

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

In re Application of)	
)	
University of Maine System)	NAL/Acct. No. MB20151410027
)	FRN: 0005215140
For Renewal of License for)	Facility ID No. 69267
Station WMEB-FM, Orono, Maine)	File No. BRED-20131202BIE

ORDER

Adopted: June 18, 2015

Released: June 18, 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 the University of Maine System (“UMS”), licensee of non-commercial educational Station WMEB-FM, Orono, Maine (the “Station”). The Consent Decree resolves issues arising from the Bureau’s review of the captioned license renewal application (the “Application”) for the Station. In particular, the Consent Decree resolves the Bureau’s investigation of UMS’s compliance with Section 73.3527 of the Commission’s Rules (the “Rules”).¹

2. UMS has shown that, at the time of the violation, the Station was a student-run noncommercial educational (“NCE”) FM station licensed to an educational institution and that the violations at the Station are first-time documentation violations within the parameters of our policy concerning violations of documentation requirements of Rules by student-run NCE radio stations.² Specifically, UMS failed to prepare and place in the Station’s public file certain quarterly issues-programs lists.

3. We have negotiated the attached Consent Decree, which is incorporated by reference, in which UMS stipulates it violated Section 73.3527 of the Rules. The Consent Decree also requires that UMS adhere to a Compliance Plan, as set forth in the Appendix, and pay a civil penalty to the United States Treasury in the amount of One Thousand Two Hundred Dollars (\$1,200).

4. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest will be served by its approval and by terminating the Bureau’s investigation of UMS’s violations of the Rules as disclosed in the Application. In addition, based on the record before us, we conclude that nothing in that record creates a substantial or material question of fact as to whether UMS possess the basic qualifications to be a Commission licensee and that the Application should be

¹ 47 C.F.R. § 73.3527.

² See *William Penn University*, Policy Statement and Order, 28 FCC Rcd 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 will pay a reduced civil penalty and agree to a compliance plan. In negotiating the amount, 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.”).

granted subject to the satisfaction of the terms and conditions set forth in the Consent Decree, but only for a term of four (4) years.³

6. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, and by the authority delegated by Sections 0.61 and 0.283 of the Rules, the Consent Decree attached hereto IS ADOPTED without change, addition, or modification.

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

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by Certified Mail Return Receipt Requested and by First Class Mail, to Mr. Richard B. Thompson, Jr., Chief Information Officer, University of Maine System, 46 University Drive, Augusta, ME 04330, and to its counsel, Margaret L. Miller, Esq., Gray Miller Persh, LLP, 1200 New Hampshire Ave., N.W., Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

³ See 47 C.F.R. § 309(k) (permitting the Commission to grant an application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”).

CONSENT DECREE**I. Introduction**

1. This Consent Decree is entered into by and between the Media Bureau of the Federal Communications Commission and the University of Maine System, 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 WMEB-FM, Orono, Maine.

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 WMEB-FM, Orono, Maine (File No. BRED-20131202BIE)
- (c) "Adopting Order" means the order of the Bureau adopting this Consent Decree;
- (d) "Bureau" means the Media Bureau of the Commission;
- (e) "Commission" or "FCC" means the Federal Communications Commission;
- (f) "Compliance Plan" means the processes and procedures to ensure compliance with the Public File Rule as set forth in the Appendix hereto;
- (g) "Effective Date" means the date on which the Bureau releases the Order;
- (h) "Execution Date" means the date on which this Consent Decree is executed by the last of the Parties to do so;
- (i) "Investigation" means the Bureau's investigation of licensee's compliance with the Public File Rule;
- (j) "Licensee" or "UMS" refers to University of Maine System;
- (k) "Parties" means UMS and the Bureau;
- (l) "Public File Rule" means Section 73.3527 of the Commission's Rules, 47 C.F.R. § 73.3527;
- (m) "Rules" means the Commission's Rules, found in Title 47 of the Code of Federal Regulations;
- (n) "Station" means Station WMEB-FM, Orono, Maine (Facility ID. No. 69267);
and
- (o) "Violations" means the violations of the Public File Rule.

III. Background

3. On December 2, 2013, UMS filed the Application to renew its license for the Station. In the Application, UMS 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 prepared for the Station's public file from July 2007 to July 2013.

4. Because of the compliance issues raised by UMS's disclosures, the Bureau and UMS negotiated this Consent Decree to terminate the Bureau's Investigation of UMS's compliance with the Public File Rule.

IV. Agreement

5. The Parties acknowledge that any proceeding that might result from the compliance issues referenced in Paragraph 3 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 UMS's compliance with the Rules, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

6. UMS and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. UMS further 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 that this Consent Decree shall become effective on the Effective Date as defined herein. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. UMS 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 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. Any violation of the Adopting Order or the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to enforcement of a Commission order.

8. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, UMS agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that it will not use the Violations in any action against UMS, provided that 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. UMS hereby stipulates that it violated the Public File Rule during the 2005-2013 license term by failing to prepare and place in the Station's public file quarterly issues and programs lists of public affairs programming broadcast by the Station in violation of Section 73.3527(e)(8) of the Rules.

10. UMS agrees to pay a civil penalty to the United States Treasury in the amount of One Thousand Two Hundred Dollars (\$1,200.00), within thirty (30) calendar days after the Effective Date. Licensee will also send electronic notification of payment to Kim Varner at Kim.Varner@fcc.gov and

Penelope Dade at Penelope.Dade@fcc.gov on the date said payment is made. Such payment will be made, without further protest or recourse to a *trial de novo*, by a check or similar instrument, wire transfer or credit card and must include the Account Number and FRN referenced in the caption to the Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. 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 that should be followed based on the form of payment selected:

- 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 Application for a four year term, after the Effective Date, provided that the following conditions have been met: 1) UMS has fully and timely satisfied its obligation to make the civil penalty payment referenced in paragraph 10 of this Decree; and 2) there are no issues other than the Violations that would preclude grant of the Application. The license term will expire four years after grant of the Application.

12. UMS 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 Rules. Licensee further 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. UMS represents that as of the Execution Date, apart from the issues and programming lists noted in paragraph 3, the Station's public file fully complies with the Public File Rule.

14. As of the Effective Date, UMS 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 Adopting Order, provided the Consent Decree is adopted without change, addition or modification. If either Party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither UMS nor the Commission will contest the validity of the Consent Decree or Adopting Order, and UMS will waive any statutory right to a *trial de novo*. Licensee further 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 addressed in this Consent Decree.

15. The Parties agree that if a court of competent jurisdiction renders any of the provisions of this Consent Decree invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety 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.

16. The Parties agree that if any provision of this Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Licensee does not expressly consent), such provision will be superseded by such Commission rule or order.

17. The Consent Decree will be binding on UMS'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.

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

19. This Consent Decree cannot be modified or amended without the advance written consent of both Parties.

20. Each Party represents and warrants to the other Party that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

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, Chief

Date: _____

UNIVERSITY OF MAINE SYSTEM

By: _____
Richard B. Thompson, Jr., CIO
University of Maine System

Date: _____

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

The University of Maine System, 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 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 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 will train all Station staff concerning the requirement to follow Commission rules, regulations, and policies, specifically, fully explaining the obligations imposed by the Public File Rule to each staffer 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 staffer responsible will be subject to appropriate disciplinary action, including being removed from any duties relating to the public file.
- 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 files shall be performed as follows:
 - A. Within one year of the Effective Date, audits of the Station's public file will be conducted by an authorized representative of the Maine 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 the Licensee's Telecommunications Transmission Engineer and overseen by the Licensee's CIO, with advice and guidance from the Licensee's FCC counsel, as needed. 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 Station's public file fully complies 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 staffers on compliance with FCC Rules applicable to the Station's operations. In preparing this training, Licensee will confer with Licensee's FCC counsel, or other comparable professionals. 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 staffer with Public File duties 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 the University of Maine System's Chief Information Officer, Richard B. Thompson, Jr., or by any member of the University of Maine Board designated by Mr. Thompson, or in the event Mr. Thompson is no longer with the University of Maine System or if the license has been assigned, by his successor or his successor's designee at the University of Maine System or successor Licensee's Board.