

June 25, 2007

VIA HAND DELIVERY

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Attn: Enforcement Bureau
Melanie Godschall, Esquire
Investigations and Hearings Division
Room 4-C330

Re: WAKA-TV, Selma, Alabama
Facility Id. No. 701
FCC File No. EB-06-IH-3689

Dear Ms. Dortch:

On behalf of Alabama Broadcasting Partners (“Bahakel”), licensee of WAKA-TV, Selma, Alabama, we hereby submit an original and four copies of a response to the Commission’s request for information regarding Bahakel’s broadcast of portions of a certain video news release (“VNR”).¹ In the Letter Request, the Bureau refers to a report from the Center for Media and Democracy (the “CMD Report”).² Based on this report, the Commission asserts that Bahakel may have violated Section 317 of the Communications Act of 1934, as amended, 47 U.S.C. § 317, and Section 73.1212 of the Commission’s rules, 47 C.F.R. § 73.1212, by airing certain VNRs without proper sponsorship identification. As the CMD itself has implicitly acknowledged in an earlier report on the same subject, however, policy changes that CMD has suggested the Commission make are necessary before the conduct at issue in the Letter Request -- broadcast of material when no consideration is being exchanged -- can be considered a violation of relevant legal standards.³

¹ See Letter to Alabama Broadcasting Partners regarding WAKA-TV, Selma, Alabama, from Hillary S. DeNigro, Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, EB-06-IH-3689 (April 26, 2007) (the “Letter Request”).

² See Center for Media and Democracy, *Still Not the News: Stations Overwhelmingly Fail To Disclose VNRs* (Nov. 14, 2006).

³ See Center for Media and Democracy, *Fake TV News: Widespread and Undisclosed*, at 65 (Apr. 6, 2006), which makes policy recommendations to the Commission, thereby implicitly (footnote continued...)

Bahakel hereby responds to the Commission's specific questions regarding the following program material identified in the Letter Request (the "Program Material"):

➤ General Motors ("Teen Drivers"), on September 25, 2006 (the "Program Material")

1. For each VNR programming segment identified above, state whether the Licensee's station listed above aired the VNR program material as alleged in the CMD Study. If so, provide the following information:

a. the date(s) on which the Licensee received the VNR program material;

Bahakel received the Program Material on September 25, 2006.

b. any materials the Licensee received that accompanied the VNR;

Bahakel does not have any materials, if any, that may have accompanied the Program Material.

c. the person(s) from whom the Licensee received the VNR program material;

Bahakel received the Program Material from the CBS network wire feed.

d. state whether the Licensee broadcast the VNR program material as received, without changes or editing.

i. If the response to 1(d) above is "no," describe specifically what content of the VNR program material was edited;

Bahakel did not broadcast the Program Material as received; it made a number of changes as demonstrated by a comparison of the two transcripts discussed below. First, WAKA significantly shortened the Program Material. CMD's website reports that the "original" VNR was 1:26 minutes in length. WAKA-TV's broadcast of the Program Material was approximately :50 seconds, not the longer 1:00 minute, as reported by CMD on its website. Second, the segment was narrated by news anchor Glenn Halbrooks, rather than by the original narrator, and as the transcripts show, Mr. Halbrooks' report was not simply a "revoicing" of the "original" VNR. His report consisted of his own separately prepared narration. Third, neither General Motors nor Onstar is ever plugged or mentioned; any references were deleted from the segment as broadcast. In essence, the Program Material was used as "stock footage," providing video

(...footnote continued)

conceding that under the Commission's current standards, sponsorship identification of VNRs is unnecessary. Advocating that a preferred but as yet uncodified or unprecedented legal interpretation should be the law is perfectly acceptable in a rulemaking or lobbying context. Arguing that the interpretation should result in sanctions, when the position has not yet been firmly clarified and established in case law, is not legally acceptable.

background for the anchor's own reporting, with the exception of a brief, approximately :10 second section in which John Ulczycki of the National Safety Council appears on-screen and provides generic advice, totally unrelated to any commercial interest; Mr. Ulczycki is identified by superimposed lettering.

- e. the date(s) and time(s) that the Licensee aired any portion of the VNR program material;**

Bahakel aired the Program Material on September 25, 2006, at approximately 6:17 p.m.

- f. two recordings in VHR videotape format of the program(s) containing the VNR material clearly labeled with the file number referenced above, the station, and the VNR;**

Attached as Exhibit 1 are two recordings in VHS videotape format of the Program Material, labeled as requested with the file number referenced above, the station, and the VNR.

- g. a written transcript of the segment(s) containing the VNR program material;**

Attached as Exhibit 2 is a transcript of the segment containing the Program Material, as broadcast. Also attached is a transcript of the Program Material as it appears on CMD's website in the form that it was apparently originally sent to stations. Comparison of the two transcripts shows that WAKA-TV's broadcast was modified significantly and varied greatly from the original.

- h. the steps, if any, the Licensee took to determine whether the VNR program material required sponsorship identification, and the information the Licensee learned through taking any such steps;**

To the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any money, service, or other valuable consideration that was either directly or indirectly paid to it or them or promised or charged or accepted by it or them in connection with the broadcast of the Program Material. The Program Material, as aired, served as video "stock footage" or background for the news anchor's report and provided a brief appearance by a representative of the National Safety Council, who was identified by superimposed lettering. As such, as discussed below, the Program Material did not need to be identified as sponsored under current FCC standards.

- i. whether the Licensee was aware of or had reason to believe that any person involved in the production of the VNR segment paid or received consideration for the inclusion of material in the segment; and**

As noted in the previous answer, to the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any money, service or other

valuable consideration that was either directly or indirectly paid to it or them or promised or charged or accepted by it or them in connection with the broadcast of the Program Material.

j. whether the Licensee identified the VNR program material as sponsored, and if so, the manner in which that identification took place.

As noted in the previous answer, to the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any money, service, or other valuable consideration that was either directly or indirectly paid to it or them or promised or charged or accepted by it or them in connection with the broadcast of the Program Material. As such, as discussed below, the Program Material did not need to be identified as sponsored under current FCC standards.

2. For each VNR programming segment identified above, state whether the Licensee, or any of its employees or representatives, received or were promised any consideration, from any source, in exchange for airing the VNR program material. If so, provide the following information:

a. the person(s) from whom such consideration was received or was promised;

Not applicable. As noted in the previous answer, to the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any money, service, or other valuable consideration that was either directly or indirectly paid to it or them or promised or charged or accepted by it or them in connection with the broadcast of the Program Material.

b. the consideration involved;

Not applicable. As noted in the previous answer, to the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any money, service, or other valuable consideration that was either directly or indirectly paid to it or them or promised or charged or accepted by it or them in connection with the broadcast of the Program Material.

c. the dates on which the payment was promised and/or received;

Not applicable. As noted in the previous answer, to the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any money, service, or other valuable consideration that was either directly or indirectly paid to it or them or promised or charged or accepted by it or them in connection with the broadcast of the Program Material.

d. the circumstances surrounding each such payment or promise to pay; and

Not applicable. As noted in the previous answer, to the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any

money, service, or other valuable consideration that was either directly or indirectly paid to it or them or promised or charged or accepted by it or them in connection with the broadcast of the Program Material.

e. any pertinent documents relating thereto.

Not applicable. As noted in the previous answer, to the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any money, service, or other valuable consideration that was either directly or indirectly paid to it or them or promised or charged or accepted by it or them in connection with the broadcast of the Program Material.

3. State the policies and procedures of the Licensee relating to:

a. compliance with 47 U.S.C. § 317 of the Communications Act of 1934, as amended, and the Commission's sponsorship identification rules;

Bahakel takes very seriously its compliance with all provisions of the Communications Act of 1934, as amended, including Section 317, and all provisions of the Commission's rules, including the sponsorship identifications rules.

For at least the last eight years, Bahakel has required its employees to review and sign a "Payola Questionnaire." The obligation applies to all employees, be they programming and sales employees; technical and clerical employees and independent contractors, or corporate management and general managers. (Copies of the questionnaires are attached as Exhibit 3.)

The questionnaires are distributed to each employee with an extensive cover memorandum that not only states the basic requirements in plain English but includes attached copies of the relevant statutory and administrative sections. (A copy of the memorandum is attached as Exhibit 4.) The questionnaires themselves are similarly worded in very clear and concise terms. They ask numerous questions and continue for three pages in length -- far from a *pro forma* exercise or simple routine checklist. In addition to eliciting answers on specific questions, the documents also remind employees that their signatures on the form represent a certification that they have read Sections 317 and 507 of the Communications Act, as amended.

Bahakel, despite being a mid-sized, privately held broadcast company, also employs a full-time, in-house general counsel, who has over twenty years experience in communications law. He is well versed in sponsorship identification issues because of this extensive experience, frequent updates on communications legal issues he receives from both attending and teaching American Bar Association and Federal Communications Bar Association seminars, and his frequent consultations with outside counsel.

- b. provide a copy of any written policies and procedures that the Licensee uses or used during the relevant period to train its employees or representatives about compliance with sponsorship identification laws; and**

See previous response and Exhibits 3 and 4.

- c. the handling and use of VNR program material.**

Although Bahakel believes that government regulation of the content of VNRs has not yet been conclusively addressed and any regulation in this area, if adopted and enforced, would unconstitutionally chill protected speech, Bahakel has voluntarily chosen to take the very conservative course of reminding employees to add a sponsorship identification whenever they have information that consideration may have been paid earlier in the production or distribution chain, even if the station itself did not receive such consideration. In this regard, Bahakel strives, whenever possible, to comply with the voluntary guidelines adopted by the Radio and Television News Director's Association & Foundation for use of non-editorial video and audio.⁴

As part of this voluntary policy, WAKA's news director, in early 2006, distributed an email to all news staff personnel, including news producers, which clearly stated that any use of VNRs was to be accompanied by a superimposed indication of the source of the VNR. Although the email is undated, the staff believes that the email was distributed in February or March of 2006. *See* Exhibit 5.

Bahakel has also reminded employees that they must take care to exercise "reasonable diligence" in obtaining information that enables them to make a determination whether mandatory Commission requirements and RTNDA's voluntary guidelines should be followed.

- 4. To the extent not otherwise specifically requested, provide copies of all Documents that otherwise provide the basis for, support or otherwise relate to the responses to Inquiries 1 through 3 above.**

The following documents mentioned above are attached:

Exhibit 1 – Two recordings in VHS videotape format of the Program Material.

Exhibit 2 – Transcript of the Program Material, as aired, and as appears on CMD's website.

Exhibit 3 – Three employee sponsorship identification questionnaires.

⁴ Bahakel agrees completely with RTNDA's submission of October 5, 2005 in MB Docket No. 05-171 ("*RTND Submission*"), regarding the use of VNRs by broadcast licensees and hereby incorporates by reference the legal arguments in that submission.

Exhibit 4 – Cover memorandum for distribution of employee sponsorship questionnaires with attached statutory and regulatory authority.

Exhibit 5 – News director email reiterating voluntary company policy regarding VNR labeling.

* * * *

To the best of its knowledge, information, and belief, neither Bahakel nor any of its employees or representatives received any money or other valuable consideration in connection with its broadcast of the Program Material. Neither did Bahakel nor any of its employees or representatives enter into any agreement or have any implicit understanding regarding WAKA-TV's broadcast of the Program Material. Rather, Bahakel aired only parts of the video of the Program Material, which it received for free, in keeping with the exercise of its own independent editorial discretion and adding its own audio for all but a small portion of the segment. As Congress and the FCC have acknowledged, the broadcast of records provided for free to a broadcast station or a broadcast station's reliance on the contents of a press release do not trigger a sponsorship identification obligation.⁵ In keeping with this precedent, Bahakel's actions in broadcasting the Program Material were fully consistent with statutory and regulatory requirements.

In adopting the current statutory provisions in 1960, Congress never could have anticipated the advent of VNRs. The legislative history of Section 317 confirms that in making changes in 1960 Congress intended that those modifications apply to the limited class of programs that Congress or the Commission previously identified as troubling.⁶ The Commission traditionally has been reluctant to expand the reach of these rules because it "would significantly broaden the type of situations in which a sponsorship identification could be required, with no indication whatever that Congress intended such a result."⁷

⁵ See H.R. Rep. No. 1800 (1960), as reprinted in 1960 U.S.C.C.A.N. 3516, 3528-29 ("House Report") (examples 1, 3, and 11). As noted in the *RTNDA Submission*, an additional example confirms the principle that no announcement is required for material provided for free and makes clear that principle applies to material provided by businesses: "Thus, according to the Commission: 'A bus company prepares a scenic travel film which it furnishes for free to broadcast stations No announcement is required.'" *RTNDA Submission* at 11 (footnote omitted).

⁶ See Barry G. Silverman, *Memorandum Opinion & Order* ("Silverman"), 63 FCC 2d 507, ¶ 15 (1977).

⁷ Nat'l Ass'n for Better Broadcasting v. Television Station KCOP(TV), Los Angeles, California, *Memorandum Opinion & Order* ("KCOP(TV)"), 4 FCC Rcd 4988, ¶ 16 (1988)

The legislative history of Section 317 confirms the sponsorship identification rules apply to a limited class of programs.⁸ On March 16, 1960, prior to adoption of the current Section 317 language, the Commission released a Public Notice interpreting Section 317 to require sponsor identification when a third party provided free material merely “with the hope that broadcast exposure would result.”⁹ This appears to be the manner in which the CMD Report interprets Section 317 with respect to VNRs. Congress, however, swiftly rejected that interpretation by amending Section 317 to limit the scope of cases requiring sponsorship identification.¹⁰

In its amendment, Congress established the current rule that material received at no charge generally does not require sponsor identification.¹¹ The amendment added the following proviso directly addressing the applicability of Section 317 when material is provided to a broadcast station for free:

Provided, That “service or other valuable consideration” shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.¹²

To aid the Commission in interpreting the proper scope of Section 317, the House Committee Report provided several examples to clarify Congress’s intended effect. Congress, quite simply, seemed not to have been concerned with the presentation of audio or video mentioning a product in situations in which no money or valuable consideration flows to the station and the featured audio or video did not “hype” or “push” a product or service.

For example, as referenced above, Congress specifically noted that film furnished free of charge to a station that does not “push” or “plug” a product does not require sponsorship identification:

(a) A bus company prepares a scenic travel film which it furnishes free to broadcast stations. No mention is made in the film of the company or its buses. No

⁸ *Silverman*, 63 FCC 2d at ¶ 15 (“Congress intended to limit [the sponsorship identification] requirement to certain well defined program types.”).

⁹ Sponsorship Identification of Broadcast Material, *Public Notice 85460*, FCC 60-239 (Mar. 16, 1960) as reprinted in 1960 U.S.C.C.A.N. 3541, 3545.

¹⁰ See *KCOP(TV)*, 4 FCC Rcd 4988, ¶¶ 14-15.

¹¹ See *House Report*, as reprinted in 1960 U.S.C.C.A.N. at 3527.

¹² 47 U.S.C. § 317(a) (2001). A virtually identical exception appears in 47 C.F.R. § 73.1212(a)(2) (2006).

announcement is required because there is no payment other than the matter furnished for broadcast and there is no mention of the bus company.

(b) Same situation as in (a), except that a bus, clearly identifiable as that of the bus company which supplied the film, is shown fleetingly in highway views in a manner reasonably related to that travel program. No announcement is required.¹³

Only when such a film shows the bus company's bus "to an extent disproportionate to the subject matter of the film" is an announcement required.¹⁴

Congress at the time was focused on gifts and other consideration flowing directly to broadcasters and other station personnel in exchange for product promotion. For example, an automobile dealer *gives* a new car in exchange for broadcast mentions.¹⁵ A refrigerator manufacturer *gives* a refrigerator in exchange for a free sales pitch about the refrigerator.¹⁶ A piano manufacturer *gives* a piano to a concert show in exchange for excessive mentions of the piano.¹⁷ In each of the above examples, the theme is the same -- the broadcaster receives valuable consideration in connection with the broadcast.

The Program Material at issue in this response does not fit the pattern of material that Congress sought to include under Section 317. Neither Bahakel nor any of its employees or representatives received any valuable consideration in connection with airing the Program Material. Bahakel did not have any implicit agreement that induced WAKA-TV to air the Program Material. Under these circumstances, it is evident that Congress did not intend to sanction a case like this.

Longstanding Commission precedent also confirms that final editorial control is an essential element of the sponsorship identification rules. A third party cannot be a sponsor if it does not have editorial control.¹⁸ Final editorial control is necessary even if the third party pays the entire cost of production and even if that party makes some editorial suggestions. If the third party does not have final editorial control, that party is not deemed a sponsor of the programming.

¹³ *House Report, as mentioned in 1960 U.S.C.C.A.N. at 3531-32 (examples 26(a) and (b)).*

¹⁴ *Id.* at 3532.

¹⁵ *See House Report, as reprinted in 1960 U.S.C.C.A.N. at 3529 (example 8).*

¹⁶ *See id.* at 3530 (example 23).

¹⁷ *See id.* at 3532 (example 27).

¹⁸ *See, e.g., Advertising Council Request for Declaratory Ruling or Waiver Concerning Sponsorship Identification Rules, Order, 17 FCC Rcd 22, 616, ¶ 18 (2002) (stating that editorial control is "an indicia of sponsorship").*

Bahakel made the decision to broadcast the Program Material and, throughout the broadcast, retained full editorial control over modifying and changing the Program Material as Bahakel saw fit. Bahakel significantly shortened the Program Material and, with the exception of an on-air appearance by a representative of the National Safety Council, who was identified in superimposed lettering, broadcast only excerpts of the video portion of the Program Material. The station's anchor narrated the presentation. General Motors or OnStar was never mentioned. Bahakel controlled the presentation, which confirms that its actions did not violate FCC requirements.

The disclosure requirements under Section 507 of the Communications Act, as amended, also do not apply to Bahakel's broadcast.¹⁹ Congress passed Section 507 as part of the same 1960 amendments to the Communications Act that had resulted in the clarification of Section 317. Even though Congress used broad language in making the Section 507 changes, it only intended Section 507 to apply "to those in fact responsible for the selection and inclusion of broadcast matter."²⁰ Prior to the 1960 amendments, Section 317 had only applied to licensees and did not cover payments to disc jockeys, program directors, or other station employees directly responsible for the selection of program material.²¹ With Section 507, Congress sought to close this loophole.²² At the same time, however, Congress made clear that Section 507 applies "to those in fact responsible for the selection and inclusion of broadcast matter."²³

As such, Section 507 does not require disclosure of any consideration, if any, that may have flowed to public relations firms in the preparation of the Program Material. Such entities have no power to influence program selection on WAKA-TV. They can only make available information to the station, as anyone else would. Bahakel alone decided whether to include the material that was provided. While Section 507 applies to WAKA-TV personnel because they have the power to affect programming decisions, Section 507 cannot and does not apply to those who cannot influence programming decisions.

Furthermore, Congress never intended to include public relations firms providing free VNRs to stations as among the entities covered by Section 507. As noted above and as the *House Report* explained, sponsorship identification is unnecessary for press releases.²⁴ Organizations, however, often pay public relations firms to create and distribute press releases. Congress would not have excluded press releases under Section 317, only to require identification through a backdoor trap in Section 507.

¹⁹ See 47 U.S.C.A. § 508 (2001).

²⁰ *House Report, as reprinted in: 1960 U.S.C.C.A.N. at 3527.*

²¹ *See id.* at 3526-27.

²² *See id.*

²³ *Id.* at 3527.

²⁴ *See id.* at 3529 (example 11).

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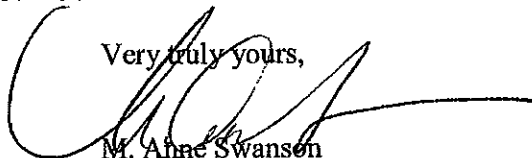
Whether a public relations firm was paid to produce and market the segment is irrelevant in determining the outcome of this case. If the companies involved in preparation of the segment had produced the VNR themselves without the aid of a third party, no payments would have been made, and Section 507(b) clearly would not apply. The Commission should not read Section 507(b) so broadly as to require sponsor identification whenever a company happens to outsource program production to a public relations firm.

Reinterpreting the Communications Act and FCC's rules to require identification of VNRs that may be incorporated into newscasts would unconstitutionally infringe on the editorial process and violate the First Amendment. With the constant threat of forfeitures, licensees would forego innovative and informative programming. If the Commission chooses to disregard decades of precedent and declare that free VNRs now require identification, the chilling effect on news coverage would be profound. As the United States Supreme Court observed more than thirty years ago, "[i]t has yet to be demonstrated how governmental regulation of this crucial process can be exercised consistent with the First Amendment guarantees of a free press as they have evolved to this time."²⁵

Nevertheless, if the Commission now intends to expand its sponsorship identification requirements to include VNRs provided to stations without charge by public relations firms and sanction stations that broadcast them, the Commission must first clearly warn licensees of what is now expected.²⁶ With traditional FCC practice and significant portions of legislative history as well as Congressional intent to the contrary, the Commission cannot now sanction stations that may have acted contrary to current political sentiment disfavoring VNRs.

Based on the foregoing, Bahakel respectfully contends that further action by the Commission is not warranted. If the Commission disagrees with this assessment, Bahakel submits the Commission can follow one of two courses. It may act in this case of first impression involving VNRs to waive the requirements of sponsorship identification under Section 317(d). Alternatively, it may determine that Bahakel's actions were inconsistent with regulatory requirements but do not warrant a sanction or, at most, an admonishment. If you have any further questions about this matter, please contact me.

Very truly yours,



M. Anne Swanson

cc (w/partial encl.) (VHS videotapes not included):
Melanie Godschall, Esquire (via email)
Ben Bartolome, Esquire (via email)

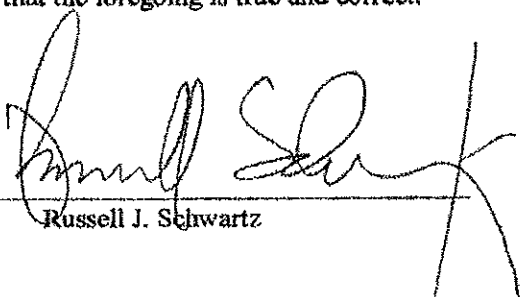
²⁵ *Miami Herald Publ'g Co. v. Tornillo*, 418 U.S. 241, 258 (1974).

²⁶ *See Trinity Broad. of Fla., Inc. v. FCC*, 211 F.3d 618, 628 (D.C. Cir. 2000).

DECLARATION

1. My name is Russell J. Schwartz. I am Assistant Secretary of Alabama Telecasters, Inc., which is a general partner of Alabama Broadcasting Partners, the licensee of WAKA-TV, Selma, Alabama.
2. I have reviewed the attached response to the Federal Communications Commission's letter inquiry of April 26, 2007, which has been prepared on behalf of WAKA-TV. The response has been prepared under my ultimate supervision and review.
3. The factual statements included in the response are true and accurate to the best of my knowledge, information, and belief.
4. All of the information and/or recordings requested by the FCC's letter inquiry of April 26, 2007, which are in the licensee's possession, custody, control or knowledge have been produced, to the best of my knowledge, information, and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

By

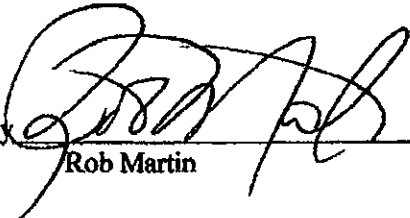


Russell J. Schwartz

Date: June 25, 2007

DECLARATION

1. My name is Rob Martin. I am the news director of WAKA-TV, Selma, Alabama.
2. I have reviewed the attached response to the Federal Communications Commission's letter inquiry of April 26, 2007, which has been prepared on behalf of WAKA-TV. The response has been prepared under my supervision and review.
3. The factual statements included in the response are true and accurate to the best of my knowledge, information, and belief.
4. All of the information and/or recordings requested by the FCC's letter inquiry of April 26, 2007, which are in the licensee's possession, custody, control or knowledge have been produced, to the best of my knowledge, information, and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

By 
Rob Martin

Date: June 25, 2007

EXHIBIT 1

Two VHS videotapes of the Program Material
are included with the original filing.

EXHIBIT 2

[Anchor:GLENN]

{***GLENN***}

[ReadRate:15]

[can]

[be]

[Notations reflect text as broadcast]

[no doubt]

Getting the car keys to drive for the first time is one of the most exciting times in a teenager's life...

But it's also a dangerous time.

[TAKE: ANIMATION]

{***TAKE ANIMATION***}

In tonight's family first... what can you do to reduce the risks for your teenage driver?

[TAKE VO]

{***VO***}

[CG :2 Line Standard Super\Reducing Risks\Family First]

Experts say parents should put together a family plan to help their teen drive safely.

Teen drivers should be told to always wear a seat belt... never drink and drive... or ride with anyone who has been drinking.

Parents can get help practice safe driving with their teens just by riding in the car with them.

[Anchor:GLENN]

{***GLENN***}

[ReadRate:15]

[TAKE SOT

OUTCUE: to be at night

DURATION:0:10]

{***SOT FULL***}

[CG :2 Line Standard Super\John Ulczycki\National Safety Council]

<you want to spend quality time with your kid. Spend it by watching them drive by sitting in the front seat. You should spend at least 50 hours with them of which 10 of those need to be at night.>

[TAKE: CONT VO]

{***CONT VO***}

Teens should also be made aware that there are greater risks driving at night and when there are other people in the car.

WAKA: UNEDITED CMD VNR

(Transcribed from: <http://www.prwatch.org/fakenews2/vnr57>)

- CHRIS HANSON: Did you know that motor vehicle crashes are the leading cause of death for teenagers? So what can parents do to help reduce the risks for their teenage drivers? Experts say the first thing to do is to map out a family plan.
- JOHN ULCZYCKI (NSC): You want to spend quality time with your kid? Spend it watching them drive, sitting in the front seat. And you should spend at least fifty hours with them, of which ten of those hours needs to be at night.
- CHRIS HANSON: Also, let your teen driver know what the risks are. A teen is up to four times more likely to get into a crash while other teens are in the car and four to five times more likely to get into a crash at night.
- JOHN ULCZYCKI: A family plan and contract has got to include at least these two things: one, a restriction on nighttime driving and two, a restriction on passengers.
- CHRIS HANSON: And besides requiring that the teen driver use safety belts at all times and never drink while driving or ride with anyone who's been drinking, parents can contribute directly to their child's safety in the family vehicle.
- STEPHANIE GEHL (GM): Keeping a vehicle a young teenager drives in top condition is a step that parents can take. Also, teaching these young drivers how to check their air pressure in their tires on a frequent basis, as well as following the manufacturer's recommended service schedule is an important step.
- CHRIS HANSON: And if the family plan includes shopping for a new or used car for your teen to drive, consider one with an in-vehicle communications service like OnStar, which has a number of emergency service features to give you a little extra peace of mind. I'm Chris Hanson.

[End video clip – 1 minute, 26 seconds]

EXHIBIT 3

Name: _____

Please Print

FORM A

(STATION NAME)

**PAYOLA QUESTIONNAIRE
FOR OFFICIALS AND MANAGERS,
PROFESSIONALS AND SALES EMPLOYEES**

By my signature hereto, I certify that I have read Sections 317 and 507 of the Communications Act of 1934, as amended, which, in effect, make the receipt of "payola" or "plugola", without proper disclosure, a federal crime. I also certify that I have read the FCC's sponsorship identification rule.

I also certify, by my signature hereto, the truth of the answers to the following questions and that I understand that violation of Sections 317 or 507 will subject me to appropriate disciplinary action.

QUESTION 1: Since your affiliation with (Station Name) ("this station") or the execution of our last "Payola Questionnaire," have you, or any member of your immediate family, directly or indirectly, accepted or agreed to accept from any person (other than this station), or paid or agreed to pay to any of this station's employees, any money, service, or other valuable consideration, in exchange for the broadcast of any material over this station?

ANSWER: Please check: Yes _____ No _____

QUESTION 2: Since your affiliation with this station or the execution of our last "Payola Questionnaire," have you, or any member of your immediate family, received any gifts or extraordinary courtesies or favors from any party having business dealings with this station other than occasional entertainment, or gifts having a cumulative and total annual value of less than \$100.00 which were presented on special occasions such as Christmas, weddings, anniversaries, and birthdays?

ANSWER: Please check: Yes _____ No _____

QUESTION 3: Since your affiliation with this station or the execution of our last "Payola Questionnaire," have you, or any member of your immediate family, acquired or retained a direct or indirect interest (other than an investment in a corporation whose stock is publicly held), served as an officer or director of, or been employed or retained as an independent contractor by any person, firm, or corporation engaged in:

- (a) any business enterprise which purchases advertising on this station;
- (b) the sale of any goods or services to this station;
- (c) the syndication or distribution of video programming;
- (d) the publishing of music, the manufacturing or distribution of records, cassettes or compact discs, or the production or distribution of television programming;

- (e) the creation, production, distribution, manufacturing, or exploitation of music, films, tapes, recordings, script material (including formats), or electrical transcriptions of any program material for broadcast use;
- (f) the exploitation, promotion, or management of persons rendering artistic, production and/or other services in the entertainment field;
- (g) the promotion, sponsorship, or conduct of personal appearance performances and shows by (1) any on-air talent, actor or actress who appears in video programming broadcast or promoted on this station or (2) any recording artists whose records or music are played or promoted on this station; or
- (h) the ownership or operation of one or more television or radio stations or any cable television system, including without limitation, cable television, CATV, Pay TV, DBS Subscription TV, Multipoint Distribution Service or the like;

without fully disclosing in writing the nature and circumstances of each such outside activity to the General Manager of this station?

ANSWER: Please check: Yes _____ No _____

QUESTION 4: If your duties involve on-the-air appearances or performances, have you, since your affiliation with this station or the execution of our last "Payola Questionnaire," mentioned on-the-air, any business firm, company, or store in which you or any member of your immediate family have a direct or indirect interest or broadcast any program material in which you or a member of your immediate family have a direct or indirect interest without disclosing in writing full information regarding such matter to the General Manager of this station?

ANSWER: Please check: Yes _____ No _____

QUESTION 5: If your duties involve the production of programming for broadcast, have you, since your affiliation with this station or the execution of our last "Payola Questionnaire," included or caused to be included in any program material broadcast on this station information which would benefit a business enterprise in which you or any member of your immediate family have a direct or indirect interest without disclosing in writing full information regarding such matter to the General Manager of this station?

ANSWER: Please check: Yes _____ No _____

QUESTION 6: Regardless of your job duties, have you, since your affiliation with this station or the execution of our last "Payola Questionnaire," taken any action(s) to cause or attempt to cause this station to broadcast any program material which would benefit a business enterprise in which you or any member of your immediate family have a direct or indirect interest?

ANSWER: Please check: Yes _____ No _____

QUESTION 7: Regardless of your job duties, have you, since the execution of our last "Payola Questionnaire," been engaged in any outside business interests (other than passive investments in publicly traded stocks, mutual funds, etc.) or worked for any non-profit

organizations (as an officer, director or volunteer)?

ANSWER:

Please check: Yes _____ No _____

If your answer to any of the above questions is "yes", please supply complete details in the space below or on a separate sheet of paper which should be signed by you, attached to this questionnaire, and return to Russell Schwartz.

Signature: _____

Name: _____

Please Print

Date: _____

Name: _____
Please Print

FORM B

(STATION NAME)

**PAYOLA QUESTIONNAIRE
FOR TECHNICAL AND CLERICAL
EMPLOYEES AND INDEPENDENT CONTRACTORS**

The Federal Communications Commission has adopted a rule which requires proper sponsorship identification for the broadcast of program material and all forms of commercial announcements. The FCC rules were adopted pursuant to Section 317 and Section 507 of the Communications Act of 1934, as amended. Each station employee or independent contractor directly or indirectly involved in programming content, is required to be familiar with these laws, rules and regulations. Your attention is specifically called to the following provision of Section 317(c):

"The licensee of each broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast information to enable such licensee to make the announcement required by this section."

In order to comply with the law and keep our records up to date, we are asking you to answer the following questions and sign this statement.

QUESTION 1: Have you read the provisions of Section 317 and Section 507 of the Communications Act and Section 73.1212 of the FCC Rules?

ANSWER: Please check: Yes _____ No _____

QUESTION 2: Do you understand that both the Communications Act and the FCC's Rules require you to report immediately to your station's General Manager concerning money, anything of value, or services which you have received from any person or which you have been offered in return for mentioning either a product, a person, plugging a record, or plugging or otherwise touting any business venture over the facilities of (Station Name)?

ANSWER: Please check: Yes _____ No _____

QUESTION 3: Do you agree that if any such offer is made, you will not accept the offer and will immediately report such offer to your General Manager?

ANSWER: Please check: Yes _____ No _____

QUESTION 4: Do you have any interest in, or connection with, outside business activities which might involve a conflict of interest, such as a program production company, record store, concert promoter, dance company, musical event or show, recording company, recording art-

ist or other talent, or the like?

ANSWER: Please check: Yes _____ No _____

QUESTION 5: Except for the remuneration you receive from (Station Name) for your services, have you received payment, (in money or in any other form) from any other source, for broadcasting or causing the broadcasting of any statement and/or program material (record, transcription, file, plug, advertisement, or the like) over (Station Name)?

ANSWER: Please check: Yes _____ No _____

If you've answered "YES" to Question 5, please complete the following:

- (a) What payment did you receive? _____
- (b) What was the source of payment? _____
- (c) What was the statement and/or broadcast in return for such payment? _____
- (d) What announcement, if any, was made at the time of the broadcast to indicate that the broadcasting of the statement and/or program material was paid for by the person referred to in paragraph (b) above? _____

6. Please provide a list of all outside business activities, full or part-time, that you have been involved in during the past 12 months.

If your answer to any of the above questions is "yes", please supply complete details in the space below or on a separate sheet of paper which should be signed by you, attached to this questionnaire, and returned to Russell Schwartz.

Signature:

Name:

Please Print

Date:

Name: _____

Please Print

FORM C

(STATION NAME)

**PAYOLA QUESTIONNAIRE
FOR CORPORATE MANAGEMENT
AND GENERAL MANAGERS**

By my signature hereto, I certify that I have read Sections 317 and 507 of the Communications Act of 1934, as amended, which, in effect, make the receipt of "payola" or "plugola", without proper disclosure, a federal crime. I also certify that I have read the FCC's sponsorship identification rule.

I also certify, by my signature hereto, the truth of the answers to the following questions and that I understand that violation of Sections 317 or 507 will subject me to appropriate disciplinary action.

QUESTION 1: Since your affiliation with Station Name ("the Station") or the execution of our last "Payola Questionnaire," have you, or any member of your immediate family, directly or indirectly, accepted or agreed to accept from any person (other than the Station), or paid or agreed to pay to any of the employees of any of Bahakel Communications' broadcast stations, any money, service, or other valuable consideration, in exchange for the broadcast of any material over this station?

ANSWER: Please check: Yes _____ No _____

QUESTION 2: Since your affiliation with the Station or the execution of our last "Payola Questionnaire," have you, or any member of your immediate family, received any gifts or extraordinary courtesies or favors from any party having business dealings with any of Bahakel Communications' broadcast stations other than occasional entertainment, or gifts having a cumulative and total annual value of less than \$500.00 which were presented on special occasions such as Christmas, weddings, anniversaries, and birthdays?

ANSWER: Please check: Yes _____ No _____

QUESTION 3: Since your affiliation with the Station or the execution of our last "Payola Questionnaire," have you, or any member of your immediate family, acquired or retained a direct or indirect interest (including investment corporations whose stock is publicly held), served as an officer or director of, or been employed or retained as an independent contractor by any person, firm, or corporation engaged in:

- (a) any business enterprise which purchases advertising on this station or any other stations operated by Bahakel Communications;
- (b) the sale of any goods or services to this station or any other stations operated by Bahakel Communications;

- (c) the syndication or distribution of video programming;
- (d) the publishing of music, the manufacturing or distribution of records, cassettes or compact discs, or the production or distribution of television programming;
- (e) the creation, production, distribution, manufacturing, or exploitation of music, films, tapes, recordings, script material (including formats), or electrical transcriptions of any program material for broadcast use;
- (f) the exploitation, promotion, or management of persons rendering artistic, production and/or other services in the entertainment field;
- (g) the promotion, sponsorship, or conduct of personal appearance performances and shows by (1) any on-air talent, actor or actress who appears in video programming broadcast or promoted on this station or (2) any recording artists whose records or music are played or promoted on this station; or
- (h) the ownership or operation of one or more television or radio stations or any cable television system, including without limitation, cable television, CATV, Pay TV, DBS Subscription TV, Multipoint Distribution Service or the like;

without fully disclosing in writing the nature and circumstances of each such outside activity to Russell Schwartz.

ANSWER: Please check: Yes No

QUESTION 4: If your duties involve on-the-air appearances or performances, have you, since your affiliation with the Station or the execution of our last "Payola Questionnaire," caused to be mentioned on-the-air, any business firm, company, or store in which you or any member of your immediate family have a direct or indirect interest or broadcast any program material in which you or a member of your immediate family have a direct or indirect interest without disclosing in writing full information regarding such matter to Russell Schwartz.

ANSWER: Please check: Yes No

QUESTION 5: Have you, since your affiliation with the Station or the execution of our last "Payola Questionnaire," caused to be included in any program material broadcast on any of Bahakel Communications' broadcast stations information which would benefit a business enterprise in which you or any member of your immediate family have a direct or indirect interest without disclosing in writing full information regarding such matter to Russell Schwartz?

ANSWER: Please check: Yes _____ No _____

If your answer to any of the above questions is "yes", please supply complete details in the space below or on a separate sheet of paper which should be signed by you, attached to this questionnaire, and returned to Russell Schwartz.

Signature:

Name:

Please Print

Date:

ODMA\FPCDOCS\RALEIGH\101471

EXHIBIT 4

MEMORANDUM

To: All Employees
From: Anna Rufty and Russell Schwartz
Date: September 8, 2006
Re: Payola - Plugola

This memorandum concerns Sections 317 and 507 of the Communications Act of 1934, as amended, and Section 73.1212 of the FCC's Rules. The issuance of this memorandum does not mean that we believe that there have been infractions of the law. We simply wish to remind all personnel of their obligations under the law and under the policies adopted by (STATION NAME).

Your obligations under Sections 317 and 507, and Station's policy, can be stated very simply:

EVERY EMPLOYEE IS PROHIBITED FROM ACCEPTING ANY MONEY, SERVICE OR OTHER VALUABLE CONSIDERATION FROM ANY PERSON, FIRM OR CORPORATION OTHER THAN (STATION NAME) IN EXCHANGE FOR BROADCASTING ANY MATERIAL OVER THE STATION NAME.

EVERY EMPLOYEE HAVING ANY ROLE IN THE SELECTION OF BROADCAST MATTER IS PROHIBITED FROM (1) ENGAGING IN ANY OUTSIDE BUSINESS OR ECONOMIC ACTIVITY WHICH WOULD CREATE A CONFLICT OF INTEREST IN THE SELECTION OF BROADCAST MATTER; (2) ACCEPTING ANY FAVORS, LOANS, ENTERTAINMENT OR OTHER CONSIDERATION FROM PERSONS SEEKING THE BROADCAST OF ANY MATERIAL IN RETURN THEREFORE; AND (3) PROMOTING OVER THE AIR (EXCEPT BY MEANS OF AN APPROPRIATELY LOGGED COMMERCIAL ANNOUNCEMENT) ANY BUSINESS, ACTIVITY OR MATTER IN WHICH THE EMPLOYEE HAS A DIRECT OR INDIRECT FINANCIAL INTEREST.

Your attention is also directed to the fact that Section 507 of the Communications Act of 1934, as amended, makes it a criminal offense, subject to a fine of not more than \$10,000 or imprisonment of not more than one year, or both, if you fail to disclose to (STATION NAME), any acceptance or agreement to accept from any person, firm or corporation other than (STATION NAME), any money, service or other valuable consideration for the broadcast of any material over the station.

Copies of Section 317 and Section 507 of the Communications Act of 1934, as amended, and of Section 73.1212 of the FCC Rules are attached. Please review this material carefully.

Enclosed is a questionnaire which you are respectfully requested to complete and return to my office by October 18th.

Thank you for your cooperation.

§73.1211 Broadcast of lottery information. - (a) No licensee of an AM, FM, television, or Class A television broadcast station, except as in paragraph (c) of this section, shall broadcast any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise or scheme, whether said list contains any part or all of such prizes. (18 USC 1304; 62 Stat. 763).

(b) The determination whether a particular program comes within the provisions of paragraph (a) of this section depends on the facts of each case. However, the Commission will in any event consider that a program comes within the provisions of paragraph (a) of this section if in connection with such program a prize consisting of money or other thing of value is awarded to any person whose selection is dependent in whole or in part upon lot or chance, if as a condition of winning or competing for such prize, such winner or winners are required to furnish any money or other thing of value or are required to have in their possession any product sold, manufactured, furnished or distributed by a sponsor of a program broadcast on the station in question. (See 21 FCC 2d 846 [18 FR 2d 1915].)

(c) The provisions of paragraphs (a) and (b) of this section shall not apply to an advertisement, list of prizes or other information concerning:

(1) A lottery conducted by a State acting under authority of State law which is broadcast by a radio or television station licensed to a location in that State or any other State which conducts such a lottery. (18 USC §1307(a); 102 Stat 3205.)

(2) Fishing contests exempted under 18 USC §1305 (not conducted for profit, i.e., all receipts fully consumed in defraying the actual costs of operation).

(3) Any gaming conducted by an Indian Tribe pursuant to the Indian Gaming Regulatory Act (25 USC §2701 et seq.).

(4) A lottery, gift enterprise or similar scheme, other than one described in paragraph (c)(1) of this section, that is authorized or not otherwise prohibited by the State in which it is conducted and which is:

(i) Conducted by a not-for-profit organization or a governmental organization (18 USC §1307; 102 Stat 3205); or

(ii) Conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization. (18 USC §1307(a); 102 Stat 3205.)

(d)(1) For purposes of paragraph (c) of this section, "lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. It does not include the placing or accepting of bets or wagers on sporting events or contests.

(2) For purposes of paragraph (c)(4)(i) of this section, the term "not-for-profit organization" means any organization that would qualify as tax exempt under Section 501 of the Internal Revenue Code of 1986.

Historical Note

Section added, effective January 30, 1975, 40 FR 6209.

Subsection (a) amended by order in Docket No. 00-10, effective June 9, 2000, 65 FR 29985, 34405. For Report see 19 CR

Subsections (c) and (d) amended and NOTE deleted effective February 8, 1980, 45 FR 6399. For Order see 46 FR 2d 1344.

Subparagraph (c)(3) added by order (FCC 89-124) effective June 14, 1989, 54 FR 20855. For Report see 66 FR 2d 365.

Subparagraph (c)(1) and subsection (d) amended and subparagraph (c)(4) added by order (FCC 90-178) effective May 7, 1990, 55 FR 18888. For Order see 67 FR 2d 996.

§73.1212 Sponsorship identification; list retention; related requirements. - (a) 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: provided, however, that "service or other valuable consideration" shall not include any service or property furnished either without or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification of any person, product, service, trademark, or brand name beyond an identification reasonably related to the use of such service or property on the broadcast.

(i) For the purposes of this section, the term "sponsored" shall be deemed to have the same meaning as "paid for."

(ii) In the case of any television political advertisement concerning candidates for public office, the sponsor shall be identified with letters equal to or greater than four (4) percent of the vertical picture height that air for not less than four (4) seconds.

(b) The licensee of each broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any matter for broadcast, information to enable such licensee to make the announcement required by this section.

(c) In any case where a report has been made to a broadcast station as required by Section 507 of the Communications Act of 1934, as amended, of circumstances which would have required an announcement under this section had the consideration been received by such broadcast station, an appropriate announcement shall be made by such station.

SEC. 317. [47 U.S.C. 317] ANNOUNCEMENT WITH RESPECT TO CERTAIN MATTER BROADCAST.

(a)(1) 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: *Provided*, That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.

(2) Nothing in this section shall preclude the Commission from requiring that an appropriate announcement shall be made at the time of the broadcast in the case of any political program or any program involving the discussion of any controversial issue for which any films, records, transcriptions, talent, scripts, or other material or service of any kind have been furnished, without charge or at a nominal charge, directly or indirectly, as an inducement to the broadcast of such program.

(b) In any case where a report has been made to a radio station, as required by section 507 of this Act, of circumstances which would have required an announcement under this section had the consideration been received by such radio station, an appropriate announcement shall be made by such radio station.

(c) The licensee of each radio station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section.

(d) The Commission may waive the requirement of an announcement as provided in this section in any case or class of cases with respect to which it determines that the public interest, convenience, or necessity does not require the broadcasting of such announcement.

(e) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

SEC. 507. [47 U.S.C. 507] DISCLOSURE OF CERTAIN PAYMENTS.

(a) Subject to subsection (d), any employee of a radio station who accepts or agrees to accept from any person (other than such station), or any person (other than such station) who pays or agrees to pay such employee, any money, service or other valuable consideration for the broadcast of any matter over such station shall, in advance of such broadcast, disclose the fact of such acceptance or agreement to such station.

(b) Subject to subsection (d), any person who, in connection with the production or preparation of any program or program matter which is intended for broadcasting over any radio station, accepts or agrees to accept, or pays or agrees to pay, any money, service or other valuable consideration for the inclusion of any matter as a part of such program or program matter, shall, in advance of such broadcast, disclose the fact of such acceptance or payment or agreement to the payee's employer, or to the person for which such program or program matter is being produced, or to the licensee of such station over which such program is broadcast.

(c) Subject to subsection (d), any person who supplies to any other person any program or program matter which is intended for broadcasting over any radio station shall, in advance of such broadcast, disclose to such other person any information of which he has knowledge, or which has been disclosed to him, as to any money, service or other valuable consideration which any person has paid or accepted, or has agreed to pay or accept, for the inclusion of any matter as a part of such program or program matter.

(d) The provisions of this section requiring the disclosure of information shall not apply in any case where, because of a waiver made by the Commission under section 317(d), an announcement is not required to be made under section 317.

(e) The inclusion in the program of the announcement required by section 317 shall constitute the disclosure required by this section.

(f) The term "service or other valuable consideration" as used in this section shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast, or for use on a program which is intended for broadcasting over any radio station, unless it is so furnished in consideration for an identification in such broadcast or in such program of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property in such broadcast or such program.

(g) Any person who violates any provision of this section shall, for each such violation, be fined not more than \$10,000 or imprisoned not more than one year, or both.

EXHIBIT 5

Video News Releases

To: News Producers, News Staff
From: Rob

Video News Releases (aka: VNR's) must be attributed in every news story. A mandatory super must be placed on the screen to attribute the source of the VNR.

The courtesy super must be used when using VNR packages, VO's and or SOTS.

Producers, you will find the source of the VNR located on each script from the CBS News feed.

Again it is now required that ALL VNR's are attributed by using a courtesy super.

Any questions, see me.