

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of )
Constellation Club Parent, Inc. ) File No.: EB-IHD-19-00028425
Holding Various Authorizations in the Wireless ) Acct. No.: 201932080013
Radio Services ) FRN: 0027271386

ORDER

Adopted: May 15, 2019

Released: May 15, 2019

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) has entered into a Consent Decree to resolve the Commission’s investigation into whether Constellation Club Parent, Inc. (Constellation or the Company),1 violated section 310(d) of the Communications Act, of 1934, as amended (Act),2 and section 1.948 and of the Commission’s rules (Rules),3 related to the transfer of control of wireless radio licenses prior to receiving Commission approval. These sections of the Act and the Rules ensure that the transfer and assignment of wireless radio authorizations are limited to instances where there has been a prior determination that such a transfer and assignment is in the public’s “interest, convenience, and necessity.”4 To settle this matter, Constellation admits that it failed to obtain the necessary Commission approval prior to transfer of the wireless licenses in question. Constellation also agrees to implement a compliance plan and to pay the FCC a settlement of \$24,975 in redress.

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 referenced investigation regarding Constellation’s compliance with the Act and the Rules,5 pertaining to unauthorized transfers of control and assignment of wireless radio licenses. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Constellation’s basic qualifications to hold or obtain any Commission license or authorization.6

1 Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

2 47 U.S.C. § 310(d).

3 47 CFR § 1.948.

4 Supra notes 2-3.

5 47 U.S.C. § 310(d); 47 CFR § 1.948.

6 See 47 CFR § 1.93(b).

3. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act<sup>7</sup> and the authority delegated by sections 0.111 and 0.311 of the Rules,<sup>8</sup> the attached Consent Decree **IS ADOPTED**, and its terms incorporated by reference.

4. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

5. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Ingrid Keiser, Secretary, Constellation Parent Group, Inc., 3030 LBJ Freeway, Dallas, Texas, 75234-7744, and Tom Davidson, Esq., Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold  
Chief  
Enforcement Bureau

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<sup>7</sup> 47 U.S.C. § 154(i).

<sup>8</sup> 47 CFR §§ 0.111, 0.311.

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Constellation Club Parent, Inc.	)	File No.: EB-IHD-19-00028425
	)	Acct. No.: 201932080013
Holding Various Authorizations in the Wireless	)	FRN: 0027271386
Radio Services	)	

**CONSENT DECREE**

1. The Enforcement Bureau of the Federal Communications Commission and Constellation Club Parent, Inc. (Constellation or the Company),<sup>1</sup> by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether the Company violated section 310(d) of the Communications Act of 1934, as amended (Act),<sup>2</sup> and section 1.948 of the Commission’s Rules (Rules),<sup>3</sup> pertaining to unauthorized transfers of control and assignments of licenses in the wireless radio service in connection with the Company’s acquisition of ClubCorp Holdings, Inc. (ClubCorp). As set forth herein, to resolve this matter Constellation agrees to implement a compliance plan and pay a \$24,975 civil penalty.

**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 an Order of the Enforcement Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) “ClubCorp” means ClubCorp Holdings, Inc., its U.S. subsidiaries, affiliates, predecessors-in-interest, and successors-in-interest.
  - (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 Constellation is subject by virtue of its business activities, including but not limited to the Wireless Radio Service Rules.
  - (f) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at Paragraph 15.

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<sup>1</sup> Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

<sup>2</sup> 47 U.S.C. § 310(d).

<sup>3</sup> 47 CFR § 1.948.

- (g) “Constellation” or “Company” means Constellation Club Parent, Inc., its U.S. subsidiaries, affiliates, predecessors-in-interest, and successors-in-interest.
- (h) “Covered Employees” means all employees and agents of the Company who perform, supervise, oversee, or manage the performance of duties that relate to Constellation’s responsibilities under the Communications Laws, including section 310(d) of the Act and section 1.948 of the Rules.
- (i) “Effective Date” means the date on which the Bureau and Constellation have signed the Consent Decree.
- (j) “Enforcement Bureau” or “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (k) “Investigation” means the investigation commenced by the Bureau, in File No. EB-IHD-19-00028425, into whether Constellation complied with provisions of the Communications Laws relating to its transfer of station licenses and station equipment.
- (l) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Constellation to implement the Compliance Plan.
- (m) “Parties” means Constellation and the Bureau, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (o) “Transaction” means the September 18, 2017 corporate action, executed pursuant to an Agreement and Plan of Merger, by which Constellation Merger Sub Inc., a wholly owned subsidiary of Constellation, merged with ClubCorp, with ClubCorp surviving as a wholly owned subsidiary of Constellation.
- (p) “Unauthorized Transfer Rules” means section 310(d) of the Act<sup>4</sup> and section 1.948 of the Rules,<sup>5</sup> pertaining to unauthorized transfers of control and assignments of licenses.
- (q) “Wireless Bureau” means the Wireless Telecommunications Bureau of the Commission.
- (r) “Wireless Radio Services” means those radio services as defined in section 1.907 of the Rules.<sup>6</sup>

## II. BACKGROUND

3. Section 310(d) of the Act states that “[n]o construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or

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<sup>4</sup> 47 U.S.C. § 310(d).

<sup>5</sup> 47 CFR § 1.948.

<sup>6</sup> 47 CFR § 1.907.

license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.”<sup>7</sup> Section 1.948 of the Rules similarly requires Commission consent prior to a transfer of control or an assignment of a Commission license.<sup>8</sup>

4. Constellation is a holding company, incorporated in Delaware, with its primary business office in Dallas, Texas,<sup>9</sup> and is affiliated with certain investment funds managed by affiliates of Apollo Global Management, LLC. The Company was established for the purpose of acquiring as a subsidiary a domestic entity that held wireless radio licenses, named ClubCorp.<sup>10</sup> According to Constellation, ClubCorp is a Nevada corporation and, prior to the merger Transaction, was a publicly traded company.<sup>11</sup> ClubCorp subsidiaries own or operate more than 200 golf and country clubs, business clubs, sports clubs and alumni clubs in 27 states, the District of Columbia, and two foreign countries, that utilize wireless radio licenses to support their operation.<sup>12</sup>

5. On September 18, 2017, pursuant to an agreement and plan of merger dated July 9, 2017, Constellation Merger Sub Inc., a Nevada corporation and a wholly owned subsidiary of Constellation, merged with and into ClubCorp, which resulted in ClubCorp surviving as a wholly owned subsidiary of Constellation.<sup>13</sup> In the Transaction, ClubCorp converted from a public to a privately held company, and each of the FCC wireless radio licensees once held directly or indirectly by ClubCorp thereafter became indirectly owned by Constellation (the “Transaction”).<sup>14</sup> According to Constellation, ClubCorp’s management and operations have not significantly changed under its new ownership.<sup>15</sup>

6. Thereafter, Constellation became aware that the Transaction it had consummated involved the transfer of wireless radio licenses that required prior FCC approval.<sup>16</sup> On February 22, 2018, after the Transaction had already closed, Constellation attempted to cure the unauthorized transfers by filing post-Transactional applications with the Wireless Bureau, including a waiver request. Constellation

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<sup>7</sup> 47 U.S.C. § 310(d).

<sup>8</sup> 47 CFR § 1.948.

<sup>9</sup> See E-mail from Tom Davidson, Counsel for Constellation, to Gary Oshinsky, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, FCC, Attachment (Nov. 6, 2018, 17:38 EST) (on file in EB-IHD-19-00028425); E-mail from Tom Davidson, Counsel for Constellation, to Gary Oshinsky, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, FCC (Dec. 17, 2018, 9:51 EST) (on file in EB-IHD-19-00028425) (collectively, *Constellation E-mails*).

<sup>10</sup> *Id.*

<sup>11</sup> *See id.*

<sup>12</sup> *See id.*

<sup>13</sup> See “ClubCorp Enters into a Definitive Agreement to be Acquired by Certain Investment Funds Affiliated with Apollo Global Management in an All-Cash Transaction Valued at \$1.1 Billion,”

<https://globenewswire.com/news-release/2017/07/09/1041784/0/en/ClubCorp-Enters-into-a-Definitive-Agreement-to-be-Acquired-by-Certain-Investment-Funds-Affiliated-with-Apollo-Global-Management-in-an-All-Cash-Transaction-Valued-at-1-1-Billion>; (Last Visited Dec. 11, 2018).

<sup>14</sup> See Application for Transfer of Control, ULS License Nos. 0008108478, *et al*, Description of Transaction, Request for Waiver & Public Interest Statement (Feb. 22, 2018) (*Remedial Applications and Waiver Request*) <https://wireless2.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=144680830&attachmentKey=20307615&attachmentInd=applAttach>

<sup>15</sup> *See Constellation E-mails.*

<sup>16</sup> *See Remedial Applications and Waiver Request* at pages 1-2.

asked the Wireless Bureau to grant the transfers of the wireless radio licenses from ClubCorp to Constellation *nunc pro tunc*.<sup>17</sup> Constellation stated in the applications that "...the personnel involved in this transaction did not realize that prior FCC approval for the transaction and resulting transfer of control of the Wireless Licensee was required."<sup>18</sup> The Company also represented that "[u]pon learning of this requirement, the parties requested that counsel prepare the necessary filings to bring the affected licenses back into regulatory compliance."<sup>19</sup> The Wireless Bureau referred the matter to the Enforcement Bureau for investigation.<sup>20</sup>

7. The Enforcement Bureau's Investigation revealed that Constellation completed a single substantial transfer of control<sup>21</sup> without first obtaining prior Commission consent. That unapproved Transaction involved the transfer of 108 wireless licenses<sup>22</sup> in connection with the merger of ClubCorp into Constellation Merger Sub, Inc.<sup>23</sup> The licenses involved include 107 Part 90,<sup>24</sup> private, industrial business pool licenses, and a single Part 80 marine coastal license,<sup>25</sup> and include both mobile and fixed stations. According to the Company, these wireless radio station licenses are used at ClubCorp's golf and country clubs to maintain the efficient operation of the Company's business,<sup>26</sup> *i.e.*, to communicate and coordinate by and among the grounds and maintenance crews, golf shop personnel, golf starters and rangers, restaurant and snack bar employees, security personnel, and also to control golf course irrigation systems.<sup>27</sup>

8. Constellation acknowledges that, under the Communications Laws, the Company should have obtained Commission consent prior to its transfer of control of the subject wireless licenses. To resolve the Bureau's Investigation, the Parties now enter into this Consent Decree to ensure Constellation's future compliance with all applicable Communications Laws.

### III. TERMS OF AGREEMENT

9. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order without change, addition, deletion, or modification.

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<sup>17</sup> *Id.* These application filings were completed in March 2018, and all remain pending.

<sup>18</sup> *Remedial Applications and Waiver Request* at pages 1-2.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> A substantial transfer of control is, *inter alia*, a transaction whereby controlling interest in the licensee shifts to a party whose qualifications have not yet been ascertained by the Commission. See *Questions and Answers Regarding Private Wireless Licensees' Obligations Under Section 310(d) of the Communications Act of 1934*, Fact Sheet (Sept. 19, 2000), 2000 WL 1340584, at \*2. By contrast, a pro forma transaction involves a non-substantial change in ownership of the license or the licensee entity where the controlling interest is not acquired or lost. See *id.* at \*3.

<sup>22</sup> *Id.*; *Remedial Applications and Waiver Request*.

<sup>23</sup> See *id.* at pages 1-2.

<sup>24</sup> See 47 CFR § 90.1.

<sup>25</sup> See 47 CFR § 80.1. The single Part 80 marine coastal license (WHD660) involved covers a private coast station at the Bluegrass Yacht and Country Club in Hendersonville, Tennessee, and is used to coordinate activities at the club's marina. See *Constellation E-mails*.

<sup>26</sup> See *Constellation E-mails*.

<sup>27</sup> *Id.*

10. **Jurisdiction.** The Company 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.

11. **Effective Date.** The Parties agree that 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.

12. **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 Company agrees to the terms, conditions, and procedures contained herein. The Bureau further 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 new proceeding, formal or informal, or take any action on its own motion against the Company 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 the Company with respect to the Company's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission licenses or authorizations.<sup>28</sup>

13. **Admission of Liability.** Constellation admits, for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of Paragraph 11 herein, that its actions described in Paragraphs five through eight of this Consent Decree violated the Unauthorized Transfer Rules.

14. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, to the extent it has not already done so under its current compliance procedures, the Company shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Company complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Unauthorized Transfer Rules prior to assuming his or her duties.

15. **Compliance Plan.** For purposes of settling the matters set forth herein, the Company agrees that it shall continue to maintain its existing compliance procedures. In addition, within ninety (90) calendar days after the Effective Date, the Company shall develop and implement the measures described below, if not already in place, to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Unauthorized Transfer Rules, including with regard to transfers of control and assignments of wireless licenses as the result of corporate acquisitions or asset transfers, the Company will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within ninety (90) calendar days after the Effective Date, the Company shall establish Operating Procedures that all Covered Employees shall follow to help ensure the Company's compliance with The Unauthorized Transfer Rules. The Company's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Company complies with the Unauthorized Transfer Rules. The Company shall also develop a Compliance

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<sup>28</sup> See 47 CFR § 1.93(b).

Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Unauthorized Transfer Rules.

- (b) **Compliance Manual.** Within ninety (90) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Communications Laws that apply to the Company, including the Unauthorized Transfer Rules, and shall set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's compliance with the Unauthorized Transfer Rules, including procedures required as a result of corporate acquisitions or asset transfers. The Company shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Company shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Within ninety (90) calendar days after the Effective Date, the Company shall establish and implement a Compliance Training Program on compliance with the Communications Laws, including the Unauthorized Transfer Rules, and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any noncompliance with the Communications Laws, including the Unauthorized Transfer Rules, under Paragraph 15 of this Consent Decree, and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within one hundred twenty (120) calendar days after the Effective Date except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Company shall repeat compliance training on an annual basis and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

16. **Reporting Noncompliance.** The Company shall report any noncompliance with the Communications Laws, the Unauthorized Transfer Rules, and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to address such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, SW, Washington, DC 20554, with a copy submitted electronically to Jeffrey J. Gee at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), Christopher J. Sova at [Christopher.Sova@fcc.gov](mailto:Christopher.Sova@fcc.gov), Kenneth M. Scheibel, Jr., at [Kenneth.Scheibel@fcc.gov](mailto:Kenneth.Scheibel@fcc.gov), and Gary Oshinsky at [Gary.Oshinsky@fcc.gov](mailto:Gary.Oshinsky@fcc.gov).

17. **Compliance Reports.** The Company shall file Compliance Reports with the Commission one hundred twenty (120) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree, the Communications Laws, and the Unauthorized Transfer Rules, including with regard to transfers of control and assignments of wireless licenses as the result of corporate acquisitions or asset transfers. In addition, each Compliance



Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in Paragraph 16 of this Consent Decree.

- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>29</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to address such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, SW, Washington, DC 20554, with a copy submitted electronically to Jeffrey J. Gee at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), Christopher J. Sova at [Christopher.Sova@fcc.gov](mailto:Christopher.Sova@fcc.gov), Kenneth M. Scheibel, Jr., at [Kenneth.Scheibel@fcc.gov](mailto:Kenneth.Scheibel@fcc.gov), and Gary Oshinsky at [Gary.Oshinsky@fcc.gov](mailto:Gary.Oshinsky@fcc.gov).

18. **Termination Date.** Unless stated otherwise, the requirements set forth in Paragraphs 14 through 17 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

19. **Civil Penalty.** The Company will pay a civil payment to the United States Treasury in the amount of Twenty-Four Thousand Nine Hundred and Seventy-Five Dollars (\$24,975) within thirty (30) calendar days after the Effective Date. The Company shall send electronic notification of payment to Jeffrey J. Gee at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), Christopher J. Sova at [Christopher.Sova@fcc.gov](mailto:Christopher.Sova@fcc.gov), Kenneth M. Scheibel, Jr., at [Kenneth.Scheibel@fcc.gov](mailto:Kenneth.Scheibel@fcc.gov) and Gary Oshinsky at [Gary.Oshinsky@fcc.gov](mailto:Gary.Oshinsky@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.<sup>30</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 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.

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<sup>29</sup> 47 CFR § 1.16.

<sup>30</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- 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.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

20. **Waivers.** As of the Effective Date, the Company 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. The Company 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 Consent Decree or the Adopting Order, neither the Company nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Company shall waive any statutory right to a trial *de novo*. The Company hereby agrees to waive any claims they may otherwise have under the Equal Access to Justice Act<sup>31</sup> relating to the matters addressed in this Consent Decree.

21. **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.

22. **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.

23. **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 Company does not expressly consent) that provision will be superseded by such Rule or Order.

24. **Successors and Assigns.** The Company agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

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

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

27. **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.

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<sup>31</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501-1.1530.

28. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree and that each person signing this Consent Decree on behalf of a Party is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

29. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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Rosemary C. Harold  
Chief  
Enforcement Bureau

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Date

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Ingrid Keiser  
Secretary,  
Constellation Club Parent, Inc.

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Date