

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

In re Application of	)	NAL/Account No. MB-202441410009
Pacifica Foundation, Inc.	)	Application File No. 0000180618
	)	FRN: 0001546415
for Renewal of License	)	Facility ID No. 51249

**ORDER**

**Adopted: April 23, 2024**

**Released: April 23, 2024**

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Pacifica Foundation, Inc. (Licensee), licensee of noncommercial educational (NCE) station WBAI-FM, New York, New York (Station). The Consent Decree resolves issues regarding the Station’s compliance with sections 317 and 399B of the Communications Act of 1934, as amended (Act), and sections 73.503(d) and 73.1212 of the Commission’s rules (Rules).<sup>1</sup> Also before us are the above-captioned application for renewal of license (Application) filed by Licensee on January 21, 2022,<sup>2</sup> a Petition to Deny (Petition) filed against the Application by Pacifica Safety Net (Petitioner), several Informal Objections (collectively, Objections) filed against the Application,<sup>3</sup> and related responsive pleadings.<sup>4</sup>

2. Among the allegations raised in the Petition and Objections are specific claims concerning several programs (e.g., the “Gary Null Show,” the “Christine Blosdale Special,” and “Off the Hook”) purportedly aired over the Station that contain comparative and qualitative descriptions, price information, calls to action, and inducements to buy products or services provided by program guests.<sup>5</sup> The products and services were created by either the respective Station program host or their guests on the shows, and purportedly related to the topics of their respective program’s discussions and interview topics. The Petitioner and Objectors allege that Station program hosts promoted these products and services without proper sponsorship identification. The Petitioner has provided the Commission with full written transcripts of the broadcast programs in question.<sup>6</sup> The Petitioner and Objectors do not advocate

<sup>1</sup> 47 U.S.C. §§ 317, 399B; 47 CFR §§ 73.503(d) (Underwriting Laws), 73.1212 (Sponsorship ID Rules).

<sup>2</sup> See Application File No. 0000180618 (filed Jan. 21, 2022); *Broadcast Applications*, Public Notice, Report No. PN-1-220125-01, at 9 (MB Jan. 25, 2022).

<sup>3</sup> See Petition to Deny of Pacifica Safety Net, Pleading File No. 0000189933 (filed May 2, 2022); Informal Objection of Carol Wolfley, Pleading File No. 0000195283 (filed July 19, 2022); Informal Objection of Harry Weiner, Pleading File No. 0000197825 (filed Aug. 17, 2022); Informal Objection of Douglass Ross Marshall, Pleading File No. 0000197824 (filed Aug. 17, 2022); Informal Objection of Nancy Schimmel, Pleading File No. 0000197827 (filed Aug. 17, 2022); Informal Objection of David Hart, Pleading File No. 0000197881 (filed Aug. 18, 2022); Informal Objection of Henry Ira Bernstein, Pleading File No. 0000197910 (filed Aug. 19, 2022); and Informal Objection of Stephen Sacks, Pleading File No. 0000198051 (filed Aug. 22, 2022).

<sup>4</sup> See Opposition of Pacifica Foundation, Inc., Pleading File No. 0000192805 (filed June 1, 2022); Reply of Pacifica Safety Net, Pleading File No. 0000193548 (filed June 20, 2022).

<sup>5</sup> See Petition; Objections.

<sup>6</sup> See Petition, Exhibits for Petition to Deny.

that the Station's Application be denied but rather recommend some or all of the following sanctions, including a monetary forfeiture, a short-term license renewal, and/or a consent decree with assurances that the misconduct will not be repeated in the future and that a compliance plan will be implemented and administered by an independent compliance officer.<sup>7</sup>

3. We have negotiated the Consent Decree adopted herein, in which the Licensee acknowledges that it has violated the Underwriting Laws and Sponsorship ID Rules. Pursuant to the Consent Decree, Licensee agrees, among other things, to implement a comprehensive plan to ensure its future compliance with its underwriting and sponsorship identification obligations, submit annual compliance reports to the Bureau for the duration of the license term of the Station as set forth herein, and pay a Civil Penalty to the United States Treasury in the total amount of twenty-five thousand dollars (\$25,000.00). Additionally, after reviewing the record before us, we believe that the grant of a short-term license renewal is appropriate in order to ensure the Licensee's ongoing compliance with the Act and the Rules.<sup>8</sup> Accordingly, upon Licensee fully and timely satisfying its obligation to pay the Civil Penalty in the manner set forth in Paragraph 19 of the attached Consent Decree, we will grant the Application for a short-term renewal of two years (24 months).

4. Finally, we have reviewed the Application in accordance with section 309(k) of the Act<sup>9</sup> and find that the Station has served the public interest, convenience, and necessity during the subject license term. We find that nothing in the record creates a substantial or material question of fact calling for further inquiry regarding the Application. After reviewing the record and the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree, terminating the Bureau's investigation of the issues raised in the Petition and Objections, and granting the Application for a short renewal term of two years.

5. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 4(i), 4(j) and 309(k) of the Communications Act of 1934, as amended,<sup>10</sup> and by the authority delegated by Sections 0.61 and 0.283 of the FCC's Rules,<sup>11</sup> the Consent Decree attached hereto **IS ADOPTED** and its terms incorporated by reference.

6. **IT IS FURTHER ORDERED** that the Petition to Deny (Pleading File No. 0000189933) filed by Pacifica Safety Net on May 2, 2022, the Informal Objection (Pleading File No. 0000195283) filed by Carol Wolfley on July 19, 2022, the Informal Objections (Pleading File Nos. 0000197825, 0000197824, and 0000197827) filed by Harry Weiner, Douglass Marshall, and Nancy Schimmel on August 17, 2022, the Informal Objection (Pleading File No. 0000197881) filed by David Hart on August 18, 2022, the Informal Objection (Pleading File No. 0000197910) filed by Henry Bernstein on August 19, 2022, and the Informal Objection (Pleading File No. 0000198051) filed by Stephen Sacks on August 22, 2022, **ARE GRANTED TO THE EXTENT INDICATED HEREIN.**

7. **IT IS FURTHER ORDERED** that the application of Pacifica Foundation, Inc., for renewal of license for noncommercial educational station WBAI-FM, New York, New York, Facility ID No. 51249 (Application File No. 0000180618) **IS GRANTED**, as conditioned herein.

8. **IT IS FURTHER ORDERED** that the investigation by the Bureau of the matters noted

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<sup>7</sup> See Petition; Objections.

<sup>8</sup> 47 U.S.C. §§ 317, 399B; 47 CFR §§ 73.503(d), 73.1212.

<sup>9</sup> 47 U.S.C. § 309(k)(1).

<sup>10</sup> 47 U.S.C. §§ 154(i), 154(j), and 309(k).

<sup>11</sup> 47 CFR §§ 0.61, 0.283.

above **IS TERMINATED**.

9. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent via e-mail to Brad Deutsch, Esq., Counsel to Pacifica Foundation, Inc., 3000 K Street, NW, Suite 420, Washington, DC 20007; Sherry Gendelman, [info@pacificasafetynet.org](mailto:info@pacificasafetynet.org), Carol Wolfley, [cgwolfley@comcast.net](mailto:cgwolfley@comcast.net), Harry Weiner, [harry@b-town.org](mailto:harry@b-town.org), Douglas Ross Marshall, [tercio8@earthlink.net](mailto:tercio8@earthlink.net), Nancy Schimmel, [nancyschimmel@mac.com](mailto:nancyschimmel@mac.com), David Hart, [davehar77@yahoo.com](mailto:davehar77@yahoo.com), Henry Ira Bornstein, [hbornstein@sbcglobal.net](mailto:hbornstein@sbcglobal.net), and Stephen Sacks, [johnsonsacks@comcast.net](mailto:johnsonsacks@comcast.net).

10. **IT IS FURTHER ORDERED** that pursuant to section 73.3526(e)(10) of the Rules, a copy of this Order and Consent Decree and as otherwise required all related investigatory materials **SHALL BE RETAINED** in the above-captioned Station's online public inspection file until grant of the next license renewal application.

FEDERAL COMMUNICATIONS COMMISSION

Holly Saurer  
Chief, Media Bureau

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

In re Application of	)	NAL/Account No. MB-202441410009
	)	
Pacifica Foundation, Inc.	)	FRN: 0001546415
	)	
for Renewal of License	)	Facility ID No. 51249
	)	Application File No. 0000180618

**CONSENT DECREE**

**I. INTRODUCTION**

1. The Media Bureau of the Federal Communications Commission and Pacifica Foundation, Inc. (hereafter “Licensee,” as defined below), licensee of noncommercial educational (NCE) station WBAI-FM, New York, New York (hereinafter “Station,” as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Media Bureau’s investigation concerning Licensee’s compliance with sections 317 of the Communications Act of 1934, as amended, and 73.1212(a) of the Commission’s rules, relating to on-air sponsorship identification announcements; and sections 399B of the Act and 73.503(d) of the Commission’s rules, relating to underwriting requirements.<sup>1</sup> Pursuant to the Consent Decree, Licensee agrees, among other things, to a short-term, two-year license renewal for the Station,<sup>2</sup> to implement a comprehensive plan to ensure its future compliance with its underwriting and sponsorship identification obligations, and to pay a Civil Penalty to the United States Treasury in the total amount of twenty-five thousand dollars (\$25,000.00).

**II. DEFINITIONS**

2. For purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §151 *et. seq.*;
  - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification;
  - (c) “Application” means the pending application for renewal of license for station WBAI-FM, New York, New York, Facility ID No. 51249 (Application File No. 0000180618).
  - (d) “Bureau” means the Media Bureau of the Federal Communications Commission;
  - (e) “Civil Penalty” means the payment Pacifica has agreed to pay to the United States Treasury;
  - (f) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices;

<sup>1</sup> See 47 U.S.C. §§ 317, 399B; 47 CFR §§ 73.503(d) (Underwriting Laws), 73.1212(a) (Sponsorship ID Rules).

<sup>2</sup> Licensee filed an application for renewal of license on January 21, 2022. See Application File No. 0000180618 (filed Jan. 21, 2022) (Application); *Broadcast Applications*, Public Notice, Report No. PN-1-220125-01, at 9 (MB Jan. 25, 2022).

- (g) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of being a Commission licensee, including, but not limited to, sections 73.503(d) and 73.1212(a) of the Rules, 47 CFR §§ 73.503(d), 73.1212(a);
- (h) “Compliance Plan” means the processes and procedures developed by the Licensee in an effort to ensure compliance with sections 317 and 399B of the Act, 47 U.S.C. §§ 317, 399B, and sections 73.503(d) and 73.1212(a) of the Rules, 47 CFR §§ 73.503(d), 73.1212(a);
- (i) “Covered Employees” means all employees and agents of the Licensee who are responsible for performing, supervising, overseeing, or managing activities related to Licensee’s responsibilities under the Act and the Rules, including the Underwriting Laws and Sponsorship ID Rules.
- (j) “Effective Date” means the date on which the Bureau releases the Adopting Order;
- (k) “Investigation” means the Bureau’s investigation of information contained in the Application and related pleadings, as detailed herein;
- (l) “License” refers to the license authorization for noncommercial educational station WBAI-FM, New York, New York (Facility ID No. 51249);
- (m) “Licensee” means Pacifica Foundation, Inc., and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest;
- (n) “Pacifica” means Pacifica Foundation, Inc.;
- (o) “Parties” means the Licensee and the Bureau;
- (p) “Rules” means the FCC’s rules, found in Title 47 of the Code of Federal Regulations;
- (q) “Sponsorship ID Rules” means the on-air sponsorship identification requirements set forth in section 317 of the Act, 47 U.S.C. § 317, and section 73.1212 of the Rules, 47 CFR § 73.1212;
- (r) “Station” means noncommercial educational station WBAI-FM, New York, New York (Facility ID No. 51249);
- (s) “Underwriting Laws” means section 399B of the Act, 47 U.S.C. § 399B, section 73.503(d) of the Rules, 47 CFR § 503(d), and the decisions and orders of the Commission interpreting these provisions; and
- (t) “Violations” means the violations of sections 317 and 399B of the Communications Act, as amended, 47 U.S.C. §§ 317, 399B, and sections 73.503(d) and 73.1212(a) of the Commission’s rules, 47 CFR §§ 73.503(d), 73.1212(a).

### III. BACKGROUND

#### A. Legal Background

3. *Sponsorship Identification Rules.* Beginning with the Radio Act of 1927, broadcast stations have been required to identify on-air the sponsor of any paid program material that they broadcast.<sup>3</sup> When Congress adopted the Communications Act of 1934, and created the Federal

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<sup>3</sup> Radio Act of 1927, Pub. L. No. 69-632, 44 Stat. 1162, 1170 § 19 (repealed 1934).

Communications Commission, it incorporated into section 317 almost verbatim the same requirement that stations provide on-air sponsorship identification announcements.<sup>4</sup> Since that time, the Commission has continued to underscore the need for transparency and disclosure to the public about the true identity of a program’s sponsor. The Commission has explained that its sponsorship identification requirements are “grounded in the principle that listeners and viewers are entitled to know who seeks to persuade them.”<sup>5</sup> When broadcasters air paid-for programming without disclosing the program’s sponsor, they can mislead the public.<sup>6</sup>

4. The Commission sponsorship identification requirements are set forth in sections 317 of the Act and 73.1212 of the Commission’s rules. Specifically, section 317(a)(1) of the Act provides in part:

All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person . . . .<sup>7</sup>

Section 73.1212(a) of the Commission’s rules, which implements section 317(a)(1), further provides in part:

When a broadcast station transmits any matter for which money, service, or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by such station, the station, at the time of the broadcast, shall announce: (1) That such matter is sponsored, paid for, or furnished, either in whole or in part, and (2) By whom or on whose behalf such consideration was supplied . . . .<sup>8</sup>

5. *Underwriting Laws.* NCE broadcasters are licensed to use spectrum that is specifically reserved for them, and they benefit from lower regulatory fees and fewer requirements than those imposed on commercial entities, in recognition of their noncommercial and non-profit nature. That flexibility, however, is not unlimited, and NCE broadcasters cannot air commercial advertising.<sup>9</sup> The Underwriting Laws help “protect the public’s use and enjoyment of commercial-free broadcasts” and “provide a level playing field for the noncommercial broadcasters that obey the law and for the commercial broadcasters that are entitled to seek revenue from advertising.”<sup>10</sup> NCE broadcasters are licensed to provide noncommercial, locally-oriented programming for their communities, and the Commission acts when necessary to enforce the laws prohibiting NCE-FM stations from airing announcements that promote for-profit advertisers.

6. The Underwriting Laws define an advertisement as, among other things, programming material broadcast “in exchange for any remuneration” and intended to “promote any service, facility, or product” of for-profit entities.<sup>11</sup> Section 399B(b)(2) of the Act specifically provides that noncommercial

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<sup>4</sup> See 47 U.S.C. § 317.

<sup>5</sup> See, e.g., *Commission Reminds Broadcast Licensees, Cable Operators and Others of Requirements Applicable to Video News Releases and Seeks Comment on the Use of Video News Releases by Broadcast Licensees and Cable Operators*, Public Notice, 20 FCC Rcd 8593, 8593-94 (2005).

<sup>6</sup> *Cumulus Radio LLC, et. al*, Forfeiture Order, 36 FCC Rcd 738 (2021).

<sup>7</sup> 47 U.S.C. § 317(a).

<sup>8</sup> 47 CFR § 73.1212(a).

<sup>9</sup> 47 U.S.C. § 399B(b)(2).

<sup>10</sup> *Syner Foundation, Inc.*, Order and Consent Decree, 30 FCC Rcd 1780, 1780, para. 1 (EB 2015).

<sup>11</sup> 47 U.S.C. § 399B(a).

educational stations may not broadcast advertisements.<sup>12</sup> Although contributors of funds to such stations may receive on-air acknowledgements of their support, the Commission has held that such acknowledgements are for identification purposes only and must not promote the contributors' products, services, or businesses.<sup>13</sup> Specifically, such announcements must not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent, or lease.<sup>14</sup>

## B. Factual Background

7. The Commission received a Petition to Deny and several Informal Objections filed against the above-captioned Application alleging that Licensee violated the Underwriting Laws and Sponsorship ID Rules by airing programs on the Station from June 2014 to April 2022, which impermissibly promoted their for-profit underwriters' products or services and contained comparative and qualitative descriptions, pricing information, calls to action, and inducements to buy products or services created by either the Station program host or their guests on the shows.<sup>15</sup> The Petitioner and Objectors also allege that Station program hosts promoted these products and services without proper sponsorship identification. In support of these allegations, the Petitioner provided the Commission with full written transcripts of the broadcast programs in question.<sup>16</sup>

8. Based on the foregoing, the Bureau's Audio Division issued a letter of inquiry to gather additional information concerning the allegations and suspended processing of the Application.<sup>17</sup> The Parties acknowledge that any proceedings that might result from the Violations would be time-consuming and require a substantial expenditure of public and private resources. In order to conserve such resources, resolve the matters, and promote compliance with the Rules, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

## IV. TERMS OF AGREEMENT

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

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

11. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Licensee agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. Any violation of the Adopting Order or the terms of this Consent Decree shall constitute a separate violation of a Commission order,

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<sup>12</sup> 47 U.S.C. § 399B(b)(2).

<sup>13</sup> *Noncommercial Educational Broadcasting Service; Clarification of Underwriting Guidelines*, Public Notice, 51 Fed. Reg. 21800 (June 16, 1986), republished, Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations, Public Notice, 7 FCC Rcd 827 (1992).

<sup>14</sup> *Id.*

<sup>15</sup> See Petition to Deny of Pacifica Safety Net, Pleading File No. 0000189933 (filed May 2, 2022); Informal Objection of Carol Wolfley, Pleading File No. 0000195283 (filed July 19, 2022); Informal Objection of Harry Weiner, Pleading File No. 0000197825 (filed Aug. 17, 2022); Informal Objection of Douglass Ross Marshall, Pleading File No. 0000197824 (filed Aug. 17, 2022); Informal Objection of Nancy Schimmel, Pleading File No. 0000197827 (filed Aug. 17, 2022); Informal Objection of David Hart, Pleading File No. 0000197881 (filed Aug. 18, 2022); Informal Objection of Henry Ira Bernstein, Pleading File No. 0000197910 (filed Aug. 19, 2022); and Informal Objection of Stephen Sacks, Pleading File No. 0000198051 (filed Aug. 22, 2022).

<sup>16</sup> See Petition, Exhibits for Petition to Deny.

<sup>17</sup> See Letter from Albert Shuldiner, Chief, Audio Division, FCC Media Bureau, to Pacifica Foundation, Inc. (Feb. 12, 2024); Application.

entitling the Commission to exercise any rights and remedies attendant to enforcement of a Commission order.

12. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Licensee agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute any new proceeding on its own motion against Licensee concerning the matters that were the subject of the Investigation, or to set for hearing the question of Licensee's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.<sup>18</sup> Licensee acknowledges and agrees that nothing herein prevents the Bureau or Commission from instituting any new proceedings against Licensee during the term of this Consent Decree concerning any matters that were not the subject of the Investigation.<sup>19</sup>

13. **Admission of Liability.** Licensee stipulates that the actions described in Paragraph 7 violated sections 317 and 399B of the Act and sections 73.503(d) and 73.1212(a) of the Rules.

14. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Licensee 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 Compliance Officer 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. 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 Underwriting Laws and Sponsorship ID Rules prior to assuming such duties.

15. **Compliance Plan.** Licensee agrees that, within 60 calendar days after the Effective Date, the Compliance Officer shall, on behalf of Licensee, develop, implement, and administer a Compliance Plan designed to ensure Licensee's future compliance with the Communications Laws, the Underwriting Laws and Sponsorship ID Rules, and with the terms and conditions of this Consent Decree. The Compliance Plan shall be applicable to all broadcast stations of which Licensee is and becomes the licensee during the term of this Consent Decree. The Compliance Plan shall contain, at a minimum, the following components:

- (a) **Consultation with Counsel.** If the Compliance Officer is not an FCC regulatory counsel or in-house counsel, Licensee shall consult with outside FCC regulatory counsel regarding Licensee's overall compliance with the Underwriting Laws and Sponsorship ID Rules. Such consultations shall occur on an annual basis, if not more frequently.
- (b) **Operating Procedures.** The Compliance Plan shall contain Operating Procedures that all Covered Employees must follow to ensure Licensee's compliance with the Underwriting Laws and Sponsorship ID Rules. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that Licensee complies with the Underwriting Laws and Sponsorship ID Rules.
- (c) **Compliance Manual.** The Compliance Plan shall include a Compliance Manual that the Compliance Officer has distributed to all Covered Employees within 60 calendar days after the Effective Date. The Compliance Manual shall explain fully and completely the Underwriting Laws and Sponsorship ID Rules and include the Operating Procedures that

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<sup>18</sup> See 47 CFR § 1.93(b).

<sup>19</sup> We caution Licensee that it may jeopardize its license if ongoing violations of the Underwriting Laws and Sponsorship ID Rules persist.



Covered Employees shall follow. The Compliance Officer shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Compliance Officer shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

- (d) **Compliance Training Program.** The Compliance Plan shall contain a comprehensive Compliance Training Program for all Covered Employees regarding compliance with the Underwriting Laws and Sponsorship ID Rules. As part of the Compliance Training Program, the Compliance Officer shall advise all Covered Employees of Licensee's obligation to report any noncompliance with the Underwriting Laws and Sponsorship ID Rules under Paragraph 16 of this Consent Decree and shall instruct Covered Employees on how to disclose noncompliance to the Compliance Officer and Licensee. The Compliance Officer shall train all Covered Employees pursuant to the Compliance Training Program within 75 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 30 calendar days after the date such person becomes a Covered Employee. The Compliance Officer shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

16. **Reporting Noncompliance.** Licensee agrees that it shall report any noncompliance with the Underwriting Laws and Sponsorship ID Rules and with the terms and conditions of this Consent Decree within 15 calendar days after discovery of such noncompliance at any station of which Licensee is or becomes the licensee. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that Licensee 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 Licensee has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Albert Shuldiner, Audio Division, Media Bureau, Federal Communications Commission, at [Albert.Shuldiner@fcc.gov](mailto:Albert.Shuldiner@fcc.gov); Christopher Clark, Audio Division, Media Bureau, Federal Communications Commission, at [Christopher.Clark@fcc.gov](mailto:Christopher.Clark@fcc.gov); and Dana Bradford, Audio Division, Media Bureau, Federal Communications Commission, at [Dana.Bradford@fcc.gov](mailto:Dana.Bradford@fcc.gov).

17. **Compliance Reports.** Licensee agrees that it shall submit Compliance Reports to the Commission 90 calendar days after the Effective Date and thereafter annually on the anniversary of the Effective Date up to and including the Termination Date, as that term is defined below.<sup>20</sup>

- (a) Each Compliance Report shall include a detailed description of Licensee's efforts during the preceding period to comply with the terms and conditions of this Consent Decree and the Underwriting Laws and Sponsorship ID Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Licensee, 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, including the reporting obligations set forth in Paragraph 16 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>21</sup>

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<sup>20</sup> A Compliance Report must be filed on the Termination Date in the event that the Termination Date does not fall on the anniversary of the Effective Date.

<sup>21</sup> 47 CFR § 1.16.

- (c) If the Compliance Officer is unable to provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Licensee, 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 Licensee 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 Licensee 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 via email to: Albert Shuldiner, Audio Division, Media Bureau, Federal Communications Commission, at [Albert.Shuldiner@fcc.gov](mailto:Albert.Shuldiner@fcc.gov); Christopher Clark, Audio Division, Media Bureau, Federal Communications Commission, at [Christopher.Clark@fcc.gov](mailto:Christopher.Clark@fcc.gov); and Dana Bradford, Audio Division, Media Bureau, Federal Communications Commission, at [Dana.Bradford@fcc.gov](mailto:Dana.Bradford@fcc.gov).

18. **Termination Date.** The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate twenty-four (24) months after grant of the Application, *provided* the Bureau is satisfied that the Licensee has demonstrated substantial compliance with its obligations under the terms of the Consent Decree. If the Bureau is not satisfied that the Licensee has demonstrated substantial compliance with the terms of the Consent Decree, the Bureau may, within its sole discretion and authority, extend the termination date of this Consent Decree for an additional period of time as the Bureau deems appropriate.

19. **Civil Penalty.** Licensee agrees that it shall pay a Civil Penalty to the United States Treasury in the total amount of twenty-five thousand dollars (\$25,000.00). Licensee agrees to pay the Civil Penalty in five consecutive monthly installments (each an Installment Payment) of \$5,000.00 each, until the Civil Penalty is paid in full. Licensee agrees that each Installment Payment shall be due and received by the United States Treasury on or before the first day of each calendar month (Due Date), with the first such Installment Payment due and received by the United States Treasury on or before the first day of the first full month after the Effective Date. Licensee 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, as defined below, all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. On the date each Installment Payment is made, Licensee shall send notification of the payment via email to: [Albert.Shuldiner@fcc.gov](mailto:Albert.Shuldiner@fcc.gov); Christopher Clark, Audio Division, Media Bureau, Federal Communications Commission, at [Christopher.Clark@fcc.gov](mailto:Christopher.Clark@fcc.gov); and Dana Bradford, Audio Division, Media Bureau, Federal Communications Commission, at [Dana.Bradford@fcc.gov](mailto:Dana.Bradford@fcc.gov).

20. Below are payment instructions that Licensee shall follow based on the form of payment it has selected:<sup>23</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters “FORF”. In addition, a completed Form 159<sup>24</sup> or printed Commission Registration System (CORES) form<sup>25</sup> 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 or CORES may result in payment not being recognized as having been received. When

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

<sup>23</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

<sup>24</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>25</sup> Information completed using the Commission’s Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

completing FCC Form 159 or CORES, 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>26</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 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 FRN. Select the “Open Bills” tab and find 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., CD 1912345678 would be associated with FCC Bill Number 12345678). 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.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, 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” 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 CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). 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.

21. **Event of Default.** Licensee agrees that an Event of Default shall occur upon the failure by Licensee to pay the full amount of any Installment Payment by the Due Date specified in this Consent Decree.

22. **Interest Charges for Collection, and Acceleration of Maturity Date.** Licensee agrees that 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%, 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 Licensee.

23. **Waivers.** Licensee agrees that, as of the Effective Date, it waives any and all rights it may otherwise have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. The Parties agree that Licensee shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. The Parties further agree that 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 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 agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>27</sup> relating to the matters addressed

<sup>26</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>27</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

in this Consent Decree.

24. **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.

25. **Invalidity**. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

26. **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 Licensee does not expressly consent), such provision will be superseded by such Rule or order.

27. **Successors and Assigns**. Licensee acknowledges and agrees that this Consent Decree and all of the obligations, terms and conditions herein shall be binding on its successors, assigns, and transferees, and on the successors, assigns, and transferees of all broadcast stations of which it is and becomes the licensee.

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

29. **Modifications**. The Parties agree that this Consent Decree may not be modified without the advance written consent of both Parties.

30. **Paragraph Headings**. The Parties agree that 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.

31. **Authorized Representative**. Each Party represents and warrants to the other Party 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.

32. **Counterparts.** The Parties agree that 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.

**MEDIA BUREAU  
FEDERAL COMMUNICATIONS COMMISSION**

By: \_\_\_\_\_  
Holly Saurer  
Chief, Media Bureau

Date: \_\_\_\_\_

**PACIFICA FOUNDATION, INC.**

By: \_\_\_\_\_  
**Susan Young, Chair**  
Pacifica Foundation, Inc.

Date: \_\_\_\_\_