

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

In the Matter of)	
)	
BELA TV, LLC)	File No. EB-06-IH-1138
)	NAL/Account No. 201032080003
Former Licensee of Television Station KBEH)	FRN 0010754067
(TV), Oxnard, California ¹)	Facility ID No. 56384

CONSENT DECREE

1. The Enforcement Bureau and Bela, LLC, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into alleged violations of Section 1464 of Title 18, United States Code and Section 73.3999 of the Commission's rules,² by the broadcast of indecent, profane or obscene material over Station KBEH (TV), Oxnard, California.³

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) "Bela" means Bela TV, LLC and its predecessors-in-interest and successors-in-interest, if any.
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

¹ Bela TV, LLC ("Bela TV") was dissolved on August 15, 2008. Bela TV's successor-in-interest is Bela TV's sole member, Bela, LLC. *See* Letter from Paul J. Feldman, Esq., attorney for Bela TV, LLC, to Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated April 2, 2009.

² *See* 18 U.S.C. § 1464; 47 C.F.R. § 73.3999.

³ We note that consent to the assignment of Station KBEH was granted on February 14, 2008. Prior to this assignment, Bela entered into an assignment agreement on February 11, 2008, which required the Licensee to place funds in escrow to cover potential liability. In accordance with the assignment agreement, this consent decree does not affect or involve the assignee of the Station (which has no liability or potential liability associated with the alleged rule violations discussed in Paragraph 1 above).

- (f) “Complaints” means the third-party complaints that may have been received by, or are in the possession of, the Commission or Bureau, as of the Effective Date, alleging violations of the Commission’s Indecency Rules by Station KBEH (TV), Oxnard, California.
- (g) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (h) “Indecency Rules” means 18 U.S.C. § 1464 and 47 C.F.R. § 73.3999.
- (i) “Investigation” means the investigation commenced by the Bureau’s letter of inquiry dated October 30, 2006, regarding whether Bela violated the Commission’s Indecency Rules in connection with its operation of Station KBEH (TV) on February 24, 2006.⁴
- (j) “Parties” means Bela and the Bureau.
- (k) “Rules” means the Commission’s regulations found in Title 47 of the Code of 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.⁵ In addition, Section 73.3999 of the Commission’s rules provides that radio and television stations shall not broadcast obscene material at any time,⁶ and consistent with a subsequent statute and court case, shall not broadcast indecent material between 6:00 a.m. and 10:00 p.m.⁷ Profane material also may not be aired during this time period.⁸

4. The Commission received multiple complaints alleging that Station KBEH (TV) had violated the Commission’s Indecency Rules during its broadcast of the program “Atrévete” on February 24, 2006. On October 30, 2006, the Bureau issued a letter of inquiry (“LOI”) to Bela. This LOI directed Bela to confirm whether Station KBEH (TV) had aired the complained-of material and, if so, to provide a recording and written transcript of the broadcast, as well as all documents relating or referring to the broadcast.⁹ On December 13, 2006, Bela responded to the LOI.¹⁰

⁴ See Letter from Benigno E. Bartolome, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Bela TV, LLC, dated October 30, 2006 (“LOI”).

⁵ See 18 U.S.C. § 1464.

⁶ See 47 C.F.R. § 73.3999.

⁷ See Public Telecommunications Act of 1992, Pub. L. No. 102-356, 106 Stat. 949 (1992) (setting the safe harbor of 10:00 p.m. to 6:00 a.m. for the broadcast of indecent material); *Action for Children’s Television v. FCC*, 58 F.3d 654, 656 (D.C. Cir 1995) (*en banc*) (affirming restrictions prohibiting the broadcast of indecent material between the hours of 6:00 a.m. and 10:00 p.m.) (“*ACT IIP*”), *cert. denied*, 516 U.S. 1072 (1996).

⁸ See *Complaints Against Various Licensees Regarding Their Airing of the “Golden Globe Awards” Program*, Memorandum Opinion and Order, 19 FCC Rcd 4975, 4981 (2004), *petitions for stay and reconsideration pending*.

⁹ See LOI at 4.

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.** Bela 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 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, Bela 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 Bela or any successor-in-interest to Bela 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 Bela or any successor-in-interest to Bela with respect to any basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission authorizations.

9. **Voluntary Contribution.** Bela agrees that it will make a voluntary contribution to the United States Treasury in the amount of twenty-five thousand dollars (\$25,000.00). 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). Bela 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.

¹⁰ See Letter from Harry F. Cole, Counsel to Bela TV, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated December 13, 2006 (“LOI Response”).

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

11. **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 conflicting with the terms of this Consent Decree to which Bela does not expressly consent) that provision will be superseded by such Commission rule or Order.

12. **Successors and Assigns.** The Parties agree that the provisions of this Consent Decree shall be binding on and applicable to Bela's successors, assigns, and transferees, if any.

13. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. Bela admits, solely for the purpose of this Consent Decree and for FCC civil enforcement purposes that its broadcast of the complained-of material violated the Commission's Indecency Rules.

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

15. **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.

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

17. **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.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Robert Behar
President
Bela, LLC, as successor-in-interest to
Bela TV, LLC

Date