

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

In re Application of)	
)	NAL/Acct. No. MB-202341410008
Gendreau Broadcast LLC)	FRN: 0027365139
)	
For Renewal of License for)	Facility ID No. 33054
KMCN(FM), Clinton, Iowa)	File No. 123953

ORDER

Adopted: September 21, 2023

Released: September 21, 2023

By the Chief, Audio Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Gendreau Broadcast LLC (Licensee), the licensee of KMCN(FM), Clinton, Iowa (Station). The Consent Decree resolves issues arising from the Bureau’s review of the captioned license renewal application (Application) for the Station. In particular, the Consent Decree resolves the Bureau’s investigation into Licensee’s compliance with (1) the online public inspection file rule set forth in section 73.3526 of the Commission’s rules (Rules),¹ and (2) the provisions of section 1.17(a)(2) of the Rules with respect to a certification made in the Application regarding the Station’s online public inspection file.²

2. The Bureau and Licensee have negotiated the attached Consent Decree in which Licensee stipulates that it violated sections 1.17(a)(2), and 73.3526 of the Rules. Pursuant to the Consent Decree, Licensee agrees to implement a comprehensive compliance plan to ensure future compliance with its online public inspection file obligations and, one year after entering into the Consent Decree, submit a compliance report to the Audio Division. Licensee also agrees to pay a civil penalty in the amount of Three Thousand Dollars (\$3,000).

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval, and by resolving the Notice of Apparent Liability for Forfeiture issued by the Bureau on May 31, 2023.³

4. Based on the record before us, we conclude that nothing in that record creates a substantial and material question of fact as to whether Licensee possess the basic qualifications to be a Commission licensee.

5. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 4(i), 4 (j) and 503(b) of the Communications Act of 1934, as amended,⁴ and by the authority delegated by Sections 0.61 and 0.283 of the Commission’s rules,⁵ the Consent Decree attached hereto **IS ADOPTED** without change, addition or modification.

¹ 47 CFR § 73.3526.

² 47 CFR § 1.17(a)(2).

³ See *Gendreau Broadcast LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 23-466 (MB May 31, 2023).

⁴ 47 U.S.C. § 154(i)6 154(j), and 503(b).

⁵ 47 CFR §§ 0.61, 0.283.

6. **IT IS FURTHER ORDERED** that the investigation by the Media Bureau of the matters noted above **IS TERMINATED**, and the Notice of Apparent Liability for Forfeiture issued to Gendreau Broadcast LLC on May 31, 2023, **IS RESOLVED** in accordance with the terms of the attached Consent Decree.

7. **IT IS FURTHER ORDERED** that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Gendreau Broadcast LLC, Attn: Brad Gendreau, 5759 Riverview Rd, Thomson, IL 61285.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

**Before the
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Washington, D.C. 20554**

In re Application of)	
)	NAL/Acct. No. MB-202341410008
Gendreau Broadcast LLC)	FRN: 0027365139
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For Renewal of License for)	Facility ID No. 33054
KMCN(FM), Clinton, Iowa)	File No. 123953

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and Gendreau Broadcast LLC (hereafter “Licensee,” as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Media Bureau’s investigation into Licensee’s compliance with FCC requirements related to the online public inspection file for FM station KMCN(FM), Clinton, Iowa, and a certification Licensee made to the Commission regarding the KMCN(FM) online public inspection file. To resolve this matter, Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with the online public inspection file requirements, and to pay a civil penalty in the amount of Three Thousand Dollars (\$3,000).

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 Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Media Bureau of the Commission.
 - (d) “Civil Penalty” means the payment Licensee has agreed to pay to the United States Treasury.
 - (e) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.
 - (f) “Covered Employees” means all employees and agents of Licensee who are responsible for performing, supervising, overseeing, or managing activities related to the maintenance of online public inspection files, as required by the Online Public Inspection File Rule.
 - (g) “Effective Date” means the date by which both the Bureau and Licensee have signed the Consent Decree.
 - (h) “Investigation” means the Bureau’s investigation into Licensee’s compliance with sections 1.17(a)(2), and 73.3526 of the Rules.
 - (i) “Licensee” means Gendreau Broadcast LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
 - (j) “NAL” means the Notice of Apparent Liability for Forfeiture issued on May 31, 2023, for apparent violations of sections 1.17(a)(2), and 73.3526 of the Rules at the Station.
 - (k) “Online Public Inspection File Rule” means 47 CFR § 73.3526.

- (l) “Parties” means Licensee 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) “Station” means FM station KMCN(FM), Clinton, Iowa, Facility ID No. 33055.

II. BACKGROUND

3. Section 73.3526 requires radio station licensees to maintain an online public inspection file and to upload certain documents to the Commission’s public inspection file database throughout the year. It also requires radio station licensees to include a link to a station’s online public inspection file on that station’s website. It is crucial that stations maintain online public inspection files that are complete and up to date (and also link to their online public inspection files on their websites) because the information in a station’s online public inspection file directly affects, among other things, the public’s ability to be informed about that station’s compliance with its obligations.

4. Section 1.17(a)(2) prohibits applicants from providing material information to the FCC that is incorrect without a reasonable basis for believing such information is not incorrect or misleading.

5. Licensee filed an application to renew the Station’s license on October 5, 2020. We received an informal objection to the application, which alleged that Licensee had (1) failed to upload material to the Station’s online public inspection file, (2) failed to include a link to the Station’s online public inspection file on the Station’s website, and (3) falsely certified that the Station’s online public inspection file contained the documentation required by the Online Public Inspection File Rule,¹ Licensee did not respond to the informal objection. Accordingly, the Bureau sent a letter of inquiry requesting that Licensee do so.² Gendreau responded on December 15, 2022.³ After reviewing Licensee’s response, the Bureau issued the NAL, which found Licensee had apparently willfully and repeatedly violated section 73.3526 of the Rules, and willfully made an incorrect certification to the Commission in violation of section 1.17(a)(2) of the Rules. The Parties subsequently entered into settlement discussions and agreed to the terms and conditions of this Consent Decree.

III. TERMS OF AGREEMENT

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

7. **Jurisdiction.** Licensee 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.

8. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date. As of the Effective Date, the Parties that this Consent Decree shall have the same force and effect as any other order of the Commission.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for such, Licensee agrees to the terms, conditions, and procedures contained herein.

10. The Bureau agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion or in response to any petition to deny or other third-party objection, any new proceeding, formal or informal, or take any action on its own motion against Licensee

¹ Pleading File No. 131262. agree

² Letter from Albert Shuldiner, Chief, Audio Division, to Gendreau Broadcast LLC (Dec. 15, 2022).

³ Letter from Chris Streets, General Manager, Gendreau Broadcasting LLC (rec’d June 20, 2023).

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 Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.⁴

11. **Admission of Liability.** Licensee admits for the purpose of this Consent Decree that it (1) failed to timely place records in the Station's online public inspection file, in violation of section 73.3526 of the Rules, (2) failed to place a link to the Station's online public inspection file on the Station's website in violation of section 73.3526 of the Rules, and (3) made an inaccurate certification in its application to renew the Station's license without a reasonable basis for believing the certification was correct in violation of section 1.17(a)(2) of the Rules.

12. Pursuant to section 503(b)(2)(E) of the Act, in exercising its forfeiture authority, the Commission may consider, among other things, "any history of prior offenses" by a licensee.⁵ Licensee acknowledges that the Commission or its delegated authority may consider the Licensee's admission of liability in this Consent Decree in proposing any future forfeiture against Licensee in the event the Licensee is determined to have apparently committed a violation of the Act, the Rules, or of any orders of the Commission after the Effective Date, whether related to the online public inspection file and record keeping or otherwise.

13. **Civil Penalty.** Licensee agrees to pay a Civil Penalty to the United States Treasury in the amount of Three Thousand Dollars (\$3,000), within thirty (30) calendar days after the Effective Date. Licensee acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in Section 3701(b)(1) of the Debt Collection Improvement Act of 1996. Licensee will also send electronic notification of payment to Heather Dixon at Heather.Dixon@fcc.gov on the date said payment is made.

14. **Payment.** Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system), or by wire transfer. Payments by check or money order to pay a civil penalty are no longer accepted. Below are instructions that payors should follow based on the form of payment selected:

- (a) 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 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). For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- (b) Payment by credit card must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the

⁴ See 47 CFR § 1.93(b).

⁵ See 47 U.S.C. § 503(b)(2)(E).

FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.

- (c) Payment by ACH must be made by using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/core/paymentFrmLogin.do>. 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 “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL/Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). Finally, 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.

15. **Compliance Officer.** Within 30 calendar days after the Effective Date, Licensee shall designate a senior manager to serve as a Compliance Officer and to discharge the duties set forth below. The Compliance Officer shall report directly to Licensee’s Chief Executive Officer (or equivalent senior officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall have specific knowledge of the Online Public Inspection File Rule prior to assuming his/her duties. The Bureau acknowledges that the Compliance Officer, Chief Executive Officer, and/or owner may be the same individual.

16. **Compliance Plan.** For purposes of settling the matters set forth herein, Licensee agrees that it shall, within 30 calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Online Public Inspection File Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan shall contain, at a minimum, the following elements:

- (a) **Compliance Manual.** The Compliance Plan shall include a Compliance Manual that is distributed to all Covered Employees. Licensee may adopt a Compliance Manual that it has prepared or one that has been prepared by an outside source, such as a trade association (e.g., the National Association of Broadcasters), another licensee, or a law firm. The Compliance Manual shall:
- i. thoroughly explain the requirements embodied in the Online Public Inspection File Rule;
 - ii. contain Operating Procedures that Covered Employees must follow to help ensure Licensee’s compliance with the Online Public Inspection File Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that Licensee’s stations upload all required information to their online public inspection files in a timely manner and otherwise maintain full, complete, and up to date information therein. The Operating Procedures shall also include a compliance checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Online Public Inspection File Rule; and

- iii. be periodically reviewed and revised as necessary to ensure that the information set forth therein remains current, complete, accurate, and effective.
- (b) **Training Program.** If Licensee has Covered Employees, the Compliance Plan shall include a Compliance Training Program to provide periodic training to those Covered Employees on complying with the Online Public Inspection File Rule. As part of the compliance training program, Covered Employees shall be advised of Licensee's obligation to report any noncompliance with the Online Public Inspection File Rule and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall receive initial training under the compliance training program within 30 calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after such initial training is provided shall receive training under the compliance training program within 30 calendar days after the date he or she becomes a Covered Employee. Licensee shall provide training under the compliance training plan on at least an annual basis, and it shall periodically review and revise the compliance training program as necessary to ensure that it remains current, complete, and effective.
- (c) **Compliance Report.** One year after entering into this Consent Decree, Licensee shall submit a compliance report to the Bureau. The compliance report shall contain a certification of Licensee's compliance with the Online Public Inspection File Rule with respect to the Station during the previous year. The compliance report shall be submitted to the Bureau no later than 30 days after the one-year anniversary of the Effective Date. The Bureau may, within its sole discretion, require Licensee to submit more frequent or additional compliance reports in accordance with the terms of paragraph 19 below.
- i. The compliance report shall include a certification by the Compliance Officer stating that the Compliance Officer has personal knowledge that Licensee: (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.
- ii. The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with section 1.16 of the Rules,⁶ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- iii. If the Compliance Officer is unable to provide the requisite certification, the Compliance Officer shall provide the Bureau with a report detailing the noncompliance, as described below.
- iv. The compliance report shall be submitted to the Audio Division staff: Heather Dixon (heather.dixon@fcc.gov).

17. **Reporting Noncompliance.** Licensee shall report any instance of noncompliance with the Online Public Inspection File Rule with respect to the Station, and any instance of noncompliance with any applicable terms and conditions of this Consent Decree within 10 calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that Licensee has taken or will take to remedy such noncompliance,

⁶ 47 CFR § 1.16.

including the schedule on which such actions will be taken; and (iii) the steps that Licensee has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventative action will be taken. All reports of noncompliance shall be submitted to the Audio Division staff: Heather Dixon (heather.dixon@fcc.gov).

18. **Termination Date.** The obligations to which Licensee is subject pursuant to this Consent Decree shall terminate upon submission of the Compliance Report pursuant to Paragraph 17(c), provided the Bureau is satisfied that Licensee has demonstrated substantial compliance with its obligations. If the Bureau is not satisfied that Licensee has demonstrated substantial compliance with its obligations, the Bureau may, within its sole discretion and authority, extend the termination date of this Consent Decree for up to an additional 24 months.

19. **Further Violation(s).** Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation by Licensee of the Online Public Inspection File Rule that occurs during the term of this Consent Decree.

20. **Waivers.** As of the Effective Date, Licensee waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Licensee 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 Adopting Order, neither Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Licensee shall waive any statutory right to a trial *de novo*. Licensee hereby agrees to waive any claims it may have under the Equal Access to Justice Act⁷ 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 this 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 Licensee does not expressly consent) that provision will be superseded by such Rule or Order.

24. **Successors and Assigns.** Licensee 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.

⁷ 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. 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.

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.



Albert Shuldiner
Chief, Audio Division

9/21/2023
Date

Brad Gendreau
Managing Member, Gendreau Broadcast LLC


Date

28. **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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Albert Shuldiner
Chief, Audio Division

Date



Brad Gendreau
Managing Member, Gendreau Broadcast LLC

9/16/23

Date

Appendix A

Station Call Sign
KMCN(FM)

Community of License
Clinton, Iowa

Application for License Renewal File No.
123953