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

In the Matter of	)	
	)	
Josie Park Broadcasting, Inc.	)	Facility I.D. No. 62207
Licensee of Station WIYC(TV)	)	File Nos.: BRCDT-20121129AFL and
Troy, Alabama	)	BALCDT-20130521ABZ
	)	Acct. No.: 201341420048
	)	FRN: 3756871

ORDER

Adopted: November 12, 2013 **Released: November 14, 2013**

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Media Bureau (the "Bureau") of the Federal Communications Commission (the "Commission") and Josie Park Broadcasting Inc. (the "Licensee"), licensee of WIYC(TV), Troy Alabama (the "Station"). Currently pending before the Commission is an application for renewal of the license (FCC Form 303-S) of the Station and an application for consent to assign (FCC Form 314) the license of the Station to WIYC, Inc. Upon review of the Station's public file, the Video Division discovered numerous violations of Section 73.3526 of the Commission's Rules including the failure to file with the Commission in a timely manner Children's Television Programming Reports (FCC Form 398) for four quarters,[1] and failure to maintain, prepare and place in a timely manner nine issues and programs lists into the Station's public file.[2]

2. The Bureau and the Licensee have negotiated the terms of the Consent Decree that concludes the above-referenced matters. 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. A copy of the Consent Decree is attached and incorporated by reference.

3. In the absence of new material evidence relating to this matter, we conclude that the matters referenced above raise no substantial or material questions of fact as to whether the Licensee possesses the basic qualifications to hold a Commission license and that grant of the above-captioned pending license renewal application is consistent with Section 309(k) of the Communications of 1934 (the "Act").[3] We have further examined the pending above-captioned assignment application and find that

[1] 47 C.F.R. § 73.3526(e)(11)(i). Within the current license period, the Station failed to file Children's Programming Reports in a timely manner for third quarter 2009; fourth quarter 2009; first quarter 2011 and first quarter 2013.

[2] 47 C.F.R. §§ 73.3526(b)(2) and 73.3526(e)(11)(iii). Within the current license period the Station failed to properly maintain, prepare and place in a timely manner issues and programs lists into the Station's public file for all quarters in 2008; first quarter 2009; and all quarters in 2010.

[3] Section 309(k)(1) of the Act states that the Commission shall grant a license renewal application "if it finds, with respect to that station, during the preceding term of its license—(a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the Act or Commission rules and regulations; and (c) there have been no other violations by the licensee of the Act or Commission rules or regulations which, taken together, would constitute a pattern of abuse." 47 U.S.C. §309(k)(1). Section 309(k) of the Act states, however, that if the licensee fails to meet this three part standard, the Commission may deny the

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the applicants are fully qualified and that grant of the assignment application is in the public interest, convenience and necessity, pursuant to Section 310(d) of the Act.[4]

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,[5] and Sections 0.111 and 0.311 of the Commission's Rules,[6] the Consent Decree attached to this Order **IS ADOPTED**.

5. **IT IS FURTHER ORDERED** that, pursuant to Section 309(k) of the Communications Act of 1934,[7] the application to renew the broadcast license of WIYC(TV), Troy, Alabama, File No. BRCDT-20121129AFL, **IS GRANTED**.

6. **IT IS FURTHER ORDERED** that, pursuant to Section 310(d) of the Communications Act of 1934,[8] the application to assign WIYC(TV) from Josie Park Broadcasting, Inc., to WIYC, Inc., File No. BALCDT-20130521ABZ, **IS GRANTED**.

7. **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, John C. Trent, Esq., Putbrese Hunsaker & Trent, P.C., 200 South Church Street, Woodstock, VA 22664.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

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application—after notice and comment, and opportunity for hearing under Section 309(e) of the Act—"or grant the application on terms and conditions as are appropriate…." 47 U.S.C. §§ 309(k)(2) and 309(k)(3).

[4] *See* 47 U.S.C. § 310(d) (requiring the Commission to determine that that the public interest, convenience, and necessity will be served by grant of an assignment).

[5] 47 U.S.C. §§ 154(i), 154(j), 503(b).

[6] 47 C.F.R. §§ 0.111, 0.311.

[7] 47 C.F.R. § 309(k).

[8] 47 C.F.R. § 310(d).

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In the Matter of	)	
	)	File Nos.: BRCDT-20121129AFL and
Josie Park Broadcasting, Inc.	)	BALCDT 20130521
	)	Acct. No.: 201341420048
	)	FRN: 3756871
	)	

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and Josie Parking Broadcasting, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into possible violations of 47 C.F.R. §§ 73.3526(b)(2), 73.3526(e)(11)(i), and 73.3526(e)(11)(iii) pertaining to the timely filing of quarterly Children's Television Programming Reports (FCC Form 398), and preparation, maintenance and placement of quarterly issues and programs lists into the Station's public file.

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 the Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.

c) "Bureau" means the Media Bureau of the Federal Communications Commission

d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

e) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Josie Park Broadcasting, Inc. is subject by virtue of it being a Commission licensee, including but not limited to 47 C.F.R. §§73.3526(b)(2), 73.3256(e)(11)(i) and 73.3256(e)(11)(iii).

f) "Current License Period" means from the first quarter 2008 to the effective date.

g) "Effective Date" means the date on which the Bureau releases the Adopting Order.

h) "Investigation" means the examination of Josie Park Broadcasting's compliance with the Public File Rules as related to the above captioned applications.

i) "Josie Park Broadcasting" means Josie Park Broadcasting, Inc. and its predecessors-in-interest and successors-in-interest.

j) "Parties" means Josie Park Broadcasting and the Bureau, each of which is a "Party."

k) "Public File Rules" means 47 C.F.R. §73.3526, including 47 C.F.R. §§73.3526(b)(2), 73.3256(e)(11)(i) and 73.3256(e)(11)(iii).

l) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

m) "Station" means WIYC (TV), Troy, Alabama.

II. DISCUSSION

3. On November 29, 2012, Josie Park Broadcasting filed its license renewal application (FCC Form 303-S) for the Station with the Commission. In the process of evaluating the license renewal application, the Bureau identified numerous potential violations of the Commission's Public File Rules.

4. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations. Subsection 73.3526(e)(11)(i) of the Rules requires every commercial television licensee to place in its public inspection file, on a quarterly basis, an issues and programs list "with regard to the station's efforts to determine the issues facing its community and the pogromming aired during the preceding three month period in response to those issues."[1] Copies of the issues and programs list must be "retained in the public inspection file until final action has been taken on the station's next license renewal application."[2] Pursuant to subsection 73.3526(b)(2) of the Rules, a station's issues and programs lists must be uploaded to a Commission-hosted website.[3] During the current license period, Josie Park Broadcasting failed to comply with both of the aforementioned rules related to the preparation, maintenance and filing of quarterly issues and programs lists on nine separate occasions, including all quarters in 2008, first quarter 2009 and all quarters in 2010.

5. Subsection 73.3526(e)(11)(iii) of the Rules requires each commercial television licensee to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it made during the quarter to serve the educational and informational needs of children. That subsection also requires licensees to place the reports in the public file, and file the reports with the Commission by the tenth day after the close of the reporting quarter.[4] During the current license period, Josie Park Broadcasting failed to file in a timely manner Children's Television Programming Reports (FCC Form 398) during four quarters, which include third quarter 2009; fourth quarter 2009; first quarter 2011 and first quarter 2013.

[1] 47 C.F.R. § 73.3526(e)(11)(i).

[2] *Id.*

[3] *See generally, Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, *Extension of the Filing Requirement for Children's Television Programming Report,* Second Report and Order, 27 FCC Rcd 4535 (2012) (requiring broadcast television stations to post their public inspection files, with limited exception, online in a Commission-hosted database).

[4] 47 C.F.R. §73.3526(e)(11)(iii).

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.

7. **Jurisdiction**. Josie Park Broadcasting 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.

8. **Effective Date; Violations**. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate 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 the Investigation. In consideration for the termination of the Investigation, Josie Park Broadcasting agrees to the terms and conditions 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, 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 Josie Park Broadcasting concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, 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 Josie Park Broadcasting with respect to Josie Park Broadcasting's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

10. **Subsequent Investigations**. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints or other adjudicatory pleadings filed against Josie Park Broadcasting or its affiliates for alleged violations of the Act or the Commission's rules or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Josie Park Broadcasting with the Communications Laws.

11. **Voluntary Contribution**. Josie Parking Broadcasting agrees that it will make a voluntary contribution to the United States Treasury in the amount of sixteen thousand dollars ($16,000) within thirty (30) calendar days after the Effective Date. Josie Parking Broadcasting shall also send electronic notification of payment to Evan Morris at evan.morris@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.[5] When completing the FCC Form

[5] An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

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). Below are additional instructions you should follow based on the form of payment you select:[6]

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

12. **Waivers**. Josie Parking Broadcasting 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 Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Josie Parking Broadcasting 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 Josie Park Broadcasting nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Josie Park Broadcasting shall waive any statutory right to a trial *de novo*. Josie Park Broadcasting hereby agrees to waive any claims it may 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.

13. **Liability**. Josie Park Broadcasting admits, solely for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 9 hereof, that the facts discussed in paragraphs 3-5 above constitute violations of Sections 73.3526(b)(2), 73.3526(e)(11)(i) and 73.3526(e)(11)(iii) of the Rules. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or paragraph 9 hereof, or both, are breached by the Bureau, or are invalidated or modified to Josie Parking Broadcasting's prejudice by the Commission, Bureau, or any court, then and in that event the provisions of the immediately-preceding sentence shall be of no force or effect whatever, and Josie Park Broadcasting shall not, by virtue of that sentence or any other provision of this Consent Decree, be deemed to have made any admission concerning violations of Sections 73.3256(b)(2), 73.3526(e)(11)(i) or 73.3526(e)(11)(iii) of the Rules.

[6] Should Josie Park Broadcasting have questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e-mail at ARINQUIRIES@fcc.gov.

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 Josie Park Broadcasting does not expressly consent) that provision will be superseded by such rule or Commission order.

16. **Successors and Assigns**. Josie Park Broadcasting 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 with respect to the Investigation.

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**. The individual signing this Consent Decree on behalf of Josie Park Broadcasting represents and warrants that he is authorized by Josie Park Broadcasting to execute this Consent Decree and to bind Josie Park Broadcasting to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute 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.

Media Bureau

By:

_____
William T. Lake
Chief
Media Bureau

_____
Date

Josie Parking Broadcasting, Inc.

By: Enterprise Capital Corporation
(*dba* The Citizens Bank)

_____
Kelly F. Jones, President & CEO

_____
Date