

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

In the Matter of)	
)	
Alex Alcime)	File Number: EB-10-TP-0003
)	
Fort Myers, Florida)	NAL/Acct. No.: 201132700004
)	
)	FRN: 0020835773

ORDER

Adopted: August 1, 2011

Released: August 1, 2011

By the Regional Director, South Central Region, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“FCC” or “Commission”) and Alex Alcime (“Mr. Alcime”). The Consent Decree terminates an investigation by the Bureau against Mr. Alcime for possible violations of section 301 of the Communications Act of 1934, as amended (“Act”),¹ regarding operation of an unlicensed radio transmitter.

2. The Bureau and Mr. Alcime have negotiated the terms of a Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated herein 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 without imposing a forfeiture.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act,² and sections 0.111, 0.204, 0.311, and 0.314 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** without imposing a forfeiture.

¹ 47 U. S. C. § 301.

² 47 U. S. C. § 154(i).

³ 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class and certified mail, return receipt requested, to Mr. Alcime at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director, South Central Region
Enforcement Bureau

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CONSENT DECREE

1. The Enforcement Bureau and Alex Alcime (“Mr. Alcime”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether Mr. Alcime violated section 301 of the Communications Act of 1934, as amended,¹ by operating an unlicensed radio transmitter.

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) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 9.
- (f) “Investigation” means the investigation initiated by the Bureau on May 26, 2010 of possible violations of section 301 of the Act and resulting in the Notice of Apparent Liability for Forfeiture.
- (g) “Notice of Apparent Liability for Forfeiture” means the Notice of Apparent Liability for Forfeiture issued to Mr. Alcime on May 5, 2011 and published at 26 FCC Rcd 6657.

¹ 47 U. S. C. § 301.

- (h) "Order" or "Adopting Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (i) "Parties" means Mr. Alcime and the Bureau, and each of which is a "Party."
- (j) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. Section 301 of the Act requires that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license.²

4. On May 26 and 27, 2010, agents from the Bureau, using direction-finding techniques, determined that radio transmissions on the frequency 95.7 MHz were emanating from Mr. Alcime's residence in Fort Myers, Florida.³ On June 3, 2010, agents from the Bureau inspected the station at Mr. Alcime's residence and interviewed Mr. Alcime. Mr. Alcime admitted that he was a disc jockey for the station. The Bureau released a Notice of Apparent Liability for Forfeiture to Mr. Alcime on May 5, 2011 for violation of section 301 of the Act. The Bureau was subsequently alerted to Mr. Alcime's financial circumstances indicating an inability to pay the proposed forfeiture.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.** Mr. Alcime agrees that the Bureau has jurisdiction over him 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 Effective Date. 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 the Investigation without imposing a forfeiture. In consideration for the termination of the Investigation, Mr. Alcime 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

² 47 U.S.C. § 301.

³ Section 15.239 of the Rules provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 μ V/m at three meters. 47 C.F.R. § 15.239. Agents from the Bureau took signal strength measurements on May 26, 2010 and determined that the signals exceeded legal levels for unlicensed operation.

⁴ See *State of Florida vs. Alex Alcime*, Case No. 09-015722CF VOP, 11-015019CF, 10-017195CF, Application for Criminal Indigent Status, dated Feb. 28, 2011.

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 Mr. Alcime, concerning the matters that were the subject of the Investigation.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, Mr. Alcime agrees, upon the Effective Date, to authorize the Fort Myers Police Department to release Mr. Alcime's radio transmitting equipment currently in police custody to the Bureau for destruction. Mr. Alcime shall also submit within thirty (30) calendar days after the Effective Date a certification signed by Mr. Alcime, under penalty of perjury and consistent with section 1.16 of the Rules,⁵ that he is not operating and will not in the future operate an unlicensed radio station anywhere in the United States. This certification is required by this Consent Decree and shall be submitted to Federal Communications Commission, Enforcement Bureau, South Central Region, Tampa Office, 4010 W. Boy Scout Blvd., Suite 425, Tampa, Florida 33607 and an electronic copy of the certification shall also be submitted to SCR-Response@fcc.gov.

10. **Voluntary Contribution.** Mr. Alcime agrees that he will make a voluntary contribution to the United States Treasury in the amount of three hundred fifty dollars (\$350) within thirty (30) 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 Account Number and FRN 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. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Mr. Alcime shall also send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

11. **Waivers.** Mr. Alcime waives any and all rights he 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 Adopting Order, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification, or deletion. Mr. Alcime 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 Mr. Alcime nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Mr. Alcime shall waive any statutory right to a trial *de novo*. Mr. Alcime 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.

12. **Invalidity.** In the event that this Consent Decree is rendered invalid by a court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

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 Mr. Alcime does not expressly consent) that provision will be superseded by such Rule or order.

⁵ 47 C.F.R. § 1.16.

14. **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 Rules and Commission’s orders.

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

16. **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.

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

18. **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.

Dennis P. Carlton
Regional Director
South Central Region
Enforcement Bureau

Date

Alex Alcime

Date