

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

In the Matter of)	
)	File No. EB-08-IH-1895
Beasley Broadcast Group, Inc.)	NAL/Acct. No. 200932080009
Parent of)	FRN: 0004988077
)	
WRXK License Limited Partnership)	
Licensee of Station WRXK-FM)	FRN: 0003764602
Bonita Springs, Florida)	Facility ID No. 73976
)	
and)	
)	
WQAM License Limited Partnership)	File No. BR-20031001BXU
Licensee of Station WQAM(AM))	FRN: 0004305215
Miami, Florida)	Facility ID No. 64002
)	
Notice of Apparent Liability)	NAL/Acct. No. 200432080201
For Forfeiture released)	
November 23, 2004 (FCC 04-225))	

ORDER

Adopted: October 30, 2008

Released: October 30, 2008

By the Chiefs of the Enforcement Bureau and the Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Enforcement Bureau and the Media Bureau of the Federal Communications Commission (the "Bureaus") and Beasley Broadcast Group, Inc. and its indirect subsidiaries: WQAM License Limited Partnership, licensee of Station WQAM(AM), Miami, Florida; and WRXK License Limited Partnership, licensee of Station WRXK-FM, Bonita Springs, Florida (collectively, "Beasley" and the "Beasley Stations"). The Consent Decree resolves and terminates certain forfeiture proceedings, investigations and complaints currently being conducted by, or pending before, the Enforcement Bureau concerning possible violations by the Beasley Stations of the restrictions on indecent, profane and obscene programming in 18 U.S.C. § 1464 and 47 C.F.R. § 73.3999. The Consent Decree also terminates and cancels the above-captioned Notice of Apparent Liability for Forfeiture (NAL) and dismisses with prejudice (i) certain complaints concerning programming aired on or activities undertaken by Beasley Stations involving gambling and (ii) certain informal objections, as defined herein, filed against the license renewal application for Station WQAM(AM), FCC File No. BR-20031001BXU, pending before the Media Bureau. Finally, by virtue of having resolved all outstanding issues related to Beasley's

pending renewal application, the Media Bureau agrees to grant the license renewal application of Station WQAM(AM) upon Beasley's satisfaction of certain conditions.¹

2. The Bureaus and Beasley have negotiated the terms of the Consent Decree that resolve these matters. A copy of the Consent Decree is attached hereto and incorporated herein 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, terminating the investigations, dismissing the complaints and canceling the NAL.

4. In the absence of material new evidence relating to this matter, we conclude that our investigations raise no substantial or material questions of fact as to whether Beasley possesses the basic qualifications including, but not limited to, those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Communications Act of 1934, as amended,² and 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 above-described investigations **ARE TERMINATED** and the referenced Notice of Apparent Liability **IS CANCELLED**.

7. **IT IS FURTHER ORDERED** that the third-party complaints against Station WQAM(AM) and WRXK-FM, and the informal objections against the renewal application for Station WQAM(AM) before the Enforcement Bureau and Media Bureau, as described herein, as of the release date of this Consent Decree **ARE DISMISSED WITH PREJUDICE** to the extent that such objections were not considered by the Commission in a separate proceeding.⁴

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 Steven A. Lerman, Esquire, Leventhal Senter & Lerman, PLLC, 2000 K Street, N.W., Suite 600, Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

¹ In a separate proceeding, the Commission considered and denied Mr. Thompson's and other similar informal objections to granting renewal application of Station WQAM(AM), Miami, Florida, based on alleged improper retaliatory conduct and abuse. *See Beasley Broadcast Group, Inc.*, Memorandum Opinion and Order, FCC 08-251 (Oct. 23, 2008).

² 47 U.S.C. § 154(i), 503(b).

³ 47 C.F.R. §§ 0.111, 0.311.

⁴ *See* note 1 *supra*, citing *Beasley Broadcasting Group, Inc.*, Memorandum Opinion and Order, FCC 08-251.

Monica Shah Desai
Chief, Media Bureau

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Notice of Apparent Liability)	NAL/Acct. No. 200432080201
For Forfeiture released)	
November 23, 2004 (FCC 04-225))	

CONSENT DECREE

1. The Enforcement Bureau and the Media Bureau of the Federal Communications Commission (“Bureaus”) and Beasley Broadcast Group, Inc., WQAM License Limited Partnership, and WRXK License Limited Partnership (collectively, “Beasley” or the “Licensee”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving and terminating the above-captioned forfeiture proceeding and certain Investigations and Complaints currently being conducted by, or pending before, the Enforcement Bureau relating to whether Beasley violated 18 U.S.C. § 1464 and 47 C.F.R. § 73.3999 by broadcasting indecent, profane or obscene material over Stations WQAM(AM) and WRXK-FM; and for the purpose of resolving and terminating Complaints relating to Station WQAM(AM)’s airing of advertisements for internet gambling websites, its broadcast of discussions concerning wagering or betting, and its conduct of an internet contest. It also resolves and dismisses with prejudice all Informal Objections to the license renewal application for Station

WQAM(AM), FCC File No. BR-20031001BXU, pending before the Media Bureau, to the extent that such objections were not considered by the Commission in a separate proceeding.⁵

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) “Beasley” collectively means Beasley Broadcast Group, Inc. and its indirect subsidiaries, WQAM License Limited Partnership and WRXK License Limited Partnership.
- (c) “Beasley Station” and “Beasley Stations” mean Station WQAM(AM), Miami, Florida and/or WRXK-FM, Bonita Springs, Florida.
- (d) “Bureaus” means the Enforcement Bureau and the Media Bureau of the Federal Communications Commission.
- (e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (f) “Complaints” means the third-party complaints that may have been received by, or are in the possession of, the Commission or Bureaus, as of the Effective Date, alleging violations of the Commission’s Indecency Rules by Stations WQAM(AM) and/or WRXK-FM, alleging the improper broadcast of advertising for off-shore internet gambling sites and discussions concerning wagering or betting, and alleging possible violations of Commission rules based on a station-sponsored internet contest conducted by Station WQAM(AM).
- (g) “Compliance Plan” or “Plan” means the program described in this Consent Decree at paragraph 10.
- (h) “Effective Date” means the date on which the Bureaus release the Adopting Order.
- (i) “Indecency Rules” means 18 U.S.C. § 1464 and 47 C.F.R. § 73.3999.
- (j) “Informal Objections” means the informal objections to the renewal of Station WQAM(AM), Miami, Florida, FCC File No. BR-20031001BXU, filed by John B. Thompson, and dated November 11, 12, 13, 17, 18, 2003, August 20, 2004, and

⁵ See *Beasley Broadcast Group, Inc.*, Memorandum Opinion and Order, FCC 08-251 (Oct. 23, 2008).

December 12, 2007, and filed by D.G. Robinson on December 5, 2003, and received by, or in the possession of, the Commission or Bureaus.

- (k) “Investigations” means any investigation initiated by the Investigation and Hearings Division prior to the Effective Date regarding whether Beasley violated the Commission’s Indecency Rules as well as the investigation by the Media Bureau considering the allegations in the informal objections to the renewal of Station WQAM(AM).
- (l) “Investigations and Hearings Division” means the Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, acting on behalf of the Enforcement Bureau.
- (m) “NAL” means Notice of Apparent Liability for Forfeiture issued pursuant to Section 1.80 of the Rules, including that certain Notice of Apparent Liability for Forfeiture concerning WQAM License Limited Partnership (WQAM(AM)), Miami, Florida (FCC 04-225), released November 23, 2004.
- (n) “Order” or “Adopting Order” means an Order adopted by the Bureaus adopting the terms of this Consent Decree without change, addition, deletion or modification.
- (o) “Parties” means Beasley and the Bureaus.
- (p) “Rules” means the Commission’s regulations found in Title 47 of the 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.⁶ In addition, the Commission prohibits the broadcast of indecent or profane material during the time period of 6:00 a.m. through 10:00 p.m.⁷

4. The Enforcement Bureau has received multiple Complaints alleging that Beasley has violated the Commission’s Indecency Rules. Certain of these Complaints have resulted in Investigations and the issuance of letters of inquiry and an NAL.

5. The Media Bureau received Informal Objections, filed by John B. Thompson and by D.G. Robinson, to the WQAM(AM) license renewal application. Mr. Thompson’s initial Informal Objection, dated November 11, 2003, was supplemented by filings dated November 12, 13, 17, 18, 2003, August 20, 2004, and December 12, 2007. D.G. Robinson’s Informal Objection was filed on December 5, 2003.

⁶ See 18 U.S.C. § 1464.

⁷ See 47 C.F.R. § 73.3999.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureaus by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

7. **Jurisdiction.** Beasley agrees that the Bureaus have jurisdiction over it and the matters contained in this Consent Decree and also have the authority to enter into and adopt this Consent Decree.

8. **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 Bureaus. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of the Bureaus' Order, entitling the Enforcement Bureau and/or the Media Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

9. **Termination of Investigations.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureaus agree to terminate their respective Investigations, dismiss the Complaints and Informal Objections, and cancel the NAL. In consideration for the termination of said Investigations, dismissal of the Complaints and Informal Objections, and cancellation of the NAL, Beasley agrees to the terms, conditions, and procedures contained herein. The Bureaus further agree that, in the absence of material evidence not actually or constructively known to the Commission as of the Effective Date, neither Bureau will use the facts developed in their respective Investigations or contained in the Complaints or Informal Objections through the Effective Date of the Consent Decree, nor 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 Beasley concerning the matters that were the subject of the Investigations, Complaints, or Informal Objections. The Bureaus also agree that they will not use the facts developed in these Investigations or contained in the Complaints or Informal Objections 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 Beasley with respect to Beasley's basic qualifications, including its character qualifications, to be a Commission licensee or hold a Commission license.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, Beasley agrees to adopt, implement and maintain pursuant to the Consent Decree, at its Stations WQAM(AM), Miami, Florida, and WRXK-FM, Bonita Springs, Florida ("Stations"), a Compliance Plan related to future compliance with the Act, the Commission's Rules, and the Commission's Orders for a period of three years. The Plan will include, at a minimum, the following components:

- a. Beasley will conduct training for the Stations with respect to federal statutes and regulations prohibiting the broadcast of obscene, indecent or profane material, including FCC rulings thereon, for all employees who are on-air talent and/or materially participate in the on-air broadcast of program material or making of programming decisions at the Stations ("Programming Employees"). Such training will be provided to all Programming Employees within ninety (90) days of the Effective Date of this Compliance Plan. The training will also be provided to all new Programming Employees promptly after they commence their duties.

Refresher training will be provided to all Programming Employees at least once every twelve (12) months.

- b. If either of the Stations receives a Notice of Apparent Liability, Order, or similar Commission document proposing a forfeiture and/or contemplating license non-renewal or revocation for a broadcast occurring after the Effective Date on the grounds that the broadcast contained obscene, indecent, and/or profane material, the following steps will be taken:
 - (1) All employees responsible for airing, or who materially participated in the decision to air the obscene, indecent, and/or profane content will be suspended and an investigation will immediately be undertaken;
 - (2) Such employees will be required to undergo remedial training on the FCC's obscenity, indecency, and profanity regulations and policies and satisfy station management that they understand such regulations and policies before resuming their duties; and
 - (3) If any such employee who is on-air talent is permitted to return to live broadcasting at the Stations following remedial training, a program monitor will be assigned and the employee's broadcasts will be subjected to a time delay sufficient to permit the program monitor to prevent the broadcast of material that is actionably obscene, indecent, and/or profane.
- c. If a Notice of Apparent Liability, Forfeiture Order, Order or similar document assessing or proposing a forfeiture, denying a renewal application, and/or revoking an FCC authorization is finally adjudicated and Beasley is determined to have aired obscene, indecent, and/or profane material, the employees responsible for airing, or who materially participated in the decision to air, that material will be subject to further disciplinary action, up to and including termination.
- d. Subject to applicable law, including antitrust laws, Beasley will fully participate with representatives of the broadcast, cable, and satellite industries in any efforts that may emerge to develop a voluntary industry-wide response to programming violative of the Indecency Rules.
- e. Unless stated otherwise, the requirements of this Consent Decree will expire three years from the Effective Date.

11. **Compliance Reports.** Beasley will file compliance reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, twenty-four months after the Effective Date and thirty-six months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Beasley, stating that the officer has personal knowledge that Beasley has consulted with counsel 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 Hillary DeNigro, Chief, Investigations and Hearings Division, Enforcement

Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, and to Peter H. Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

12. **Voluntary Contribution.** Beasley agrees that it will make a voluntary contribution to the United States Treasury in the amount of eighty-five thousand dollars (\$85,000) within ten calendar days of the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number 200932080009 and FRN Number 0004988077. 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). Beasley shall also send an electronic notification on the date such payment is made to: Hillary DeNigro, at Hillary.DeNigro@fcc.gov, Melanie Godschall, at Melanie.Godschall@fcc.gov, and Peter Doyle, at Peter.Doyle@fcc.gov.

13. **Waivers.** Beasley 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. Beasley 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 Beasley nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Beasley shall waive any statutory right to a trial *de novo*. Beasley 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.

14. **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 Beasley does not expressly consent) that provision will be superseded by such Commission rule or Order.

15. **Successors and Assigns.** Beasley agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees, except that the requirements contained in paragraphs 10 and 11 relating to the Compliance Plan and Reports to be filed thereunder shall terminate if Beasley, with prior Commission approval, assigns the Station License(s).

16. **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.

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

18. **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.

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

20. **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.

ENFORCEMENT BUREAU

Kris Anne Monteith, Chief

Date

MEDIA BUREAU

Monica Shah Desai, Chief

Date

BEASLEY BROADCAST GROUP, INC.

Caroline Beasley, Chief Financial Officer

Date