

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

In the Matter of)
)
)
WORD OF GOD FELLOWSHIP, INC.)
AKA COMMUNITY TELEVISION)
EDUCATORS, INC.)
)
Licensee of Noncommercial Educational)
Television Station KRMT(TV), Denver,)
Colorado)
)
COMMUNITY TELEVISION)
EDUCATORS OF TEXAS, INC.)
)
Licensee of Noncommercial Educational)
Television Station KLTJ(TV), Galveston,)
Texas)
)
COMMUNITY TELEVISION)
EDUCATORS OF DFW, INC.)
)
Licensee of Noncommercial Educational)
Television Station KDTN(TV), Denton, Texas)
)
EDUCATIONAL BROADCASTING)
CORPORATION)
)
Licensee of Noncommercial Educational)
Television Station KKAP(TV), Little Rock,)
Arkansas)
)
EDUCATIONAL PUBLIC TV)
CORPORATION)
)
Licensee of Noncommercial Educational)
Television Station WYDN(TV), Worcester,)
Massachusetts)
)
COMMUNITY TELEVISION)
EDUCATORS, INC.)
)
Licensee of Noncommercial Educational)
Television Station KDTP(TV), Holbrook,)
Arizona)

File Nos. EB-04-IH-0018
and EB-04-IH-0140

FRN 0001843697
Account No. 200932080016

Facility ID No. 20476

FRN 0008713059
Account No. 200932080016

Facility ID No. 24436

FRN 0009436411
Account No. 200932080016

Facility ID No. 49326

FRN 0008358970
Account No. 200932080016

Facility ID No. 58267

FRN 0008778565
Account No. 200932080016

Facility ID No. 18783

FRN 0008980682
Account No. 200932080016

Facility ID No. 83491

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| HO'ONA'AUAO COMMUNITY TV, INC. |) | |
| |) | FRN 0009659400 |
| Licensee of Noncommercial Educational |) | Account No. 200932080016 |
| Television Station KWBN(TV), Honolulu, |) | |
| Hawaii |) | Facility ID No. 27425 |
| |) | |
| |) | |
| PUGET SOUND EDUCATIONAL TV, INC. |) | |
| |) | FRN 0008778623 |
| Licensee of Noncommercial Educational |) | Account No. 200932080016 |
| Television Station KWDK(TV), Tacoma, |) | |
| Washington |) | Facility ID No. 35419 |

CONSENT DECREE

1. The Enforcement Bureau ("Bureau") and Word of God Fellowship, Inc., also known as Community Television Educators, Inc.; Community Television Educators of Texas, Inc.; Community Television Educators of DFW, Inc.; Educational Broadcasting Corporation; Educational Public TV Corporation; Community Television Educators, Inc.; Ho'ona'auao Community TV, Inc.; and Puget Sound Educational TV, Inc. (each of which does business as Daystar Television Network) (collectively, "Daystar"), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether Daystar violated Section 399B of the Communications Act of 1934, as amended,¹ and Section 73.621(e) of the Commission's Rules,² in connection with the broadcast by Daystar of underwriting acknowledgments over its noncommercial educational Stations KLTJ(TV), Galveston, Texas; KDTN(TV), Denton, Texas; KRMT(TV), Denver, Colorado; KKAP(TV), Little Rock, Arkansas; WYDN(TV), Worcester, Massachusetts; KDTP(TV), Holbrook, Arizona; KWBN(TV), Honolulu, Hawaii; and KWDK(TV), Tacoma, Washington.

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 by 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.
 - (d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) "Complaint" means a third-party complaint alleging violations of the Commission's Underwriting Laws, dated October 10 and December 18, 2003, that may have been received by, or is in the possession of, the Commission or Bureau.
 - (f) "Compliance Plan" means the program described in this Consent Decree at paragraph 9.

¹ See 47 U.S.C. § 399b.

² See 47 C.F.R. § 73.621 (e).

- (g) “Daystar” means Word of God Fellowship, Inc., also known as Community Television Educators, Inc.; Community Television Educators of Texas, Inc.; Community Television Educators of DFW, Inc.; Educational Broadcasting Corporation; Educational Public TV Corporation; Community Television Educators, Inc.; Ho’ona’auao Community TV, Inc.; and Puget Sound Educational TV, Inc. (each of which does business as Daystar Television Network) and its predecessors-in-interest and successors-in-interest. Daystar” means Word of God Fellowship, Inc., also known as Community Television Educators, Inc.; Community Television Educators of Texas, Inc.; Community Television Educators of DFW, Inc.; Educational Broadcasting Corporation; Educational Public TV Corporation; Community Television Educators, Inc.; Ho’ona’auao Community TV, Inc.; and Puget Sound Educational TV, Inc. (each of which does business as Daystar Television Network) and its predecessors-in-interest and successors-in-interest.
- (h) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (i) “Investigation” means the investigation commenced by the Bureau’s Letters of Inquiry dated February 20, 2004, May 28, 2004, July 16, 2008, September 14, 2004, and October 8, 2004, regarding whether Daystar violated the Commission’s Underwriting Laws in connection with its operation of the Stations during the period May 2003 and August 2003.³
- (j) “Parties” mean Daystar and the Bureau.
- (k) “Rules” mean the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (l) “Stations” mean Stations KLTJ(TV) Galveston, Texas (Facility ID No. 24436); KDTN(TV) Denton, Texas (Facility ID No. 49326); KRMT(TV), Denver, Colorado (Facility ID No. 20476); KKAP(TV), Little Rock, Arkansas (Facility ID No. 58267); WYDN(TV), Worcester, Massachusetts (Facility ID No.18783); KDTP(TV), Holbrook, Arizona (Facility ID No. 83491); KWBN(TV), Honolulu, Hawaii (Facility ID No. 27425); and KWDK(TV), Tacoma, Washington (Facility ID No.35419).
- (m) “Underwriting Laws” mean Section 399B of the Communications Act of 1934, 47 U.S.C. § 399b, and Section 73.621 (e) of the Commission’s Rules, 47 C.F.R. § 73.621 (e).

II. BACKGROUND

3. Pursuant to Section 399b(a) of the Act⁴ and Section 73.621(e) of the Commission’s Rules, advertisements are defined as program material broadcast “in exchange for any remuneration” and intended to “promote any service, facility, or product” of for-profit entities.⁵ Section 399b(b)(2)

³ See Letter from William D. Freedman, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to EchoStar and Daystar, dated February 20, 2004 (“*February 20th LOP*”); Letter from William D. Freedman, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Daystar, dated May 28, 2004 (“*May 28th LOP*”); Letter from William D. Freedman, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Daystar, dated July 16, 2004 (“*July 16 LOP*”); Letter from William D. Freedman, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Daystar, dated September 14, 2004 (“*September 14th LOP*”); Letter from William D. Freedman, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to EchoStar and Daystar, dated October 8, 2004 (“*Oct 8th LOP*”).

⁴ See 47 U.S.C. § 399b.

⁵ See 47 U.S.C. § 399b(a).

specifically provides that noncommercial educational stations may not broadcast advertisements.⁶ Although contributors of funds to such stations may receive on-air acknowledgements, the Commission has held that such acknowledgements may be made for identification purposes only, and should not promote the contributors' products, services, or businesses.⁷ The Commission has also limited the sale or promotion of program-related goods or services aired by noncommercial educational stations.⁸ The sale of program-related materials offered by the noncommercial educational station or by other not-for-profit entities is permissible, even if the station received consideration for the broadcast.⁹ However, the sale of program-related goods and services by for-profit program producers and suppliers is prohibited: "(1) where the cost [of the good or service is] more than nominal; or (2) where consideration has been received; and (3) where the offering was designed to further the economic interest of the offeror."¹⁰ In short, this limitation is intended to ensure that announcements for program-related goods or services are made to benefit the public interest rather than to raise profit for the for-profit entity.¹¹

4. On February 20, May 28, July 16, September 14, and October 8, 2004, the Bureau issued letters of inquiry ("LOI") to Daystar. These LOIs directed Daystar, among other things, to submit sworn written statements in response to questions relating to allegations that Daystar had aired announcements and engaged in the sale of products in violation of the Underwriting Laws. Daystar responded on March 17, March 22, June 28, August 12, and November 8, 2004.¹² The announcements and sale of products appear to have violated the Underwriting Laws because they have the appearance of exceeding the bounds of what is permissible and within licensee discretion under the Act and pertinent Commission precedent.¹³

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 without change, addition, modification, or deletion.

6. Jurisdiction. Daystar 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.

⁶ See 47 U.S.C. § 399b(b)(2).

⁷ See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice (1986), *republished*, 7 FCC Rcd 827 (1992) ("*Public Notice*").

⁸ See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Report and Notice of Proposed Rulemaking, 69 FCC 2d 200 (1978) ("*First Report*").

⁹ See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Memorandum Opinion and Order, 90 FCC 2d 895, 906 ¶ 20 (1982) ("*1982 Policy Statement*").

¹⁰ *Id.*; see also *First Report*, 69 FCC 2d at 210-11 ¶ 22 n.12.

¹¹ See *1982 Policy Statement*, 90 FCC 2d at 912 ¶ 28.

¹² See Letters of Daystar to William D. Freedman, Deputy Chief, Investigations and Hearings, Division, Enforcement Bureau, dated March 17 and 22, 2004 ("*Daystar's March 17th Response* and *Daystar's March 22nd Response*"); Letter of Daystar to Kenneth M. Scheibel, Jr., Investigations and Hearings Division, Enforcement Bureau, dated June 28, 2004 ("*Daystar's June 28th Response*"); Letter of Daystar to Kenneth M. Scheibel, Jr., Investigations and Hearings Division, Enforcement Bureau, dated August 12, 2004 ("*Daystar's August 12th Response*"); Letter of Daysar to Kenneth M. Scheibel, Jr., Investigations and Hearings Division, Enforcement Bureau, dated November 8, 2004 ("*Daystar's November 8th Response*").

¹³ See *Xavier University*, Memorandum Opinion and Order, 5 FCC Rcd 4920 (1990).

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 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 its Investigation and dismiss the Complaint. In consideration for the termination of said Investigation and dismissal of the Complaint, Daystar 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 Daystar 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 Daystar with respect to Daystar's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission authorizations.

9. Compliance Plan. For purposes of settling the matters set forth herein, Daystar agrees to maintain a Compliance Plan related to future compliance with the Act, the Commission's Rules, and the Commission's Orders. The Plan will include, at a minimum, the following components:

a. Daystar will continue to utilize a multi-level review procedure for underwriting content to be aired on the Stations. In working with prospective underwriters, the Daystar staff will continue to brief potential donors on the Underwriting Laws, provide them with the current Daystar Copy Guidelines, and work with them to fashion acceptable language.

b. Daystar will continue to train employees on acceptable underwriting content, including but not limited to, the Commission's rules regarding the sale or promotion of program-related goods or services¹⁴ that complies with the Underwriting Laws.

c. Daystar will make good faith efforts, with respect to nationally distributed programming aired on the Stations, to obtain from the distributors of such programming the copy for underwriting announcements contained in such programming in advance of such programming's broadcast, for the purposes of independently reviewing such copy for compliance with the Underwriting Laws.

d. Termination Date. Unless stated otherwise, the requirements of the Compliance Plan will expire three (3) years after the Effective Date.

10. Compliance Reports. Daystar 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 upon expiration of this Consent Decree, three years after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Daystar, stating that the officer has personal knowledge that Daystar has established and maintained on an ongoing basis operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. Each compliance

¹⁴ See *First Report*, *supra* note 8.

report will describe any significant difficulties the Licensee has encountered during the reporting period in ensuring compliance with the Underwriting Laws, what steps it has taken to resolve those difficulties, and the success of those steps in doing so. All compliance reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554.

11. Voluntary Contribution. Daystar agrees that it will make a voluntary contribution to the United States Treasury in the amount of seventeen thousand five hundred dollars (\$17,500.00). The payment in full will be made within five (5) calendar days after 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 and FRN Number referenced in the caption to the Adopting Order. 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). Daystar will also send electronic notification on the date said payment is made to Hillary.DeNigro@fcc.gov, Ben.Bartolome@fcc.gov, Kenneth.Scheibel@fcc.gov, and Anita.Patankar-Stoll@fcc.gov.

12. Waivers. Daystar 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. Daystar 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 Daystar nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Daystar shall waive any statutory right to a trial *de novo*. Daystar 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. 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 Daystar does not expressly consent) that provision will be superseded by such Commission rule or Order.

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

15. 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, Daystar does not admit or deny noncompliance, violation or liability for violating the Act, the Commission’s Rules or Orders in connection with the matters that are the subject of this Consent Decree.

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

17. 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.

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

19. 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.

Kris Anne Monteith
Chief
Enforcement Bureau

Date

Marcus D. Lamb
President
Word of God Fellowship, Inc., aka Community
Television Educators, Inc.; Community Television
Educators of Texas, Inc.; Community Television
Educators of DFW, Inc.; Educational Broadcasting
Corporation; Educational Public TV Corporation;
Community Television Educators, Inc.;
Ho'ona'auao Community TV, Inc.; and Puget
Sound Educational TV, Inc.

Date