

EXHIBIT NO. 1

**Declaration of Roland McFarland, Vice President, Broadcast Standards & Practices,
Fox Broadcasting Company Declaration of Roland McFarland, Vice President,
Broadcast Standards & Practices, Fox Broadcasting Company**

DECLARATION

I, Roland McFarland, hereby state as follows:

1. I am Vice President, Broadcast Standards & Practices for Fox Broadcasting Company ("FBC"). I submit this Declaration in support of the Opposition to the Notice of Apparent Liability for Forfeiture, dated December 3, 2004, by Fox Broadcasting Company and certain television broadcast stations affiliated with the Fox Television Network, with regard to the episode of *Married By America* that aired April 7, 2003.
2. In my position with FBC, I oversee the process by which all of the entertainment programming broadcast on the Fox Television Network is assigned a content rating. The rating assigned to the *Married By America* series (and appropriately encoded in the broadcast for compatibility with the V-chip) was TV-14 (D, L, S), indicating that the program contained themes and subject matter which many parents would find unsuitable for children under 14 years of age. The rating conveyed the message that parents were strongly urged to exercise greater care in monitoring this program and were cautioned against letting children under the age of 14 watch unattended. In particular, the D, L, S portion of the rating indicated that the program contained one or more of the following: intensely suggestive dialogue (D), strong coarse language (L), or intense sexual situations (S). Furthermore, during the broadcast of the April 7, 2003 episode of the program, FBC included a content advisory at the beginning of the show. The advisory warned the audience, using both a voice-over and on-screen text, that "Due to some sexual content, parental discretion is advised."
3. The *Married By America* series was produced on an extremely time-constrained schedule, both because it incorporated audience participation and because of the need for confidentiality.
4. At the outset of the series, the program enabled the viewing audience to vote by telephone to choose which potential spouse would be paired with each of the show's five original contestants. That vote took place at the conclusion of the episodes broadcast on March 3 and March 5, 2003. The viewing audience was given another chance to participate in the show's outcome following the broadcast of the seventh episode, which aired on April 7, 2003. At the conclusion of that episode, the audience again had the opportunity to vote by telephone – this time to decide which of the two

remaining couples was most likely to have a successful marriage. The couple that won the audience's vote was entitled to a prize worth up to \$500,000, if they had chosen to get married on the series finale.

5. During the intervening weeks between the two audience votes, the program chronicled the couples' interactions and tested their character and compatibility. The producers of *Married By America* filmed, edited and compiled the program so that viewers could watch the characters' relationships as they were developing week-by-week. For example, the seventh episode, which aired on April 7, 2003, was literally filmed and edited in the week leading up to April 7.
6. FBC and *Married By America's* producers also were cognizant of the need to keep confidential the content of the April 7, 2003 episode until its air-time. Since that episode included an audience vote – a vote that would determine the winner of a potential half-million dollar prize – FBC and the producers wanted to ensure that the contestants had a level playing field when it came time for the nationwide vote. Advance information about the content could have been used by supporters of particular contestants in an effort to unfairly influence the outcome of the vote.
7. For all of these reasons, the producers could not deliver to FBC a broadcast-ready episode of *Married By America* months, weeks or even days in advance of each broadcast. For the same reasons, it was impossible for FBC to distribute the series, including the April 7 episode, to television stations affiliated with the Fox Television Network in advance of each episode's scheduled air time – much like a live sports event.
8. According to ratings data supplied by Nielsen Media Research, the show received a 4.8 rating/7 share, which means that about 5.1 million households were tuned to the April 7, 2003 episode of *Married By America*.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 2, 2004.

/s/ Roland McFarland
Roland McFarland
Vice President, Broadcast Standards & Practices
Fox Broadcasting Company
P.O. Box 900
Beverly Hills, CA 90213
(310) 369-3445

EXHIBIT NO. 2

Recapitulation of Certain Scenes from the April 7, 2003 Episode of *Married By America*

The following is a recapitulation of the bachelor and bachelorette party segment of the April 7 episode:

- The couples find invitations to celebrate their respective bachelorette and bachelor parties in Las Vegas. Jill is concerned about being away from Kevin. Although he is excited about having a bachelor party in Las Vegas, Tony acknowledges past infidelity and worries about his ability to remain faithful to Billie Jeanne.
- The participants fly to Las Vegas on a private airplane and arrive at the Aladdin Hotel. Jill's cousins and friends show up at the hotel as a surprise, as do Billie Jeanne's friends from home. The women celebrate the bachelorette party in a two-story suite in the hotel and are dancing and partying when male strippers arrive.
- A male stripper, wearing shorts, enters the bachelorette party and begins dancing with the guests. A female guest is then shown lying on the floor with a male stripper dancing over her. Whipped cream is positioned on the female's legs just below her skirt line. The program cuts to a new scene as the stripper is apparently about to lick the whipped cream. A woman is then shown dancing up against a male stripper from behind. At one point, the male pulls the female's hands around to the front of his body. At all times, the male was wearing shorts. The program then cuts to a new scene. The male places whipped cream on his chest, and the program shows one of the female guests apparently preparing to eat the whipped cream, but cuts to a new scene.
- Two female strippers are then shown arriving at the bachelor party – one is wearing a dress that apparently does not cover the area of her buttocks, which is pixilated (*i.e.*, fully obscured by blurring of the video). The two female strippers remove Tony's shirt and pants, leaving him wearing boxer shorts. One of the female strippers hits his buttocks (which was covered with shorts) with a belt.
- Returning to the bachelorette party, Jill's friends are shown bringing in a female stripper. The female stripper is then shown dancing with Billie Jeanne and Jill while sitting on their laps. The stripper is apparently unclothed from the waist up, but her hands cover her breasts. Later, the female stripper is shown with

whipped cream on her midriff. Billie Jeanne joins in the stripper's performance and is shown preparing to kiss the female stripper after apparently licking the whipped cream when the program cuts to a new scene. Yet when Jill is encouraged to do the same, she passes, creating tension between the two of them. Billie Jeanne notes, "Bottom line is that Jill is worried about what Kevin thinks and that's what bugged me." Jill counters, "Billie Jeanne got upset because she took a moment to reflect on what she just did – I think she kind of got embarrassed." Jill tells Billie Jeanne that she is concerned about upsetting Kevin's strict Catholic family and is not interested in doing anything with another woman. Billie Jeanne warns Jill to stay true to herself and not change for a man. But Jill explains that she knows who she is, and is "okay with what I did and didn't do."

- At the bachelor party, a female stripper pulls Kevin onto the couch and begins to undress. Shown from behind, she is apparently unclothed from the waist up. Kevin, however, is not comfortable with this. His friend steps in to interrupt the woman, knowing that Kevin is not happy. He says, "I know [Kevin] didn't want to do that but was just doing it for everyone else. Kevin is about morals and values. He doesn't believe in strippers." Later, the female stripper is standing in front of Kevin, apparently naked from the waist up. Her upper body is pixelated. Tony then goes into the back room with one of the women and they kiss. "Nothing wrong with kissing a stripper before you're married," Tony explains. "Kissing a stripper after you're married -- that's when the trouble begins."
- The next morning, Billie Jeanne's friend Jeanmarie brings her breakfast so that the two can talk privately. She asks whether Billie Jeanne is nervous about her decision to marry so soon. Billie Jeanne is sure that Tony won't disappoint her. She also thinks they can start a family together. On the other side of the hotel, Tony has the same conversation with his friend Bender. Bender asks Tony about his exploits with the stripper. Tony confirms that they merely kissed. "What I did in Vegas, I don't consider cheating at all," Tony explains. "After I walk down the aisle, I will not be kissing any strippers. Or anybody else."
- The bachelor/bachelorette parties ran for six minutes in an hour-long program. The male and female strippers appeared on camera for approximately 105 seconds.

EXHIBIT NO. 3

**Copy of Fox Broadcasting Company Cybermailer Regarding the April 7, 2003
Episode of *Married By America***

Monday April 7, 2003

09:00 – 10:00P

MARRIED BY AMERICA (MBA-108) (TV-14: D, L, S)
This groundbreaking series follows five singles who put their trust in the American viewing public to play matchmaker. These men and women and their potential spouses are successful in every aspect of their lives, except at finding a mate by conventional means. Once face-to-face, these new couples will embark on a journey toward matrimony in hopes that they have indeed found their one true love. The five engaged couples have been narrowed down to two by the relationship experts on the show (DR. JENN BERMAN, MS. P. AND DON ELIUM). Tonight America will once again be given the opportunity to vote by telephone for the couple they feel is the perfect match.