

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

In the Matter of)
Maryland Public Broadcasting Commission)
Licensee of Stations)
WMPB(TV), Baltimore, MD)
WCPB(TV), Salisbury, MD)
WFPT(TV), Frederick, MD)
WGPT(TV), Oakland, MD)
WMPT(TV), Annapolis, MD)
WWPB(TV), Hagerstown, MD)
NAL/Acct. No. MB-201341410021
FRN: 0003857380
Facility I.D. No. 65944
Facility I.D. No. 40618
Facility I.D. No. 40626
Facility I.D. No. 40619
Facility I.D. No. 65942
Facility I.D. No. 65943

ORDER

Adopted: September 5, 2017

Released: September 6, 2017

By the Chief, Media Bureau

1. In this Order, we adopt the attached Consent Decree entered into between the Media Bureau (Bureau) of the Federal Communications Commission (Commission) and Maryland Public Broadcasting Commission, licensee of broadcast television stations WMPB(TV), Baltimore, Maryland; WCPB(TV), Salisbury, Maryland; WFPT(TV), Frederick, Maryland; WGPT(TV), Oakland, Maryland; WMPT(TV), Annapolis, Maryland; and WWPB(TV), Hagerstown, Maryland. The Consent Decree, executed on September 5, 2017, terminates the above-referenced investigation by the Bureau regarding Maryland Public Broadcasting Commission's compliance with the Commission's equal employment opportunity rules.

2. 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.

3. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and by the authority delegated by Sections 0.61 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.61, 0.283, the Consent Decree attached hereto IS ADOPTED.

4. IT IS FURTHER ORDERED that the referenced investigation IS TERMINATED.

5. IT IS FURTHER ORDERED that copies of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Larry Unger, President and CEO, Maryland Public Television, 11767 Owings Mills Blvd., Owings Mills, Maryland 21117-1499 and to its attorney, Lawrence Miller, Esq., Garvey, Schubert & Barer, 1000 Potomac Street, NW, Suite 200, Washington, D.C. 20007.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey
Chief
Media Bureau

**Before the
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WWPB(TV), Hagerstown, MD)	Facility I.D. No. 65943

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and Maryland Public Broadcasting Commission, licensee of broadcast television stations WMPB(TV), Baltimore, Maryland; WCPB(TV), Salisbury, Maryland; WFPT(TV), Frederick, Maryland; WGPT(TV), Oakland, Maryland; WMPT(TV), Annapolis, Maryland; and WWPB(TV), Hagerstown, Maryland, hereby enter into this Consent Decree for the purpose of resolving the above-captioned investigation of the Licensee's compliance with the Commission's EEO Rules.

I. DEFINITIONS

2. For 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 an order of the Bureau adopting this Consent Decree without change, addition, deletion, or modification.
 - (c) "Bureau" means the Media Bureau of the Federal Communications Commission.
 - (d) "Commission" or "FCC" means 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.
 - (f) "EEO" means Equal Employment Opportunity.

- (g) “EEO Rules” means the Commission’s regulations found in Title 47, Section 73.2080, of the Code of Federal Regulations.
- (h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (i) “Investigation” means the Media Bureau’s investigation of the Licensee’s compliance with the EEO Rules.
- (j) “Licensee” means Maryland Public Broadcasting Commission and all of its subsidiaries, affiliates, successors, assigns, and/or transferees.
- (k) “NAL” means a notice of apparent liability issued by the FCC.
- (l) “Parties” means the Bureau and Maryland Public Broadcasting Commission, each of which is a “Party.”
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (n) “Stations” means the broadcast television stations WMPB(TV), Baltimore, Maryland; WCPB(TV), Salisbury, Maryland; WFPT(TV), Frederick, Maryland; WGPT(TV), Oakland, Maryland; WMPT(TV), Annapolis, Maryland; and WWPB(TV), Hagerstown, Maryland.

II. BACKGROUND

3. By letter dated March 29, 2011, the Media Bureau notified the Licensee that it was auditing it for compliance with the Commission’s EEO Rules. The Bureau requested the Licensee to provide various information about its compliance for the period from June 1, 2008 through May 31, 2010. On December 5, 2013, the Bureau issued a NAL against the Licensee based on the information provided in response to the audit and subsequent information requests from the Bureau.¹ The NAL found that the Licensee apparently had failed to provide notification of each full-time vacancy to one organization that had requested such notice, in apparent violation of Section 73.2080(c)(1)(ii) of the EEO Rules. The NAL further stated that the Licensee failed adequately to “analyze the recruitment program for the licensee’s unit on an ongoing basis to ensure that it is effective in achieving broad outreach to potential applicants, and address any problems found as a result of its analysis,” in apparent violation of Section 73.2080(c)(3). The NAL also found that the Licensee apparently had provided incorrect factual information of a material nature to the Commission, in apparent violation of Section 1.17(a)(2).²

4. The NAL proposed a forfeiture against the Licensee for \$20,000 for these apparent violations and imposed reporting conditions for three years. The Licensee thereafter submitted a response

¹ *Maryland Public Broadcasting Commission*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd. 16462 (MB 2013) (NAL).

² 47 CFR § 1.17(a)(2) (No person shall provide in any written statement of fact, “material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”).

to the NAL³ requesting cancellation of the proposed forfeiture and reporting conditions. The Licensee asserts that to the extent there was an EEO reporting omission, it was based on a clerical error that is not known to have resulted in a failure to send notification of a vacancy to any party entitled to notification.

5. The Bureau and the Licensee have negotiated the terms of the Consent Decree that terminates the Investigation into the matters discussed above. As part of the Consent Decree, the Licensee has agreed to make a settlement payment of Five Thousand Dollars (\$5,000) to the U.S. Treasury, and to implement and maintain a Compliance Plan designed to ensure its future compliance with the EEO Rules.

III. TERMS OF THE AGREEMENT

6. Adopting Order. The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

7. 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.

8. Effective Date; Violations. This Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that 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, the Licensee agrees to the terms and conditions contained herein. The Bureau further agrees that in the absence of new material evidence it will not use the facts developed, in whole or in part, from the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against the Licensee concerning the matters that were the subject of the Investigation.

10. Compliance Officer. Within thirty (30) calendar days of the Effective Date, the Licensee will designate its Vice President of Human Resources as a Compliance Officer to discharge the duties set forth below for the duration of this Consent Decree. The Compliance Officer will be the point of contact for all FCC EEO-related inquiries and will review and oversee the Stations' compliance with the FCC's EEO Rules on an ongoing basis, including, but not limited to, FCC EEO program requirements, recruitment and outreach activities, internal record retention, public file maintenance, and the accurate preparation and timely filing of all required EEO submissions to the FCC, including the Compliance Reports.

11. Compliance Reports. The Compliance Officer will file yearly Compliance Reports with the Commission twelve (12) months after the Effective Date and every twelve (12) months thereafter, with the final report to be submitted one week after the Termination Date. Each Compliance Report shall consist of the following information to be submitted for the Stations and any other station in its employment unit:

- (a) the Stations' most recent EEO public file report;

³ Letter from Larry Unger, President and CEO, Maryland Public Television (transmitted through Steven Schaffer, Esq., Counsel for Maryland Public Broadcasting Commission), to Marlene Dortch, Secretary, Federal Communications Commission (January 3, 2014).

- (b) dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing each Station's full-time vacancy for the preceding reporting year;
- (c) the recruitment source that referred the hiree for each full-time vacancy and the job title of each full-time vacancy;
- (d) the total number of interviewees for each full-time vacancy for the preceding reporting year and the referral source for each interviewee;
- (e) a list of all sources that requested job notifications from the Stations for jobs posted during the reporting periods listed above;
- (f) a list of all sources notified of job openings during the reporting periods listed above; and
- (g) dated copies of any source's request to be notified of job openings during the reporting periods listed above.

All Compliance Reports shall be submitted to Lewis Pulley, Assistant Chief, Policy Division, Media Bureau, Federal Communications Commission, Washington DC 20554, Lewis.Pulley@fcc.gov, and to Estella Salvatierra, Attorney Advisor, Policy Division, Media Bureau, Federal Communications Commission, Washington DC 20554, Estella.Salvatierra@fcc.gov.

12. **Training.** The Compliance Officer will conduct training for all Station employees involved in recruitment or hiring at least once every twelve (12) months on compliance with the EEO Rules. The first training shall occur within thirty (30) days of the Effective Date. The Compliance Officer will train any new applicable employee within thirty (30) days of commencement of his or her duties at the Station. A certification by the Compliance Officer that the aforementioned training has occurred shall be placed in the online electronic local public inspection file for the Stations within seven (7) business days.

13. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 10 - 12 shall expire thirty-six (36) months after the Effective Date.

14. **Settlement Payment.** The Licensee agrees to make a total settlement payment to the United States Treasury in the amount of Five Thousand Dollars (\$5,000), within thirty (30) days after the Effective Date. The Licensee acknowledges and agrees that upon execution of this Consent Decree, the Settlement Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).⁴ Maryland Public Broadcasting Commission shall send electronic notification on the date said payment is made to Lewis Pulley, Assistant Chief, Policy Division, Media Bureau, Federal Communications Commission, at Lewis.Pulley@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. A completed FCC Form 159 (Remittance Advice) must be submitted with payment unless payment is made online at the Commission's Fee Filer website.⁵ 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 to follow based on the form of payment selected.⁶

⁴ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

⁵ Payment may be made online at the Commission's Fee Filer website: <https://www.fcc.gov/encyclopedia/fee-filer>. Online payments do not require payers to submit FCC Form 159. Alternatively, payment may be made using FCC Form 159; detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁶ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e mail at ARINQUIRIES@fcc.gov.

- 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.

15. 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 Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Maryland Public Broadcasting Commission shall retain the right to challenge the Commission's 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 Maryland Public Broadcasting Commission nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Maryland Public Broadcasting Commission shall waive any statutory right to a trial *de novo*. Maryland Public Broadcasting Commission 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. Notwithstanding any provision of this Consent Decree or the Adopting Order, this Consent Decree shall be void and of no further force and effect if the condition specified in the immediately preceding paragraph is not fully and timely satisfied by Maryland Public Broadcasting Commission.

16. Severability. The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

17. 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.

18. 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 Maryland Public Broadcasting Commission expressly consents), that provision will not be superseded by such rule or Commission order.

19. Successors and Assigns. Maryland Public Broadcasting Commission agrees that the provisions of this Consent Decree shall be binding on its subsidiaries, affiliates, successors, assigns, and/or transferees. However, if Maryland Public Broadcasting Commission or any of its principals are not principals of any successor entity, the obligations of the Consent Decree shall not be operative, conditioned upon payment in full of the Settlement Payment referenced above.

20. Final Settlement. The Parties agree and acknowledge that this Consent Decree shall

constitute a final settlement between the Parties with respect to the Investigation.

21. Modifications. This Consent Decree cannot be modified without the advance written consent of all Parties.

22. 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.

23. Authorized Representative. The individual signing this Consent Decree on behalf of Maryland Public Broadcasting Commission represents and warrants that he is authorized by the Licensee to execute this Consent Decree and to bind Maryland Public Broadcasting Commission to the obligations set forth herein. The Bureau signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

24. Counterparts. This Consent Decree may be signed in any number of counterparts, each of which, when executed and delivered (including by pdf or facsimile), shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Federal Communications Commission

By:

Michelle M. Carey
Chief, Media Bureau

Date

Maryland Public Television

By:

Larry Unger
President and CEO
Maryland Public Television

Date