

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

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|-----------------------|---|------------------------|
| In the Matter of |) | File No. EB-09-SE-146 |
| |) | |
| Hearst Stations, Inc. |) | Acct. No. 201032100037 |
| |) | |
| |) | FRN No. 0001587583 |

ORDER

Adopted: August 23, 2010**Released: August 25, 2010**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Hearst Stations, Inc.¹ (“Hearst”). The Consent Decree terminates the Bureau’s investigation into Hearst’s possible violations of Section 301 of the Communications Act of 1934, as amended,² and Section 25.102(a) of the Commission’s Rules,³ regarding the operation of a transportable fixed satellite earth station.

2. The Bureau and Hearst have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree which terminates the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Hearst possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act,⁴ and Sections 0.111 and 0.311 of the Rules,⁵ the Consent Decree attached to this Order **IS ADOPTED**.

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

¹ In September 2009, Hearst notified the Commission of a name change to Hearst Stations, Inc., from Hearst-Argyle Stations, Inc. See Letter from Coe W. Ramsey, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP to Marlene H. Dortch, Secretary, Federal Communications Commission (September 23, 2009); Letter from Stephen Hartzell, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP to Eleanor Lott, International Bureau, Federal Communications Commission (September 25, 2009); see also File Nos. 0003980302, 0003980309, 0003980312, 0003980320, 0003980326, 0003980330, 0003980334, 0003980336, 0003980340, 0003980341, 0003980346, 0003980356, 0003980358 (all filed on September 29, 2009 and granted).

² 47 U.S.C. § 301.

³ 47 C.F.R. § 25.102(a).

⁴ 47 U.S.C. § 154(i).

⁵ 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to counsel for Hearst Stations, Inc., Stephen Hartzell, Esq., Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, 150 Fayetteville Street, Suite 1600, Raleigh, North Carolina 27601.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Hearst Stations, Inc.¹ (“Hearst”), by their authorized representatives, hereby enter into this Consent Decree resolving possible violations of Section 301 of the Communications Act of 1934, as amended,² and Section 25.102(a) of the Commission’s Rules³ regarding the operation of a transportable fixed satellite earth station.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 9.
 - (f) “Effective Date” means the date on which the Bureau releases the Adopting Order.
 - (g) “Hearst” means Hearst Stations, Inc. and its predecessors-in-interest and successors-in-interest.

¹ In September 2009, Hearst notified the Commission of a name change to Hearst Stations, Inc., from Hearst-Argyle Stations, Inc. See Letter from Coe W. Ramsey, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP to Marlene H. Dortch, Secretary, Federal Communications Commission (September 23, 2009); Letter from Stephen Hartzell, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP to Eleanor Lott, International Bureau, Federal Communications Commission (September 25, 2009); see also File Nos. 0003980302, 0003980309, 0003980312, 0003980320, 0003980326, 0003980330, 0003980334, 0003980336, 0003980340, 0003980341, 0003980346, 0003980356, 0003980358 (all filed on September 29, 2009 and granted).

² 47 U.S.C. § 301.

³ 47 C.F.R. § 25.102(a).

- (h) “Investigation” means the investigation commenced by the Bureau following Hearst’s voluntary disclosure regarding possible violations of Section 301 of the Act and Section 25.102(a) of the Rules.
- (i) “Parties” means Hearst and the Bureau, and each a “Party”.
- (j) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Section 301 of the Act prohibits a person from using or operating any apparatus for the transmission of energy or communications or signals by radio except under, and in accordance with, the Act and with a license granted in accordance with the Act.⁴ Similarly, under Section 25.102(a) of the Rules, no person may use or operate any apparatus for the transmission of energy or communications or signals by space or earth stations except under, and in accordance with, an appropriate authorization granted by the Commission.⁵

3. Hearst is an FCC licensee who operates, in relevant part, a full-power television station (KITV, Honolulu, Hawaii), two full-power satellite television stations (KMAU, Wailuku, Hawaii, and KHVO, Hilo, Hawaii), and receive-only earth station E060301 (collectively, “KITV”).

4. In or around August 2009, Hearst determined that a transportable fixed satellite earth station used by KITV in conjunction with its newsgathering operations was unauthorized. Hearst immediately terminated operation of the earth station, and on August 31, 2009, Hearst filed a new license application for the facility.⁶ On or around September 2, 2009, Hearst, through its legal counsel, voluntarily disclosed the matter to the International Bureau and the Enforcement Bureau.

III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

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

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

8. **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 its Investigation. In consideration for the termination of said Investigation, Hearst agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new

⁴ 47 U.S.C. § 301.

⁵ 47 C.F.R. § 25.102(a).

⁶ File No. SES-LIC-20090831-01104. This application was granted on October 5, 2009, for call sign E090156.

proceeding, formal or informal, or take any action on its own motion against Hearst concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Hearst with respect to Hearst's basic qualifications, including its character qualifications, to be a Commission licensee.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, Hearst agrees to create, within 30 days of the Effective Date, a Compliance Plan related to future compliance with the Act, the Commission's Rules, and the Commission's Orders. The Plan will include, at a minimum, the following components:

- (a) **Compliance Officer.** Hearst will designate the Vice President, Engineering for Hearst Television, Inc., (Hearst's corporate parent), as its Compliance Officer. The Compliance Officer will be responsible for administering the Compliance Plan, and will have sole authority to authorize Hearst employees to activate or operate any Commission-regulated transmitting facility.
- (b) **Outside Consultation.** Hearst will coordinate more closely with its outside engineering consultant and FCC legal counsel, and will not activate a facility without confirmation that such activation has been authorized by the FCC.
- (c) **Training.** To increase their understanding of the Commission's Rules, all Hearst engineering managers with responsibility for procuring, constructing, maintaining, and operating Commission-regulated transmitting equipment will complete a compliance tele-seminar administered by Hearst legal counsel within six months of the Effective Date.
- (d) **Compliance Reports.** Hearst will file Compliance Reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date. Each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Hearst, stating that the Compliance Officer has personal knowledge that (i) Hearst has established operating procedures intended to ensure compliance with the terms and conditions of this Consent Decree, together with an accompanying statement explaining the basis for the Compliance Officer's certification; (ii) Hearst has been utilizing those procedures since the previous Compliance Report was submitted; and (iii) the Compliance Officer is not aware of any instances of non-compliance. The certification must 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. If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Hearst, shall provide the Commission with a detailed explanation of: (i) any instances of non-compliance with this Consent Decree and the Rules, and (ii) the steps that Hearst has taken or will take to remedy each instance of non-compliance and ensure future compliance, and the schedule on which proposed remedial actions will be taken. All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. All reports shall also be submitted electronically to kathy.berthot@fcc.gov and joann.lucanik@fcc.gov.
- (e) **Termination Date.** Unless stated otherwise, the requirements of this Paragraph 9 of the Consent Decree will expire twenty-four (24) months after the Effective Date.

10. **Voluntary Contribution.** Hearst agrees that it will make a voluntary contribution to the United States Treasury in the amount of seven-thousand five-hundred dollars (\$7,500.00). The payment will be made within 60 days after the Effective Date. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to the Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Hearst will also send electronic notification to kathy.berthot@fcc.gov and joann.lucanik@fcc.gov within forty-eight (48) hours of the date said payment is made.

11. **Waivers.** Hearst waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Bureau issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Hearst shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Hearst nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Hearst shall waive any statutory right to a trial *de novo*. Hearst hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

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

13. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Hearst does not expressly consent) that provision will be superseded by such Commission rule or Order.

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

15. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission’s Rules and Orders.

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

17. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

18. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

19. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

David J. Barrett
President
Hearst Stations, Inc.

Date

Date

Executed solely with respect to para. 9(a):

David J. Barrett
President
Hearst Television, Inc.

Date