

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

In the Matter of)	
)	
ACC LICENSEE, INC.)	EB-06-IH-1363
)	Facility ID No. 1051
Licensee of Station WJLA-TV,)	Account No. 201032080033
Washington, D.C.)	FRN No. 0007517576
)	

ORDER

Adopted: September 29, 2010

Released: September 29, 2010

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and ACC Licensee, Inc. (“Licensee”). The Consent Decree terminates the investigation initiated by the Bureau against the Licensee for possible violations of Sections 317 and 507 of the Communications Act of 1934, as amended (the “Act”),¹ and Section 73.1212 of the Commission’s rules, regarding sponsorship identification.²

2. The Bureau and the Licensee have negotiated the terms of a 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 the Licensee 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) of the Communications Act of 1934, as amended,³ and Sections 0.111 and 0.311 of the Commission’s Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

¹ See 47 U.S.C. §§ 317, 508.

² See 47 C.F.R. § 73.1212.

³ See 47 U.S.C. § 154(i).

⁴ See 47 C.F.R. §§ 0.111, 0.311.

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

7. **IT IS FURTHER ORDERED** that the third-party complaint against the Licensee before the Bureau related to the above-captioned-investigation as of the date of this Consent Decree **IS DISMISSED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent to by first-class, certified mail, return receipt requested to Jerald N. Fritz, Allbritton Communications Company, 1000 Wilson Boulevard, Suite 2700, Arlington, VA 22209, and to Kevin P. Latek, Dow Lohnes PLLC, 1200 New Hampshire Avenue, NW, Suite 800, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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ACC LICENSEE, INC.)	EB-06-IH-1363
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)	Account No. 201032080033
Licensee of Station WJLA-TV, Washington, D.C.)	FRN No. 0007517576
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CONSENT DECREE

1. The Enforcement Bureau (“Bureau”) and ACC Licensee, Inc. (“Licensee”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether the Licensee violated the Sponsorship Identification Laws, as defined below.

I. DEFINITIONS

2. For 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 of the FCC adopting this Consent Decree, without any modifications adverse to the Licensee;
 - (c) “Bureau” means the FCC’s Enforcement Bureau;
 - (d) “Commission” or “FCC” means the Federal Communications Commission or its staff acting on delegated authority;
 - (e) “Complaint” means the third-party complaint received by, or in the possession of, the Bureau, to the extent that it identified WJLA-TV (but not respecting those stations also therein identified and licensed to other broadcasters), and that formed the basis for the Bureau’s January 6, 2010 Letter of Inquiry,⁵ regarding whether the Licensee violated the Commission’s Sponsorship Identification Laws in connection with its operation of the Station prior to the effective date of the Adopting Order;
 - (f) “Compliance Plan” means the program described in paragraph 10, *infra*, and Attachment A to this Consent Decree;
 - (g) “Effective Date” means the date on which the FCC releases the Adopting Order;

⁵ See Letter from Kenneth M. Scheibel, Jr., Assistant Chief, Investigation and Hearings Division, Enforcement Bureau to ACC Licensee, Inc., dated January 6, 2010.

- (h) “Final Order” means the status of the Adopting Order after the period for administrative and judicial review has lapsed;
- (i) “Investigation” means the Bureau’s investigation of the Complaint alleging violations of the Sponsorship Identification Laws by the Licensee;
- (j) “Licensee” means ACC Licensee, Inc. and its predecessors-in-interest and successors-in-interest as licensee of the Station;
- (k) “Parties” means the Licensee and the Bureau;
- (l) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations;
- (m) “Sponsorship Identification Laws” means, individually or collectively, 47 U.S.C. § 317, 47 U.S.C. § 508, 47 C.F.R. § 73.1212, and/or any Commission policy relating to sponsorship identification or the practices commonly referred to as “payola” or “plugola”; and
- (n) “Station” means Station WJLA-TV, Washington, D.C., Facility ID No. 1051.

II. BACKGROUND

3. On January 6, 2010, the Bureau issued a letter of inquiry (the “LOI”) to the Licensee concerning information in the Complaint, alleging that various broadcasters, including the Licensee, had solicited paying sponsors for promotional segments that were featured in the stations’ news coverage. The Licensee submitted a response to the LOI on February 5, 2010.⁶ Subsequent filings were received by the Bureau on March 26, 2010,⁷ and on April 23, 2010.⁸ In these filings, the Licensee denied that it had violated the Sponsorship Identification Laws.

4. The Bureau and the Licensee acknowledge that any proceedings that might result from the Investigation and/or the Complaint would be time-consuming and would require substantial expenditure of public and private resources.

5. In order to conserve such resources and to ensure continued compliance by the Licensee with the Sponsorship Identification Laws, the Bureau and the Licensee are entering into this Consent Decree in consideration of the mutual commitments made herein.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to approval by the Bureau by incorporation of such provisions by reference in an Adopting Order.

7. **Jurisdiction.** The Licensee agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

⁶ See *ACC Licensee, Inc.*, Response to Letter of Inquiry, filed February 5, 2010.

⁷ See *ACC Licensee, Inc.*, Supplemental Submission to Letter of Inquiry, filed March 26, 2010.

⁸ See *ACC Licensee, Inc.*, Second Supplemental Response, filed April 23, 2010.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other orders of the Commission and any violation of the terms of this Consent Decree shall constitute a violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

9. **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, the Licensee agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, the Commission 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 or in response to any petition to deny or other third-party complaint or objection or proceeding, any new formal or informal proceeding (including license renewal applications, license assignment and transfer applications, inquiries, investigations, forfeiture proceedings, hearings, or other sanctions), or take any other action against the Licensee 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 the Licensee with respect to the Licensee's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission authorizations. Without limitation to the foregoing, the Commission shall not provide, on its own motion, any information within its possession in connection with any of the foregoing to any other federal, state or local agency, or request any such agency to investigate or pursue enforcement action with respect thereto.

10. **Compliance Plan.** Licensee has had in place policies and procedures to deter employees from engaging in conduct that violates the Sponsorship Identification Laws, but is willing to adopt a new plan in an effort to enhance the effectiveness of Licensee's efforts. Accordingly, Licensee agrees to implement a Compliance Plan that includes, at a minimum, the components found in the Attachment to this Consent Decree, commencing within sixty days of the Effective Date.

11. **Compliance Reports.** Licensee 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 the Compliance Officer, as defined in paragraph 3 of the Compliance Plan in the Attachment, as an agent of the Licensee, stating that the Compliance Officer has personal knowledge that the Licensee has established and maintained on an ongoing basis operating procedures identified in the Compliance Plan, together with an accompanying statement explaining the basis for the Compliance Officer's compliance certification. Each compliance report will describe any significant difficulties the Licensee has encountered during the reporting period in ensuring compliance with the Sponsorship Identification Laws or this Consent Decree, 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, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554. The

certification must comply with section 1.16 of the Commission's rules⁹ and be substantially in the form set forth therein.

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

13. **Voluntary Contribution.** Licensee agrees that it will make a voluntary contribution to the United States Treasury in the amount of Twenty-One Thousand Dollars (\$21,000.00). The payment will be made within five (5) 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). The Licensee 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 Guy.Benson@fcc.gov.

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

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 the Licensee does not expressly consent), that provision will be superseded by such Commission rule or Order.

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

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 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

⁹ See 47 C.F.R. § 1.16.

Consent Decree, the Licensee 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.

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

21. **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.

FEDERAL COMMUNICATIONS COMMISSION

By: _____
P. Michele Ellison
Chief, Enforcement Bureau

Date:

ACC LICENSEE, INC.

By: _____
Jerald N. Fritz, Vice President

Date:

ATTACHMENT A

Compliance Plan

The Licensee will develop a Compliance Plan for the purpose of furthering compliance with the Sponsorship Identification Laws. At a minimum, the Compliance Plan will consist of the following components:

1. Commitment to High Standards on Sponsorship Identification; Annual Report.
 - A. Commitment to High Standards on Sponsorship Identification. The Licensee commits to enforcing high standards with respect to the Sponsorship Identification Laws to avoid violations and the appearance of impropriety in the airing of television programming.
 - B. Control Over News Programming. The Licensee reaffirms its policy that news programming shall remain uninfluenced by the Station's sales and advertising agreements.
 - C. Annual Report. The Compliance Officer, as defined below, shall submit reports to the Licensee's Board of Directors concerning the Licensee's compliance with this Compliance Plan. The first such report shall be submitted within 60 days of the Effective date and an additional report will be submitted at least annually thereafter.
2. Training of Personnel. The Licensee will conduct appropriate training of its employees who are involved in sales (including account executives) and employees who materially participate in making programming decisions (including on-air talent) in the Sponsorship Identification Laws (collectively, "Sales and Programming Personnel"), including the FCC's interpretation of such statutes and regulations regarding payola and related issues. Such training will be provided to all current Programming Personnel within 60 days of the Effective Date. The training will be provided to all new Sales and Programming Personnel promptly after they commence their duties. Refresher training will be provided to all employees described above at least once every twelve months regarding existing guidelines and, where applicable, pertinent changes to the Sponsorship Identification Laws.
3. Compliance Officer. Within 45 days of the Effective Date, Licensee shall designate a Compliance Officer, whose responsibility shall be to seek to ensure Licensee's compliance with this Consent Decree and with the Sponsorship Identification Laws through the following duties: (a) the implementation, effectuation, and supervision of the training program with regard to the Sponsorship Identification Laws for all Sales and Programming Personnel; (b) being accessible by telephone and/or e-mail to any Licensee employee who seeks advice on compliance with the Sponsorship Identification Laws or who wishes to report potential violations of such policies and laws; (c) the development and implementation of procedures designed to ensure the Licensee's continuing compliance with the Sponsorship Identification Laws; (d) monitoring the Licensee's compliance with the Sponsorship Identification Laws; (e) reporting on a quarterly basis to the Licensee's President regarding compliance of Licensee Stations and employees with the Sponsorship Identification Laws; and (f) such other activities as the Compliance Officer deems necessary or appropriate to carry out his or her duties.
4. Hotline. Company shall maintain a hotline for employees through which they can reach the Compliance Officer to obtain advice on compliance with, and report violations of, the Sponsorship Identification Laws. Company shall maintain a log of all such calls, e-mails, meetings or other such employee inquiries, providing for each, to the extent available: (i) the date of the call, e-mail, meeting or other inquiry; (ii) the caller/inquiring party and his or her job title with the Company and station; and (iii) the disposition by the Compliance Officer and the date of such disposition.

5. Contractual Agreements. The Licensee will ensure that all employment agreements with respect to Sales and Programming Personnel entered into after the Effective Date include a clause relating to compliance with the Sponsorship Identification Laws.

6. FCC Enforcement Actions. If as a result of a possible violation of the Sponsorship Identification Laws at the Station occurring after the Effective Date of the Consent Decree, the Licensee receives a Notice of Apparent Liability or similar Bureau document proposing a forfeiture, a Bureau document contemplating license non-renewal or revocation, or a Forfeiture Order, the following steps will be taken:

A. Each employee accused of violating the Sponsorship Identification Laws in such document may be suspended pending investigation, as warranted by the allegations, and an investigation will immediately be undertaken.

B. Each such employee will be required to undergo remedial training on the Sponsorship Identification Laws and satisfy the Compliance Officer and the Licensee Station management that he or she understands such regulations and policies before resuming his or her duties.

C. If a Notice of Apparent Liability, Forfeiture Order or similar document assessing a forfeiture, or a document denying a renewal application and/or revoking a license issued by the FCC, is finally adjudicated and the Licensee is finally found to have violated the Sponsorship Identification Laws that results in such action by the Commission, the employee(s) materially involved in the violation or violations that are the subject of such Commission or Bureau action will be subject to disciplinary action as warranted by the investigation, up to and including termination.