

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

In the Matter of	)	
	)	
<b>CAPSTAR TX LLC</b>	)	File No. EB-05-IH-1022
	)	NAL/Acct. No. 201232080019
Licensee of FM Translator Station	)	FRN No. 0019362953
W300BQ, Vero Beach, Florida	)	Facility ID No. 139428
	)	
	)	

**ORDER**

**Adopted: April 19, 2012**

**Released: April 20, 2012**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) and Capstar TX, LLC (Licensee). The Consent Decree terminates an investigation by the Bureau against the Licensee for possible violations of Sections 399B and 310(d) of the Communications Act of 1934, as amended (Act),<sup>1</sup> and Sections 73.503(d) and 73.3540 of the Commission’s rules (Rules),<sup>2</sup> in connection with the broadcast of underwriting announcements concerning financial support over FM Translator Station W300BQ, Vero Beach, Florida, and the transfer of control of the same Station.<sup>3</sup>

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.<sup>4</sup>

<sup>1</sup> See 47 U.S.C. §§ 399b, 310(d).

<sup>2</sup> See 47 C.F.R. §§ 73.503(d), 73.3540.

<sup>3</sup> Although the Bureau is terminating its investigation into whether the Licensee engaged in conduct that violated these laws, the Commission and the Bureau retain their right to investigate the conduct of other targets in the above-captioned proceeding against which investigations under this same file number (EB-05-IH-1022) remain pending.

<sup>4</sup> The Bureau’s assessment that the Licensee possesses the basic qualifications to hold or obtain a Commission license or authorization applies to the Licensee’s qualifications as a corporate entity. This finding, however, does not foreclose the Commission and the Bureau from making a separate assessment into whether the conduct of other targets in the above-captioned proceeding, against which investigations under this same file number (EB-05-IH-

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act,<sup>5</sup> and Sections 0.111 and 0.311 of the Rules,<sup>6</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation, as to the Station and/or the Licensee, **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that any third-party complaints and allegations against the Stations and/or the Licensee before the Enforcement 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 both First Class mail and Certified Mail, Return Receipt Requested, to Licensee's counsel, Marissa G. Repp, Esq., Repp Law Firm, 1629 K Street, N.W., Suite 300, Washington, D.C. 20006-1631

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison  
Chief, Enforcement Bureau

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1022) remain pending, raises questions regarding their basic qualifications to hold or obtain a Commission permit, license, or authorization.

<sup>5</sup> See 47 U.S.C. § 154(i).

<sup>6</sup> See 47 C.F.R. §§ 0.111, 0.311.

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In the Matter of	)	
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<b>CAPSTAR TX LLC</b>	)	File No. EB-05-IH-1022
	)	NAL/Acct. No. 201232080019
Licensee of FM Translator Station W300BQ, Vero Beach, Florida	)	FRN No. 0019362953
	)	Facility ID No. 139428
	)	
	)	

**CONSENT DECREE**

1. The Enforcement Bureau (Bureau) and Capstar TX LLC (Licensee), by their authorized representatives, enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether the Licensee violated Sections 399B and 310(d) of the Communications Act of 1934, as amended (Act),<sup>7</sup> and Sections 73.503(d) and 73.3540 of the Commission’s rules (Rules),<sup>8</sup> in connection with the transfer of control of FM Translator Station W300BQ, Vero Beach, Florida (Station W300BQ or Station), and the broadcast of underwriting announcements concerning financial support over Station W300BQ.

**I. DEFINITIONS**

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Ace of Hearts Disc Jockey Service, Inc.” and “Ace of Hearts” mean the licensee of FM translator station W298AL, Wabasso, Florida (Facility ID No. 156914).
  - (b) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - (c) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (d) “Brevard Youth Education Broadcasting Corporation” and “Brevard Youth” mean the licensee of low power FM station WGRV-LP, Melbourne, Florida (Facility ID No. 135636).
  - (e) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
  - (f) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
  - (g) “Capstar TX LLC” and “Capstar” mean the licensee of FM translator station W300BQ, Vero Beach, Florida (Facility ID No. 139428).

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<sup>7</sup> See 47 U.S.C. §§ 399b, 310(d).

<sup>8</sup> See 47 C.F.R. §§ 73.503(d), 73.3540.

- (h) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at Paragraph 9.
- (i) “Compliance Officer” means the individual designated in Paragraph 9.a. of this Consent Decree as the person responsible for administration of the Compliance Plan.
- (j) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (k) “Investigation” means the investigation commenced by the Bureau’s June 23, 2010, Letter of Inquiry<sup>9</sup> regarding whether the Licensee violated the Underwriting Laws in connection with its operation of Station W300BQ on October 27, 2009, October 29, 2009, and February 24, 2010; and whether the Licensee violated the Unauthorized Transfer of Control Laws by transferring control of the Station without obtaining prior consent of the FCC.
- (l) “Licensee” means Capstar TX LLC as licensee of the Station.
- (m) “Market” means the radio stations licensed to the Licensee or its commonly-controlled affiliates licensed to locations within, or listed as home to, the Ft. Pierce-Stuart-Vero Beach, Florida Metro as defined by BIA/Kelsey.
- (n) “Parties” means the Licensee and the Bureau, and each of which is a “Party.”
- (o) “Randy Bennett” means, *inter alia*, the Registered Agent of Brevard Youth Education Broadcasting Corporation and President of Ace of Hearts Disc Jockey Services.
- (p) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (q) “Station” means FM Translator Station W300BQ, Vero Beach, Florida (Facility ID No. 139428).
- (r) “Unauthorized Transfer of Control Laws” means 47 U.S.C. § 310(d) and 47 C.F.R. § 73.3540.
- (s) “Underwriting Laws” means 47 U.S.C. § 399b and 47 C.F.R. § 73.503(d).

## II. BACKGROUND

3. The Unauthorized Transfer of Control Laws prohibit a licensee from transferring control of a Commission broadcast license without prior Commission authorization.<sup>10</sup> The Underwriting Laws define advertisements as program material broadcast “in exchange for any remuneration” and intended to “promote any service, facility, or product” of for-profit entities.<sup>11</sup> Section 399B(b)(2) specifically

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<sup>9</sup> See Letter from Kenneth M. Scheibel, Jr., Assistant Division Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Capstar TX LLC, dated June 23, 2010.

<sup>10</sup> See 47 U.S.C. § 310(d); 47 C.F.R. § 73.3540.

<sup>11</sup> See 47 U.S.C. § 399b(a).

provides that noncommercial educational stations may not broadcast advertisements.<sup>12</sup> Although contributors of funds to such stations may receive on-air acknowledgements of their support, the Commission has held that such acknowledgements may be made for identification purposes only, and should not promote the contributors' products, services, or businesses.<sup>13</sup> Specifically, such announcements may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent, or lease.<sup>14</sup> At the same time, however, the Commission has acknowledged that it is at times difficult to distinguish between language that promotes versus that which merely identifies the underwriter and is consistent with the Rules and decisions establishing compliant underwriting announcements. Consequently, the Commission expects licensees to exercise reasonable, "good faith" judgment in this area, and affords some latitude to the judgments of licensees who do so.<sup>15</sup>

4. On June 23, 2010, based on information gathered by the Bureau's Tampa Field Office, the Bureau issued a Letter of Inquiry to the Licensee, directing the Licensee, among other things, to submit sworn written statements in response to questions relating to possible violations of the above-described laws.<sup>16</sup> The Licensee responded on July 29, 2010.<sup>17</sup> In its Response, Capstar admits that it failed to exercise the requisite control as a permittee and licensee of Station W300BQ.<sup>18</sup> The Licensee further admits that since early 2008, Mr. Randy Bennett and/or Brevard Youth Education Broadcasting Corporation (Brevard) constructed, operated, and controlled the Station without proper documentation of an interim relationship between the parties, and without Commission authorization, until February 26, 2010.<sup>19</sup> In its Response, the Licensee neither admits nor denies violating the Underwriting Laws,<sup>20</sup> however, the evidence in this case also establishes that violations of the Underwriting Laws occurred on October 27, 2009, October 29, 2009, and February 24, 2010.

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

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<sup>12</sup> See 47 U.S.C. § 399b(b)(2).

<sup>13</sup> See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice (1986), *republished*, 7 FCC Rcd 827 (1992).

<sup>14</sup> See *id.*

<sup>15</sup> See *Xavier University*, Letter of Admonition, issued November 14, 1989 (Mass Med. Bur.), *recons. granted*, Memorandum Opinion and Order, 5 FCC Rcd 4920 (1990).

<sup>16</sup> See *supra* note 9.

<sup>17</sup> See Letter from Marissa G. Repp, Counsel to Capstar TX LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, filed July 29, 2010 (Response).

<sup>18</sup> See *id.* at 2.

<sup>19</sup> See *id.* Capstar notes that Randy Bennett did not request that Station W300BQ stop retransmitting the signal of WGRV-LP, but that Capstar unilaterally decided on February 26, 2010, to terminate the operations of the Station after the Commission's Field Office Agents raised corporate policy and regulatory compliance questions.

<sup>20</sup> See *id.* at 1.

7. **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 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 with respect to the Licensee. In consideration for the termination of said Investigation, the Licensee 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 the Licensee concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not, in the absence of new material evidence, 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.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, the Licensee agrees to create and implement within thirty (30) days of the Effective Date a Compliance Plan related to future compliance with the Act, the Rules, and the Commission's Orders. The Compliance Plan shall include, at a minimum, the following components:

- a. **Compliance Officer.** The Licensee shall designate an individual to serve as its Compliance Officer, who shall be responsible for administering the Compliance Plan. In discharging such duties, the Compliance Officer, if not an FCC regulatory counsel or in-house counsel, shall consult with and be assisted by outside FCC regulatory counsel.
- b. **Counsel Consultation.** If the Compliance Officer is not an FCC regulatory counsel or in-house counsel, the Licensee shall consult with outside FCC regulatory counsel regarding the Licensee's overall compliance with the Unauthorized Transfer of Control Laws for the Station, and if the primary station being rebroadcast by the Station is required to operate on a noncommercial basis, the Licensee shall consult with outside FCC regulatory counsel regarding the Licensee's overall compliance with the Underwriting Laws as well. Such consultations shall occur at a minimum on an annual basis, if not more frequently.
- c. **Review Procedure.** If the primary station being rebroadcast by the Station is required to operate on a noncommercial basis, then the Licensee shall utilize a review procedure for any underwriting content to be aired on the Station. In such event, all scripts of announcements shall be reviewed by the Compliance Officer or an employee of Licensee directly supervised by the Compliance Officer, prior to broadcast, for compliance with the Underwriting Laws.
- d. **Compliance Manual.** Licensee shall prepare and distribute within thirty (30) days of the Effective Date a compliance manual regarding the Unauthorized Transfer of Control

Laws and Underwriting Laws to any employee of the Market involved in the broadcast of programming. The Compliance Manual shall explain the Unauthorized Transfer of Control Laws and Underwriting Laws that employees shall follow to help ensure the Licensee's compliance with these laws. The Licensee shall periodically review and revise the Compliance Manual as necessary to ensure the information set forth therein remains current and complete. The Licensee shall distribute any revisions to the Compliance Manual promptly to all covered employees.

- e. **Training.** If the primary station being rebroadcast by the Station is required to operate on a noncommercial basis, then within thirty (30) days of such noncommercial operation, the Licensee shall train any employee of the Market with programming, advertising, or underwriting responsibilities for the Station on acceptable underwriting content that complies with the Underwriting Laws. If the primary station being rebroadcast by the Station is required to operate on a noncommercial basis, within thirty (30) days of being hired by the Licensee, any new Licensee employee of the Market with programming, advertising, or underwriting responsibilities for the Station shall be trained as to what constitutes acceptable underwriting content that complies with the Underwriting Laws. In addition, if the primary station being rebroadcast by the Station is required to operate on a noncommercial basis, the Licensee's employees with programming, advertising, or underwriting responsibilities for the Station shall receive refresher training, on an annual basis, regarding existing guidelines and, where applicable, pertinent changes to the Underwriting Laws.
- f. **Education Program.** If the primary station being rebroadcast by the Station is required to operate on a noncommercial basis, the Licensee shall implement and maintain a plan to educate prospective underwriters about appropriate underwriting content and how the Licensee incorporates such underwriting content in the messages that it prepares for underwriter approval and eventual broadcast over the Station. To that end, if the primary station being rebroadcast by the Station is required to operate on a noncommercial basis, the Licensee shall summarize the Underwriting Laws for each client before it accepts any contract with the prospective underwriter to air underwriting messages over the Station and prepares the underwriting message for the underwriter's review. If the primary station being rebroadcast by the Station is required to operate on a noncommercial basis, the Licensee shall not broadcast over the Station any announcement that does not comply with the Underwriting Laws.
- g. **Employment; Control.** The Licensee shall not allow Randy Bennett, Brevard Youth, Ace of Hearts, or any other entity in which, to Licensee's actual knowledge, Randy Bennett is an owner, officer, director, agent, or employee, to work for, contract for, or consult for the Licensee of the Station. So long as the Licensee is not publicly-traded, and excluding limited partnership interests in investors in the Licensee's parent entities, provided that such interest does not result in *de jure* or *de facto* control, the Licensee shall not allow Randy Bennett, Brevard Youth, Ace of Hearts, or any other entity in which, to Licensee's actual knowledge, Randy Bennett is an owner, officer, director, agent, or employee, to hold any ownership interest (outright or beneficial, through any mechanism, including *de facto* control)<sup>21</sup> in the Licensee or the Station.

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<sup>21</sup> In determining *de facto* control, the Commission traditionally looks beyond the legal title to whether an entity or individual has obtained the right to determine the basic operating policies of the station. See *WHDH, Inc.*, Memorandum Opinion and Order, 17 FCC 2d 856 (1969), *aff'd sub nom.*, *Greater Boston Television Corp. v. FCC*, 444 F.2d 841 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 923 (1971). While such an analysis transcends formulas, the



- h. **Assignment.** The Licensee shall not voluntarily assign the authorization of the Station to Randy Bennett, Brevard Youth, Ace of Hearts, or to any entity in which Randy Bennett holds a reported ownership or attributable interest (outright or beneficial, though any mechanism, including *de facto* control).
- i. **Termination Date.** Unless stated otherwise, the requirements of this Compliance Plan will expire three (3) years after the Effective Date or upon the Licensee's non-*pro forma* assignment of the Station made in compliance with the terms of the Agreement, whichever is earlier.

10. **Cooperation.** The Licensee agrees to make its officers and employees available to cooperate with the Commission and the Bureau so as to provide written statements and/or serve as witnesses as requested in any other investigations conducted by the Commission or the Bureau and/or hearings involving the Commission as part of this proceeding (EB-05-IH-1022). Any such cooperation provided shall be limited to the facts and circumstances within the knowledge of such officer or employee as it pertains to matters subject to this investigation. This commitment shall extend throughout the duration of such proceedings regardless of whether the Licensee is still the licensee of the Station. Notwithstanding this provision, the Commission, Bureau, and officers and employees of the Licensee reserve any and all legal rights that they would otherwise have.

11. **Compliance Reports.** The Licensee shall 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 the Compliance Plan in this Consent Decree, as defined above in Paragraph 9.i. of the Compliance Plan. This compliance reporting requirement will expire three (3) years after the Effective Date or upon the Licensee's non-*pro forma* assignment of the Station, whichever is earlier. Each compliance report shall include a compliance certificate from the Compliance Officer, as defined in Paragraph 9.a. of the Compliance Plan, as an agent of the Licensee, stating that the Compliance Officer has personal knowledge that the Licensee: (i) has established operating procedures in the Market intended to ensure compliance with the terms and conditions of this Consent Decree, the Unauthorized Transfer of Control Laws, and, if applicable, the Underwriting Laws, together with an accompanying statement explaining the basis for the Compliance 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 in the Market with this Consent Decree, the Unauthorized Transfer of Control Laws, and the Underwriting Laws. The certification must comply with Section 1.16 of the Rules<sup>22</sup> and be subscribed to as true under penalty of perjury in substantially the form set forth therein. If the Compliance Officer cannot provide the requisite certification, the Compliance 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 in the Market with this Consent Decree, the Unauthorized Transfer of Control Laws, and, if applicable, the Underwriting Laws; 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 Jeffrey

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Commission generally looks to policies concerning programming, personnel, and finances to make this determination. See, e.g., *Stereo Broadcasters, Inc.*, Decision, 87 FCC 2d 87 (1981), *recons. denied*, 50 RR 2d 1346 (1982).

<sup>22</sup> See 47 C.F.R. § 1.16.



Gee at Jeffrey.Gee@fcc.gov, Kenneth M. Scheibel, Jr. at Kenneth.Scheibel@fcc.gov, and to Jennifer Lewis Hershman at Jennifer.Lewis@fcc.gov.

12. **Voluntary Contribution.** The Licensee agrees that it will make a voluntary contribution to the United States Treasury in the amount of eleven thousand five hundred dollars (\$11,500). The payment will be made 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 NAL/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. 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, Jeffrey.Gee@fcc.gov, Kenneth.Scheibel@fcc.gov, and Jennifer.Lewis@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. **Admission of Liability.** Notwithstanding any of the Licensee’s prior submissions in this proceeding, the Licensee admits, for Commission civil enforcement purposes and in express reliance on the provisions of Paragraph 8 herein, that its actions with respect to the ownership and control of the Station and the broadcast of underwriting announcements referenced in this Consent Decree violated the Commission’s regulations and requirements in force at the time of such actions.

17. **Investigation of Other Individuals and/or Entities in Proceeding.** The Commission and the Bureau retain their authority to investigate the conduct of other individuals and/or entities in this proceeding (EB-05-IH-1022) or any investigation or matter related to this proceeding. The Commission and the Bureau reserve the right to use facts developed during the course of this Investigation in any

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investigation of other individuals and/or entities in this proceeding (EB-05-IH-1022) or any investigation or matter related to this proceeding.

18. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties.<sup>23</sup>

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

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<sup>23</sup> The Consent Decree between the Bureau and Capstar and each of the terms thereof applies only to Capstar as a corporate entity. The Consent Decree therefore does not constitute a settlement between the Commission or the Bureau and any other individuals and/or entities in this proceeding (EB-05-IH-1022) or any investigation or matter related to this proceeding, and shall not prejudice the Commission's and/or the Bureau's prosecution of other individuals and/or entities in this proceeding (EB-05-IH-1022) or any investigation or matter related to this proceeding.

22. **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.

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P. Michele Ellison  
Chief  
Enforcement Bureau

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Date

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Christopher M. Cain  
Vice President, Associate General Counsel  
Capstar TX LLC

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Date