

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

In the Matter of	)	
	)	
<b>LIBERMAN BROADCASTING, INC.</b>	)	File No.: EB-11-IH-0395 et al.
	)	NAL/Acct. No.: 201432080011
<b>KRCA License LLC</b>	)	FRN No.: 0010612695
	)	
Licensee of Stations KRCA(TV)	)	Facility ID No.: 22161
Riverside, California and	)	
KPNZ(TV), Ogden, Utah	)	Facility ID No.: 77512
	)	
<b>Liberman Television of Dallas License LLC</b>	)	
	)	
Licensee of Station KMPX(TV)	)	Facility ID No.: 73701
Decatur, Texas	)	
	)	
<b>KZJL License LLC</b>	)	
	)	
Licensee of Station KZJL(TV)	)	Facility ID No.: 69531
Houston, Texas	)	

**ORDER**

**Adopted: November 14, 2013**

**Released: November 14, 2013**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) and Liberman Broadcasting, Inc., the ultimate parent company of, inter alia, the licensees of the above-captioned stations (LBI). The Consent Decree terminates the Bureau’s investigation of LBI for possible violations of Section 1464 of Title 18, United States Code, and Section 73.3999 of the Commission’s rules<sup>1</sup> by its broadcast of potentially indecent, profane or obscene material over its stations.

2. The Bureau and LBI have negotiated the terms of the Consent Decree that resolves 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 will be served by adopting the Consent Decree and terminating the investigation.

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<sup>1</sup> 18 U.S.C. § 1464; 47 C.F.R. § 73.3999.

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 LBI possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,<sup>2</sup> and Sections 0.111 and 0.311 of the Rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation, as to LBI or its stations, **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that any third-party complaints and allegations against LBI and/or its stations related to the above-captioned investigation that are pending before the Bureau as of the date of this Consent Decree **ARE DISMISSED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by both First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Lenard D. Liberman, President, Liberman Broadcasting, Inc., 1845 West Empire Avenue, Burbank, CA, 91504, and LBI's counsel, James R. Bayes, Esq., and Eve Klindera Reed, Esq., Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison  
Chief, Enforcement Bureau

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<sup>2</sup> See 47 U.S.C. §§ 154(i), 154(j), 503(b).

<sup>3</sup> See 47 C.F.R. §§ 0.111, 0.311.

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<b>KRCA License LLC</b>	)	FRN No.: 0010612695
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Licensee of Stations KRCA(TV)	)	Facility ID No.: 22161
Riverside, California and	)	
KPNZ(TV), Ogden, Utah	)	Facility ID No.: 77512
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Licensee of Station KMPX(TV)	)	Facility ID No.: 73701
Decatur, Texas	)	
	)	
<b>KZJL License LLC</b>	)	
	)	
Licensee of Station KZJL(TV)	)	Facility ID No.: 69531
Houston, Texas	)	

**CONSENT DECREE**

1. The Enforcement Bureau of the Federal Communications Commission and Liberman Broadcasting, Inc., the ultimate parent company of the above-captioned licensees, by their authorized representatives, enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Liberman Broadcasting, Inc., violated Section 1464 of Title 18, United States Code,<sup>1</sup> and Section 73.3999 of the Commission’s rules,<sup>2</sup> by broadcasting indecent, profane or obscene material over the above-captioned 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 an 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.

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<sup>1</sup> 18 U.S.C. § 1464.

<sup>2</sup> 47 C.F.R. § 73.3999.

- (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (e) “Compliance Officer” means the individual designated in Paragraph 9 of this Consent Decree as the person responsible for administration of the Compliance Plan.
- (f) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at Paragraph 10.
- (g) “Complaints” means all third-party complaints<sup>3</sup> received by, or in the possession of, the Commission or Bureau, as of the Effective Date, alleging violations of the Indecency Laws by Licensee.
- (h) “Covered Employee” means all employees and agents of Licensee who perform, or supervise, oversee, or manage the performance of, duties related to Licensee’s programming, including but not limited to any employees with on-air duties or programming responsibilities.
- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “Indecency Laws” means 18 U.S.C. § 1464 and 47 C.F.R. § 73.3999.
- (k) “Investigation” means the investigation commenced by the Bureau’s August 13, 2007 Letter of Inquiry,<sup>4</sup> and the Bureau’s June 16, 2011 Letter of Inquiry<sup>5</sup> relating to Complaints alleging that Licensee violated the Indecency Laws in connection with its operation of the stations on various dates from September 15, 2006, through the Effective Date.
- (l) “*Jose Luis*” means the hour-long, Spanish-language, Liberman-produced program entitled “*Jose Luis Sin Censura*” (Jose Luis Uncensored).
- (m) “Liberman” means Liberman Broadcasting, Inc., the ultimate parent company of, inter alia, KRCA License LLC; KZJL License LLC; and Liberman Television of Dallas License LLC, which hold the FCC broadcast licenses of the captioned stations.
- (n) “Licensee” means Liberman Broadcasting, Inc., and all of its subsidiaries that hold authorizations for radio and television broadcast stations.
- (o) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Licensee to implement the Compliance Plan.
- (p) “Parties” means Licensee and the Bureau, and each of which is a “Party.”

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<sup>3</sup> See, e.g., Complaint filed by Alex Nogales, President and CEO, National Hispanic Media Coalition, and Jarrett Tomas Barrios, Esq., President, Gay & Lesbian Alliance Against Defamation (Feb. 28, 2011) (on file in EB-11-IH-0395).

<sup>4</sup> Letter from Benigno E. Bartolome, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to KRCA License Corporation (Aug. 13, 2007) (on file in EB-07-IH-0152).

<sup>5</sup> Letter from Jeffrey J. Gee, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Liberman Broadcasting, Inc. (Jun. 16, 2011) (on file in EB-11-IH-0395).

- (q) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

## II. BACKGROUND

3. Pursuant to Title 18 of the United States Code, Section 1464, the utterance of “any obscene, indecent or profane language by means of radio communication” is prohibited.<sup>6</sup> In addition, Section 73.3999 of the Rules provides that radio and television stations shall not broadcast obscene material at any time<sup>7</sup> and, consistent with a subsequent statute and court case, shall not broadcast indecent material between 6:00 a.m. and 10:00 p.m.<sup>8</sup>

4. The Commission received Complaints alleging that Liberman stations broadcast material that violates the Indecency Laws. A number of Complaints specifically cite material broadcast during certain episodes of the now-discontinued Spanish-language program *Jose Luis*, which aired between 6 a.m. and 10 p.m. In response, the Bureau issued Letters of Inquiry to Licensee, directing it to submit video or audio recordings of the complained-of broadcasts and to submit sworn, written responses to questions relating to possible violations of the Indecency Laws.<sup>9</sup> Liberman responded on September 19, 2007,<sup>10</sup> and September 14, 2011.<sup>11</sup> With certain exceptions, Liberman admits that it broadcast the material at issue<sup>12</sup> and included video recordings of that programming with its Responses. Liberman has consistently maintained that the broadcasts did not violate the Indecency Laws.<sup>13</sup> The Bureau disagrees. Liberman also points out that, as of August 8, 2012, it ceased airing *Jose Luis*, and explains that it has otherwise revised its programming line-up and no longer produces a program similar to *Jose Luis*.<sup>14</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.

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<sup>6</sup> 18 U.S.C. § 1464.

<sup>7</sup> 47 C.F.R. § 73.3999.

<sup>8</sup> See Public Telecommunications Act of 1992, Pub. L. No. 102-356, 106 Stat. 949 (1992) (setting the safe harbor of 10:00 p.m. to 6:00 a.m. for the broadcast of indecent material); *Action for Children’s Television v. FCC*, 58 F.3d 654, 656 (D.C. Cir. 1995) (*en banc*) (affirming restrictions prohibiting the broadcast of indecent material between the hours of 6:00 a.m. and 10:00 p.m.) (“*ACT III*”), *cert. denied*, 516 U.S. 1072 (1996).

<sup>9</sup> See *supra* notes 4, 5.

<sup>10</sup> Letter from Jose Liberman, President, KRCA License Corp., to Marlene H. Dortch, FCC Secretary (Sep. 19, 2007) (on file in EB-07-IH-0152).

<sup>11</sup> Letter from Lenard Liberman, President, Liberman Broadcasting, Inc., to Marlene H. Dortch, FCC Secretary (Sep. 14, 2011) (on file in EB-11-IH-0395) (2011 Response), as supplemented by Letter from Liberman’s counsel, James R. Bayes, Esq., and Eve K. Reed, Esq., Wiley Rein LLP, to Marlene H. Dortch, FCC Secretary (Aug. 2, 2012) (on file in EB-11-IH-0395) (August 2012 Supplement); Letter from James R. Bayes, Esq., and Eve K. Reed, Esq., Wiley Rein LLP, to Marlene H. Dortch, FCC Secretary (Sep. 6, 2012) (on file in EB-11-IH-0395) (September 2012 Supplement); and Letter from James R. Bayes, Esq., and Eve K. Reed, Esq., Wiley Rein LLP, to Marlene H. Dortch, FCC Secretary (Feb. 27, 2013) (on file in EB-11-IH-0395) (collectively, Responses).

<sup>12</sup> Liberman denies having aired certain material alleged in certain Complaints. See, e.g., 2011 Response at 16.

<sup>13</sup> See, e.g., 2011 Response at 5-15, August 2012 Supplement; September 2012 Supplement.

<sup>14</sup> See September 2012 Supplement.

6. **Jurisdiction.** 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 Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau order, entitling the Bureau 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 and dismiss the Complaints. In consideration for the termination of the Investigation, Licensee agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of material new evidence unrelated to programming that has already been reviewed, the Bureau 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 or in response to any petition to deny or other third-party objection, any new proceeding, formal or informal, or take any action against Licensee concerning the matters that were the subject of or related to the Investigation. The Bureau also agrees that it will not, in the absence of material new evidence, use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion or in response to any petition to deny or other third-party objection any proceeding, formal or informal, or take any action against Licensee with respect to Licensee's basic qualifications, including its character qualifications, to be a Commission licensee.

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Licensee shall designate a corporate manager with the requisite corporate and organizational authority to serve as its Compliance Officer, who shall be responsible for developing, implementing, and administering a company-wide Compliance Plan and ensuring that Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to possessing general knowledge of the Act and the Rules necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Indecency Laws before assuming his/her duties.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, Licensee agrees to create and implement within sixty (60) calendar days of the Effective Date a company-wide Compliance Plan designed to prevent the broadcast of material in violation of the Indecency Laws, to the extent possible based on written Commission decisions regarding the Indecency Laws that are legally in effect (i.e., not stayed, modified, or overturned by a reviewing court of competent jurisdiction at the time of the broadcast), and to ensure compliance with the Act, the Rules, the Commission's orders, and the terms and conditions of this Consent Decree. The Compliance Plan shall include, at a minimum, the following components:

- a. **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Licensee shall establish Operating Procedures that all Covered Employees must follow to help ensure Licensee's compliance with the Indecency Laws. Licensee's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Compliance Officer, or a management-level employee of Licensee directly supervised by the Compliance Officer, conducts a pre-broadcast review of any content that such employee reasonably believes, based on written Commission decisions that are

legally in effect at the time of the broadcast, raises a substantial question under the Indecency Laws, including script review of programs produced by Licensee. Licensee also shall develop a Compliance Checklist that describes the steps that a Covered Employee must follow pursuant to the Operating Procedures to help ensure Licensee's compliance with the Indecency Laws.

- b. **Compliance Manual.** Within sixty (60) calendar days of the Effective Date, Licensee shall prepare a compliance manual regarding the Indecency Laws and shall distribute the manual to all Covered Employees. The Compliance Manual shall explain the Indecency Laws, based on written Commission decisions regarding the Indecency Laws that are legally in effect, that Covered Employees shall follow to help ensure Licensee's compliance with these laws. Licensee shall periodically review and revise the Compliance Manual as necessary to reflect material changes. Licensee shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
  - c. **Training.** Within ninety (90) calendar days of the Effective Date, Licensee shall train any Covered Employee on what constitutes program content that complies with the Indecency Laws based on written Commission decisions regarding the Indecency Laws that are legally in effect. Licensee also shall train any new Covered Employee, within thirty (30) days of that employee's becoming a Covered Employee, on what constitutes content that complies with the Indecency Laws based on written Commission decisions regarding the Indecency Laws that are legally in effect. In addition, Licensee's Covered Employees shall receive refresher training, on an annual basis, regarding existing guidelines and, where applicable, pertinent changes to the Indecency Laws based on written Commission decisions regarding the Indecency Laws that are legally in effect. As part of such training, Covered Employees shall be advised of Licensee's obligation to report any noncompliance with the Indecency Laws, based on written Commission decisions regarding the Indecency Laws that are legally in effect at the time of a broadcast, under the terms this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer.
  - d. **Reporting Noncompliance.** Licensee shall report any noncompliance with the Indecency Laws based on written Commission decisions regarding the Indecency Laws that are legally in effect and with the terms and conditions of this Consent Decree within thirty (30) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that 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 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](mailto:Terry.Cavanaugh@fcc.gov), Jeffrey J. Gee at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), Kenneth M. Scheibel, Jr. at [Kenneth.Scheibel@fcc.gov](mailto:Kenneth.Scheibel@fcc.gov), and to Dana E. Leavitt at [Dana.Leavitt@fcc.gov](mailto:Dana.Leavitt@fcc.gov).
11. **Compliance Reports.** Licensee shall file Compliance Reports ("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. Each Compliance Report shall include a compliance certificate from the Compliance Officer, as an agent of Licensee, stating that the Compliance Officer has personal knowledge that Licensee: (i) has

established operating procedures intended to ensure compliance with the terms and conditions of this Consent Decree and the Indecency Laws based on written Commission decisions regarding the Indecency Laws that are legally in effect, together with an accompanying statement explaining the basis for the Compliance Officer's certification; (ii) has been utilizing those procedures since the previous Compliance Report was submitted; and (iii) is not aware of any instances of non-compliance with this Consent Decree and the Indecency Laws based on written Commission decisions regarding the Indecency Laws that are legally in effect. The certification must comply with Section 1.16 of the Rules<sup>15</sup> and be subscribed to as true under penalty of perjury in substantially the form set forth therein. If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Licensee, shall provide the Commission with a detailed explanation of: (i) any instances of non-compliance with this Consent Decree and the Indecency Laws based on written Commission decisions regarding the Indecency Laws that are legally in effect; and (ii) the steps that Licensee has taken or will take to remedy each instance of non-compliance and ensure future compliance, and the schedule on which proposed remedial actions will be taken. 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 Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Kenneth M. Scheibel, Jr. at Kenneth.Scheibel@fcc.gov, and to Dana E. Leavitt at Dana.Leavitt@fcc.gov.

12. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 9 through 11 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

13. **Indecency Complaints; Subsequent Investigations.** Subject to Paragraph 8, nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to the Indecency Laws against Licensee or its affiliates that are filed after the Effective Date and relate to programming that has not already been reviewed, or for alleged violations of other provisions of the Act or the Commission's rules or for any other type of alleged misconduct, regardless of when such alleged 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 Licensee with the Act or the Rules.

14. **Voluntary Contribution.** Licensee agrees that it shall make a voluntary contribution to the United States Treasury in the aggregate amount of One Hundred Ten Thousand Dollars (\$110,000) in eight (8) quarterly installments ("Installment Payments"), each in the amount of Thirteen Thousand Seven Hundred Fifty Dollars (\$13,750), with the first to be due thirty (30) days following the Effective Date and the remaining seven (7) to be due on the first day of each third successive month. Licensee acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution and each Installment Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).<sup>16</sup> Upon an Event of Default by Nonpayment (as described below in paragraph 15), all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. In addition, Licensee agrees that it will make the first and all subsequent Installment Payments in United States Dollars without further demand or notice by the dates specified above. Licensee also shall send electronic notification of payment to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Kenneth M. Scheibel, Jr. at Kenneth.Scheibel@fcc.gov, and to Dana E. Leavitt at Dana.Leavitt@fcc.gov on the date each such payment is made. Each 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 payment, a completed FCC Form 159 (Remittance

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<sup>15</sup> See 47 C.F.R. § 1.16.

<sup>16</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).



Advice) must be submitted.<sup>17</sup> When completing the FCC Form 159, Licensee shall 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 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 the 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 the 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. If assistance is needed, Licensee shall contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov, for answers to questions regarding payment.

15. **Event of Default by Nonpayment.** Licensee agrees that an Event of Default by Nonpayment shall occur upon the failure by Licensee to pay the full amount of any Installment Payment on or before the due date specified in this Consent Decree.

16. **Interest, Charges for Collection, and Acceleration of Maturity Date.** Upon an Event of Default by Nonpayment under this Consent Decree, automatically and without further notice, the then entire unpaid amount of the Voluntary Contribution shall accrue interest, computed using the rate of the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Voluntary Contribution, together with interest, as aforesaid, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charge(s), plus the costs of collection, litigation, and attorneys’ fees, is accelerated and shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Licensee.

17. **Waivers.** 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. 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 Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Licensee shall waive any statutory right to a trial *de novo*. Licensee hereby agrees to waive any claims it may otherwise have under the

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<sup>17</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

18. **Severability**. The Parties agree that if any of the provisions of the Adopting Order or the Consent Decree shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or 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 shall become null and void and may not be used in any manner in any legal proceeding.

19. **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 Licensee does not expressly consent) that provision will be superseded by such Commission rule or order.

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

21. **Admission**. Notwithstanding any of Licensee's prior submissions in this proceeding, Licensee admits, solely for the purpose of this Consent Decree and for Commission civil enforcement purposes and in express reliance on the provisions of Paragraph 8 herein, that its actions with respect to the broadcast of certain portions of certain episodes of *Jose Luis*, as referenced in Paragraph 4 of this Consent Decree, inadvertently violated the Commission's interpretation of its indecency regulations and requirements in force at the time of such actions, assuming construction of those regulations and requirements as Licensee has been informed they are construed by the FCC as of the date hereof.

22. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

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

24. **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.

25. **Authorized Representative**. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. The individual signing this Consent Decree on behalf of Licensee represents and warrants that he is authorized by Licensee to execute this Consent Decree and to bind Licensee to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

26. **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.

\_\_\_\_\_  
P. Michele Ellison  
Chief  
Enforcement Bureau

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lenard Liberman  
President and Chief Executive Officer  
Liberman Broadcasting, Inc.

\_\_\_\_\_  
Date