

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

In the Matter of
Wilson Broadcasting, Inc.
Licensee of WJJN-FM
Columbia, Alabama
Facility ID # 30280
Licensee of WAGF (AM)
Dothan, Alabama
Facility ID # 30278
Licensee of WAGF-FM
Dothan, Alabama
Facility ID # 30279
FRN: 0004333019
File Number: EB-07-AT-015
NAL/Acct. No.: 200732480006
File Number: EB-07-AT-013
NAL/Acct. No.: 200732480004
File Number: EB-07-AT-014
NAL/Acct. No.: 200732480005

ORDER

Adopted: May 12, 2008

Released: May 14, 2008

By the Associate Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau ("Bureau") and Wilson Broadcasting, Inc. ("Wilson"), licensee of station WJJN-FM, in Columbia, Alabama and stations WAGF (AM) and WAGF-FM in Dothan, Alabama (the "Three Stations"). The Consent Decree terminates an investigation and Notice of Apparent Liability for Forfeiture ("NAL") by the Bureau against Wilson for possible violations of Section 73.3526 of the Commission's Rules ("Rules")<sup>1</sup> regarding public inspection file requirements.

2. The Bureau and Wilson have negotiated the terms of the Consent Decree that resolve this matter. 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 Wilson possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

<sup>1</sup> 47 C.F.R. § 73.3526.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) and 503(b) of the Communications Act of 1934, as amended,<sup>2</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 Wilson Broadcasting, Inc. shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by check or similar instrument, payable to the order of the Federal Communications Commission. The payment will be made within thirty calendar days after the Effective Date of the Adopting Order. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment[s] by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. 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). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures.

8. **IT IS FURTHER ORDERED** that within 90 of days of the adoption of this Consent Decree, Wilson Broadcasting, Inc. will provide the Bureau with a written report on actions it has taken subsequent to the effective date of this Order to confirm the Company is in compliance with the rules and regulations referenced herein and resolved through the adoption of this Consent Decree.

9. **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 Wilson Broadcasting, Inc. at its address of record and to its counsel, Dan J. Alpert, 2120 North 21<sup>st</sup> Road, Arlington, VA 22201.

FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon  
Associate Chief, Enforcement Bureau

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

**CONSENT DECREE**

The Enforcement Bureau (“Bureau”) and Wilson Broadcasting, Inc. (“Wilson”), licensee of station WJJN-FM, in Columbia, Alabama and stations WAGF (AM) and WAGF-FM in Dothan, Alabama (the “Three Stations”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Wilson violated Section 73.3526 of the Commission’s Rules (“Rules”).

**I. DEFINITIONS**

1. 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) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
  - (c) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
  - (d) “Compliance Plan” means the Company-wide program described in this Consent Decree.
  - (e) “Effective Date” means the date on which the Commission releases the Adopting Order.
  - (f) “Forfeiture Order” means the Forfeiture Order issued to Wilson and released on April 23, 2007.<sup>1</sup>
  - (g) “Investigation” means the investigation commenced by the Bureau with its inspection of the Three Stations on January 23, 2007 regarding possible violations of Section 73.3526 of the Rules.<sup>2</sup>
  - (h) “Wilson” means Wilson Broadcasting, Inc. and its predecessors-in-interest and successors-in-interest.
  - (i) “MO&O” means the Memorandum Opinion and Order issued to Wilson and released on August 20, 2007.<sup>3</sup>
  - (j) “NALs” means the Notices of Apparent Liability for Forfeiture issued to Wilson on February 13, 2007.<sup>4</sup>

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<sup>1</sup> *Wilson Broadcasting, Inc.*, Forfeiture Order, 22 FCC Rcd 7438 (Enf. Bur. South Central Region, 2007) (“*Forfeiture Order*”).

<sup>2</sup> 47 C.F.R. § 73.3526.

<sup>3</sup> *Wilson Broadcasting, Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 15963 (Enf. Bur. 2007) (“*Memorandum Opinion and Order*”).

<sup>4</sup> *Notices of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732480004, 200732480005, and 200732480006 (Enf. Bur., Atlanta Office, February 13, 2007) (“*NALs*”).

- (k) “Order” or “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (l) “Parties” means Wilson and the Commission.
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Federal Regulations.

## II. BACKGROUND

2. Pursuant to Section 73.3526(e) of the Rules,<sup>5</sup> commercial broadcast stations are required to maintain for public inspection, a file containing materials listed in that section.<sup>6</sup> Section 73.3526(e)(12) of the Rules<sup>7</sup> requires licensees to place in the public inspection file, for each calendar quarter, a list of the programs that have provided the station’s most significant treatment of community issues during the preceding three month period (“Issues/Programs Lists”).<sup>8</sup>

3. On February 13, 2007, the Commission’s Atlanta Office of the Enforcement Bureau issued three NALs each in the amount of \$4,000 to Wilson. Wilson filed a consolidated response to the NALs, but the Bureau found no basis upon which to reduce the proposed forfeiture and issued the Forfeiture Order. Wilson filed a petition for reconsideration of the Forfeiture Order. On August 20, 2007, the Bureau released the MO&O denying Wilson’s petition for reconsideration. Wilson filed an application for review of the MO&O, requesting that the forfeiture be cancelled or reduced.

## III. TERMS OF AGREEMENT

4. **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 without change, addition, modification, or deletion.

5. In consideration for the termination of said investigation, Wilson withdraws its application for review of the MO&O.

6. **Jurisdiction.** Wilson agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and 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 date on which the FCC releases the Adopting Order. Upon release, 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 Bureau order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission order.

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<sup>5</sup> 47 C.F.R. § 73.3526(e).

<sup>6</sup> 47 C.F.R. § 73.3526(e).

<sup>7</sup> 47 C.F.R. § 73.3526(e)(12).

<sup>8</sup> 47 C.F.R. § 73.3526(e)(12).

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 its investigation and to cancel its NAL. In consideration for the termination of said investigation, Wilson 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 of the Consent Decree, 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 Wilson concerning the matters that were the subject of the investigation. The Bureau also agrees that it will not use the facts developed in this Investigation through the Effective Date of this Consent Decree, 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 Wilson with respect to Wilson's basic qualifications, including its character qualifications, to be a Commission licensee.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, Wilson agrees to maintain a Compliance Plan related to future compliance with the Act, the Commission's rules, and the Commission's orders. Wilson will ensure that it will compile and maintain complete public inspection files for the Three Stations, including all required Issues/Programs Lists.

10. **Compliance Reports.** Wilson will file compliance reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, and twenty-four month after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Wilson, stating that the officer has personal knowledge that Wilson has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. All compliance reports shall be submitted to George Dillon, Associate Chief, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

11. **Voluntary Contribution.** Wilson agrees that it will make a voluntary contribution to the United States Treasury in the amount of six thousand five hundred dollars. Wilson shall make its voluntary contribution to the United States Treasury, by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. 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). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures.

12. **Waivers.** Wilson 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 Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Wilson 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 Wilson nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Wilson shall waive any statutory right to a trial *de novo*. Wilson hereby 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.*, relating to the matters addressed in this Consent Decree.

13. **Invalidation.** In the event that this Consent Decree 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.

14. **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.

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

16. **Successors and Assigns.** Wilson agrees that the provisions of this Consent Decree shall be binding on its successors and assigns.

17. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. 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, Wilson does not admit or deny noncompliance, violation or liability for violating the Act or the Rules in connection with the matters that are the subject of this Consent Decree.

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

19. **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.

20. **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire May 14, 2010.

21. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

22. **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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George R. Dillon  
Associate Chief  
Enforcement Bureau

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Date

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James Wilson, III.  
President  
Wilson Broadcasting, Inc.

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Date