

CONSENT DECREE

I. Introduction

1. The Enforcement Bureau of the Federal Communications Commission and Ralph H. Tyler hereby enter into a Consent Decree resolving conduct by Tyler regarding Station KTSH(FM), Tishomingo, Oklahoma, in violation of Sections 1.17 and/or 73.1015 of the Commission's rules.¹

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) "Adopting Order" means an Order of the Bureau adopting the terms and conditions of this Consent Decree;
- (c) "Bureau" means the FCC's Enforcement Bureau;
- (d) "Commission" or "FCC" means the Federal Communications Commission;
- (e) "Effective Date" means the date on which the FCC releases the Adopting Order;
- (f) "Execution Date" means the date on which this Consent Agreement is executed by the Parties;
- (g) "Final Order" means the status of the Adopting Order after the period for administrative and judicial review has lapsed;
- (h) "MMB" means the FCC's Mass Media Bureau, the predecessor bureau to the Media Bureau;
- (i) "Parties" means Ralph H. Tyler and the Bureau, each being a separate "Party;"
- (j) "Rules" means the Commission's rules, found in Title 47 of the Code of Federal Regulations;
- (k) "SCOCBI" means South Central Oklahoma Christian Broadcasters, Inc., former permittee of Station KTSH(FM), Tishomingo, Oklahoma;
- (l) "TEL" means Tyler Enterprises, L.L.C., licensee of Stations KOCY(AM) and KWCO(FM), Chickasha, Oklahoma; and
- (m) "Tyler" means Ralph H. Tyler, licensee of Station KTSH(FM), Tishomingo, Oklahoma, and the sole member and Operating Manager of TEL;

II. Background

3. As the result of allegations made to the MMB regarding Tyler's activities in connection with Station KTSH(FM), Tishomingo, Oklahoma, the Bureau conducted an investigation of misconduct by Tyler involving, *inter alia*, misrepresentations and/or lack of candor with the Commission concerning the

¹ 47 C.F.R. §§ 1.17, 73.1015.

operational status of Station KTSH(FM) and the amount of consideration that Tyler had agreed to pay to SCOCBI for the construction permit for Station KTSH(FM).²

III. Terms of Settlement

4. 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 an Adopting Order.

5. The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon such release, the Adopting Order and this Consent Decree shall have the same force and effect as any other orders of the Commission and any violation of the terms of this Consent Decree shall constitute a violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

6. Tyler 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 Tyler and the Bureau concerning Tyler's violations of the Commission's rules discussed herein.

8. In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees to terminate its current investigation.

9. In consideration of the Bureau's termination of its investigation into these matters, Tyler agrees to the terms set forth herein.

10. Tyler hereby stipulates that he has violated sections 1.17 and 73.1015 of the Commission's rules in his written filings and oral representations and in response to Commission inquiries regarding the operational status of Station KTSH(FM) and the nature of his agreement to obtain the station's permit from SCOCBI.

11. Tyler agrees to surrender for cancellation the license for Station KTSH(FM), Tishomingo, Oklahoma (FCC Facility ID No. 58348), and to request the dismissal, with prejudice, of all of his applications and pleadings currently pending before the Commission regarding the station, including his application to modify the KTSH(FM) authorization to specify Tuttle as the community of license,³ on or before the Execution Date and to cease broadcast operations of KTSH(FM) at or before 12:00 midnight on the Effective Date.

12. Tyler further agrees to divest his other broadcast interests in Stations KOCY(AM) (FCC Facility ID No. 6747) and KWCO-FM (FCC Facility ID No. 6750), Chickasa, Oklahoma, arising from his ownership of TEL. To that end, not more than thirty (30) days after the Execution Date, Tyler, on behalf of TEL, shall file with the Commission the requisite application(s) for approval of the assignment of the licenses for the aforementioned Chickasa stations or of the transfer of control of TEL by which Tyler shall fully and completely divest his interest in such stations and/or in TEL. Upon Commission approval, Tyler will consummate such assignment or transfer of control. Upon his divestment of such interests and his surrender of the license for Station KTSH(FM), Tyler will have no further involvement, *de facto* or *de jure*, in the ownership, business, management or operation of those or any other broadcast stations.

² See generally MM Docket No. 98-155; Letter of Inquiry from Norman Goldstein, Chief, Complaints and Political Programming Branch, Enforcement Division, Mass Media Bureau to Ralph Tyler and South Central Oklahoma Christian Broadcasting, Inc., dated May 7, 1999, and responses thereto; File Nos. BLED-981002KA, BMPED-20010126ABC and BPH-20021002ADB.

³ File No. BPH-20021002ADB.

13. Tyler agrees that he 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 Tyler fails to satisfy any condition or Commission rule, in the absence of Commission alteration of the condition or rule, he 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 or forfeitures.

14. The Bureau agrees that, in the absence of material new evidence, it will not, on its own motion, initiate or recommend to the Commission, any new proceeding, formal or informal, regarding Tyler's conduct that is the subject of this Consent Decree. The Bureau further agrees that, in the absence of material new evidence, it will not, on its own motion, take any further enforcement action against Tyler for any alleged violation of the Commission's rules in connection with such conduct which occurred prior to the effective date of this Consent Decree, including any action to revoke the broadcast licenses held by TEL based upon such conduct, except as consistent with the provisions of this Consent Decree. The Bureau also agrees that, in the absence of material new evidence related to this matter, it will not use the facts developed in this proceeding through the execution date of this Consent Decree or the existence of this Consent Decree to initiate on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action on its own motion against Tyler or TEL with respect to Tyler's basic qualifications, including his character qualifications, to be or continue to be a Commission licensee. Nothing in this Consent Decree shall prevent the Bureau from instituting, or recommending to the Commission, new investigations or enforcement proceedings against Tyler or any entity in which he holds an interest, including, but not limited to TEL, in the event of any alleged future misconduct for violation of this Consent Decree or for violation of the Act or the Commission's Rules as consistent with the provisions of this Consent Decree.

15. Tyler waives any and all rights he 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 Adopting Order adopts the Consent Decree without change, addition or modification.

16. Any violation of this Consent Decree or the Adopting Order will 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.

17. If either Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Adopting Order, neither Tyler nor the FCC shall contest the continuing validity of the Consent Decree or Adopting Order. Tyler retains the right to challenge the Bureau interpretation of the Consent Decree or any terms contained therein.

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

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

20. The Parties agree that the terms and conditions of this Consent Decree shall remain in effect for twenty-four (24) months from the Effective Date of this Consent Decree. The Parties further agree that any provision of this Consent Decree that would require Tyler to act in violation of a future rule or order adopted by the Commission will be superseded by such Commission rule or order.

21. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau:

David H. Solomon
Chief, Enforcement Bureau

Ralph H. Tyler

Date

Date