

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

In the Matter of)	File Number EB-05-KC-143
)	NAL/Acct. No. 200632560002
127, Inc.)	
)	File Number EB-07-KC-017
Licensee of Station KLFJ)	NOV No. V20073256002
Facility ID# 17137)	NAL/Acct No. 200732560001
Springfield, Missouri)	
)	FRN 0011407814
)	

ORDER

Adopted: August 16, 2007

Released: August 20, 2007

By the Associate Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and 127, Inc. (“127”), licensee of station KLFJ, Springfield, Missouri. The Consent Decree terminates an investigation by the Bureau against 127 for possible violations of Sections 73.1125(a), 73.1745, and 73.3526 of the Commission’s Rules (“Rules”).¹

2. The Bureau and 127 have negotiated the terms of a Consent Decree that resolves this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, and in the absence of material new evidence relating to this matter, we conclude that there are no substantial or material questions of fact as to whether 127 possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest would be served by adopting the Consent Decree.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Communications Act of 1934, as amended,² and the authority delegated in Sections 0.111 and 0.311 of the Commission’s Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the Bureau’s investigation in this proceeding **IS TERMINATED**.

¹ 47 C.F.R. §§ 73.1125(a), 73.1745, 73.3526.

² 47 U.S.C. §§ 4(i) and 503(b).

³ 47 C.F.R. §§ 0.111 and 0.311.

7. **IT IS FURTHER ORDERED** that 127, Inc. shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. The payment, regardless of how sent, must include the FRN No. referenced above.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to counsel for 127, Inc., David S. Akers, 430C State Highway 165 South Branson, MO 65616 and to 127, Inc. at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon
Associate Chief, Enforcement Bureau

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission (“Bureau”) and 127, Inc. (“127”) hereby enter into this Consent Decree regarding possible violations of the Commission’s Rules (“Rules”), concerning 127’s operation of Station KLFJ.

Background

1. On March 3, 2006, the Commission’s Kansas City Office of the Enforcement Bureau (“Kansas City Office”) issued to 127 a Notice of Apparent Liability for Forfeiture proposing a forfeiture in the amount of \$21,000 for the apparent willful and repeated violation of Sections 73.1125(a) and 73.1745 of the Rules, and the apparent willful violation of Section 73.3526(a) of the Rules.⁴ On September 6, 2006, the Enforcement Bureau issued to 127 a Forfeiture Order and reduced the forfeiture amount from \$21,000 to \$16,800, based on 127, Inc.’s history of compliance with the Rules.⁵ On February 28, 2007, the Enforcement Bureau denied the petition for reconsideration filed by 127, Inc. of the Forfeiture Order.⁶

2. On March 7, 2007, the Kansas City Office issued to 127 another Notice of Apparent Liability for Forfeiture proposing a forfeiture in the amount of \$8,000 for the apparent willful and repeated violation of Section 73.1745(a) of the Rules.⁷

3. On March 21, 2007, the Kansas City Office issued to 127 a Notice of Violation for violations of Sections 11.35(a), 73.1125(d)(1), 73.1201(a)(2), 73.44(b), 73.1560, and 73.3615(a) of the Rules.⁸

4. 127 and the Bureau acknowledge that any proceeding that might result from the Investigation will require the significant expenditure of public and private resources. To conserve such resources and to promote compliance by 127 with the Act and the Rules, 127 and the Bureau hereby enter into this Consent Decree in consideration of the mutual commitments made herein.

Definitions

5. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Adopting Order” means the order of the Enforcement Bureau adopting this Consent Decree;

⁴ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200632560002 (Enf. Bur., South Central Region, Kansas City Office, released March 3, 2006).

⁵ *127, Inc.*, Forfeiture Order, 21 FCC Rcd 10003 (2006) (“*Forfeiture Order*”).

⁶ *127, Inc.*, Memorandum, Opinion and Order, DA 07-811 (Enf. Bur. rel. Feb. 28, 2007).

⁷ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732560001 (Enf. Bur., South Central Region, Kansas City Office, released March 7, 2007).

⁸ *Notice of Violation*, NOV No. V20073256002 (Enf. Bur. South Central Region, Kansas City Office, released March 21, 2007).

- (b) “Act” means the Communications Act of 1934, as amended, Title 47 of the United States Code;
- (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission;
- (d) “Commission” means the Federal Communications Commission;
- (e) “Final Order” means the Adopting Order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay;
- (f) “Investigation” means the forfeiture proceeding regarding NAL/Acct. No. 200632560002 and the investigations regarding NAL/Acct. No. 200732560001 and NOV No. V20073256002.
- (g) “Rules” means the Commission’s regulations set forth in Title 47 of the Code of Federal Regulations;
- (h) “127” means 127, Inc.; and
- (i) “Station” means KLFJ, Springfield, Missouri.

Terms of Settlement

6. 127 agrees that the Commission has jurisdiction over the matters referenced in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

7. 127 and the Bureau agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination, regarding the matters discussed in Paragraphs Two and Three above. 127 and the Bureau agree that this Consent Decree is for settlement purposes only.

8. 127 and the Bureau agree that this Consent Decree shall constitute a final settlement between them as to the matters discussed in Paragraphs One through Three above. In consideration for termination of the Investigation and in accordance with the terms of this Consent Decree, 127 agrees to the terms set forth herein.

9. In express reliance on the covenants and representations in this Consent Decree, the Bureau shall terminate the Investigation. From and after the release of the Adopting Order (the “Effective Date”), in the absence of material new evidence, the Bureau shall not initiate or recommend to the Commission any new proceeding, informal or formal, regarding the matters that were the subject of the Investigation. Nothing in this Consent Decree will prevent the Bureau from instituting or recommending to the Commission any new investigation or enforcement proceeding against 127 in the event of any alleged future misconduct involving violation of this Consent Decree, or violation of the Act or the Rules.

10. 127 admits, solely for the purpose of this Consent Decree and for FCC civil enforcement purposes, and in express reliance on the provisions of Paragraph Nine hereof, that 127 operated the Station in violation of the Rules as described in NAL/Acct. No. 200632560002, NAL/Acct. No. 200732560001 and NOV No. V20073256002. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or Paragraph Nine hereof, or both, are breached by the Bureau, or are invalidated or modified to 127’s prejudice by the Commission or by any court, then and in that event the provisions of the immediately-preceding sentence shall be of no

force or effect whatever, and 127 shall not, by virtue of that sentence or any other provision of this Consent Decree, be deemed to have made any admission concerning the Investigation.

11. 127 agrees that as of the release of the Adopting Order:
 - i. It has installed a new BE transmitter at the Station, and the station will operate at 28 watts during nighttime hours.
 - ii. At least two full time employees, currently Shelly O'Brien and Patricia Pugh, have been hired to manage and operate the Station. These employees have been given instructions on maintenance of the public file and required weekly and monthly testing requirements for the station equipment.
 - iii. It has notified the Commission's Media Bureau of the relocation of the main studio to 225 E. Primrose, Springfield, MO 65807.
 - iv. All regular programming has been edited to insure at least hourly broadcast station identification, and all future programming shall contain at least hourly identification.
 - v. The Station's studio engineer, currently Bob Moore, has successfully repaired the transmitter so that there are no spurious emissions in violation of Section 73.44(b) of the Rules and shall maintain the transmitter by regular inspections.
 - vi. Prior to or contemporaneously with this Decree, an updated Ownership Report will be filed with the FCC on Form 323 and an Ownership Report shall be filed on behalf of the Station every two years thereafter the date its renewal application was required to be filed.
 - vii. Copies of all violations and correspondence from the Commission shall be placed in the Station's public file.
 - viii. The Station's public inspection file has been complete as of July 13, 2007 and is accessible during all business hours.
 - ix. A fully operational studio capable of original transmission has been set up at the Springfield main studio.
 - x. Once each year in 2007, 2008 and 2009, 127 shall conduct a self-inspection of the Station, using the FCC Broadcast Inspection Checklist, and submit a certification of compliance with the checklist items to the Kansas City Office.

12. 127 shall make a voluntary contribution to the United States Treasury in the amount of eighteen thousand four hundred and fifty dollars (\$18,450) within 10 days after the Adopting Order becomes a Final Order. Such payment will be made without further protest or recourse, by check or similar instrument, payable to the order of the Federal Communications Commission. Such payment will include the FRN No. referenced in the Adopting Order. Such payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Such payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Such payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 9116229.

13. 127 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 Order adopts the Consent Decree without modification.

14. The effectiveness of this Consent Decree is expressly contingent upon issuance of the Adopting Order, provided the Adopting Order adopts the Consent Decree without modification.

15. In the event any court of competent jurisdiction renders this Consent Decree invalid, the Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

16. If the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Adopting Order, neither 127 nor the Commission will contest the validity of the Consent Decree or Adopting Order, and 127 will waive any statutory right to a trial *de novo*.

17. 127 agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. §§ 1.1501 *et seq.*

18. Any violation of the Consent Decree, including but not limited to a failure to make a payment required by Paragraph 12 hereof, 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.

19. 127 and the Bureau agree to be bound by the terms and conditions stated herein.

20. This Consent Decree may be signed in counterparts.

ENFORCEMENT BUREAU

FEDERAL COMMUNICATIONS COMMISSION

By: _____
George R. Dillon
Associate Chief

Date

127, Inc.

By: _____
Charles J. Perme
President

Date