

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

In the Matter of

Blue Skies Broadcasting Corporation )  
Licensee of Station KSCT-CA ) NAL Acct. No.: 201441420023  
San Marcos, California, Fac. Id. No. 58927 ) FRN: 0003777406  
 ) File No. BRTTA-20060809AAQ

**ORDER**

**Adopted: July 24, 2014**

**Released: July 24, 2014**

By the Chief, Media Bureau:

1. In this Order, we (i) adopt the attached Consent Decree entered into between the Media Bureau (Bureau) and Blue Skies Broadcasting Corporation (“Licensee”) and (ii) grant the pending license renewal application for Station KSCT-CA.<sup>1</sup>

2. On October 17, 2013, the Video Division sent a letter of inquiry to the Station regarding potential violations of the Commission’s rules, including the late filing of Children’s Television Programming Reports, the late filing of issues/programs lists, and other requirements of Class A licensees. 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 material new 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, including those related to character, to hold a Commission license or authorization. We have further examined the pending above-captioned license renewal application and find that the applicant is fully qualified and that grant of the license renewal application is in the public interest, convenience and necessity.

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,<sup>2</sup> and Sections 0.111 and 0.311 of the Rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

5. **IT IS FURTHER ORDERED** that, the application to renew the license of Station KSCT-CA, File No. BRTTA-20060809AAQ, **IS GRANTED**.

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<sup>1</sup> File No. BRTTA-20060809AAQ.

<sup>2</sup> See 47 U.S.C. §§ 154(i), 154(j), 503(b).

<sup>3</sup> See 47 C.F.R. §§ 0.111, 0.311.

6. **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, Davina S. Sashkin, Fletcher, Heald, & Hildreth, 1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor, Arlington, Virginia, 22209.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake  
Chief, Media Bureau

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**CONSENT DECREE**

1. The Media Bureau of the Federal Communications Commission and Blue Skies Broadcasting Corporation, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into possible violations of Section 73.3526(e)(11)(iii) of the Commission's Rules<sup>1</sup> pertaining to the timely filing of FCC Form 398 Children's Television Programming Reports on a quarterly basis and Section 73.3526(e)(11)(i) pertaining to the timely filing of quarterly issues/programs lists.

**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 Blue Skies Broadcasting Corporation is subject by virtue of it being a Commission licensee, including but not limited to Sections 73.3526(e)(11) (i) and (iii) of the Commission's Rules.
  - f) "Effective Date" means the date on which the Bureau releases the Adopting Order.
  - g) "Investigation" means the inquiry commenced with the Bureau's October 30, 2013 letter of inquiry to the Licensee.
  - h) "Blue Skies Broadcasting" means Blue Skies Broadcasting Corporation and its predecessors-in-interest and successors-in-interest.

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<sup>1</sup> See 47 C.F.R. § 73.3526(e)(11)(iii).

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- i) "Parties" means Blue Skies Broadcasting and the Bureau, each of which is a "Party."
- j) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.
- k) "Station" means KSKT-CA.
- l) "Application" means the pending application for renewal for the license for the Station (File No. BRTTA-20060809AAQ).

### II. DISCUSSION

3. 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.<sup>2</sup> As set forth in subsection 73.3526(e)(11)(iii), each commercial television licensee is required 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.<sup>3</sup> That subsection also requires licensees to prepare, place in the public file, and file the reports with the Commission by the tenth day after the close of the reporting quarter. As set forth in subsections 73.3526(b)(2) & (e)(11)(i), each commercial television licensee must prepare, place in its public inspection file, and upload to the Commission's website a quarterly TV issues/programs list which details programs that have provided the station's most significant treatment of community issues during the preceding three month period.

4. On October 17, 2013, the Video Division sent a letter of inquiry to the Station regarding potential violations of the Commission's rules, including Sections 73.3526(e)(11)(i) and (iii). The Video Division determined that the Licensee violated Section 73.3526(e)(11)(iii) by failing to file its Children's Television Programming Reports in a timely manner and violated Section 73.3526(e)(11)(i) by failing to file issues/programs lists in a timely manner.

### 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.

6. **Jurisdiction.** Blue Skies 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.

7. **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.

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<sup>2</sup> 47 C.F.R. § 73.3526.

<sup>3</sup> 47 C.F.R. § 73.3526(e)(11)(iii).

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. In consideration for the termination of the Investigation, Blue Skies Broadcasting agrees to the terms and conditions contained herein. The Bureau further agrees to grant, in conjunction and simultaneously with the adoption of this Consent Decree, the Application through December 1, 2014 without conditions of any kind other than those imposed by law or regulation on Class A television stations generally. 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, either on its own motion or in response to any petition or other third-party objection or complaint, any new proceeding, formal or informal, or take any action against Blue Skies 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 any proceeding, formal or informal, or take any action against Blue Skies Broadcasting with respect to Blue Skies Broadcasting's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Subsequent Investigations.** Subject to Section 503(b)(6) of the Communications Act, nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints or other adjudicatory pleadings filed against Blue Skies Broadcasting or its affiliates for alleged violations of the Act or the Commission's rules other than those set forth in paragraph 4 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 Blue Skies Broadcasting with the Communications Laws.

10. **Voluntary Contribution.** Blue Skies Broadcasting agrees that it will make a voluntary contribution to the United States Treasury in the amount of Thirty Thousand Dollars (\$30,000). Blue Skies Broadcasting shall also send electronic notification of payment to Peter Saharko at Peter.Saharko@fcc.gov. 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.<sup>4</sup> 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). Below are additional instructions you should follow based on the form of payment you select:<sup>5</sup>

- 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.

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<sup>4</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>5</sup> Should Blue Skies 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.

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- 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.

11. **Waivers.** Blue Skies 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. Blue Skies 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 Blue Skies Broadcasting nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Blue Skies Broadcasting shall waive any statutory right to a trial *de novo*. Blue Skies 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.

12. **Liability.** Blue Skies 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 8 hereof, that the facts discussed in paragraphs 3-4 above constitute violations of Sections 73.3526(e)(11)(iii) & (e)(11)(i) of the Commission's rules. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or paragraph 8 hereof, or both, are breached by the Bureau, or are invalidated or modified to Blue Skies 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 Blue Skies 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 47 C.F.R. § 73.3526(e)(11)(iii) & (e)(11)(i).

13. **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.

14. **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 Blue Skies Broadcasting does not expressly consent) that provision will be superseded by such rule or Commission order.

15. **Successors and Assigns.** Blue Skies Broadcasting agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

16. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

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

18. **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.

19. **Authorized Representative.** The individual signing this Consent Decree on behalf of Blue Skies Broadcasting represents and warrants that he is authorized by Blue Skies Broadcasting to execute this Consent Decree and to bind Blue Skies Broadcasting to the obligations set forth herein. The Commission signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

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20. **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:

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William T. Lake  
Chief  
Media Bureau

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Date

Blue Skies Broadcasting Corporation

By:

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Robert Ruiz  
President

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Date