

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

In the Matter of
Magic Broadcasting II, LLC, registrant of Antenna
Structure Registration No. 1043227, and licensee of
Station WILN(FM), Panama City, Florida
File Nos.: EB-FIELDSCR-19-00029755
EB-IHD-19-00028727
CD Acct. No.: 202032020009
FRN: 0019718634

ORDER

Adopted: December 3, 2020

Released: December 3, 2020

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree to resolve two Enforcement Bureau investigations of the conduct of Magic Broadcasting II, LLC (Magic Broadcasting). The Bureau’s Office of the Field Director investigated whether Magic Broadcasting violated section 303(q) of the Communications Act of 1934, as amended (Act),1 and sections 17.47(a)(1), 17.48, and 17.57 of the Commission’s rules2 by failing to conduct the required daily inspection of an antenna structure’s lighting system, by failing to notify the Federal Aviation Administration (FAA) about a lighting failure, and by failing to register Magic Broadcasting’s acquisition of an antenna structure with the Commission. Concurrently, the Bureau’s Investigations and Hearings Division (IHD) investigated whether Magic Broadcasting violated section 508 of the Act3 and sections 73.1216 and 73.1208 of the Commission’s rules4 by failing to conduct two broadcast contests in a manner substantially as announced by pre-selecting the winners in those contests, and by failing to disclose that programming broadcast over the Station during a supposedly live call-in contest was pre-recorded.

2. To resolve this matter, Magic Broadcasting: (a) admits to violating applicable portions of the Act and the Commission’s rules; (b) certifies that each antenna structure registered to it or from which it operates currently complies with part 17 of the Commission’s rules; (c) agrees to pay a civil penalty of \$125,000; and (d) agrees to enter into a compliance plan. This action will promote aviation safety near antenna structures, advance the Commission’s longstanding goal of protecting the public from being deceived by broadcast contests, and serve as a reminder to the industry that the Commission remains vigilant in its duty to ensure that licensees adhere to the Commission’s rules regarding representations whether broadcast programming is live or pre-recorded.

3. 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

1 47 U.S.C. §. 303(q).

2 47 CFR §§ 17.47(a)(1), 17.48, 17.57.

3 47 U.S.C. § 509.

4 47 CFR §§ 73.1216, 73.1208.

referenced investigation regarding Magic Broadcasting's compliance with sections 303(q) and 508 of the Act<sup>5</sup> and sections 17.47(a)(1), 17.48, 17.57, 73.1216, and 73.1208 of the Commission's rules.<sup>6</sup>

4. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Magic Broadcasting's basic qualifications to hold or obtain any Commission license or authorization.<sup>7</sup>

5. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) of the Act<sup>8</sup> and the authority delegated by sections 0.111 and 0.311 of the Commission's rules,<sup>9</sup> the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

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

7. **IT IS FURTHER ORDERED** that any third-party complaints and allegations against Magic Broadcasting and/or its stations related to the above-captioned investigation that are pending before the Bureau as of the date of this Consent Decree **ARE DISMISSED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be served via e-mail to Matthew H. McCormick, Esq., counsel to Magic Broadcasting II, LLC, at [mccormick@fhhlaw.com](mailto:mccormick@fhhlaw.com) and to Donald G. McCoy, President, Magic Broadcasting II, LLC, at [DonGMcCoy@aol.com](mailto:DonGMcCoy@aol.com).

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold  
Chief  
Enforcement Bureau

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<sup>5</sup> 47 U.S.C. §§ 303(q), 509.

<sup>6</sup> 47 CFR §§ 17.47(a)(1), 17.48, 17.57, 73.1216, 73.1208.

<sup>7</sup> See 47 CFR § 1.93(b).

<sup>8</sup> 47 U.S.C. § 154(i).

<sup>9</sup> 47 CFR §§ 0.111, 0.311.

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

In the Matter of ) ) Magic Broadcasting II, LLC, registrant of Antenna ) Structure Registration No. 1043227, and licensee of ) Station WILN(FM), Panama City, Florida ) ) )	File Nos.: EB-FIELDSCR-19-00029755 EB-IHD-19-00028727 CD Acct. No.: 202032020009 FRN: 0019718634
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**CONSENT DECREE**

1. The Enforcement Bureau of the Federal Communications Commission and Magic Broadcasting II, LLC (Magic Broadcasting), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating two Enforcement Bureau investigations of Magic Broadcasting’s conduct. The Bureau’s Office of the Field Director investigated whether Magic Broadcasting violated section 303(q) of the Act and sections 17.47(a)(1), 17.48, and 17.57 of the Rules by failing to conduct the required daily inspection of an antenna structure’s lighting system, by failing to notify the Federal Aviation Administration (FAA) about a lighting failure, and by failing to register Magic Broadcasting’s acquisition of an antenna structure with the Commission. Concurrently, the Bureau’s Investigations and Hearings Division (IHD) investigated whether Magic Broadcasting violated section 508 of the Act and sections 73.1216 and 73.1208 of the Rules by failing to conduct two broadcast contests in a manner substantially as announced by pre-selecting the winners in those contests, and by failing to disclose that programming broadcast over the Station during a supposedly live call-in contest was pre-recorded.

2. To resolve this matter, Magic Broadcasting: (a) admits to violating the Part 17 Rules, the Contest Rules, and the Live Broadcast Rules; (b) certifies that each antenna structure registered to it or from which it operates currently complies with the Part 17 Rules; (c) agrees to pay a civil penalty of \$125,000; and (d) agrees to enter into a compliance plan. This action will promote aviation safety near antenna structures, advance the Commission’s longstanding goal of protecting the public from being deceived by broadcast contests, and serve as a reminder to the industry that the Commission remains vigilant in its duty to ensure that licensees adhere to the Live Broadcast Rules.

**I. DEFINITIONS**

3. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended.<sup>10</sup>
  - (b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) “Antenna Structure” means the antenna structure registered with the Commission and assigned Antenna Structure Registration (ASR) number 1043227.
  - (d) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.

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<sup>10</sup> 47 U.S.C. § 151 *et seq.*

- (e) “CD Acct No.” means account number 202032020009, associated with payment obligations described in paragraph 21 of this Consent Decree.
- (f) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (g) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Magic Broadcasting is subject by virtue of its business activities, including but not limited to the Covered Rules.
- (h) “Complaints” means the Field Complaint and the IHD Complaints.
- (i) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 17.
- (j) “Contest Laws” means section 508 of the Act<sup>11</sup> and section 73.1216 of the Rules,<sup>12</sup> and other provisions of the Act, the Rules, and Commission orders governing how Commission licensees conduct contests that are broadcast or advertised.
- (k) “Covered Employees” means all employees and agents of Magic Broadcasting who perform, supervise, oversee, or manage the performance of duties that relate to Magic Broadcasting’s responsibilities under the Communications Laws, including the Covered Rules.
- (l) “Covered Rules” means the Part 17 Rules, the Contest Laws, and the Live Broadcast Rules.
- (m) “Effective Date” means the date by which both the Bureau and Magic Broadcasting have signed the Consent Decree and the Bureau has released an Adopting Order.
- (n) “Field Complaint” means any third-party complaint alleging violation of the Part 17 Rules received by the Commission or Bureau as of September 3, 2019.
- (o) “IHD Complaint” means any third-party complaint alleging violation of the Contest Laws and the Live Broadcast Rules received by the Commission or Bureau as of October 2, 2018.
- (p) “IHD Investigation” means the investigation commenced by the Bureau in EB-IHD-19-00028727 regarding whether Magic Broadcasting violated the Contest Laws and the Live Broadcast Rules.
- (q) “Investigations” means the IHD Investigation and the Part 17 Investigation.
- (r) “Live Broadcast Rules” means section 73.1208 of the Rules<sup>13</sup> and other provisions of the Act, the Rules, and Commission orders related to the broadcast of taped, filmed, or recorded program material in which time is of special significance or which affirmative attempts to create the impression that the events depicted are occurring live.
- (s) “LOI” means the Letter of Inquiry issued by the Bureau to Magic Broadcasting on July 11, 2019, in connection with the potential violations of the Contest Laws.

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<sup>11</sup> 47 U.S.C. § 509(a)(3).

<sup>12</sup> 47 CFR § 73.1216(a).

<sup>13</sup> *Id.* § 73.1208.

- (t) “Magic Broadcasting” means Magic Broadcasting II, LLC and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (u) “Operating Procedures” means the standard internal operating procedures and compliance policies established by Magic Broadcasting to implement the Compliance Plan.
- (v) “Part 17 Investigation” means the investigation commenced by the Bureau in File No. EB-FIELDSCR-19-00029755 regarding whether Magic Broadcasting violated the Part 17 Rules.
- (w) “Part 17 Rules” means part 17 of the Rules, section 303(q) of the Act, and any Commission orders related to the marking, lighting, maintenance, monitoring, and registration of antenna structures.
- (x) “Parties” means Magic Broadcasting and the Bureau, each of which is a “Party.”
- (y) “Rules” means the Commission’s regulations found in title 47 of the Code of Federal Regulations.
- (z) “Station” means radio broadcast station WILN(FM), Panama City, Florida (Facility ID No. 4125).
- (aa) “Supplemental LOI” means the Supplemental Letter of Inquiry issued by the Bureau to Magic Broadcasting on May 14, 2020, in connection with the potential violations of the Contest Laws and Live Broadcast Rules.

## II. BACKGROUND

### A. Legal Framework.

4. The Part 17 Rules are designed to ensure that antenna structures do not pose a hazard to aviation safety. Section 303(q) of the Act states that a “permittee or licensee, and the tower owner in any case in which the owner is not the permittee or licensee, shall maintain the painting and/or illumination of the tower as prescribed by the Commission.”<sup>14</sup> Section 17.47(a) of the Part 17 Rules requires antenna structure owners to monitor the status of a structure’s lighting system by either (1) making “an observation of the antenna structure's lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator designed to register any failure of such lights” or (2) by “provid[ing] and properly maintain[ing] an automatic alarm system designed to detect any failure of such lights and to provide indication of such failure to the owner.”<sup>15</sup> Section 17.48(a) of the Part 17 Rules states that the owner of an antenna structure must “report immediately to the FAA . . . any observed or otherwise known extinguishment or improper functioning of any top steady burning light or any flashing obstruction light, regardless of its position on the antenna structure, not corrected within 30 minutes.”<sup>16</sup> Section 17.57 of the Part 17 Rules states that “the [antenna structure] owner must also notify the Commission within 5 days of any change in structure height or change in ownership information.”<sup>17</sup>

5. The Commission has long enforced the Contest Laws to prohibit stations from deceiving their audiences by failing to fully describe the material terms of contests, or by not conducting contests in accordance with the announced contest rules. With respect to contests of intellectual knowledge, intellectual skill, or chance, section 508 of the Act prohibits a licensee from knowingly deceiving the public by engaging “in any artifice or scheme for the purpose of prearranging or predetermining in whole

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<sup>14</sup> 47 U.S.C. § 303(q).

<sup>15</sup> 47 CFR § 17.47(a).

<sup>16</sup> *Id.* § 17.48(a).

<sup>17</sup> *Id.* § 17.57.

or in part the outcome of a purportedly bona fide contest . . . of chance.”<sup>18</sup> Concerning licensee-conducted contests, section 73.1216 of the Rules requires a licensee to “fully and accurately disclose the material terms” of a contest it broadcasts or advertises, and to conduct the contest “substantially as announced and advertised.”<sup>19</sup> Moreover, no contest description may be false, misleading, or deceptive with respect to any material term.<sup>20</sup> Although the Commission in 2015 updated section 73.1216 to permit broadcast licensees to disclose material contest terms either by broadcasting those terms or making them available in writing on a publicly accessible internet website, it at the same time affirmed the core principles of section 73.1216, including the requirement that contests be conducted substantially as announced or advertised.<sup>21</sup>

6. The Commission has a longstanding goal of protecting consumers by ensuring that the public knows when certain program material is “live,” rather than taped, filmed, or recorded. Consistent with this goal, section 73.1208 of the Rules requires licensees to disclose that material is prerecorded when “time is of special significant, or . . . [when] an affirmative attempt is made to create the impression that it [i.e., the program material] is occurring simultaneously with the broadcast.”<sup>22</sup>

## **B. Factual Background.**

7. *Part 17 Investigation.* On September 3, 2019, the Bureau received an anonymous Field Complaint that the Antenna Structure had not been properly lit for more than a year. The following day, an agent from the Bureau’s Miami Field Office began to investigate and initially determined that the then-registrant of the Antenna Structure was no longer in business. In researching the current ownership of the structure, the agent determined that Station WVFT was licensed to operate from the Antenna Structure and that WVFT was licensed to Magic Broadcasting. Over the next week, the agent communicated directly with the station’s manager, and, eventually, counsel to Magic Broadcasting. Through those communications, Magic Broadcasting admitted and provided evidence that it: (a) failed, over a period of 453 days, to monitor the state of the lighting system for the Antenna Structure, as required under section 17.47(a) of the Part 17 Rules; (b) failed to immediately notify the FAA of a lighting extinguishment on the Antenna Structure, as required under section 17.48 of the Part 17 Rules; and (c) failed to notify the Commission of its acquisition in 2012 of the Antenna Structure, as required under section 17.57 of the Part 17 Rules.

8. *IHD Investigation.* The Commission received the IHD Complaints in September and October 2018,<sup>23</sup> alleging that the Station failed to conduct one or more contests, including the “Troll Tracker” contest and the “Alexa Almighty” contest, in a manner substantially as announced by pre-selecting the winners in those contests.<sup>24</sup> In connection with the Alexa Almighty contest, the IHD

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<sup>18</sup> 47 U.S.C. § 509.

<sup>19</sup> 47 CFR § 73.1216(a); *Amendment of Section 73.1216 of the Commission’s Rules Related to Broadcast Licensee-Conducted Contests*, MB Docket No. 14-226, Report and Order, 30 FCC Rcd 10468, 10468-69, para. 3 (2015) (*2015 Section 73.1216 Report and Order*) (updating rule to permit broadcasters to comply with contest disclosure requirements by either broadcasting material contest terms or making them available in writing on a publicly available Internet website but also affirming the Rule’s core principles).

<sup>20</sup> 47 CFR § 73.1216(a).

<sup>21</sup> *Id.* § 73.1216; *2015 Section 73.1216 Report and Order*, 30 FCC Rcd at 10468-69, paras. 1, 3.

<sup>22</sup> 47 CFR § 73.1208(a).

<sup>23</sup> Complaint No. 2763280 (Sept. 11, 2018) (on file in EB-IHD-19-00028727) (Sept. 11, 2018 Complaint); Complaint No. 2812164 (Oct. 2, 2018) (on file in EB-IHD-19-00028727). Both IHD Complaints relate to the same contests and allege the same violations.

<sup>24</sup> The Troll Tracker contest was conducted as though it were a scavenger hunt. The IHD Complaints allege that the Station breached its obligation to conduct the contest fairly when a female listener solved the puzzle earlier than anticipated, thereby circumventing the Station’s desired goal of enhancing its broadcast listenership through a

(continued....)

Complaints also alleged that Station personnel recorded fake telephone calls with individuals posing as contest participants and aired the previously recorded programming during the voice-tracked afternoon show.<sup>25</sup> On July 11, 2019, the Bureau issued an LOI to Magic Broadcasting, the Station's licensee, seeking more information about the complained-of contests.<sup>26</sup> On August 27, 2019, Magic Broadcasting responded to the LOI, providing a narrative statement, responsive documents, and audio recordings of the Station's general contest rules and promotions for the contests.<sup>27</sup> The Bureau thereafter issued Magic Broadcasting a Supplemental LOI with additional inquiries,<sup>28</sup> to which Magic Broadcasting responded.<sup>29</sup>

9. Although queried repeatedly on these matters, Magic Broadcasting would neither confirm nor deny the veracity of the allegations made in the IHD Complaints<sup>30</sup> and maintains that it has no information "in its possession, custody, control, or knowledge" indicating that the Station broadcast the pre-recorded programming identified in the IHD Complaints.<sup>31</sup> Magic Broadcasting has not provided any evidence to rebut the accounts given by the complainant, whose credibility the Bureau has no independent reason to doubt or question. Significantly, Magic Broadcasting acknowledges that it is "unable to ascertain" whether the IHD Complaints are in any way materially inaccurate, incomplete, or otherwise erroneous.<sup>32</sup>

10. To resolve the Investigations, the Bureau and Magic Broadcasting enter into this Consent Decree on the following terms and conditions.

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protracted competition. To resolve the dilemma, the Station staff allegedly had both her and her boyfriend sign non-disclosure agreements and fraudulently continue the contest for the benefit of unwitting listeners, while secretly arranging for the first listener to ultimately win the contest. In the Alexa Almighty contest, Magic Broadcasting offered callers the chance to win prizes if they called the Station at designated times during the day. The IHD Complaints allege that it was impossible for the Station to have conducted the contest as advertised because there was no live DJ on air at the time the listeners were asked to call in. Instead, the Station allegedly aired pre-recorded calls between Station employees and their friends posing as contest participants. See Sept. 11, 2018 Complaint at 1.

<sup>25</sup> *Id.*

<sup>26</sup> Letter of Inquiry from Christopher J. Sova, Deputy Chief, Investigations and Hearing Division, FCC Enforcement Bureau, to Donald G. McCoy, President, Magic Broadcasting II, LLC (July 11, 2019) (on file in EB-IHD-19-00028727).

<sup>27</sup> Response to Letter of Inquiry, from Matthew H. McCormick and Keenan P. Adamchak, Counsel to Magic Broadcasting II, LLC, Fletcher, Heald & Hildreth, PLC, to Marlene Dortch, Secretary, FCC (Aug. 27, 2019) (on file in EB-IHD-19-00028727) (LOI Response).

<sup>28</sup> Letter of Inquiry from Christopher J. Sova, Deputy Chief, Investigations and Hearing Division, FCC Enforcement Bureau, to Donald G. McCoy, President, Magic Broadcasting II, LLC, and Matthew H. McCormick and Keenan P. Adamchak, Counsel to Magic Broadcasting II, LLC, Fletcher, Heald & Hildreth, PLC (May 14, 2020) (on file in EB-IHD-19-00028727).

<sup>29</sup> Response to Letter of Inquiry, from Matthew H. McCormick and Keenan P. Adamchak, Counsel to Magic Broadcasting II, LLC, Fletcher, Heald & Hildreth, PLC, to Kathryn Hinton, Attorney Advisor, Investigations and Hearing Division, FCC Enforcement Bureau (July 24, 2020) (on file in EB-IHD-19-00028727) (Supplemental LOI Response). Magic Broadcasting provided amended responses to the inquiries in the LOI in an attachment titled "Amended Response to FCC Enforcement Bureau Letter of Inquiry (July 11, 2019)" (Amended Inquiry Attach.) and responses to the new inquiries in the Supplemental LOI in a separate attachment titled "Response to FCC Enforcement Bureau Letter of Inquiry (May 14, 2020)" (Supplemental Inquiry Attach.).

<sup>30</sup> LOI Response at 11, 13; Supplemental LOI Response, Amended Inquiry Attach. at 34, 39.

<sup>31</sup> Supplemental LOI Response, Supplemental Inquiry Attach. at 14.

<sup>32</sup> LOI Response at 19; Supplemental LOI Response, Amended Inquiry Attach. at 57.

### III. TERMS OF AGREEMENT

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

12. **Jurisdiction.** Magic Broadcasting 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.

13. **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.

14. **Termination of Investigations.** 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 Investigations and dismiss the Complaints. In consideration for the termination of the Investigations and dismissal of the Complaints, Magic Broadcasting 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 Investigations through the Effective Date, or the existence of this Consent Decree, to institute any new proceeding on its own motion against Magic Broadcasting concerning the matters that were the subject of the Investigations, or to set for hearing the question of Magic Broadcasting's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations concerning those matters.<sup>33</sup>

15. **Admission of Liability; Certification.** Magic Broadcasting admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 14 herein, that its actions described in paragraphs 7 through 9, and alleged in the Complaints, violated the Covered Rules. Magic Broadcasting further certifies to the Commission that, as of the Effective Date, (a) it does not own any structures, other than the Antenna Structure, subject to the registration requirements under the Part 17 Rules, and (b) the Antenna Structure fully complies with the Part 17 Rules.

16. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Magic Broadcasting 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 Magic Broadcasting 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 Covered Rules prior to assuming his/her duties.

17. **Compliance Plan.** For purposes of settling the matters set forth herein, Magic Broadcasting 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 Covered Rules, Magic Broadcasting will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, Magic Broadcasting shall establish Operating Procedures that all Covered Employees must follow to help ensure Magic Broadcasting's compliance with the Covered Rules, as follows:
  - i. *Part 17 Rules.* With respect to each Antenna Structure, Magic Broadcasting's Operating Procedures shall include internal procedures and

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<sup>33</sup> See 47 CFR § 1.93(b).



policies specifically designed to ensure compliance of the lighting system of the Antenna Structure, either by (A) visually inspecting the Antenna Structure once every 24 hours, or (B) providing and properly maintaining an automatic alarm system designed to detect any failure of such lighting system and to provide indication of such failure to Magic Broadcasting. Magic Broadcasting shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Part 17 Rules with respect to the Antenna Structure.

- ii. *Contest Laws and Live Broadcast Rules.* Magic Broadcasting's Operating Procedures shall include internal procedures and policies specifically designed to ensure that Magic Broadcasting complies with the Contest Laws and Live Broadcast Rules. Magic Broadcasting shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Contest Laws and Live Broadcast 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 Covered Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Magic Broadcasting's compliance with the Covered Rules. Magic Broadcasting shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Magic Broadcasting shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Magic Broadcasting shall establish and implement a Compliance Training Program on compliance with the Covered Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Magic Broadcasting's obligation to report any noncompliance with the Covered Rules under paragraph 17 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. Magic Broadcasting 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.

18. **Reporting Noncompliance.** Magic Broadcasting shall report any noncompliance with the Covered 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: (a) each instance of noncompliance; (b) the steps that Magic Broadcasting has taken or will take to remedy such noncompliance; (c) the schedule on which such remedial actions will be taken; and (d) the steps that Magic Broadcasting has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance with the Part 17 Rules shall be submitted to the Office of the Field Director, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, with a copy submitted electronically to [field@fcc.gov](mailto:field@fcc.gov) and Matthew Gibson at [matthew.gibson@fcc.gov](mailto:matthew.gibson@fcc.gov). All reports of noncompliance with the Contest Laws and Live Broadcast Rules shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, with a copy submitted electronically to Jeffrey J. Gee at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), Christopher J. Sovia 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 Kathryn Hinton at [Kathryn.Hinton@fcc.gov](mailto:Kathryn.Hinton@fcc.gov).

19. **Compliance Reports.** Magic Broadcasting 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, thirty-six (36) months after the Effective Date, forty-eight (48) months after the Effective Date, and sixty (60) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Magic Broadcasting's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Covered Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Magic Broadcasting, stating that the Compliance Officer has personal knowledge that Magic Broadcasting: (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 18 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>34</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Magic Broadcasting, 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 Magic Broadcasting 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 Magic Broadcasting 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 jointly to the Office of the Field Director and the Chief, Investigations and Hearings Division by sending separate copies of such report to Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, with copies submitted electronically to [field@fcc.gov](mailto:field@fcc.gov), Matthew Gibson at [matthew.gibson@fcc.gov](mailto:matthew.gibson@fcc.gov), 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 Kathryn Hinton at [Kathryn.Hinton@fcc.gov](mailto:Kathryn.Hinton@fcc.gov).

20. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 16 through 19 of this Consent Decree shall expire on the later of (a) the submission of the final compliance report contemplated in paragraph 19, and (b) sixty (60) months after the Effective Date.

21. **Civil Penalty.** Magic Broadcasting will pay a civil penalty to the United States Treasury in the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000) (Civil Penalty). Such payment shall be made in twenty (20) equal installments in the amount of Six Thousand, Two Hundred Fifty Dollars (\$6,250) (each an Installment Payment). The first Installment Payment is due within thirty (30) days of the Effective Date. Thereafter, the subsequent eighteen (18) Installment Payments will be due and payable quarterly on or before the 20th of the month starting on January 20, 2021. The final Installment Payment will be due on or before the date that is sixty (60) months after the Effective Date.

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<sup>34</sup> 47 CFR § 1.16.

Magic Broadcasting 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>35</sup> Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. Magic Broadcasting shall send electronic notification of payment to [field@fcc.gov](mailto:field@fcc.gov), Matthew Gibson at [matthew.gibson@fcc.gov](mailto:matthew.gibson@fcc.gov), 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 Kathryn Hinton at [Kathryn.Hinton@fcc.gov](mailto:Kathryn.Hinton@fcc.gov) on the date said 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>36</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>37</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>38</sup> For 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 CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded – and then choose the “Pay by Credit Card” option. IMPORTANT NOTE: 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 with the CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded (e.g., NAL 1912345678 = FCC bill Number 12345678) – 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.

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

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<sup>35</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>36</sup> Payments made using the Commission’s Fee Filer system do not require the submission of an FCC Form 159.

<sup>37</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>38</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

23. **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 or any Installment Payment shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, 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 or any Installment Payment, 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 Magic Broadcasting.

24. **Waivers.** As of the Effective Date, Magic Broadcasting waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Magic Broadcasting shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Magic Broadcasting nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Magic Broadcasting shall waive any statutory right to a trial *de novo*. Magic Broadcasting hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>39</sup> relating to the matters addressed in this Consent Decree.

25. **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.

26. **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.

27. **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 Magic Broadcasting does not expressly consent) that provision will be superseded by such Rule or order.

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

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

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

31. **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.

32. **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.

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<sup>39</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

33. **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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Donald G. McCoy  
President  
Magic Broadcasting II, LLC

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Date