

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

| | | |
|--|---|------------------------------------|
| In re Applications of |) | |
| Kalispell Christian Radio Fellowship, Inc. |) | NAL/Acct. No. MB-200741410075 |
| |) | FRN: 0004950861 |
| For Renewal of License for Stations KALS(FM), |) | Facility ID Nos. 49340 and 11015 |
| Kalispell, Montana and FM Translator Station |) | |
| K257BR, Polson, Montana |) | File Nos. BRH-20050815AEF and BRH- |
| |) | 20121203AOQ |
| and |) | |
| |) | |
| Kalispell Christian Radio Fellowship, Inc. |) | |
| Assignor, and Hi-Line Radio Fellowship, Inc., |) | File Nos. BALH-20140509ACT and |
| Assignee, for Assignment of License for Stations |) | BALFT-20140509ACU |
| KALS(FM) Kalispell, Montana and FM Translator |) | |
| Station K257BR, Polson, Montana |) | |

ORDER

Adopted: December 10, 2014

Released: December 10, 2014

By the Chief, Media Bureau:

1. In this Order, we adopt and incorporate by reference the attached Consent Decree entered into by the Media Bureau (“Bureau”) and Kalispell Christian Radio Fellowship, Inc. (“Kalispell”), licensee of Station KALS(FM), Kalispell, Montana and FM Translator Station K257BR, Polson, Montana (collectively, the “Stations”). The Consent Decree resolves issues arising from the Bureau’s review of the captioned applications for renewal of the Stations’ licenses in 2005 and 2012 (“2005 Renewal Application” and “2012 Renewal Application,” respectively). These issues include whether Kalispell violated Section 73.3539 of the Commission’s Rules (“Rules”)¹ by failing to timely file a license renewal application for the Stations and Section 301 of the Communications Act of 1934, as amended (the “Act”)² by engaging in unauthorized operation of the Stations.³

2. The Consent Decree stipulates that Kalispell violated Section 73.3539 of the Rules and Section 301 of the Act, and provides, among other things, that Kalispell will make a three thousand dollar (\$3,000) civil penalty payment to the United States Treasury.

¹ 47 C.F.R. § 73.3539.

² 47 U.S.C. § 301.

³ The Bureau issued a *Notice of Apparent Liability* to Kalispell proposing a total forfeiture of fourteen thousand dollars (\$14,000) for these violations. See *Kalispell Christian Radio Fellowship, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 2239 (MB 2007) (“NAL”). The Bureau subsequently granted the 2005 Renewal Application on January 31, 2007. In response to the NAL, Kalispell filed a “Request for Cancellation or Reduction of Proposed Forfeiture.” The Bureau issued a *Forfeiture Order* reducing the total forfeiture to seven thousand five hundred dollars (\$7,500). *Kalispell Christian Radio Fellowship, Inc.*, Forfeiture Order, 24 FCC Rcd 11958 (MB 2009) (“*Forfeiture Order*”). Kalispell did not appeal the *Forfeiture Order*. To date, the forfeiture remains outstanding.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating the Bureau's investigation of potential violations of the Rules and the Act in connection with the captioned applications.

4. Based on the record before us, we conclude that nothing in that record creates a substantial or material question of fact whether Kalispell or Hi-Line Radio Fellowship, Inc., proposed assignee under the captioned assignment applications, possesses the basic qualifications, including those relating to character, to be a Commission licensee.

5. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,⁴ and by the authority delegated by Sections 0.61 and 0.283 of the Rules,⁵ the Consent Decree attached hereto IS ADOPTED.

6. IT IS FURTHER ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules,⁶ that the *Forfeiture Order* (NAL/Acct No. MB-200741410075) issued to Kalispell Christian Radio Fellowship, Inc., for willfully violating Section 73.3539 of the Commission's Rules, and willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended, IS HEREBY CANCELLED.

7. IT IS FURTHER ORDERED that the investigation by the Media Bureau of the matters noted above IS TERMINATED.

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail-Return Receipt Requested, to Mr. Ronald Huckleby, Contact Representative, Kalispell Christian Radio Fellowship, Inc., P.O. Box 2426, Havre, MT 49340 and to its counsel, Stephen P. Lovelady, Esq., Fletcher, Heald and Hildreth, PLC, 1300 North 17th Street, Suite 1100, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

⁴ 47 U.S.C. § 154(i).

⁵ 47 C.F.R. §§ 0.61, 0.283.

⁶ 47 U.S.C. §503(b); 47 C.F.R. § 1.80.

CONSENT DECREE**I. Introduction**

1. This Consent Decree is entered into by (a) the Media Bureau of the Federal Communications Commission and (b) Kalispell Christian Radio Fellowship, Inc., licensee of Station KALS(FM), Kalispell, Montana (Facility ID No. 49340) and FM Translator Station K257BR, Polson, Montana (Facility ID No. 11015), for the purpose of resolving certain issues set forth in a *Forfeiture Order* concerning the failure to timely file the 2005 Renewal Application and unauthorized operation of the Stations.

II. Definitions

2. For purposes of this Consent Decree, the following definitions shall apply:

- (a) “2005 Renewal Application” means the FCC Form 303-S license renewal application filed by Kalispell for the Stations’ license term ending on April 1, 2005 (File No. BRH-20050815AEF);
- (b) “2012 Renewal Application” means the FCC Form 303-S license renewal application filed by Kalispell for the Stations’ license term ending on April 1, 2013 (File No. BRH-20121203AOQ);
- (c) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §151 *et. seq.*;
- (d) “Assignment Applications” means the FCC Form 314 applications seeking consent to assignment of the Stations’ licenses from Kalispell to Hi-Line (File Nos. BALH-20140509ACT and BALFT-20140509ACU);
- (e) “Bureau” means the Media Bureau of the Commission;
- (f) “Commission” or “FCC” means the Federal Communications Commission;
- (g) “Compliance Plan” means the compliance plan provided in the Appendix hereto;
- (h) “Effective Date” means the date on which the Bureau releases the Order;
- (i) “Execution Date” means the date on which this Consent Decree is executed by the last of the Parties to do so;
- (j) “Filing Date Rule” means Section 73.3539 of the Commission’s Rules, 47 C.F.R §73.3539;
- (k) “*Forfeiture Order*” means the Forfeiture Order issued by the Bureau to Kalispell on September 18, 2009, (NAL/Account No. MB200741410075) for its violations of the Filing Date Rule and Section 301;
- (l) “Hi-Line” means Hi-Line Radio Fellowship, Inc., proposed assignee of the Stations;

- (m) “Investigation” means the Bureau’s investigation of Licensee’s violations of the Filing Date Rule and Section 301;
- (n) “Kalispell” means Kalispell Christian Radio Fellowship, Inc., licensee and proposed assignor of the Stations;
- (o) “NAL” means the Notice of Apparent Liability and Forfeiture issued by the Bureau to Kalispell on February 6, 2007, (NAL/Account No.MB-200741410075), for its apparent violations of the Filing Date Rule and Section 301 at the Stations;
- (p) “Order” means the Order of the Bureau adopting this Consent Decree;
- (q) “Parties” means Kalispell and the Bureau;
- (r) “Rules” means the Commission’s Rules, found in Title 47 of the Code of Federal Regulations;
- (s) “Section 301” means Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. §301;
- (t) “Stations” means Station KALS(FM), Kalispell, Montana (Facility ID. No. 49340 and FM Translator Station K257BR, Polson, Montana (Facility ID No. 11015); and
- (u) “Violations” means the violations of the Filing Date Rule and Section 301.

III. Background

3. Kalispell failed to timely file the 2005 Renewal Application for the Stations’ prior license term in violation of the Filing Date Rule.⁷ In addition, Kalispell continued to operate the Stations after their licenses had expired in violation of Section 301.⁸ On January 31, 2007, the Bureau adopted a *Notice of Apparent Liability*, proposing a forfeiture in the total amount of \$14,000 for the Violations and granted the 2005 Renewal Application. On March 9, 2007, Kalispell filed a “Request for Cancellation or Reduction of Proposed Forfeiture” seeking a cancellation or reduction of the proposed forfeiture. On September 18, 2009, the Bureau issued the *Forfeiture Order* which reduced the proposed forfeiture to a total of \$7,500.⁹ On December 3, 2012, Kalispell timely filed the 2012 Renewal Application. To date, Kalispell has failed to remit payment of the monetary forfeiture for the Violations as directed by the *Forfeiture Order*. The Parties have negotiated this Consent Decree in order to resolve this group of long-pending matters and have the Stations operated under the Compliance Plan as contemplated by herein.

⁷ The 2005 Renewal Application was due on or before December 1, 2004.

⁸ The Stations’ licenses expired on April 1, 2005. Kalispell did not request Special Temporary Authority to operate the Stations after the Stations’ licenses had expired.

⁹ In the *Forfeiture Order*, the Bureau reduced the proposed forfeiture for FM Translator Station K257BR from \$7,000 to \$500.

IV. Agreement

4. The Parties agree that any proceedings that might result from Kalispell's violations of the Filing Date Rule and Section 301 referred to in paragraph 3 above, would be time consuming and require substantial expenditure of public and private resources. In order to conserve such resources, to resolve the matter, and to promote Kalispell's future compliance with the Filing Date Rule and Section 301, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

5. The Parties agree to be legally bound by the terms and conditions of this Consent Decree. Each represents and warrants to the other that its signatory is duly authorized to enter into this Consent Decree on its behalf. Kalispell agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

6. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between Kalispell and the Bureau concerning the Violations, as discussed herein. The Bureau finds that the Violations raise no substantial and material question of fact as to whether Kalispell possesses the basic qualifications, including those relating to character, to be a Commission licensee.

7. In express reliance on the covenants and representations in this Consent Decree, the Parties agree that this Consent Decree shall become effective on the Effective Date. Upon the Effective Date, the Order and this Consent Decree shall have the same force and effect as any other order of the Bureau. Any violation of the terms of this Consent Decree shall constitute a separate violation of a Bureau order, entitling the Bureau or the Commission to exercise any rights and remedies attendant to the enforcement of a Bureau order.

8. From and after the Effective Date, the Bureau shall not, either on its own motion or in response to third-party objection, initiate any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against Kalispell, or the Stations, based in whole or in part on the *Forfeiture Order*. The Bureau agrees that, in the absence of material new evidence, it will not, on its own motion, initiate or recommend to the Commission, any new proceeding, formal or informal, regarding the matters discussed in this Consent Decree, with regard to any violations of the Act, the Rules, or Commission policy, that occurred prior to the Effective Date. The Bureau further agrees that, in the absence of material new evidence, it will not use the facts in connection with the *Forfeiture Order* to initiate on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action on its own motion against Kalispell with respect to its basic qualifications to control and operate the Station. Nothing in this Consent Decree shall prevent the Bureau from instituting, or recommending to the Commission, new investigations or enforcement proceedings against Kalispell, in the event of any alleged future misconduct, for violation of this Consent Decree, or for violation of the Act or the Rules, consistent with the provisions of this Consent Decree.

9. Kalispell hereby stipulates that it violated Section 73.3539 of the Rules by failing to timely file a renewal application and Section 301 of the Act by continuing to operate the Stations after the licenses expired on April 1, 2005.

10. Kalispell agrees to pay a civil penalty to the United States Treasury in the amount of Three Thousand Dollars (\$3,000) within thirty (30) calendar days after the Effective Date. Kalispell will also send electronic notification of payment to Kim Varner at Kim.Varner@fcc.gov and Penelope Dade at Penelope.Dade@fcc.gov on the date said payment is made. Such payment will be made, without further protest or recourse to a *trial de novo*, by a check or similar instrument, wire transfer or credit card and must include the Account Number and FRN referenced in the caption to the Order. Regardless of the form of payment, a completed 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). Below are additional instructions that should be followed based on the form of payment selected:

- 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.

11. The Bureau agrees to grant the 2012 Renewal Application and the Assignment Applications after the Effective Date, provided that the following conditions have been met: 1) Kalispell has fully and timely satisfied its obligation to make the civil penalty payment referenced in paragraph 10 of this Decree; 2) Hi-Line has executed a statement as detailed in paragraph 14, unless the Assignment Applications have been dismissed or withdrawn; and 3) there are no issues other than the Violations that would preclude grant of the applications. In the event that there are issues that would preclude the grant of the 2012 Renewal Application or the Assignment Applications, the affected application will remain pending.

12. Kalispell represents that, in addition to its existing policies and procedures, it has adopted, is currently in the process of implementing, and agrees to abide by the Compliance Plan for the purpose of ensuring compliance with the timely filing of applications and reports with the Commission. Kalispell agrees, to the extent that it has not already done so, to implement this Compliance Plan at the Stations no later than thirty (30) days after the Effective Date and to keep such Compliance Plan in effect for three (3) years after the Effective Date.

13. Kalispell agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that the Kalispell fails to satisfy any condition or Commission Rule, in the absence of Commission alteration of the condition or Rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures.

14. The Consent Decree will be binding on Kalispell's successors-in-interest and assigns. To this end, the pending Assignment Applications shall be amended to include a statement executed by Hi-Line consenting to assumption by the assignee of the responsibilities and duties set forth in this Consent Decree including, but not limited to, continued operation of the Stations in accordance with the Compliance Plan. In the event that the Assignment Applications are withdrawn or dismissed, or the parties otherwise fail to close on the transaction, Kalispell agrees that any future application to assign or

transfer control of the Stations will include such a statement executed by an authorized representative of the proposed assignee or transferee consenting to assumption of any unfulfilled responsibilities and duties set forth in this Consent Decree with regard to the Stations.

15. Kalispell waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Order, provided the Order adopts the Consent Decree without change, addition or modification.

16. Kalispell waives any claims that 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 in this Consent Decree.

17. The Parties agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided the Order adopts the Consent Decree without change, addition or modification.

18. The Parties agree that if any Party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Order adopting this Consent Decree, none of the Parties shall contest the continuing validity of the Consent Decree or Order. The Parties further agree that they will waive any statutory right to a *trial de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and will consent to a judgment incorporating the terms of this Consent Decree.

19. The Parties agree that, in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

20. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
William T. Lake, Chief

Date: _____

**KALISPELL CHRISTIAN RADIO FELLOWSHIP,
INC.**

By: _____
Roger Lonnquist, Vice President

Date: _____

APPENDIX**COMPLIANCE PLAN FOR STATION KALS(FM) and FM TRANSLATOR STATION K257BR**

Kalispell Christian Radio Fellowship, Inc., or its successor-in-interest, as licensee of the Stations, as appropriate, will institute the following procedures to ensure compliance with the Commission's application filing Rules. Unless otherwise provided, all terms defined in the Consent Decree apply to this Compliance Plan.

1. The Stations' licensee will conduct training for all Station employees on compliance with Commission Rules applicable to station operations. To augment this training, outside counsel, or other comparable professionals, will conduct an on-site workshop for all of the Stations' employees. This workshop will be recorded and used as refresher training for staff and management at least once every twelve (12) months, and to train any new employee within five (5) days of commencement of his or her duties at the Stations.

2. The Stations' licensee will engage communications counsel on an ongoing basis to provide guidance on Commission compliance issues, to provide regular updates and notices on applicable developments in communications law, and to review its applications and reports prior to filing with the Commission. In regard to the last matter, the Stations' licensee recognizes and acknowledges that any and all information provided to the Commission must completely and candidly set forth all relevant facts and circumstances, regardless of whether such a submission may disclose a violation of the Act or the Rules.

3. The Stations' licensee will use a commercially-available calendaring system, such as Microsoft Outlook or Google Calendar, to track filing deadlines. An authorized officer of the Stations' licensee will provide an annual declaration to the Bureau certifying that, since the commencement of this Compliance Plan or the filing of its last report, if any, the Stations' licensee has maintained and is maintaining such a calendar system each year of the three-year term of this Compliance Plan. In the event the Stations' licensee is unable to so certify, it will disclose the reasons there for and indicate what steps it has taken to come into compliance with this Compliance Plan.