

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

In the Matter of)	
)	
)	File No. EB-10-IH-3794
CATAMOUNT BROADCASTING OF)	NAL/Acct. No. 201132080034
CHICO-REDDING, INC.)	FRN No. 0006192397
Licensee of Station KHSL-TV,)	Facility ID No. 24508
Chico, California)	
)	

ORDER

Adopted: July 7, 2011

Released: July 11, 2011

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Catamount Broadcasting of Chico-Redding, Inc. (“Catamount” or the “Licensee”). The Consent Decree terminates an investigation by the Bureau against the Licensee for possible violation of section 73.1216 of the Commission’s Rules regarding licensee-conducted contests.¹

2. The Bureau and the Licensee 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 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,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-captioned investigation **IS TERMINATED**.

¹ See 47 C.F.R. § 73.1216.

² See 47 U.S.C. § 154(i).

³ See 47 C.F.R. §§ 0.111, 0.311.

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

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 Catamount Broadcasting of Chico-Redding, Inc., 71 East Avenue, Norwalk, Connecticut 06851, and to its counsel, Lee G. Petro, Esquire, Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street, Suite 1100, Arlington, Virginia 22209.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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CATAMOUNT BROADCASTING OF)	File No. EB-10-IH-3794
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Licensee of Station KHSL-TV,)	FRN No. 0006192397
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CONSENT DECREE

1. The Enforcement Bureau (the “Bureau”) and Catamount Broadcasting of Chico-Redding, Inc. (“Catamount” or the “Licensee”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Catamount violated section 73.1216 of the Commission’s Rules concerning licensee-conducted contests.¹

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) “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) “Complaints” mean the third party complaints² received by or in the possession of the Bureau, forming the basis for the Bureau’s August 9, 2010, November 18, 2010, and January 11, 2011 Letters of Inquiry³ regarding whether the Licensee violated the Commission’s rules concerning licensee-conducted contests.

¹ See 47 C.F.R. § 73.1216.

² See Complaint, FCC Form 2000A, 10-C00226476-1, submitted June 18, 2010; Complaint, FCC Form 2000E, 10-C00239258-1, submitted August 12, 2010.

³ See Letter from Anjali K. Singh, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Catamount Broadcasting of Chico-Redding, Inc., dated August 9, 2010; Letter from Anjali K. Singh, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Catamount Broadcasting of Chico-Redding, Inc., dated November 18, 2010; Letter from Anjali K. Singh, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Catamount Broadcasting of Chico-Redding, Inc., dated January 11, 2011. The Bureau also provided the complainants the opportunity to reply to the Licensee’s responses to these letters, and in one instance, one complainant submitted such a reply. See E-mail from Complainant to Melissa Marshall, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, and Jeffrey J. Gee, Counsel for Catamount Broadcasting of Chico-Redding, Inc., dated January 6, 2011.

- (e) “Compliance Plan” means the program described in this Consent Decree at Paragraph 10.
- (f) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (g) “Investigation” means the investigation commenced by the Bureau’s August 9, 2010, November 18, 2010, and January 11, 2011 Letters of Inquiry⁴ regarding whether the Licensee violated the Commission’s rules concerning licensee-conducted contests.⁵
- (h) “Licensee” and “Catamount” mean Catamount Broadcasting of Chico-Redding, Inc. and its predecessors-in-interest and successors-in-interest.
- (i) “Licensee-Conducted Contest Rule” means 47 C.F.R. § 73.1216.
- (j) “Order” or “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (k) “Parties” means Catamount and the Bureau, and each a “Party.”
- (l) “Rules” mean the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (m) “Station” means television Station KHSL-TV, Chico, California (Facility ID No. 24508).

II. BACKGROUND

3. Pursuant to the Licensee-Conducted Contest Rule, a licensee that broadcasts or advertises information about a contest it conducts shall fully and accurately disclose the material terms of the contest and shall conduct the contest substantially as announced or advertised.⁶ In addition, no contest description shall be false, misleading, or deceptive with respect to any material term.⁷

4. The Commission received complaints, dated June 18, 2010, and August 12, 2010 (the “Complaints”),⁸ alleging that the Station conducted a contest in June 2010 that allegedly violated the Licensee-Conducted Contest Rule. Specifically, the Complaints alleged that as part of a “wedding” contest conducted by the Station together with Chico License, L.L.C.’s television station KNVN(TV), Chico, California,⁹ the Station failed to award the advertised wedding prize to the winning couple, but instead awarded it to the runners-up.¹⁰

⁴ See *supra* note 3.

⁵ See 47 C.F.R. § 73.1216.

⁶ See *id.*

⁷ See *id.*

⁸ See *supra* note 2.

⁹ The Bureau has also entered into a Consent Decree with Chico License, L.L.C.

¹⁰ See *supra* note 2.

5. The Bureau's Investigations and Hearings Division sent Letters of Inquiry to the Licensee, dated August 9, 2010, November 18, 2010, and January 11, 2011.¹¹ The Licensee filed Responses on October 8, 2010, December 20, 2010, and January 21, 2011.¹² In the October 8th Response, the Licensee explained that it conducted a contest in which couples entered for the chance of a free wedding, with the winner determined by an audience vote.¹³ Although the Station determined that there was a winning couple and took steps to award them the prize, the Station ultimately rescinded the prize and awarded it to another couple due to public safety threats from a local gang aimed at the event, which was publicized.¹⁴ The Licensee states that it could not award the prize to the winning couple without risking public harm, and so it awarded the prize to another couple.¹⁵ Before the Investigation commenced, the Licensee made efforts towards providing a substitute prize to the original winners.¹⁶ The terms of this Consent Decree therefore reflect the Bureau's consideration of the Licensee's pre-investigation mitigation efforts and its prior history of compliance with Commission rules.

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. **Jurisdiction.** The Licensee 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.

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 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.

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 Complaints. In consideration for the termination of said investigation and dismissal of the Complaints, the Licensee agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, the

¹¹ See *supra* note 3.

¹² See Letter from Jeffrey J. Gee, Counsel for Catamount Broadcasting of Chico-Redding, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, dated October 8, 2010 ("October 8th Response"); Letter from Jeffrey J. Gee, Counsel for Catamount Broadcasting of Chico-Redding, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, dated December 20, 2010 ("December 20th Response"); Letter from Jeffrey J. Gee, Counsel for Catamount Broadcasting of Chico-Redding, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, dated January 21, 2011 ("January 21st Response").

¹³ See October 8th Response at 3.

¹⁴ See *id.* at 4-5.

¹⁵ See *id.* at 4-6.

¹⁶ See December 20th Response at 4-5; January 21st Response at 2-5. Chico License, L.L.C. and Catamount state that the original winners have scheduled a substitute wedding date, and that the licensees are paying the wedding expenses.

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 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.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, the Licensee agrees to create within thirty (30) days of the Effective Date 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. **Memorandum.** The Licensee shall prepare and distribute within thirty (30) days of the Effective Date a memorandum to all Station employees materially involved in the broadcast of programming explaining the Commission's Licensee-Conducted Contest Rule and setting forth Station procedures applicable to avoiding violations thereof. The memorandum shall be updated and redistributed to all such Station employees within thirty (30) days following any change to the Licensee-Conducted Contest Rule or to the Licensee's procedures applicable to avoiding violations thereof.
- b. **Training.** Following distribution of the aforesaid memorandum, and in any event no later than sixty (60) days after the Effective Date, all Station employees involved in the broadcast of programming or who assist with any stage of planning and executing licensee-conducted contests shall receive appropriate training with respect to compliance with the Licensee-Conducted Contest Rule and Station procedures with respect thereto. The Licensee shall conduct such training annually for the aforementioned employees and shall also train new and reassigned employees responsible for these activities within thirty (30) days of their assuming these responsibilities.
- c. **Termination Date.** Unless stated otherwise, the requirements of this Compliance Plan will expire three (3) years after the Effective Date.

11. **Compliance Reports.** The Licensee will file compliance reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and upon expiration of this Consent Decree, three (3) years after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of the Licensee, stating that the officer has personal knowledge that the Licensee: (i) has established operating procedures intended to ensure compliance with the terms and conditions of this Consent Decree and the Licensee-Conducted Contest Rule, together with an accompanying statement explaining the basis for the officer's certification; (ii) has been utilizing those procedures since the previous Compliance Report was submitted; and (iii) is not aware of any instances of non-compliance. The certification must comply with section 1.16 of the Commission's Rules¹⁷ and be subscribed to as true under penalty of perjury in substantially the form set forth therein. If the officer cannot provide the requisite certification, the officer, as an agent of and on behalf of the Licensee, shall provide the Commission with a detailed explanation of: (i) any instances of non-compliance with this Consent Decree and the Licensee-

¹⁷ See 47 C.F.R. § 1.16.

Conducted Contest Rule; and (ii) the steps that the Licensee has taken or will take to remedy each instance of non-compliance and ensure future compliance, and the schedule on which proposed remedial actions will be taken. 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, with a copy submitted electronically to Anjali K. Singh at Anjali.Singh@fcc.gov, and to Melissa A. Marshall at Melissa.Marshall@fcc.gov.

12. **Voluntary Contribution.** The Licensee agrees that it will make a voluntary contribution to the United States Treasury in the amount of three thousand dollars (\$3,000). The payment will be made within ten (10) calendar days after the Effective Date. 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 Terry.Cavanaugh@fcc.gov, Anjali.Singh@fcc.gov, and to Melissa.Marshall@fcc.gov.

13. **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.

14. **Invalidity.** In the event that this Consent Decree in its entirety 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. **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 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, 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.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Ralph E. Becker
President
Catamount Broadcasting of Chico-Redding, Inc.

Date