

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of )
)
Seasons 4, Inc. d/b/a ) File No.: EB-SED-17-00025875
S4 Lights ) Acct. No.: 201932100016
) FRN: 0028507234

ORDER

Adopted: August 26, 2019

Released: August 27, 2019

By the Deputy Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether Seasons 4, Inc. d/b/a S4 Lights (S4) violated the Commission’s rules by marketing light-emitting diode (LED) products without the required equipment authorization, labeling, and user manual disclosures, and by failing to produce certain required test records. These rules ensure that radio frequency devices marketed in the United States do not interfere with authorized communications, thereby maintaining network integrity and security and protecting consumers. To settle this matter, S4 admits that it violated the Commission’s rules, will implement a compliance plan, and will pay a \$25,000 civil penalty.

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 S4’s compliance with the equipment authorization, labeling, user manual disclosure, and record retention rules in effect at the time of the violations, section 302(b) of the Communications Act of 1934, as amended (Act),<sup>1</sup> and sections 2.803, 2.938, 2.955, 2.1077, 15.19, 15.21, 15.101, and 15.105 of the Commission’s rules.<sup>2</sup>

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of S4’s basic qualifications to hold or obtain any Commission license or authorization.<sup>3</sup>

4. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Act,<sup>4</sup> and the authority delegated by sections 0.111 and 0.311 of the Commission’s rules,<sup>5</sup> the attached Consent Decree IS ADOPTED and its terms incorporated by reference.

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

<sup>1</sup> 47 U.S.C. § 302a(b).

<sup>2</sup> 47 CFR §§ 2.803, 2.938, 2.1077, 15.19, 15.101; id. §§ 2.803, 2.955, 15.19, 15.21, 15.101, 15.105 (2017). Some of the rules in effect at the time the violations occurred were subsequently amended. The new rules became effective on November 2, 2017. See Amendment of Parts 0, 1, 2, 15, and 18 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment, Report and Order, 32 FCC Rcd 8746 (2017).

<sup>3</sup> See 47 CFR § 1.93(b).

<sup>4</sup> 47 U.S.C. § 154(i).

<sup>5</sup> 47 CFR §§ 0.111, 0.311.

6. **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 Craig Batten, President, Seasons 4, Inc. d/b/a S4 Lights, 3601 LaGrange Parkway, Toano, Virginia 23168.

FEDERAL COMMUNICATIONS COMMISSION

Christopher L. Killion  
Deputy Chief  
Enforcement Bureau

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Seasons 4, Inc. d/b/a ) File No.: EB-SED-17-00025875
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CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Seasons 4, Inc. d/b/a S4 Lights (S4), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether S4 violated section 302(b) of the Communications Act of 1934, as amended,1 and sections 2.803, 2.938, 2.955, 2.1077, 15.19, 15.21, 15.101, and 15.105 of the Commission’s rules2 related to the unauthorized marketing of light-emitting diode (LED) lighting products. To resolve this matter, S4 admits that it violated the Commission’s rules, will implement a compliance plan, and will pay a \$25,000 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.3
(b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Bureau” means the Enforcement 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 S4 is subject by virtue of its business activities, including but not limited to the Equipment Marketing Rules.
(f) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 14.

1 47 U.S.C. § 302a(b).

2 47 CFR §§ 2.803, 2.938, 2.1077, 15.19, 15.101; id. §§ 2.803, 2.955, 15.19, 15.21, 15.101, 15.105 (2017). Some of the rules in effect at the time the violations occurred were subsequently amended and those amendments became effective on November 2, 2017. See Amendment of Parts 0, 1, 2, 15, and 18 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment, Report and Order, 32 FCC Rcd 8746 (2017). This settlement resolves the rule violations listed in paragraph 1 of this Consent Decree and sets forth obligations for compliance with the current rules.

3 47 U.S.C. § 151 et seq.

- (g) “Covered Employees” means all employees and agents of S4 who perform, or supervise, oversee, or manage the performance of, duties that relate to S4’s responsibilities under the Communications Laws, including the Equipment Marketing Rules.
- (h) “Effective Date” means the date by which both the Bureau and S4 have signed the Consent Decree.
- (i) “Equipment Marketing Rules” means section 302(b) of the Act;<sup>4</sup> sections 2.803, 2.938, 2.955, 2.1077, 15.19, 15.21, 15.101, and 15.105 of the Rules;<sup>5</sup> and other provisions of the Act, the Rules, and Commission orders related to the authorization of radio frequency devices and the marketing of such devices.
- (j) “Investigation” means the investigation commenced by the Bureau in File No. EB-SED-17-00025875 regarding whether S4 violated the Equipment Marketing Rules.<sup>6</sup>
- (k) “Operating Procedures” means the standard internal operating procedures and compliance policies established by S4 to implement the Compliance Plan.
- (l) “Parties” means S4 and the Bureau, each of which is a “Party.”
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (n) “S4” or “Company” means Seasons 4, Inc. d/b/a S4 Lights and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

## II. BACKGROUND

3. Section 302 of the Act authorizes the Commission to promulgate reasonable regulations to minimize harmful interference by equipment that emits radio frequency energy.<sup>7</sup> Specifically, section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.”<sup>8</sup> The purpose of section 302 of the Act is to ensure that radio transmitters and other electronic devices meet certain standards in order to control interference before they reach the market.

4. The Commission carries out its responsibilities under section 302 of the Act in two ways. First, the Commission establishes technical requirements for transmitters and other equipment to minimize their potential for causing interference to authorized radio services. Second, the Commission administers an equipment authorization program to ensure that equipment reaching the market in the United States complies with the technical and administrative requirements set forth in the Rules. The equipment authorization program requires, among other things, that radio frequency devices must be tested for compliance with the applicable technical requirements prior to marketing.<sup>9</sup> In that regard, section 2.803(b) of the Rules prohibits the marketing of radio frequency devices unless the device has

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<sup>4</sup> *Id.* § 302a(b).

<sup>5</sup> 47 CFR §§ 2.803, 2.938, 2.1077, 15.19, 15.101; *id.* §§ 2.803, 2.955, 15.19, 15.21, 15.101, 15.105 (2017).

<sup>6</sup> *See* Letter of Inquiry from Aspasia A. Paroutsas, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Craig Batten, President, S4 Lights (Jan. 16, 2018) (on file in EB-SED-17-00025875) (LOI).

<sup>7</sup> 47 U.S.C. § 302a.

<sup>8</sup> *Id.* § 302a(b).

<sup>9</sup> The term “marketing” is defined in the Rules and includes the “sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.” 47 CFR § 2.803(a).

first been properly authorized, identified, and labeled in accordance with the Rules, with limited exceptions.<sup>10</sup>

5. S4 is a Virginia-based corporation that markets custom light-emitting diode (LED) lighting displays to theme parks, municipalities, botanical gardens, malls, zoos, and other venues.<sup>11</sup> On November 30, 2017, the Bureau's Spectrum Enforcement Division received a complaint alleging that S4's lighted Christmas tree display at the Columbus Zoo and Aquarium had caused harmful interference to authorized wireless communications in Powell, OH. After reviewing the complaint, the Spectrum Enforcement Division issued a Letter of Inquiry (LOI) to S4 on January 16, 2018, directing it to submit a sworn written response to a series of questions relating to its marketing of LED lighting products.<sup>12</sup> The investigation revealed that S4 violated the Equipment Marketing Rules by marketing LED lighting products<sup>13</sup> without the required equipment authorization, labeling, and user manual disclosures,<sup>14</sup> and by failing to produce certain required test records.<sup>15</sup>

6. After receiving the LOI, S4 began the process of bringing its noncompliant radio frequency devices into compliance with the Rules by obtaining authorizations for models that had not been properly authorized and by marketing authorized devices with proper labels and user manual disclosures.<sup>16</sup> The Company achieved compliance with the relevant Equipment Marketing Rules in February 2019 for the LED lighting products at issue.<sup>17</sup>

7. The Bureau and S4 negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree.

### III. TERMS OF AGREEMENT

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

9. **Jurisdiction.** S4 agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

10. **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 Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

11. **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, S4 agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new

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<sup>10</sup> See *id.* §§ 2.803(b)-(c).

<sup>11</sup> See, e.g., Response to Letter of Inquiry, from Craig Batten, President, S4 Lights, to Paul Noone, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, at 2-6, Responses to LOI Questions 1 and 2, (Mar. 19, 2018) (on file in EB-SED-17-00025875) (LOI Response).

<sup>12</sup> See LOI.

<sup>13</sup> Such products constitute "unintentional radiators" within the meaning of section 15.3(z) of the Rules. 47 CFR § 15.3(z).

<sup>14</sup> See, e.g., LOI Response at 76, Response to LOI Question 8; Response to Supplemental Letter of Inquiry, from Craig Batten, President, S4 Lights, to Paul Noone, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, at 95-227, Responses to Supp. LOI Questions 6 and 7 (July 19, 2018) (both on file in EB-SED-17-00025875) (Supplemental LOI Response).

<sup>15</sup> 47 CFR § 2.938; *id.* § 2.955 (2017).

<sup>16</sup> See Supplemental LOI Response at 96-109, Response to Supp. LOI Question 6.

<sup>17</sup> See 47 CFR §§ 2.803, 2.938, 2.1077, 15.19, 15.101; *id.* §§ 2.803, 2.955, 15.19, 15.21, 15.101, 15.105 (2017).

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 S4 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 to set for hearing the question of S4's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.<sup>18</sup>

12. **Admission of Liability.** S4 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 paragraph 5, herein, violated the Equipment Marketing Rules in effect during the Investigation.

13. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, S4 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 S4 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 Equipment Marketing Rules prior to assuming his/her duties.

14. **Compliance Plan.** For purposes of settling the matters set forth herein, S4 agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Equipment Marketing Rules, S4 will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, S4 shall establish Operating Procedures that all Covered Employees must follow to help ensure S4's compliance with the Equipment Marketing Rules. S4's Operating Procedures shall include internal procedures and policies specifically designed to ensure that all radio frequency devices to be marketed by S4 are properly authorized and compliant with the applicable technical and administrative standards and requirements prior to the initiation of marketing.<sup>19</sup> Additionally, S4 will establish a procedure for retaining documentation supporting device compliance prior to the initiation of marketing.<sup>20</sup> S4 shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Equipment Marketing Rules.
- (b) **Compliance Manual.** Within sixty (60) 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 Equipment Marketing Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure S4's compliance with the Equipment Marketing Rules. S4 shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. S4 shall

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<sup>18</sup> See 47 CFR § 1.93(b).

<sup>19</sup> The term "marketing" is defined in the Rules and includes the "sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease." 47 CFR § 2.803(a).

<sup>20</sup> See 47 CFR §§ 2.938.

distribute any revisions to the Compliance Manual promptly to all Covered Employees.

- (c) **Compliance Training Program.** S4 shall establish and implement a Compliance Training Program in compliance with the Equipment Marketing Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of S4's obligation to report any noncompliance with the Equipment Marketing 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 sixty (60) 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. S4 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.

15. **Reporting Noncompliance.** S4 shall report any noncompliance with the Equipment Marketing 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 S4 has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that S4 has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted electronically to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, at [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov), with a copy submitted electronically to Paul Noone at [Paul.Noone@fcc.gov](mailto:Paul.Noone@fcc.gov).

16. **Compliance Reports.** S4 shall file compliance reports with the Commission ninety (90) 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 S4's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Equipment Marketing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of S4, stating that the Compliance Officer has personal knowledge that S4: (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 15 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>21</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of S4, 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 S4 has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that S4 has taken or will take to prevent the recurrence of

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<sup>21</sup> 47 CFR § 1.16.

any such noncompliance, including the schedule on which such preventive action will be taken.

- (d) All Compliance Reports shall be submitted electronically to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, at [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov), with a copy submitted electronically to Paul Noone at [Paul.Noone@fcc.gov](mailto:Paul.Noone@fcc.gov).

17. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 13 through 16 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

18. **Civil Penalty.** S4 will pay a civil penalty to the United States Treasury in the amount of twenty-five thousand dollars (\$25,000). Such payment shall be made in four (4) installments (each, an Installment Payment).

- The first Installment Payment in the amount of two thousand eighty-four dollars (\$2,084.00) is due within thirty (30) calendar days of the Effective Date.
- The second Installment Payment in the amount of six thousand two hundred forty-nine dollars and thirty-four cents (\$6,249.34) is due within three hundred and sixty (360) calendar days of the Effective Date.
- The third Installment Payment in the amount of eight thousand three hundred thirty-three dollars and thirty-three cents (\$8,333.33) is due within seven hundred and twenty (720) calendar days of the Effective Date.
- The fourth Installment Payment in the amount of eight thousand three hundred thirty-three dollars and thirty-three cents (\$8,333.33) is due within one thousand eighty (1,080) calendar days of the Effective Date.

S4 acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty and each Installment Payment shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).<sup>22</sup> Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated.

S4 shall send electronic notification of payment to Paul Noone at [Paul.Noone@fcc.gov](mailto:Paul.Noone@fcc.gov) and to the Spectrum Enforcement Division at [EB-SED-Response.gov](mailto:EB-SED-Response.gov) on the date each payment is made. Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission’s Fee Filer (the Commission’s online payment system),<sup>23</sup> or by wire transfer. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>24</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).<sup>25</sup> For

<sup>22</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>23</sup> Payments made using the Commission’s Fee Filer system do not require the submission of an FCC Form 159.

<sup>24</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

<sup>25</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.



additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using the Commission's Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu, and select the bill number associated with the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and then choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission's Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu and then select the bill number associated to the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

19. **Event of Default.** S4 agrees that an Event of Default shall occur upon the failure by S4 to pay the full amount of any Installment Payment on or before the due date specified in this Consent Decree.

20. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Civil Penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75 percent, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Civil Penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by S4.

21. **Waivers.** As of the Effective Date, S4 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. S4 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 S4 nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and S4 shall waive any statutory right to a trial *de novo*. S4 hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>26</sup> relating to the matters addressed in this Consent Decree.

22. **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.

23. **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.

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<sup>26</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

24. **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 S4 does not expressly consent) that provision will be superseded by such Rule or order.

25. **Successors and Assigns.** S4 agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

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

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

28. **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.

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

30. **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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Christopher L. Killion  
Deputy Chief  
Enforcement Bureau

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Date

\_\_\_\_\_  
Craig Batten  
President  
Seasons 4, Inc. d/b/a S4 Lights

\_\_\_\_\_  
Date