Station was a student-run noncommercial educational ("NCE") station licensed to an educational institution. This first-time documentation violation at the Station is within the parameters of our policy concerning violations of documentation requirements of Rules by student-run NCE radio stations. We have negotiated a Consent Decree under this policy, which provides, among other things, that the Licensee will institute and maintain, for three years, a Compliance Plan for the Station and make a One Thousand Two Hundred Dollar (\$1,200) civil penalty payment to the United States Treasury. Based upon our review of the record before us, we conclude that the referenced renewal application should be granted, subject to satisfaction of certain conditions set forth in the Consent Decree, but only for a term of four (4) years. A copy of the Consent Decree and Compliance Plan are attached hereto and incorporated by reference.

1 47 C.F.R. § 73.3527.

2 See William Penn University, Policy Statement and Order, 28 FCC Rcd 6932, 6932 ¶ 2 (MB 2013) (in cases of "first-time violations of certain documentation requirements of our Rules by student-run NCE radio stations . . . instead of issuing a Notice of Apparent Liability . . . , the Bureau will first afford the licensee an opportunity to negotiate a consent decree in which the licensee agree to a complains plan and makes a voluntary contribution to the United States Treasury. In negotiating the amount of the voluntary contribution, the Bureau will consider the totality of circumstances, including giving appropriate consideration to the station's finances with respect to reducing the base forfeiture amount significantly.").

3 47 U.S.C. § 309(k) indicates that that we are to grant a broadcast station's license renewal application if, upon consideration of the application and pleadings, we find with respect to that station that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules with respect to that station; and (3) there have been no other violations which, taken together, constitute a pattern of abuse. If, however, the licensee fails to meet that standard, the Commission may deny the application - after notice (continued . . .)

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.

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.

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

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

7. IT IS FURTHER ORDERED that copies of this Order shall be sent, by Certified Mail Return Receipt Requested and by First Class Mail, to Framingham State University, 100 State Street, Framingham, MA 01702.

FEDERAL COMMUNICATIONS COMMISSION



William T. Lake
Chief, Media Bureau

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and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”

⁴ 47 U.S.C. § 4(i).

⁵ 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 Framingham State University, by their respective authorized representatives, for the purpose of resolving certain issues regarding compliance with the Public File Rule, as defined below, that have arisen in the Media Bureau's review of the pending application for the renewal of the license for Noncommercial Educational Station WDJM-FM, Framingham, Massachusetts.

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 application for the renewal of the license for Station WDJM-FM, Framingham, Massachusetts (File No. BRED-20131125BPE);
 - (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 Public File Rule at the Station, as summarized in the Appendix hereto;
 - (f) "Effective Date" means the date on which the Bureau releases the Order;
 - (g) "Employee" refers to student organization members of the radio station.
 - (h) "Execution Date" means the date on which this Consent Decree is executed by the last of the Parties to do so;
 - (i) "Licensee" or "University" refers to Framingham State University;
 - (j) "Order" means the Order of the Bureau adopting this Consent Decree;
 - (k) "Parties" means the Bureau and the Licensee;
 - (l) "Public File Rule" means Section 73.3527 of the Commission's Rules, 47 C.F.R. § 73.3527;
 - (m) "Renewal Application" means the pending application for the renewal of the license for Station WDJM-FM, Framingham, Massachusetts (File No. BRED-20131125BPE);
 - (n) "Rules" means the Commission's Rules, found in Title 47 of the Code of Federal Regulations;

- (o) "Station" means Station WDJM-FM, Framingham, Massachusetts (Facility ID No. 22221);
- (p) "Station Manager" refers to the current student general manager as elected by the student membership and registered on file with the Office of Student Involvement and Leadership Development at Framingham State University;
- and
- (q) "Violations" means the violations of the Public File Rule.

III. Background

3. On November 25, 2013, the Licensee filed the Application to renew its license for the Station. In the Application, the Licensee disclosed to the Commission that the Station had not fully complied with the Public File Rule. Specifically, Licensee stated that quarterly issues and programs lists were not properly prepared for Station WDJM-FM's public file from the date of the Station's last license renewal in March of 2006 until January 2013.

4. Because of the compliance issues raised by the representations concerning the Station's compliance with the Public File Rule, 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

5. The Parties acknowledge that any proceeding that might result from the Public File Rule 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, and to promote the Licensee's compliance with the Public File Rule, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

6. 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.

7. 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.

8. 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.

9. The Licensee hereby stipulates that the Station violated the Public File Rule in the maintenance of the Station's public file during the 2006-2014 license term.

10. The Licensee agrees to pay a civil penalty to the United States Treasury in the amount of One Thousand Two Hundred Dollars (\$1,200). 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. Licensee will also send electronic notification on the date said payment is made to Stephen.Svab@fcc.gov. A payment of One Thousand Two Hundred Dollars (\$1,200) must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account numbers and FRNs referenced above for the Station. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁶ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

11. Because the Violations continued over nearly the entire license term, the Bureau agrees to grant the Renewal Application, after the Effective Date, for a four (4) year time period, provided that the following conditions have been met: (1) the Licensee has fully and timely satisfied its obligation to make the payment referenced in paragraph 10 of this Decree; and (2) there are no issues other than the Violations that would preclude grant of the renewal application.

12. 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. 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.

13. The Licensee represents that, as of the Execution Date of this Consent Decree, the Station’s public file fully complies with the Public File Rule.

14. 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

⁶ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

the extent that the Licensee fails to satisfy any condition or Commission 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. The 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. 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.

17. 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.

18. 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.

19. 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.

20. 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.

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: 1-8-15

FRAMINGHAM STATE UNIVERSITY

By: Susanne H. Conley
Dr. Susanne Conley, VP, Enrollment and Student
Development

Date: 12/18/14

APPENDIX**COMPLIANCE PLAN FOR STATION WDJM-FM**

Framingham State University, 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.
 - A. The 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 files 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 in the Station's public file with a statement indicating the nature of the document, the date placed in the public files, and the reason for the late filing.
 - D. The Station's management, under the guidance of a designee from the Office of Student Involvement and Leadership Development at Framingham State University, will train all 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, including suspension without pay and termination.
- II. For a period of three years from the Effective Date, the Licensee and/or any successor licensee, as appropriate, will conduct 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 of the Station's public file, by telephone or facsimile, will be conducted by Licensee's FCC counsel or an authorized representative of the Massachusetts Association of Broadcasters under the Alternative Broadcast Inspection Program;
 - B. a semi-annual review of the Station's public file will be conducted by the Station's management; and
 - C. annual, in-person or video conference, audits of the Station's public file will be conducted by an authorized representative of the Massachusetts 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.
- III. The Licensee shall annually submit a sworn certification to the Commission, signed by the Licensee, that the Stations' public files fully comply with the Public File Rule. If the 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 during each year of the license term. 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.

- IV. Licensee will conduct training for all of the Station's employees on compliance with FCC Rules applicable to the Station's operations. To augment this training, Licensee's FCC counsel, or other comparable professionals, will conduct either an on-site or webinar workshop for all of Station's employees. Licensee will videotape this workshop and use it as refresher training for staff and management at least every twelve (12) months, and to train any new Station employee within five (5) days of commencement of his/her duties at the Station.
- V. The Compliance Plan, set forth above, will be under the direct supervision of Framingham State University's VP, Enrollment and Student Development, Dr. Susanne Conley, or by any member of Framingham State University's Board designated by Dr. Conley, or in the event Dr. Conley is no longer with Framingham State University or if the license has been assigned, by her successor or her successor's designee at Framingham State University or successor Licensee's Board.