

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

In the Matter of	)	File No.: EB-08-IH-5419
	)	NAL/Acct. No.: 201332080002
<b>REGENTS OF THE UNIVERSITY OF NEW MEXICO</b>	)	FRN: 0001608025
	)	
Licensee of Stations	)	
KUNM(FM), Albuquerque, New Mexico;	)	Facility ID No.: 6083
KBOM(FM), Socorro, New Mexico;	)	Facility ID No.: 93246
KRRT(FM), Arroyo Seco, New Mexico;	)	Facility ID No.: 94047
KRRE(FM), Las Vegas, New Mexico;	)	Facility ID No.: 122283
KRAR(FM), Española, New Mexico.	)	Facility ID No.: 93833

**ORDER**

**Adopted: August 15, 2013**

**Released: August 16, 2013**

By the Acting Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) and Regents of the University of New Mexico (Licensee). The Consent Decree terminates an investigation by the Bureau against the Licensee for possible violations of Section 399B of the Communications Act of 1934, as amended (Act),<sup>1</sup> and Section 73.503(d) of the Commission's Rules<sup>2</sup> regarding the broadcast of underwriting announcements over Station KUNM(FM), Albuquerque, New Mexico and its satellite/repeater Stations: KBOM(FM), Socorro, New Mexico; KRRT(FM), Arroyo Seco, New Mexico; KRRE(FM), Las Vegas, New Mexico; and KRAR(FM), Española, New Mexico in 2008.

2. The Bureau and the Licensee have negotiated the terms of the Consent Decree that resolve this matter, including a detailed, three-year compliance plan requirement. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether the Licensee possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

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<sup>1</sup> See 47 U.S.C. § 399b.

<sup>2</sup> See 47 C.F.R. § 73.503(d).

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act,<sup>3</sup> and Sections 0.111 and 0.311 of the Commission's Rules,<sup>4</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that the third-party complaint against the Licensee before the Bureau related to the above-captioned investigation as of the date of this Consent Decree **IS DISMISSED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class certified mail, return receipt requested, to Regents of the University of New Mexico, Room 326, Onate Hall, University of New Mexico, Albuquerque, New Mexico 87131, and to its counsel, Margaret L. Miller, Esquire, Dow Lohnes, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

Robert H. Ratcliffe  
Acting Chief  
Enforcement Bureau

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<sup>3</sup> See 47 U.S.C. § 154(i).

<sup>4</sup> See 47 C.F.R. §§ 0.111, 0.311.

Before the
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In the Matter of )
REGENTS OF THE UNIVERSITY OF )
NEW MEXICO )
Licensee of Stations )
KUNM(FM), Albuquerque, New Mexico; )
KBOM(FM), Socorro, New Mexico; )
KRRT(FM), Arroyo Seco, New Mexico; )
KRRE(FM), Las Vegas, New Mexico; )
KRAR(FM), Española, New Mexico. )
File No.: EB-08-IH-5419
NAL/Acct. No.: 201332080002
FRN: 0001608025
Facility ID No.: 6083
Facility ID No.: 93246
Facility ID No.: 94047
Facility ID No.: 122283
Facility ID No.: 93833

CONSENT DECREE

1. The Enforcement Bureau (Bureau) and the Regents of the University of New Mexico (Licensee), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether the Licensee violated Section 399B of the Communications Act of 1934, as amended,1 and Section 73.503(d) of the Commission’s Rules,2 in connection with the broadcast of underwriting announcements over Station KUNM(FM), Albuquerque, New Mexico and its satellite/repeater Stations: KBOM(FM), Socorro, New Mexico; KRRT(FM), Arroyo Seco, New Mexico; KRRE(FM), Las Vegas, New Mexico; and KRAR(FM), Española, New Mexico (collectively, Stations).

I. DEFINITIONS

- 2. For the 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) “Adopting Order” means the Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.

1 See 47 U.S.C. § 399b.

2 See 47 C.F.R. § 73.503(d).

- (e) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of it being a Commission licensee, including but not limited to Section 73.503(d) of the Commission’s Rules.
- (f) “Complaint” means the third-party complaint<sup>3</sup> received by or in the possession of the Bureau forming the basis for the Bureau’s July 28, 2009, November 5, 2009, and May 26, 2010 Letters of Inquiry,<sup>4</sup> regarding whether the Licensee violated the Commission’s Underwriting Laws in connection with its operation of the Stations from December 31, 2007, to December 14, 2008.
- (g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 10.
- (h) “Covered Employees” means all employees and agents of the Licensee who perform, or supervise, oversee, or manage the performance of, duties that relate to the Licensee’s responsibilities under the Underwriting Laws.
- (i) “Compliance Report” or “Compliance Reports” means the report(s) described in this Consent Decree at paragraph 12.
- (j) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (k) “Investigation” means the investigation concerning the Complaint<sup>5</sup> commenced by the Bureau’s Letters of Inquiry,<sup>6</sup> regarding whether the Licensee violated the Underwriting Laws in connection with its operation of the Stations from December 31, 2007, to December 14, 2008.
- (l) “Licensee” means Regents of the University of New Mexico and its predecessors-in-interest and successors-in-interest.
- (m) “Operating Procedures” means the standard, internal operating procedures and compliance policies currently in place or established by the Licensee to implement the Compliance Plan.
- (n) “Parties” means the Licensee and the Bureau, each of which is a “Party.”

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<sup>3</sup> See Letter from complainant to FCC Enforcement Bureau (filed Dec. 4, 2008, in EB-08-IH-5419) (Complaint).

<sup>4</sup> See Letter from Kenneth M. Scheibel, Jr., Assistant Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Regents of the University of New Mexico (July 28, 2009) (on file in EB-08-IH-5419); Letter from Kenneth M. Scheibel, Jr., Assistant Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Regents of the University of New Mexico (Nov. 5, 2009) (on file in EB-08-IH-5419); Letter from Anjali K. Singh, Acting Assistant Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Regents of the University of New Mexico (May 26, 2010) (on file in EB-08-IH-5419).

<sup>5</sup> See *supra* note 3.

<sup>6</sup> See *supra* note 4.

- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (p) “Stations” means noncommercial educational radio Station KUNM(FM), Albuquerque, New Mexico (Facility ID No. 6083) and its satellite/repeater radio Stations: KBOM(FM), Socorro, New Mexico (Facility ID No. 93246); KRRT(FM), Arroyo Seco, New Mexico (Facility ID No. 94047); KRRE(FM), Las Vegas, New Mexico (Facility ID No. 122283); and KRAR(FM), Española, New Mexico (Facility ID No. 93833).
- (q) “Underwriting Laws” means 47 U.S.C. § 399b and Section 503(d) of the Rules, 47 C.F.R. § 73.503(d).

## II. BACKGROUND

3. On December 4, 2008, the Commission received a Complaint that alleged that the Licensee had aired underwriting announcements which included calls to action and promoted for-profit entities.<sup>7</sup> The Complaint alleged that the Licensee had received consideration in exchange for the broadcast of the announcements.<sup>8</sup> Based on the Complaint and a recording that was submitted with the Complaint, it appeared that the Licensee may have aired promotional announcements on behalf of for-profit entities for consideration. On July 28, 2009, November 5, 2009, and May 26, 2010, the Bureau issued Letters of Inquiry to the Licensee, which directed the Licensee, to submit, among other things, sworn written statements in response to questions relating to alleged violations of the Underwriting Laws.<sup>9</sup> The Licensee responded on October 13, 2009, December 7, 2009, July 9, 2010, and December 2, 2010.<sup>10</sup> The Licensee’s responses indicate that it may have aired underwriting announcements using the term “free” with respect to a product offered by a for-profit entity in exchange for remuneration.<sup>11</sup>

4. The Underwriting Laws define advertisements as program material broadcast “in exchange for any remuneration” and intended to “promote any service, facility, or product” of for-profit entities.<sup>12</sup> Section 399B(b)(2) specifically provides that noncommercial educational stations may not broadcast advertisements.<sup>13</sup> Although contributors of funds to such stations may receive on-air acknowledgements of their support, the Commission has held that such acknowledgements may be made for identification purposes only, and should not promote the contributors’ products, services, or

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<sup>7</sup> See *supra* note 3.

<sup>8</sup> See Complaint at 3 & Attach.

<sup>9</sup> See *supra* note 4.

<sup>10</sup> See Letter from Barry S. Persh, Attorney, Regents of the University of New Mexico, to Marlene H. Dortch, Secretary, Federal Communications Commission (Oct. 13, 2009) (on file in EB-08-IH-5419); Letter from Barry S. Persh, Attorney, Regents of the University of New Mexico, to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 7, 2009) (on file in EB-08-IH-5419) (Regents December 7 Letter); Letter from Barry S. Persh, Attorney, Regents of the University of New Mexico, to Marlene H. Dortch, Secretary, Federal Communications Commission (July 9, 2010) (on file in EB-08-IH-5419); E-mail from Margaret Miller, Attorney, Regents of the University of New Mexico, to Anita Patankar-Stoll, Attorney-Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Dec. 2, 2010).

<sup>11</sup> See, e.g., Regents December 7 Letter at 4–6 & Ex. 4.

<sup>12</sup> See 47 U.S.C. § 399b(a).

<sup>13</sup> See 47 U.S.C. § 399b(b)(2).

businesses.<sup>14</sup> Specifically, such announcements may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent or lease.<sup>15</sup> At the same time, however, the Commission has acknowledged that it is at times difficult to distinguish between language that promotes versus that which merely identifies the underwriter and is consistent with the Commission's Rules and decisions establishing compliant underwriting announcements.<sup>16</sup> Consequently, the Commission expects licensees to exercise reasonable, "good faith" judgment in this area, and affords some latitude to the judgments of licensees who do so.<sup>17</sup> The underwriting announcements at issue here may have violated the Underwriting Laws by using the word "free," which appears to exceed the bounds of what is permissible and within licensee discretion under the Act and pertinent Commission precedent.<sup>18</sup>

### III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

6. **Jurisdiction.** The Licensee agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of 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 the enforcement of a Commission order.

8. **Termination of Investigation.** 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, the Licensee agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against the Licensee concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against the Licensee with respect to the Licensee's basic qualifications,

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<sup>14</sup> See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice (1986), *republished*, 7 FCC Rcd 827 (1992) (*Noncommercial Public Notice*).

<sup>15</sup> See *id.*

<sup>16</sup> See *Xavier University*, Memorandum Opinion and Order, 5 FCC Rcd 4920, 4921, para. 6 (1990) (citing *Noncommercial Nature of Educational Broadcast Stations*, Memorandum Opinion and Order, 90 FCC 2d 895, 911 (1982), *recons.* 97 FCC 2d 255 (1984)).

<sup>17</sup> See *Xavier University*, Letter of Admonition, issued November 14, 1989 (Mass Med. Bur.), *recons. granted*, Memorandum Opinion and Order, 5 FCC Rcd 4920 (1990).

<sup>18</sup> See, e.g., *Noncommercial Public Notice*, 7 FCC Rcd 827 (noting, among other things, that announcements containing price information are not permissible).

including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a senior station manager with the requisite organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Underwriting Laws prior to assuming his/her duties.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, the Licensee agrees that it shall, within sixty (60) calendar days of the Effective Date, implement a Compliance Plan, (which shall consist of its existing FCC compliance plan elements, supplemented as required by this Consent Decree), designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Underwriting Laws, the Licensee shall implement the following procedures:

- (a) **Operating Procedures for Underwriting.** Within sixty (60) calendar days after the Effective Date, the Licensee shall review its existing Operating Procedures that all Covered Employees must follow and supplement or revise them as necessary pursuant to this Consent Decree to help ensure the Licensee's compliance with the Underwriting Laws. The Licensee's Operating Procedures shall continue to include internal procedures and policies specifically designed to ensure that the Licensee fully complies with the Underwriting Laws. The Licensee shall continue to utilize a multi-level review procedure for underwriting content to be aired on the Station. All scripts of announcements shall continue to be reviewed by Station management, prior to broadcast, for compliance with the Underwriting Laws. The Licensee also shall review its Compliance Checklist to ensure that it describes the steps that a Covered Employee must follow to ensure that underwriting announcements will not result in a violation of the Underwriting Laws. With respect to the underwriting announcements, the Compliance Checklist shall, at a minimum, continue to require that at least two station employees, one of which shall be a management-level employee, review all scripts of announcements, prior to broadcast, for compliance with the Underwriting Laws.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute an updated Compliance Manual to all Covered Employees. The updated Compliance Manual shall continue to explain the Underwriting Laws and set forth the Operating Procedures that Covered Employees shall follow to help ensure the Licensee's compliance with the Communications Laws. The Licensee shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete, based on existing precedent. The Licensee shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Education Program.** The Licensee shall continue to educate prospective underwriters about appropriate underwriting content and about how the

Licensee incorporates underwriting content in the messages that it prepares for underwriter approval and eventual broadcast. To that end, the Licensee shall continue to provide its underwriting kit, summarizing appropriate and inappropriate underwriting content under the Underwriting Laws, to each new prospective underwriter before it accepts any new contract with the prospective underwriter to air underwriting messages over the Station. The Licensee shall not broadcast any announcement that does not comply with the Underwriting Laws, “recogniz[ing] that it may be difficult to distinguish at times between announcements that promote and those that identify” and that “[w]e only expect our public broadcast licensees to exercise their reasonable, good faith judgments in this regard.”<sup>19</sup>

- (d) **Compliance Training Program.** The Licensee shall enhance its current training program by establishing and implementing a Compliance Training Program for Covered Employees on compliance with the Underwriting Laws and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Licensee’s obligation to report any noncompliance with the Underwriting Laws under paragraph 11 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within ninety (90) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Licensee shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

11. **Reporting Noncompliance.** The Licensee shall report any noncompliance with the Underwriting Laws and with the terms and conditions of this Consent Decree within thirty (30) calendar days after discovery of such noncompliance, recognizing that for Underwriting Laws, “it may be difficult to distinguish at times between announcements that promote and those that identify” and that “[w]e only expect our public broadcast licensees to exercise their reasonable, good faith judgments in this regard.”<sup>20</sup> Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Anjali K. Singh at Anjali.Singh@fcc.gov, and to Melissa A. Marshall at Melissa.Marshall@fcc.gov.

12. **Compliance Reports.** The Licensee shall file Compliance Reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of the Licensee’s efforts during the relevant period to comply with the terms and conditions of this Consent

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<sup>19</sup> *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Memorandum Opinion and Order, 90 FCC 2d 895, 911, para. 26 (1982) (subsequent history omitted).

<sup>20</sup> *Id.*



Decree and the Underwriting Laws. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Licensee, stating that the Compliance Officer has personal knowledge that the Licensee (i) has established and implemented the Compliance Plan (consisting of its existing FCC compliance elements, supplemented as required by this Consent Decree); (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 11 hereof.

- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules<sup>21</sup> and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Licensee, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial action will be taken; and (iii) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Anjali K. Singh at Anjali.Singh@fcc.gov, and to Melissa A. Marshall at Melissa.Marshall@fcc.gov.

13. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 9 through 12 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

14. **Underwriting Laws Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to the Underwriting Laws against the Licensee or its affiliates for alleged violations of the Act or the Commission's Rules or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Licensee with the Communications Laws.

15. **Contribution.** The Licensee agrees that it will make a contribution to the United States Treasury in the amount of seven thousand five hundred dollars (\$7,500) within thirty (30) calendar days after the Effective Date. The Licensee shall also send electronic notification of payment to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Anjali K. Singh at Anjali.Singh@fcc.gov, and to Melissa A. Marshall at Melissa.Marshall@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of

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<sup>21</sup> 47 C.F.R. § 1.16.

payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>22</sup> 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). Below are additional instructions you should follow based on the form of payment you select:<sup>23</sup>

- 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.

16. **Waivers.** The Licensee waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. The Licensee shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither the Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensee shall waive any statutory right to a trial *de novo*. The Licensee hereby agrees to waive any claims it may 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 addressed in this Consent Decree.

17. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

18. **Subsequent Rule or Order.** The Parties agree that if any provision of the 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 the Licensee does not expressly consent) that provision will be superseded by such rule or Commission order.

19. **Successors and Assigns.** The Licensee agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

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<sup>22</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>23</sup> Should the Licensee have questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e-mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

20. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission’s Rules and Orders. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, the Licensee does not admit or deny noncompliance, violation or liability for violating the Act, the Commission’s Rules or Orders in connection with the matters that are the subject of this Consent Decree.

21. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

22. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

23. **Authorized Representative.** The individual signing this Consent Decree on behalf of the Licensee represents and warrants that he is authorized by the Licensee to execute this Consent Decree and to bind the Licensee to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

24. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

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Robert H. Ratcliffe  
Acting Chief  
Enforcement Bureau

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Date

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Michael Dougher  
Senior Vice Provost for Academic Affairs  
The University of New Mexico

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Date