

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

In the Matter of)

A Radio Company, Inc.)
Licensee of Station WEGA)
Vega Baja, PR 00694)
Facility ID # 69853)

File Number EB-05-SJ-025

NAL/Acct. No.200632680001

FRN 0010555654

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 A Radio Company, Inc. (“A Radio”), licensee of AM radio station WEGA in Vega Baja, Puerto Rico. The Consent Decree terminates an investigation by the Bureau against A Radio for possible violations of Sections 73.49, 73.1350(a), and 73.3526 of the Commission’s Rules (“Rules”)¹ regarding antenna tower fencing and public inspection file requirements and operating with an unauthorized antenna pattern.

2. The Bureau and A Radio 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 A Radio possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) and 503(b) of the Communications Act of 1934, as amended,² the Consent Decree attached to this Order **IS ADOPTED**.

¹ 47 C.F.R. §§ 73.49, 73.1350(a), 73.3526.

² 47 U.S.C. §§ 154(i), 503(b).

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that A Radio Company, 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 with any questions regarding payment procedures.

8. **IT IS FURTHER ORDERED** that within 90 of days of the adoption of this Consent Decree, A Radio Company, 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 A Radio Company, Inc. at its address of record and to its counsel, Audrey Rasmussen, Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C., 1120 20th Street, NW, Suite 700 North Building, Washington, DC 20036-3406.

FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon
Associate Chief, Enforcement Bureau

CONSENT DECREE

The Enforcement Bureau (“Bureau”) and A Radio Company, Inc. (“A Radio”), licensee of AM radio station WEGA in Vega Baja, Puerto Rico, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether A Radio violated Sections 73.48, 73.1350(a), and 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 A Radio and released on November 3, 2006.¹
 - (g) “Investigation” means the investigation commenced by the Bureau with its inspection of station WEGA on August 25, 2005 regarding possible violations of Sections 73.49, 73.1350(a), and 73.3526 of the Rules.²
 - (h) “A Radio” means A Radio Company, Inc. and its predecessors-in-interest and successors-in-interest.
 - (i) “MO&O” means the Memorandum Opinion and Order issued to A Radio and released on February 1, 2007.³

¹ *A Radio Company, Inc.*, Forfeiture Order, 21 FCC Rcd. 13046 (Enf. Bur. South Central Region 2006) (“*Forfeiture Order*”).

² 47 C.F.R. §§ 73.49, 73.1350(a), 73.3526.

³ *A Radio Company, Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 2019 (Enf. Bur. 2007) (“*Memorandum Opinion and Order*”).

- (j) “NAL” means the Notice of Apparent Liability for Forfeiture issued to A Radio on October 25, 2005.⁴
- (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 A Radio and the Commission.
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Federal Regulations.

II. BACKGROUND

2. Pursuant to Section 73.49 of the Rules,⁵ antenna towers having radio frequency potential at the base must be enclosed within effective locked fences or other enclosures. Individual tower fences need not be installed if the towers are contained within a protective property fence.

3. Pursuant to Section 73.1350(a) of the Rules,⁶ each licensee is responsible for maintaining and operating its broadcast station in a manner which complies with the technical rules set forth elsewhere in this part and in accordance with the terms of the station authorization.

4. Pursuant to Section 73.3526(e) of the Rules,⁷ commercial broadcast stations are required to maintain for public inspection, a file containing materials listed in that section.⁸ Section 73.3526(e)(12) of the Rules⁹ 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”).¹⁰

5. On October 25, 2005, a resident agent of the San Juan Office issued a NAL in the amount of \$15,000 to A Radio. A Radio filed a response to the NAL, but the Bureau found no basis upon which to reduce the proposed forfeiture and issued the Forfeiture Order. A Radio filed a petition for reconsideration of the Forfeiture Order, regarding the fencing violation. On February 1, 2007, the Bureau released the MO&O granting in part and denying in part A Radio’s petition for reconsideration and reducing the forfeiture to \$14,000 based on A Radio’s good faith efforts to comply with Section 73.49 of the Rules. A Radio filed an application for review of the MO&O, requesting that the fencing violation be cancelled.

⁴ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200632680001 (Enf. Bur., San Juan Office, released October 25, 2005).

⁵ 47 C.F.R. § 73.49.

⁶ 47 C.F. R. § 73.1350(a).

⁷ 47 C.F.R. § 73.3526(e).

⁸ 47 C.F.R. § 73.3526(e).

⁹ 47 C.F.R. § 73.3526(e)(12).

¹⁰ 47 C.F.R. § 73.3526(e)(12).

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 Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

7. In consideration for the termination of said investigation, A Radio withdraws its application for review of the MO&O.

8. **Jurisdiction.** A Radio 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.

9. **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.

10. **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. In consideration for the termination of said investigation, A Radio 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 A Radio 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 A Radio with respect to A Radio's basic qualifications, including its character qualifications, to be a Commission licensee.

11. **Compliance Plan.** For purposes of settling the matters set forth herein, A Radio 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:

- i. A Radio will ensure that it will compile and maintain in its stations' public inspection files Issues/Programs Lists.
- ii. A Radio will ensure that its stations operate its transmitters as authorized in its stations' authorizations, including special temporary authorizations.
- iii. A Radio will repair the perimeter property fence surrounding station WEGA and ensure that it remains intact.

Compliance Reports. A Radio 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 A Radio, stating that the officer has personal knowledge that A Radio 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.

12. **Voluntary Contribution.** A Radio agrees that it will make a voluntary contribution to the United States Treasury in the amount of eight thousand dollars. A Radio 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 with any questions regarding payment procedures.

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

15. **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.

16. **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 A Radio does not expressly consent) that provision will be superseded by such Commission rule or order.

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

18. **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.

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

20. **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.

21. **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire April 9, 2010.

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

23. **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.

George R. Dillon
Associate Chief
Enforcement Bureau

Date

Gerardo Angulo
President
A Radio Company, Inc.

Date