

BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.

ATTORNEYS AT LAW

RALEIGH, NORTH CAROLINA

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
1600 WACHOVIA CAPITOL CENTER
150 FAYETTEVILLE STREET
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300
FACSIMILE (919) 839-0304

WWW.BROOKSPIERCE.COM

HENRY E. FRYE
OF COUNSEL

J. LEE LLOYD
SPECIAL COUNSEL

FOUNDED 1897

AUBREY L. BROOKS (1872-1958)
W.H. HOLDERNESS (1804-1965)
L.P. McLENDON (1890-1968)
KENNETH M. BRIM (1898-1974)
C.T. LEONARD, JR. (1929-1983)
CLAUDE C. PIERCE (1913-1988)
THORNTON H. BROOKS (1912-1988)
G. NEIL DANIELS (1911-1997)
HUBERT HUMPHREY (1928-2003)

GREENSBORO OFFICE
2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, N.C. 27401

WASHINGTON OFFICE
601 PENNSYLVANIA AVENUE, N.W.
SUITE 800, SOUTH BUILDING
WASHINGTON, D.C. 20004

WRITER'S DIRECT DIAL

L.P. McLENDON, JR.
EDGAR B. FISHER, JR.
W. ERWIN FULLER, JR.
JAMES T. WILLIAMS, JR.
WADE H. HARROVE
M. DANIEL MCGINN
MICHAEL D. MEEKER
WILLIAM G. MCNAIRY
EDWARD C. WINSLOW III
HOWARD L. WILLIAMS
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JEFFREY E. OLEYNIK
MARK DAVIDSON
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JENNIFER K. VAN ZANT
DAVID W. SAR
BRIAN J. MCMILLAN
DAVID KUSHNER
DEREK J. ALLEN
CLINTON R. PINYAN
TERESA DELOATCH BRYANT
COE W. RAMSEY
ROBERT W. SAUNDERS
ELIZABETH V. LAFOLLETTE
GINGER S. SHIELDS
JENNIFER T. HARROD
CHARLES E. COBLE
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PATRICK J. JOHNSON
STEPHEN G. HARTZELL
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SARA R. VIZITHUM
C. SCOTT MEYERS
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NICOLE A. CRAWFORD
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DARRELL A. FRUTH
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BENJAMIN R. NORMAN
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JENNIFER C. NOBLE
DAVID L. NEAL
SARAH A.L. PHILLIPS
PHILIP J. LONG
ANDREW T. TRIPP

June 25, 2007

Via Hand-Delivery

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, D.C. 20002

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

**Re: KLFY, L.P.
KLFY-TV, Lafayette, LA
File No. EB-06-IH-3706
Response to Letter of April 26, 2007**

Dear Ms. Dortch:

Please find enclosed, on behalf of KLFY, L.P., licensee of Station KLFY-TV, Lafayette, Louisiana, an original plus one (1) copy of a Response to the April 26, 2007, Letter of Hillary S. DeNigro. Included with the Response are two VHS recordings of the material actually broadcast by KLFY-TV.

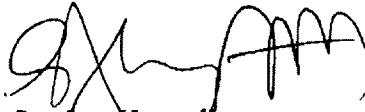
Also included are two CD recordings of material obtained from www.prwatch.org, which the Center for Media and Democracy has identified as source material used by KLFY-TV in two

Ms. Marlene H. Dortch
Attn: Melanie Godschall
June 25, 2007
Page 2

news reports. Transcripts of all recorded material are also included (one version of each transcript is sealed).

If any questions should arise during the course of your consideration of this matter, we respectfully request that you communicate with this office.

Sincerely,



Stephen Hartzel
Counsel to KLFY, L.P.

Enclosures

cc: Melanie Godschall, FCC (via email)
Ben Bartolome, FCC (via email)

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

FILED/ACCEPTED

JUN 25 2007

Federal Communications Commission
Office of the Secretary

In the Matter of

KLFY, L.P.

Licensee of Station KLFY-TV,
Lafayette, Louisiana

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)
) File No. EB-06-IH-3706
)
)

**RESPONSE OF KLFY, L.P.
TO THE APRIL 26, 2007, LETTER OF HILLARY S. DeNIGRO**

KLFY, L.P. ("KLFY"), licensee of Station KLFY-TV, Lafayette, Louisiana (the "Station"), by its attorneys, submits this response to the letter dated April 26, 2007, from Hillary S. DeNigro (the "Letter") in connection with the above-captioned matter. Station KLFY-TV is an affiliate of the CBS Television Network station located in the Lafayette, LA, Designated Market Area.

I. Response to Commission Inquiries

The following numbered paragraphs respond to the four numbered paragraphs listed under the heading "Inquiries: Documents and Information to Be Provided" in the Letter.

1. KLFY aired excerpts from two video programming packages that are identified in the Letter and in the Center for Media and Democracy's ("CMD") report¹ ("CMD Report") as "VNRs." First, the CMD Report identified a portion of a KLFY news report as a VNR for Allstate Insurance Company (the "Flood Insurance Program Material"). See CMD Report, at 47

¹ Diane Farsetta and Daniel Price, *Still Not the News: Stations Overwhelmingly Fail to Disclose VNRs*, CENTER FOR MEDIA AND DEMOCRACY (Nov. 14, 2006), available at <www.prwatch.org/pdfs/CMD_Report_Public.pdf> ("CMD Report").

Second, the CMD Report identified a portion of a KLFY news report as a VNR for General Motors (the "Safe Kids Program Material"). *See* CMD Report, at 53. This Response refers collectively to the Flood Insurance Program Material and the Safe Kids Program Material as the "Program Material."

a. KLFY downloaded the Flood Insurance Program Material on or about June 5, 2006. KLFY downloaded the Safe Kids Program Material on or about July 10, 2006.

b. Generally, KLFY receives electronic scripts for program material obtained via CBS NewsPath and CNN Newsource. Thus, KLFY likely would have received an electronic script for both the Flood Insurance Program Material and the Safe Kids Program Material. However, as observed in the Declaration of C.J. Hoyt, KLFY's News Director, such scripts are apparently deleted from the CBS NewsPath and CNN Newsource on a regular basis, and KLFY does not routinely maintain copies of such scripts. No other materials accompanied the Program Material.

c. KLFY received the Flood Insurance Program Material as part of a daily news feed from either CBS NewsPath or CNN Newsource. Likewise, KLFY received the Safe Kids Program Material as part of a daily news feed from either CBS NewsPath or CNN Newsource. At this time, KLFY cannot state with certainty which of these two news services made the Program Material available. The news producer responsible for obtaining the Program Material is no longer employed by KLFY. KLFY pays a subscriber fee for access to materials on both CBS NewsPath and CNN Newsource.

d. KLFY did not broadcast either the Flood Insurance Program Material or the Safe Kids Program Material as received without changes or editing. As described in the

Declaration of C.J. Hoyt, KLFY edited the Program Material by recontextualizing the material and selecting those portions of audio and/or video footage that were journalistically appropriate to the News Stories created by KLFY. KLFY used a portion of the Flood Insurance Program Material as part of KLFY's consumer-friendly news story regarding flood insurance in conjunction with the onset of hurricane season (the "Flood Insurance Story"). Similarly, KLFY used a portion of the Safe Kids Program Material as part of KLFY's consumer-friendly child car safety news story (the "Safe Kids Story").

e. The Flood Insurance Story aired at approximately 6:02 p.m. on June 5, 2006, during KLFY's 6:00 p.m. newscast. The Safe Kids Story aired at approximately 6:18 p.m. on July 10, 2006, during KLFY's 6:00 p.m. newscast. This Response refers collectively to the Safe Kids Story and the Flood Insurance Story as the "News Stories."

f. Two recordings in VHS videotape format of the Flood Insurance Story and the Child Safety Story are included with this Response. Two recordings on CD of the complete Program Material as obtained from the CMD website www.prwatch.org are also included with this Response. As noted in the Letter, electronic files of KLFY's News Stories and electronic files of the original version of the complete Program Material are available on the CMD website at <http://www.prwatch.org/fakenews2/findings/vnrs>.

g. Transcripts of KLFY's News Stories and transcripts of the Program Material are included with this Response.² In all cases, both sealed and unsealed transcripts are

² One CD labeled KLFY TV-10 is also enclosed with this Response, because the transcripts reference the fact that they were based on the CD. This CD, which was used for the transcription of the News Stories, contains digitized copies of the News Stories. As is evident from the quality of the video on the CD, the VHS tapes initially sent by KLFY for the preparation of this (continued . . .)

included. In addition, attached as Exhibit 1 are copies of the scripts generated by KLFY for the News Stories.

h. KLFY's news policies at all relevant times prohibited the use of VNRs without attribution of the source material. To the knowledge of KLFY's News Director, C.J. Hoyt, when KLFY searched for and found the Program Material in the CNN Newsource and/or CBS NewsPath feeds, the Program Material was not identified as "sponsored" material or as "VNRs." The CNN Newsource and CBS NewsPath feeds generally do not identify program material as sponsored, except when it is sponsored and when material is accessed via a link or electronic "tab" labeled "VNR" on the feed. To Mr. Hoyt's knowledge, KLFY did not access the Program Material via a VNR link. KLFY took no other steps to determine whether the Program Material required sponsorship identification. The producer responsible for the News Stories is no longer employed by KLFY.

i. To KLFY's knowledge, no KLFY personnel involved in the production of the KLFY News Stories was paid or received consideration for the inclusion of excerpts from the Program Material in the KLFY News Stories. KLFY was not aware, and had no reason to believe, that any person involved in the production of the Program Material paid or received consideration for the inclusion of material in the segment.

j. KLFY did not identify any portion of the Program Material used in the KLFY News Stories as "sponsored" because KLFY did not know that the Program Material was "sponsored." To KLFY's knowledge, none of the Program Material was sponsored. The

Response were damaged in transit and the creation of the CD was necessary for purposes of transcription while KLFY prepared new VHS tapes. New, undamaged VHS tapes were prepared by KLFY and those tapes are submitted herewith.

Program Material was nothing more than journalistic source material that was appropriate for use in KLFY's News Stories.

2. To KLFY's knowledge, neither KLFY nor any of its employees or representatives received or were promised any consideration from any source in exchange for airing the Program Material in whole or in part. KLFY provided consideration to CBS and CNN to receive the daily news feeds from which KLFY obtained the Program Material.

3. a. The Station's policies and procedures with respect to compliance with 47 U.S.C. § 317 of the Communications Act of 1934, as amended, and the Commission's sponsorship identification rules is to disclose the identity of any entity that furnishes consideration to the Station in exchange for broadcast material. KLFY elicits this sponsorship identification through oral and written communications with those furnishing the consideration. Additionally, Station personnel are required, as a condition of employment, to review Section 317 and related FCC regulations and to sign agreements acknowledging their understanding of the rules and agreeing not to violate them.

b. The written policies and procedures that KLFY uses and used during all relevant times to train its employees and representatives about compliance with sponsorship identification laws are attached as Exhibit 2.

c. See response to 3.b above.

4. This Response is supported by the Declaration of C.J. Hoyt, Director of News for the Station, and the Declaration of Michael Barras, President of Young Broadcasting of Louisiana, Inc. (which is the sole general partner of the Licensee KLFY, L.P.), both of which are attached hereto. Also included, as noted above, are two VHS tapes containing the Safe Kids

Story and the Flood Insurance Story, two CDs containing the complete Program Material as obtained from the CMD website, and transcripts of the KLFY News Stories and the complete Program Material.

To KLFY's knowledge, there are no other documents or other materials in KLFY's possession, custody, or control discussing or otherwise relating to the material at issue.

II. Argument

A. The Program Material Did Not Require Sponsorship Identification

The Communications Act of 1934, as amended, and the Commission's rules require that program material carry a "Sponsorship Identification" in certain instances. The Commission's rules largely mirror the requirements of the Communications Act. Section 73.1212 states, in relevant part:

- (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

* * *
- (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.

- (d) In the case of any political broadcast matter or any broadcast matter involving the discussion of a controversial issue of public importance for which any film, record, transcription, talent, script, or other material or service of any kind is furnished, either directly or indirectly, to a station as an inducement for broadcasting such matter, an announcement shall be made both at the beginning and conclusion of such broadcast on which such material or service is used that such film, record, transcription, talent, script, or other material or service has been furnished to such station in connection with the transmission of such broadcast matter: *Provided, however,* That in the case of any broadcast of 5 minutes' duration or less, only one such announcement need be made either at the beginning or conclusion of the broadcast.

47 C.F.R. § 73.1212. In sum, a Sponsorship Identification must be affixed to program material in three instances: (1) whenever a station receives consideration for airing program material, (2) whenever program material is furnished directly or indirectly without consideration and is a political matter or a matter involving the discussion of a "controversial issue of public importance," and (3) where the station has received a report from another entity that circumstances exist that would require a Sponsorship Identification. Because neither the Program Material nor KLFY's News Stories meets these triggers, neither Section 317 of the Communications Act, 47 U.S.C. § 317, nor Section 73.1212 of the Commission's Rules, 47 C.F.R. § 73.1212, required KLFY's News Stories to contain Sponsorship Identification.

1. KLFY Received No Consideration for Airing the Program Material, KLFY Provided Consideration in Order to Obtain the Program Material, and KLFY Received No Section 507 Report

As described in response to Inquiry 2 above and in the Declaration of C.J. Hoyt, KLFY did not receive any consideration for airing the Program Material. In fact, KLFY obtained the Program Material as part of its subscription to two news services, CBS NewsPath and CNN

News source.³ As a result, this case is not governed by Section 73.1212(a), and no Sponsorship Identification was required under Section 73.1212(a).

Likewise, KLFY received no Section 507 report that would have triggered an obligation to include Sponsorship Identification on the Program Material or in the News Stories. As the full Commission observed in its April 13, 2005, Public Notice:

In situations in which a broadcast licensee has not directly received or been promised consideration, has not received any Section 507 report that material has been paid for from its employees or others that must make such reports pursuant to that section of the Act, and, acting with the requisite diligence, has no information concerning the making of such promise or payment, Section 317(a)(1) of the Act provides generally that no sponsorship identification is necessary with regard to material that is furnished to the licensee "without charge or at a nominal charge."

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, FCC 05-84 (Apr. 13, 2005), at 3. It is KLFY's practice to use reasonable diligence to determine sponsorship of program material, by the means discussed in its response to Inquiry 3, set forth above in Section I of this Response. In this instance, it would have required *unreasonable* diligence on the part of KLFY to divine from

³ Currently pending before the Commission is the question whether "broadcast licensees and cable operators receive VNRs as part of an overall news service, which may be provided under contract or on a subscription basis [and], [i]f so, [whether] this [should] affect the applicability of our sponsorship identification rules?" See *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, FCC 05-84 (Apr. 13, 2005), at 5.

the circumstances present on June 5, 2006, or July 10, 2006, that the Program Material may have required Sponsorship Identification.⁴

Any pronouncement by the Commission that KLFY's failure in this case to provide a complete Sponsorship Identification was a violation of the Communications Act or Commission rules would expand the reach of the statutes and rules beyond their intent and prior construction and create insurmountable tension between the First Amendment and broadcasters' legitimate newsgathering and editorial activities. It is difficult to imagine more damaging, far-reaching (and, presumably, unintended) consequences to come from the use of video footage obtained by KLFY without knowledge of any sponsorship as part of a daily subscription news feed.

A determination that the Program Material required Sponsorship Identification in this case would mean that KLFY—and all other broadcasters who subscribe to a news feed—would have to investigate the origination of all footage they intend to use, up the chain of distribution and back to its source to ascertain whether a news service had properly identified the material sought to be used by the station. Instead of facilitating the timely coverage of current news and public interest events, the distribution of news stories and footage via news feeds would hinder timely coverage, as stations would be obligated before airing a story to determine the origination of all stories and footage that was unlabeled rather than relying on reputable news services as has been done for decades. Requiring such efforts would go far beyond the “exercise [of] reasonable diligence,” and the Sponsorship Identification rule does not contemplate such a result.

⁴ KLFY continues to believe that, even with its current knowledge of the origination of the Program Material, its use of the Program Material in the News Stories would not trigger a Sponsorship Identification requirement as a matter of law. Nonetheless, KLFY's good journalistic practices counsel in favor of identification of source material whenever possible to assist the viewer in understanding a news story.

2. Neither the Program Material nor KLFY's News Stories Involved the Discussion of a Controversial Issue of Public Importance

Section 73.1212(d) requires a Sponsorship Identification for "any political broadcast matter or any broadcast matter involving the discussion of a controversial issue of public importance for which any film, record, transcription, talent, script, or other material or service of any kind is furnished either directly or indirectly, to a station as an inducement for broadcasting such matter." 47 C.F.R. § 73.1212(d); *see also* 47 U.S.C. § 317. Even assuming *arguendo*—and KLFY does not concede the point—that the Flood Insurance Program Material was furnished "indirectly" to KLFY by AllState Insurance Company or that the Safe Kids Program Material was furnished "indirectly" to KLFY by General Motors "as an inducement for broadcasting such matter," the material was clearly not political, nor did it involve the discussion of a "controversial issue of public importance."⁵

It is, of course, the province of the Station in the first instance to determine whether program material involves the discussion of a controversial issue. *See Barry G. Silverman Against Station KOOL-TV*, 63 F.C.C. 2d 507 (1977), ¶ 17 ("[T]he initial determination as to whether a controversial issue of public importance was discussed is made by the licensee and the Commission will review the licensee's judgment only to determine whether it was

⁵ Thus, because the Program Material did not involve the discussion of a political matter or a controversial matter of public importance, whether or not the Program Material was furnished indirectly to KLFY as an inducement to air it is irrelevant.

reasonable.”).⁶ KLFY reasonably determined that neither the Flood Insurance Program Material nor the Safe Kids Program Material involved the discussion of a controversial issue.

First, the Flood Insurance Program Material and KLFY’s Flood Insurance Story related to the onset of hurricane season. In early June, KLFY customarily airs news segments treating the upcoming hurricane season and hurricane preparedness. The Flood Insurance Story was a timely piece reminding viewers of the availability of flood insurance, which is an issue of considerable interest in Louisiana, especially in the wake of the 2005 hurricane season that featured Hurricanes Katrina and Rita. The Flood Insurance Story did not take a position on the wisdom of obtaining flood insurance nor did it address insurance claims practices or insurance reform,⁷—the Flood Insurance Story was patently *uncontroversial*.

Second, the Safe Kids Program Material provided information about the Safe Kids Buckle Up program, which was relevant to the issues covered in the Safe Kids Story and of interest to the local community. The Safe Kids Story treated the issue of child safety in and around vehicles, and was the sequel to another KLFY news story that had previously aired

⁶ See also *American Broadcasting Cos., Inc.*, Memorandum Opinion & Order, 83 FCC 2d 302, ¶ 10 (1980) (“The choice of what is or is not to be covered in the presentation of broadcast news is a matter committed to the licensee’s good faith discretion.”); *Dr. Paul Klite*, 12 Comm. Reg. (P&F) 79, 81-82 (MMB 1998), *recon. denied sub nom.*, *McGraw-Hill Broadcasting Co.*, Memorandum Opinion & Order, 16 FCC Rcd 22739 (2001) (“Because journalistic or editorial discretion in the presentation of news and public information is the core concept of the First Amendment’s Free Press guarantee, licensees are entitled to the widest latitude of journalistic discretion in this regard.”).

⁷ Cf. *Complaint by Vick Gould, Bellevue, Washington Concerning Fairness Doctrine Re Station KING-TV, Seattle, Washington*, 37 F.C.C. 2d 430 (1972) (recognizing that tax reform proposals were controversial issue of public importance).

relating to child safety around cars. The importance of properly buckling one's child in a car seat and the existence of organizations such as Safe Kids to assist with carseat safety are patently uncontroversial topics—it would be difficult to imagine less controversial subjects than child safety and an organization whose objective is to help parents ascertain and ensure the safety of their children in motor vehicles.

Moreover, the CMD Report does not identify any aspect of either of KLFY's News Stories as controversial. Further, Sponsorship Identification cases in which the Commission has found programming to involve the "discussion of a controversial issue of public importance" involved programming addressing such topics as United States-Soviet Union military relations⁸ and a jail bond issue that was up for public vote.⁹ Clearly, the subjects covered in KLFY's News Stories do not involve a "controversial issue of public importance" on par with prior Commission precedent. As a result, even if the Program Material was provided to KLFY for free as an inducement to broadcast it, KLFY was not required to use a Sponsorship Identification to identify that this portion of its News Stories used journalistic source material obtained from the CBS NewsPath and CNN Newsource feeds.

⁸ *Gaylord Broadcasting Co.*, 67 F.C.C. 2d 25 (1977) (imposing no sanctions on licensee where failure to include Sponsorship Identification in programming discussing controversial issue of public importance was "isolated incident").

⁹ *Fed Up Taxpayers Committee*, 49 R.R.2d (P&F) 501 (1981) (imposing no sanctions and taking no further action where Section 73.1212(d) was violated).

3. KLFY Exercised Its Own Editorial Judgment in Developing and Airing the News Stories

It is elemental that the purpose of the Sponsorship Identification rule is to provide viewers with information so that they “know by whom they are being persuaded.” See *Applicability of Sponsorship Identification Rules*, Public Notice, 40 F.C.C. 141 (1963); *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, FCC 05-84 (Apr. 13, 2005), at 1-2; accord *Thomas W. Dean, Esq. Litigation Director, NORML Foundation*, 16 FCC Rcd 1421 (2000). Neither of the News Stories was a commercial whose purpose was to persuade persons to purchase a product or service—they were factual news reports designed to remind consumers of information relating to flood insurance and child safety.

a. The Flood Insurance Story

In June 2006, the KLFY news department determined that a brief news report on flood insurance would be timely and of interest to the community in part because of the onset of hurricane season. KLFY searched the CBS NewsPath and CNN Newsource feeds for relevant material for the story and found the Flood Insurance Program Material, which, as noted above, was not identified as a “VNR” or as sponsored material.

Significantly, the complete Flood Insurance Program Material runs one minute, fifty-seven seconds, of which two video clips of Allstate spokesperson Crystal Heydari run 10 and 16

seconds respectively for a total of 26 seconds.¹⁰ In contrast, KLFY's Flood Insurance Story runs only 42 seconds, of which only 10 seconds is a video clip of Ms. Heydari, who *is* identified as an Allstate representative. KLFY's Flood Insurance Story draws on other unremarkable video footage—akin to stock video file footage—from the Flood Insurance Program Material. Clearly, KLFY, in editing out nearly 66 percent of the scripted Flood Insurance Program Material, exercised its own editorial discretion in generating the Flood Insurance Story. Moreover, the script for the Flood Insurance Story, which was written by the KLFY news department, was different from the script for the Flood Insurance Program Material. Other than the Crystal Heydari soundbite footage, only two sentences were identical between the Flood Insurance Program Material and the Flood Insurance Story. Patently, the Flood Insurance Story was not a VNR or “canned” news story but was the product of KLFY's award winning news department.

As evidenced by the transcripts and recordings included with this Response, in creating *its own* Flood Insurance Story, KLFY edited heavily the Flood Insurance Program Material delivered via the CBS NewsPath or CNN Newsource feeds. KLFY did leave intact the Allstate logo appearing behind Allstate representative Crystal Heydari, and KLFY did accurately disclose Ms. Heydari's affiliation with Allstate. The Allstate logo and identification of Heydari as an Allstate agent would have adequately apprised viewers that Allstate has an interest in flood insurance business.¹¹ Should the Commission determine that the Flood Insurance Story required

¹⁰ For purposes of this discussion, KLFY relies on the representations of CMD that the VNR video files on its website are the complete VNRs.

¹¹ In any event, “[n]ot every mention of a brand name or prominent display thereof necessarily constitutes advertising.” *Children's Television Report and Policy Statement*, 50 F.C.C. 2d 1, ¶ 54 (1974).

a Sponsorship Identification to identify Allstate as the origin of the Flood Insurance Program Material, KLFY respectfully submits that the Allstate logo and identification of Ms. Heydari satisfied the Sponsorship Identification requirement. *See* 47 C.F.R. § 73.1212(f).

b. The Safe Kids Story

In July 2006, KLFY aired its Safe Kids Story as a feature highlighting the Safe Kids program and car safety for children. KLFY periodically reports on child safety issues and opened the Safe Kids Story by referencing a previous child safety news story aired on KLFY.¹²

The Safe Kids Story did not feature General Motors (“GM”) in any manner. Indeed, only one small image of the GM logo appears anywhere in the Safe Kids Story—it is affixed to a scale onto which a youngster is stepping, it is not the focal point of the shot, and it is visible for only approximately one second. No other references to GM appeared in the Safe Kids Story.

KLFY’s editing of the video clips from the Safe Kids Program Material in the Safe Kids Story, removed or entirely neutralized any element of persuasion by GM that might have existed in the Safe Kids Program Material. Because the Station had removed virtually all elements from the Program Material that could even arguably be described as promotional (only the one unobtrusive GM logo on the scale remained), the final version of the Safe Kids Story was

¹² Curiously, the CMD Report appears to make light of KLFY’s previous child safety news story. *See* CMD Report, at 53 (observing, tongue-in-cheek, that KLFY’s recent child safety report “proved once and for all that it is not safe for small children to play in parking lots”). It would appear that CMD takes issue with KLFY’s evaluation of newsworthy issues and public interest programming. KLFY has and will continue to provide programming that treats and responds to issues that are important to the local community. KLFY believes that its involvement in and relationship with Lafayette, Louisiana, and the surrounding area provide greater insight into those issues than can be gleaned by CMD which is located in Wisconsin, some 900 miles away.

completely devoid of promotional or persuasive elements.¹³ As such, the policy and spirit behind the Sponsorship Identification rule were not implicated by the Safe Kids Story.

Moreover, in the context of the furnishing of free service or property to a station “for its use on or in connection with a program where there is neither payment in consideration for broadcast exposure of the service or property, nor an agreement for identification of such service or property beyond its mere use on the program,” the Commission has stated that no Sponsorship Identification is required where “[n]ews releases are furnished to a station by Government, business, labor and civic organizations, and private persons, with respect to their activities, and editorial comment therefrom is used on a program.” *Applicability of Sponsorship Identification Rules*, § C.11. Implicit in this application of the Sponsorship Identification rule is a recognition that material that is free of persuasive elements, such as the News Stories in instant case, is not subject to the Sponsorship Identification requirement—and, in any event, the Program Material at issue here fits neatly into this description.

4. KLFY’s Journalistic Practices Are Sound, and the Enforcement Bureau’s Letter is Premised on Misrepresentations Made By CMD

KLFY’s journalism has been duly recognized as outstanding on several occasions. In 2006, KLFY won the Louisiana Associated Press First Place award for Best Newscast. KLFY won the same award in 2004 and garnered Second Place in the same category in 2005. KLFY was named Best Television Station by the Louisiana Association of Broadcasters in 2005 and 2006. Other First Place awards for KLFY from the Louisiana Associated Press include Reporter

¹³ In fact, the CMD Report observes that KLFY’s Safe Kids Story did not include “[t]he most revealing soundbite of the VNR . . . from GM head Rick Wagoner.” CMD Report, at 53.

of the Year (2004), Best Breaking Weather (2004), Best Spot News (2005), Best Investigative Reporting (2005), Best Sportscast (2006), and Best Weathercast (2006). The integrity of KLFY's journalistic practices is sound.

On the other hand, CMD's journalistic practices, with respect to KLFY's News Stories, are suspect. The CMD Report is inaccurate with respect to KLFY's News Stories. The CMD Report describes the Flood Insurance Story as "a covert Allstate ad." CMD Report, at 47. The CMD Report also alleges that "[a]ll of the footage shown and everything [the KLFY anchor] said came straight from the VNR package." *Id.* at 47. Additionally, the CMD Report alleges that the Safe Kids Story "segment closed with station anchor Darla Montgomery providing a near-verbatim reading of the last few lines of the VNR script." *Id.* at 53. Finally, on the CMD's website are video files of the complete Program Material and the KLFY News Stories,¹⁴ where CMD describes the Program Material as "Voiced by publicist" and the News Stories as "Re-voiced by station reporter." See *KLFY-10 Carries Water for Allstate*, available at www.prwatch.org/node/5338; *This Just in: GM Loves Kids*, available at www.prwatch.org/node/5345.

Notwithstanding CMD's assertions to the contrary, in reality KLFY's Flood Insurance Story was not a "covert Allstate ad."¹⁵ The Flood Insurance Story was a news report providing a brief overview of flood insurance. And, the allegation that KLFY's anchor engaged in a "near-

¹⁴ At no time has permission been provided to CMD to use the copyrighted material from the KLFY News Stories.

¹⁵ In the event the Commission determines that the Flood Insurance Story was an Allstate ad, KLFY submits that it contained proper Sponsorship Identification pursuant to 47 C.F.R. § 73.1212(f).

verbatim reading of the last few lines of the VNR script” during the Safe Kids Story proves too much. The scripted lines at issue (which were paraphrased by KLFY) merely provided factually verifiable statistical data about the efficacy of car seats (and, in any event, General Motors is not in the business of selling child safety car seats). If the Commission finds that a station’s paraphrased use of objectively verifiable factual data provided by a third party is subject to the Sponsorship Identification requirements, then the Sponsorship Identification requirements will impact newsgathering and reporting practices in a manner that was never contemplated by Section 317 of the Communications Act.

The most egregious mischaracterizations of the Flood Insurance Story, however, are CMD’s assertions that “everything [the KLFY anchor] said came straight from the VNR package” and that the Program Material that was originally “Voiced by publicist” was “Re-voiced by station reporter.” Even a cursory comparison of the transcripts of the Flood Insurance Story and the Program Material reveals that KLFY used its own script and its own editorial discretion in creating the Flood Insurance Story and merely used a video clip of Ms. Heydari for providing factual information much in the same way that the Station would use its own file video in generating any news story. Allstate exercised no editorial control whatsoever over the Flood Insurance Story. Manifestly, KLFY did not “re-voice” the Program Material; KLFY’s news team drafted its own Flood Insurance Story script whose similarity to the Program Material stems only from the fact that KLFY used portions of the Flood Insurance Program Material (without knowledge that it originated as part of a VNR package) as the factual basis for KLFY’s own Flood Insurance Story. It is blatantly false that KLFY merely “re-voiced” the Program Material. The same holds true for the alleged “re-voic[ing]” of the Safe Kids Program Material.

In the end, it appears that CMD takes issue with KLFY's choice of video footage and ignores—or, at a minimum, neglected to investigate—the fact that the video footage was obtained by the Station as part of an arrangement whereby the Station provided consideration to obtain it. The CMD is apparently dissatisfied that the footage originated with Allstate and General Motors.¹⁶ The CMD's attack on KLFY's journalism, however, goes beyond opinion and hyperbole and presents as factual a case that has no basis in fact. CMD's failure to ascertain the facts prior to publication of its report renders its own journalistic credentials suspect (and, as demonstrated above, CMD is wrong on the law, too). Of course, the Commission "cannot direct broadcast licensees in the selection or presentation of specific programming, nor does the Commission provide news guidelines." *Fed Up Taxpayers Committee*, 49 R.R. 2d (P&F), at 503. Moreover, the Commission has rejected a proposal to require television stations to visibly identify "the location of production and production date" in all programming.¹⁷ With respect to KLFY and its News Stories, the Commission should not heed CMD's factual distortions and fabrications, which CMD has disguised as a "report" to generate attention and advance its own political agenda.¹⁸

¹⁶ KLFY has not independently verified that the footage did, in fact, originate with Allstate or General Motors.

¹⁷ See *Labeling of Television Programs with Regard to Location of Production and Date of Production or Initial Broadcast, Memorandum Opinion and Order*, 51 R.R. 2d (P&F) 1167 (1982).

¹⁸ Applicable here is Professor Wigmore's observation that:

It has always been understood—the inference, indeed, is one of the simplest in human experience—that a party's falsehood or other fraud in the preparation and presentation of his cause, . . . is

(continued . . .)

B. Even If a Sponsorship Identification Were Required, Commission Precedent Counsels That No Action Be Taken in This Case

Should the Commission determine that KLFY's airing of the News Stories, which included video footage that purportedly originated (without KLFY's knowledge) from VNR source material, violated the Sponsorship Identification rule, KLFY respectfully submits that the Commission should follow precedent and take no further action in this case and impose no sanction for these isolated incidents.

For example, in *Gaylord Broadcasting Co.*, 67 F.C.C. 2d 25 (1977), the Commission found that the station's failure to include a Sponsorship Identification announcement in the broadcast of a program discussing the controversial issue of American-Soviet relations violated Section 73.1212(d). However, the Commission determined that "[i]nasmuch as this appears to be an isolated incident no Commission action or sanctions are deemed appropriate at this time." *Id.* Similarly, any violation here (and there was none) of the Sponsorship Identification rule by KLFY would be an "isolated incident" that does not warrant sanction or further action.

Additionally, in *Fed Up Taxpayers Committee*, 49 R.R.2d (P&F) 501 (1981), the Commission imposed no sanctions and took no further action where the station failed to broadcast an adequate Sponsorship Identification announcement. There, the Broadcast Bureau observed that "we do not believe it would be an efficient use of the Commission's resources to pursue this matter further. We expect the licensee, however, to be particularly sensitive to, and

receivable against him as an indication of his consciousness that his case is a weak or confounded one; and from that consciousness may be inferred the fact itself of the cause's lack of truth and merit.

2 WIGMORE ON EVIDENCE § 278(2) (Chadbourn Rev. 1991).

comply with, the statutory and regulatory provisions regarding sponsorship identification statements in the future." *Id.* Should the Commission find a violation relating to either of KLFY's News Stories (and, for the reasons discussed above, there were no violations), KLFY respectfully submits that a similar approach would be warranted in the instant case.

Conclusion

A review of Program Material and the KLFY News Stories aired over KLFY on June 5, 2006, and July 12, 2006, reveals that no Sponsorship Identification was required. Accordingly, KLFY respectfully requests that the Commission take no further action in this matter.

Respectfully submitted,

KLFY, L.P.



Mark J. Prak

Stephen Hartzell

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
Wachovia Capitol Center, Suite 1600
150 Fayetteville Street (27601)
Post Office Box 1800
Raleigh, North Carolina 27602
Telephone: (919) 839-0300
Facsimile: (919) 839-0304

Its Attorneys

June 25, 2007

Declaration of C.J. Hoyt

Declaration of C.J. Hoyt

I, C.J. Hoyt, hereby declare, under penalty of perjury, as follows:

1. I am greater than eighteen years of age and am competent to make this Declaration.

2. I am Director of News and for Station KLFY-TV, Lafayette, Louisiana (the "Station"). I have held this position since February 2004.

3. KLFY-TV is the CBS affiliate for the Lafayette, Louisiana, Designated Market Area.

4. On or about November 14, 2006, I learned that the Center for Media and Democracy ("CMD") published a report that alleged that the Station aired certain program material that originated from certain outside sources (the "Program Material") during a June 5, 2006, flood insurance story (the "Flood Insurance Story") and a July 12, 2006, child safety story (the "Safe Kids Story") (collectively, the "News Stories") created and produced by KLFY.

5. The Program Material at issue was delivered to the Station as a part of the continuous news feed from CBS NewsPath and CNN Newsource, which are provided to the Station via satellite over the Pathfire link. At this time, KLFY has no record of which portions of the Program Material were obtained from which of these two news services. The Station, as a CBS affiliate, subscribes to the CBS NewsPath feed to obtain timely, topical, accurate news of day. Similarly, the Station subscribes to CNN Newsource for news material. As part of its agreement with these news services, the Station also provides, upon request, audio and video news footage that the Station generates. To my knowledge, it is standard industry practice for television stations to obtain news video from daily news feeds from entities such as CNN, a station's network, Fox, and others. KLFY likely downloaded the Flood Insurance Program Material on or about June 5, 2006. KLFY likely downloaded the Safe Kids Program Material on or about July 10, 2006. Typically, the Station downloads news feed material on the day of broadcast of the KLFY story that uses the material. In this case, because of the passage of time, I cannot state definitively whether the Program Material was obtained by KLFY on the same day the corresponding News Stories aired on KLFY.

6. KLFY edited both the Flood Insurance Program Material and the Safe Kids Program Material. The KLFY news team edited the Program Material by re-writing portions of the material and selecting for air only those portions of audio and/or video footage that were journalistically appropriate to the News Stories created by KLFY. A portion of the Flood Insurance Program Material was aired as part of KLFY's consumer-friendly Flood Insurance Story in conjunction with the onset of hurricane season. KLFY typically airs hurricane-related news stories at the starting of the hurricane season. A portion of the Safe Kids Program Material was aired as part of KLFY's consumer-friendly Safe Kids Story. KLFY periodically airs news stories relating to child safety issues. The Flood Insurance Story aired at approximately 6:02 p.m. on June 5, 2006, during KLFY's 6:00 p.m. newscast. The Safe Kids Story aired at approximately 6:18 p.m. on July 10, 2006, during KLFY's 6:00 p.m. newscast.

7. To my knowledge, neither KLFY nor any of its employees or representatives received or were promised any consideration from any source in exchange for airing the Program Material in whole or in part. To my knowledge, KLFY did not make any representations or promises to anyone that the Program Material or any other segment of any VNR would be aired. As described above, KLFY provided consideration to CBS NewsPath and CNN Newsource to receive the daily news feeds of which the Program Material was a part. To my knowledge, CBS NewsPath and CNN Newsource did not receive consideration from any source in connection with the Program Material.

8. The Station's policy prohibiting the use of video news release ("VNR") material was historically communicated to Station personnel by word of mouth. Although the word-of-mouth policy was generally clear, effective, and sufficient, I circulated the memorandum included as Exhibit 2 to the Response to all news staff to remove any doubts as to the policy. I took this action upon learning from the CMD report of the use of a portion of the Program Material in the News Stories. The memorandum describes the Station's general prohibition on the use of VNR material.

9. KLFY's VNR policy at all relevant times prohibited the use of VNR material without proper attribution of the source material. To my knowledge, when KLFY searched for and found the Program Material in the CBS NewsPath or CNN Newsource news feed, neither was identified as "sponsored" material nor as a "VNR." CBS NewsPath and CNN Newsource generally do not identify program material as sponsored, except when it is sponsored and when material is accessed via a link or electronic tab labeled "VNRs." The producer responsible for the News Stories is no longer employed by KLFY.

10. I am not aware of KLFY's having received any materials accompanying the Program Material. The CBS NewsPath or CNN Newsource feed logs may have included a description of the subject of the Program Material, but these descriptions would have been provided electronically and such descriptions are not routinely retained by KLFY. In this instance, KLFY did not retain any descriptions that may have accompanied the Program Material.

11. The KLFY news team made an independent, good faith editorial judgment to air stories about flood insurance and the Safe Kids program, and in my judgment, the News Stories did not discuss any controversial issue. KLFY exercised its independent judgment that certain video clips from the Program Material were useful in the production of the News Stories, and in that regard the Program Material served as journalistic source material. Nonetheless, neither Allstate nor General Motors nor any entity other than KLFY exercised any editorial control whatsoever over the News Stories.

12. In 2006, KLFY won the Louisiana Associated Press First Place award for Best Newscast. KLFY won the same award in 2004 and garnered Second Place in the same category in 2005. KLFY was named Best Television Station by the Louisiana Association of Broadcasters in 2005 and 2006. Other First Place awards for KLFY from the Louisiana Associated Press include Reporter of the Year (2004), Best Breaking Weather (2004), Best Spot


News (2005), Best Investigative Reporting (2005), Best Sportscast (2006), and Best Weathercast (2006).

13. I have reviewed the Response of KLFY, L.P. to the April 26, 2007, Letter of Hillary S. DeNigro and hereby verify the truth and accuracy of the factual information contained therein. All of the documents and information requested by the letter of inquiry that are in the licensee's possession, custody, control, or knowledge have been produced to the Commission.

[signature appears on the following page]

I declare, under penalty of perjury, that the foregoing Declaration is true and accurate to the best of my knowledge, information, and belief.

6/19/07
Date


C.J. Hoyt
News Director, KLFY-TV

Declaration of Michael Barras

I, Michael Barras, hereby declare, under penalty of perjury, as follows:

1. I am greater than eighteen years of age and am competent to make this Declaration.

2. I am the President and General Manager for Station KLFY-TV, Lafayette, Louisiana (the "Station"). I have held these positions since April 1, 2001.

3. On or about November 14, 2006, I learned that the Center for Media and Democracy ("CMD") published a report (the "CMD Study") alleging that the Station aired material that originated from certain outside sources during one of the Station's news stories aired on June 5, 2006, (the "Flood Insurance News Story") and one of the Station's news stories aired on July 12, 2006 (the "Safe Kids News Story") created and produced by KLFY. The CMD Study identifies certain program material (the "Program Material") used in KLFY's Flood Insurance News Story and Safe Kids News Story (collectively, the "News Stories") as having derived respectively from an Allstate Insurance Company Video News Release ("VNR") and a General Motors VNR.

4. In making this Declaration, I am relying in part on the Declaration of C.J. Hoyt, who is News Director for KLFY-TV. I did not personally participate in the development of the News Stories. However, I have reviewed recordings of the News Stories.

5. The Station possesses recordings of the News Stories, and two copies of those recordings are being submitted with the Response of KLFY, L.P. to the April 26, 2007, Letter of Hillary S. DeNigro.

6. To my knowledge, neither KLFY nor any of its employees or representatives received or were promised any consideration from any source in exchange for airing the Program Material in whole or in part. To my knowledge, KLFY did not make any representations or promises to anyone that the Program Material or any other segment of any VNR would be aired. KLFY's policies prohibit receipt of consideration of any kind in exchange for news coverage or the promise of news coverage. As described in the Declaration of C.J. Hoyt, KLFY provided (and continues to provide) consideration to the CBS Television Network to receive the CBS NewsPath feed and to CNN to receive the CNN Newsource feed, which were the sources of the Program Material. To my knowledge, neither CBS nor CNN received consideration from any source in connection with the Program Material.

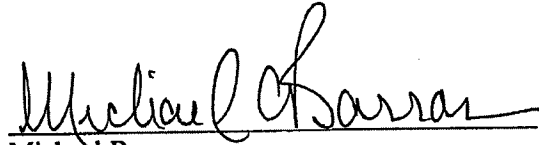
7. I have reviewed the Response of KLFY, L.P. to the April 26, 2007, Letter of Hillary S. DeNigro and hereby verify the truth and accuracy of the factual information contained therein. To my knowledge, all of the documents and information requested by the letter of inquiry that are in the licensee's possession, custody, control, or knowledge have been produced to the Commission.

[signature appears on the following page]

I declare, under penalty of perjury, that the foregoing Declaration is true and accurate to the best of my knowledge, information, and belief.

Date

6/19/07

A handwritten signature in cursive script, reading "Michael Barras", written over a horizontal line.

Michael Barras

President and General Manager, KLFY-TV

Exhibit 1
(KLFY Scripts of the News Stories)

5/1/2007 16:19:36, C J Hoyt

06/05/06 6PM [KLFY]ARCHIVE.2006.JUN 09 - 1 HURRICANE INSURANCE

DARLA-----

Tape 4941 ~ 4942 ((DARLA*))

TAKE V/O-----

HURRICANE SEASON IS HERE AND THAT
MEANS MILLIONS OF PEOPLE MAY BE SUBJECT
TO FLOODS.

((TAKE VO*))

IF YOUR AREA IS PRONE TO FLOODING,
YOU MAY BE REQUIRED BY THE GOVERNMENT OR
YOUR MORTGAGE COMPANY TO HAVE FLOOD
INSURANCE.

INSURANCE COMPANIES STRESS THAT
HOMEOWNERS INSURANCE DOES NOT COVER
FLOODING.

IN FACT, WHILE YOU MAY BE ABLE TO
BUY FLOOD INSURANCE FROM YOUR AGENT, THE
POLICY ITSELF IS ADMINISTERED BY THE
FEDERAL GOVERNMENT.

((TAKE SOT*))

TAKE SOT-----

at :

cg 521 Crystal Heydari
Allstate

SOT Crystal Heydari Allstate ((If you
re in a standard flood zone or a
special designated flood hazard area then
you can be required by your mortgage
company to have flood insurance.)))

((TAKE VO*))

TAKE V/O-----

AND IT S IMPORTANT TO PURCHASE A
POLICY SOONER THAN LATER, SINCE THERE IS
GENERALLY A 30 DAY WAITING PERIOD BEFORE
THE POLICY GOES INTO EFFECT.

5/1/2007 16:26:09, C J Hoyt
CHUCK-----

07/12/06 6pm
Tape 4920

[KLFY]ARCHIVE.2006.JUL 33 - 1 CHILD SAFETY CARS

(**CHUCK**)

MANY PARENTS FEEL BUCKLING THEIR CHILD
IN A SAFETY SEAT IS ALL THEY HAVE TO DO
TO KEEP THEIR KIDS SAFE IN THE CAR.

(**DARLA**)

BUT THAT'S ACTUALLY ONLY THE BEGINNING.

DARLA-----

TAKE V/O-----

(**TAKE VO**)

A RECENT TV TEN REPORT TESTED MOTORISTS
ON WHETHER THEY COULD SEE A CHILD-SIZED
TRAFFIC CONE BEHIND THEIR CAR WHILE
BACKING UP.

THAT REPORT SHOWED HOW EASILY A CHILD
PLAYING NEXT TO A CAR COULD BE
OVERLOOKED.

IN TONIGHT'S EYE ON HEALTH, BLUE ROLFES
SHOW US HOW THE SAFE KIDS COALITION IS
SHOWING PARENTS HOW TO KEEP THEIR CHILD
SAFE, INSIDE AND OUTSIDE THE CAR.

TAKE PKG

TAKE PKG

at: :00

cd s21 Jeff Weaver
Parent

at: :28

cd s21 Tootie Creppy
Safe Kids Buckle Up

at: 1:08

cd bst

RUNS: 1:12

OUTQ: STANDARD

5/1/2007 16:26:13, C J Hoyt

[KLFY]ARCHIVE.2006.JUL 34 - 1 P-CHILD SAFETY CARS

SOT: (((Jeff Weaver, Parent))) You know, you do the best you can, but it's always good to have an expert to give you information to make it as safe as possible.

JEFF WEAVER AND HIS 9 MONTH OLD SON JOINED DOZENS OF OTHER PARENTS AND GRANDPARENTS AT THIS SAFE KIDS BUCKLE UP EVENT - WHERE PARENTS TALK WITH EXPERTS ABOUT KEEPING THEIR YOUNG CHILDREN SAFE IN AND AROUND THEIR VEHICLES.

SOT: (((Torrine Creppy, Safe Kids Buckle Up))) When a car comes in, the first thing we do we take their information. We get the age, the weight, the height of their child. We get the information off of their car seat. We see if their car seat was recalled. If it hasn't been recalled we educate them about installing that seat. If it has been recalled we provide them a seat on hand. So that every parent, every child that came into the event today, leaves safer than they arrived.

SOT: (((Jeff Weaver, Parent))) They said the one that we have is sufficient it just needs to be secured properly, and they've shown me tips and given me good information in terms of how to keep him safer.

CAR SEATS AREN'T THE ONLY CONCERN. THE PROGRAM ALSO WARNS PARENTS TO NEVER LEAVE A YOUNG CHILD ALONE IN A VEHICLE, AND TO TAKE EXTRA CARE THAT A CHILD IS NOT HIDDEN IN A VEHICLE'S BLIND SPOT WHEN THE CAR IS PUT IN GEAR.
FOR EYE ON HEALTH, I'M BLUE ROLFES.

5/1/2007 16:28:15, C J Hoyt

DARLA-----

TAKE FF FULL-----

"SAFE KIDS BUCKLE UP"

www.usa.safekids.org

[KLFY]ARCHIVE.2006.JUL 35 - 1 T-CHILD SAFETY CARS

(((*DARLA*)))

WHEN PROPERLY INSTALLED, CHILD SAFETY SEATS REDUCE THE RISK OF DEATH BY SEVENTY THREE PERCENT FOR INFANTS AND FIFTY FOUR PERCENT FOR TODDLERS.

((TAKE FF FULL))

TO FIND THE NEXT "SAFE KIDS BUCKLE UP" EVENT IN YOUR AREA, LOG ON TO USA DOT SAFE KIDS DOT ORG.

Exhibit 2
(KLFY Memorandum)

C.J. Hoyt

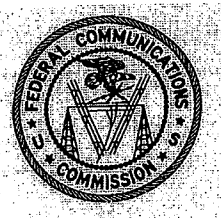
From: C.J. Hoyt
Sent: Thursday, November 16, 2006 1:33 PM
To: Blue Rolfes (bluerolfes@klfy.com); Bob Moore (bobmoore@klfy.com); Chuck Huebner (chuckhuebner@klfy.com); Darla Montgomery (dmontgomery@klfy.com); David Paul (dpaul@klfy.com); David Sobek (dsobek@klfy.com); Dwight Dugas (dwightdugas@klfy.com); Erin Robicheaux (erobicheaux@klfy.com); Gary Arnold (garyarnold@klfy.com); George Faust (gfaust@klfy.com); Holly Kangas (hkangas@klfy.com); Jeremy Campbell (jcampbell@klfy.com); Joshua Auzenne (jauzenne@klfy.com); Katherine Whaley (kwhaley@klfy.com); Laura Wibbenmeyer (lwibbenmeyer@klfy.com); Lori Meaux-Steele (lmeaux@klfy.com); Mike Steele (msteele@klfy.com); Ryan Burchett (rburchett@klfy.com); Sara Vincent (svincent@klfy.com); Stephanie Hulin (steph_hulin@klfy.com); Victoria Coleman (victoriacoleman@yahoo.com); Zac Prudhomme (zprudhomme@klfy.com)
Cc: 'Brian Greif'; Mike Barras (mikebarras@klfy.com)
Subject: Video News Releases
Importance: High

Video News Releases are not to be used in any form whatsoever in KLFY newscasts. Video News Releases are pre-produced packages sent from companies that are nothing more than veiled advertisements. They are absolutely forbidden from airing. On the Pathfire server list, you should only be using feeds under the News header and either Network Feed or News Services. You should **never** use anything under the Video News Feeds header. On the CBS Newspath list, there is a selection called "VNR" under the Format header. You should **never** use anything under this tab.

Twice over the summer, KLFY aired stories that were taken in whole or in part from a VNR. That is to **never** happen again. Lapses like that could ruin our trust with the viewer. If you have any questions about this policy, see me immediately. If we air a VNR in the future, the person responsible will face appropriate consequences.

CJ Hoyt
News Director
KLFY TV-10
(337) 981-4844

5/1/2007



FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W., Suite 4-C330
Washington, D.C. 20554

April 26, 2007

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

KLFY, L.P.
c/o Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.
P.O. Box 1800
Raleigh, North Carolina 27602

Re: Station KLFY-TV, Lafayette, Louisiana
File No. EB-06-IH-3706

Dear Licensee:

The Enforcement Bureau is investigating whether KLFY, L.P. (the "Licensee") 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,¹ by airing certain video new releases ("VNRs") without proper sponsorship identification. According to a study by the Center for Media and Democracy ("CMD"), certain television broadcast stations, including Station KLFY-TV, allegedly aired one or more of 33 VNRs without proper identification. The *Instructions* for responding to this letter and the *Definitions* for certain terms used in this letter are contained in the attachment, *infra*. We direct the Licensee, pursuant to Sections 4(i), 4(j), 308(b) and 403 of the Communications Act of 1934, as amended,² to provide the information and Documents, as defined herein, within sixty (60) calendar days from the date of this letter.

Unless otherwise indicated, the period of time covered by these inquiries is July 1, 2005 to the present.

Inquiries: Documents and Information to be Provided

The CMD Study contains video recordings of allegedly original VNR programming material, as well as video recordings allegedly aired by the Licensee using that material. Both sets of video recordings are available at

¹ See 47 C.F.R. § 73.1212 ("the sponsorship identification rule").

² See 47 U.S.C. §§ 154(i), 154(j), 308(b), and 403.

<http://www.prwatch.org/fakenews2/findings/vnrs>. According to the CMD Study, the Licensee allegedly aired a VNR-based segment containing material on behalf of the following person:

- Allstate, on June 5, 2006.
 - General Motors ("Improving Child Safety In and Around Cars"), on July 10, 2006.
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;
 - b. any materials the Licensee received that accompanied the VNR;
 - c. the person(s) from whom the Licensee received the VNR program material;
 - 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;
 - e. the date(s) and time(s) that the Licensee aired any portion of the VNR program material;
 - f. two recordings in VHS videotape format of the program(s) containing the VNR material clearly labeled with the file number referenced above, the station, and the VNR;
 - g. a written transcript of the segment(s) containing the VNR program material;
 - 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;
 - 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
 - j. whether the Licensee identified the VNR program material as sponsored, and if so, the manner in which that identification took place.
 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;
 - b. the consideration involved;
 - c. the dates on which the payment was promised and/or received;
 - d. the circumstances surrounding each such payment or promise to pay; and
 - e. any pertinent documents relating thereto.
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;
 - 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
 - c. the handling and use of VNR program material.
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.

Instructions for Filing Responses

We direct the Licensee to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the Licensee with personal knowledge of the representations provided in the Licensee's response, verifying the truth and accuracy of the information therein and that all of the information and/or recordings requested by this letter which are in the Licensee's possession, custody, control or knowledge have been produced. If multiple Licensee employees contribute to the response, in addition to such general affidavit or declaration of the authorized officer of the Licensee noted above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual, rather than his or her own knowledge, provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with Section 1.16 of the Commission's rules,³ and be substantially in the form set forth therein.

³ See 47 C.F.R. § 1.16.

To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.⁴ Failure to respond appropriately to this letter of inquiry may constitute a violation of the Communications Act and our rules.⁵

The Licensee shall direct its response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002, to the attention of Melanie Godschall, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Melanie Godschall, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554. The Licensee shall also, to the extent practicable, transmit a copy of the response via email to Melanie.Godschall@fcc.gov and Ben.Bartolome@fcc.gov.

The Licensee may direct any questions regarding this investigation to Melanie Godschall at (202) 418-7259.

Sincerely,



Hillary S. DeNigro
Chief, Investigations and Hearings Division
Enforcement Bureau

Attachment

⁴ See 18 U.S.C. § 1001; see also 47 C.F.R. § 1.17.

⁵ See *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, n. 36 (2003); *World Communications Satellite Systems, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (Enf. Bur. 2004); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003).

Attachment

Instructions

Request for Confidential Treatment. If the Licensee requests that any information or Documents responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and Documents, a statement in accordance with Section 0.459 of the Commission's rules.⁶ Requests for confidential treatment must comply with the requirements of Section 0.459, including the standards of specificity mandated by Section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of Documents are unacceptable. Pursuant to Section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of Section 0.459.

Claims of Privilege. If the Licensee withholds any information or Documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item, the numbered inquiry to which each item responds and the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Format of Response. The Licensee's response must be consistent with the format of the questions asked.

Method of Producing Documents. Each requested Document, as defined herein, shall be submitted in its entirety, even if only a portion of that Document is responsive to an inquiry made herein, unless the Document is a recording or transcript, in which case it should be provided only for the period of time of the broadcast specified in the pertinent inquiry herein. This means that the Document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. All written materials necessary to understand any Document responsive to these inquiries must also be submitted.

Identification of Documents. For each Document or statement submitted in response to the inquiries below, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the Document was retrieved. If any Document is not dated, state the date on which it was prepared. If any Document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Licensee must identify with reasonable specificity all Documents provided in response to these inquiries. In addition, if the Document is a recording or transcript, it must be clearly labeled with the file number referenced above, the station, and the VNR.

Documents No Longer Available. If a Document responsive to any inquiry made herein existed but is no longer available, or if the Licensee is unable for any reason to

⁶ See 47 C.F.R. § 0.459.

produce a Document responsive to any inquiry, identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why the Licensee is otherwise unable to produce it.

Retention of Original Documents. With respect only to Documents responsive to the specific inquiries made herein and any other Documents relevant to those inquiries, the Licensee is directed to retain the originals of those Documents for twelve (12) months from the date of this letter unless (a) the Licensee is directed or informed by the Enforcement Bureau in writing to retain such Documents for some shorter or longer period of time or (b) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, the Licensee must retain all such Documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any collection action brought by the United States Department of Justice or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

Continuing Nature of Inquiries. The specific inquiries made herein are continuing in nature. The Licensee is required to produce in the future any and all Documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, the Licensee must supplement its responses (a) if the Licensee learns that, in some material respect, the Documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive Documents or information are acquired by or become known to the Licensee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless (1) the Licensee is directed or informed by the Enforcement Bureau in writing that the Licensee's obligation to update the record will continue for some shorter or longer period of time or (2) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case the obligation to update the record will continue until the release of such item.

Definitions

For purposes of this letter, the following definitions apply:

"Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

"Broadcast," when used as noun, shall mean audible sounds or language transmitted or disseminated over a station during the course of a radio or television broadcast.

"Broadcast," when used as a verb, shall mean the transmission or dissemination of radio or television communications intended to be received by the public. The verb "broadcast" may be used interchangeably with the verb "air."

"CMD Study" shall mean Diane Farsetta and Daniel Price, *Still Not the News: Stations Overwhelmingly Fail to Disclose VNRs*, Center for Media and Democracy, at <http://www.prwatch.org/fakenews2/execsummary> (released by CMD on November 14, 2006).

"Consideration" shall mean money, services and/or any other thing of value.

"Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any broadcast, radio program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tape, disks and such codes or instructions as will transform such computer materials into easily understandable form).

"Identify," when used with reference to a person or persons, shall mean to state his/her full legal name, current business address, phone number, current organization and position therewith. "Identify," when used with reference to a Document, shall mean to state the date, author, addressee, type of document (*e.g.*, the types of Document, as described above), a brief description of the subject matter, its present or last known location and its custodian. "Identify," when used with reference to an entity other than a person, shall mean to state its name, current or last known business address, and current or last known business telephone number.

"Licensee" shall mean the holder of a license or other authorization issued by the Federal Communications Commission for a broadcast television or radio station, and any predecessor-in-interest, affiliate, parent company, any wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.

“Person” shall mean any individual or organization.



Published on Center for Media and Democracy (<http://www.prwatch.org>)

KLFY-10 Carries Water for Allstate

By Daniel Price

Created 10/25/2006 - 18:11

The devastation of the 2005 hurricane season, especially along the U.S. Gulf Coast, caused many people to think about race and class disparities, the proper role of government, and the at-times overwhelming power of nature. Or, if you work at an insurance company, how to sell more policies.

As the 2006 hurricane season approached, Allstate Insurance Company commissioned a video news release [1] (VNR) from the broadcast PR firm Medialink Worldwide [2]. The resulting segment, "Who Needs Flood Insurance?" tells the story of Troy Thoden, whose house was flooded by Hurricane Floyd. The VNR also features Allstate agent Crystal Heydari, who describes how and when homeowners can buy flood insurance, as a large Allstate logo looms in the background.

On June 5, 2006, KLFY-10 [3] (Lafayette, LA) anchor Darla Montgomery introduced an edited version of the VNR that she had re-voiced. "Hurricane season is here," she warned, "and that means millions of people may be subject to floods."

All of the footage shown and everything Montgomery said came straight from the VNR package. Thoden's soundbites were gone, but Heydari's hurricane hints remained. Allstate was not identified as the source of the segment.

Viewers in the Lafayette area, which was impacted by Hurricanes Katrina [4] and Rita [5] in 2005, were likely wondering how to better protect themselves and their belongings during potential future floods. Instead of meeting that real community need with independent reporting, KLFY-10 offered "news" that was actually a covert Allstate ad.

The following month, KLFY-10 aired another VNR [6] tracked in this study, from General Motors. Again, the station failed to disclose the segment to news audiences.

The station's policy is to "not run video news releases," said KLFY-10 news director C.J. Hoyt. He couldn't speak to the two VNR broadcasts documented in this report, but identified miscommunication, confusion and staff turnover as possible factors. "There's no reason to use a VNR," he stated. "It's generally just a commercial for a product and that's not what we're in the business of doing."

Next: A VNR touts a drug before FDA approval [7]
Back to VNR Findings [8]

Original Allstate VNR

Created by Medialink

Original VNR Misc Text:

Voiced by publicist



URL: http://www.prwatch.org/fakenews/vnrs/vnr39/039_VNR.mov

Duration: 1 min, 57 sec

File Size: 2.5 MB

KLFY-10 6PM newscast

Re-voiced by station reporter

June 5, 2006



URL: http://www.prwatch.org/fakenews/vnrs/vnr39/039_KLFY.mov

Duration: 0 min, 41 sec

File Size: 0.9 MB

Source URL:

<http://www.prwatch.org/fakenews2/vnr39>

Links:

- [1] http://www.sourcewatch.org/index.php?title=video_news_release
- [2] http://www.sourcewatch.org/index.php?title=Medialink_Worldwide
- [3] [http://www.sourcewatch.org/index.php?title=KLFY-10,_CBS_\(TV_Station\)](http://www.sourcewatch.org/index.php?title=KLFY-10,_CBS_(TV_Station))
- [4] http://www.sourcewatch.org/index.php?title=Hurricane_Katrina
- [5] http://www.sourcewatch.org/index.php?title=Hurricane_Rita
- [6] <http://www.prwatch.org/fakenews2/vnr46>
- [7] <http://www.prwatch.org/fakenews2/vnr53>
- [8] <http://www.prwatch.org/fakenews2/findings/vnrs>



Published on Center for Media and Democracy (<http://www.prwatch.org>)

This Just in: GM Loves Kids

By Daniel Price

Created 10/26/2006 - 19:35

To increase sales to parents, automobile manufacturers go out of their way to present their cars (and themselves) as "child-friendly." So it's not surprising that an automaker would commission a video news release [1] (VNR) about its child safety seat program. In fact, the Center for Media and Democracy's "Fake TV News [2]" report included a child safety seat VNR [3] from DaimlerChrysler.

In July 2006, the broadcast PR firm Medialink Worldwide [4] produced a VNR for General Motors [5] titled, "Improving Child Safety in and Around Cars." The segment promotes the "Safe Kids Buckle Up" program, a GM-sponsored initiative that offers "child passenger safety education and hands-on assistance" with safety seats, according to its website [6]. The VNR featured Torine Creppy of the Safe Kids program and concerned father Jeff Weaver.

The most revealing soundbite of the VNR came from GM head Rick Wagoner. "We find that if we work with Safe Kids and offer these types of clinics, at our local dealerships all around the country, we not only can do good ... occasionally we can sell an extra car or two," he said. "So, it works on all sides."

Unfortunately, KLFY-10 [7] (Lafayette, LA) didn't include Wagoner's candid soundbite, when it aired the VNR on July 12, 2006. The station broadcast an edited version of the VNR, re-voiced by local reporter Blue Rolfes. Rolfes' "Eye on Health" segment opened with a few seconds from a recent KLFY-10 report, which proved once and for all that it is *not* safe for small children to play in parking lots.

The segment closed with station anchor Darla Montgomery providing a near-verbatim reading of the last few lines of the VNR script. No disclosure was provided to viewers of "Acadiana's Local News Leader."

The previous month, KLFY-10 had aired another VNR [8] tracked in this study, from Allstate. Again, the station failed to disclose the source of the video.

The station's policy is to "not run video news releases," said KLFY-10 news director C.J. Hoyt. He couldn't speak to the two VNR broadcasts documented in this report, but identified miscommunication, confusion and staff turnover as possible factors. "There's no reason to use a VNR," he stated. "It's generally just a commercial for a product and that's not what we're in the business of doing."

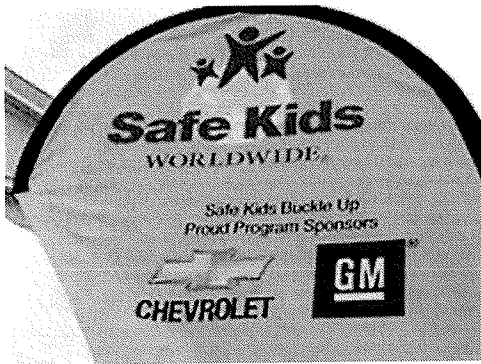
Next: Warning: pilots and XETV-6 viewers may see red [9]
Back to VNR Findings [10]

Original General Motors VNR

Created by Medialink

Original VNR Misc Text:

Voiced by publicist



URL: http://www.prwatch.org/fakenews/vnrs/vnr46/046_VNR.mov

Duration: 2 min, 4 sec

File Size: 3.7 MB

KLFY-10 6PM newscast

Re-voiced by station reporter

July 12, 2006



URL: http://www.prwatch.org/fakenews/vnrs/vnr46/046_KLFY.mov

Duration: 1 min, 58 sec

File Size: 3.0 MB

Source URL:

<http://www.prwatch.org/fakenews2/vnr46>

Links:

- [1] http://www.sourcewatch.org/index.php?title=video_news_release
- [2] <http://www.prwatch.org/fakenews/execsummary>
- [3] <http://www.prwatch.org/fakenews/vnr28>
- [4] http://www.sourcewatch.org/index.php?title=Medialink_Worldwide
- [5] http://www.sourcewatch.org/index.php?title=General_Motors
- [6] http://www.usa.safekids.org/tier3_cd.cfm?content_item_id=441&folder_id=362
- [7] [http://www.sourcewatch.org/index.php?title=KLFY-10,_CBS_\(TV_Station\)](http://www.sourcewatch.org/index.php?title=KLFY-10,_CBS_(TV_Station))
- [8] <http://www.prwatch.org/fakenews2/vnr39>
- [9] <http://www.prwatch.org/fakenews2/vnr42>
- [10] <http://www.prwatch.org/fakenews2/findings/vnrs>

TRANSCRIPT OF AN AUDIO FILE ENTITLED
KLFY TV-10
FROM A CD LABELED KLFY TV-10
PROVIDED BY
BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD LAW FIRM

Transcribed by: Michele Boyles
At Raleigh, North Carolina
June 7, 2007

 COPY



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P.O. Box 10728 • 600 Wade Avenue, Ste B • Raleigh, NC 27605 • crsraleigh@crsraleigh.com

1
2
3 CHUCK HUEBNER: Many parents feel that
4 buckling their child into a safety seat is really all
5 they have to do when it comes to keeping kids safe
6 inside an automobile.

7 DARLA MONTGOMERY: But that's actually only
8 the beginning. A recent TV-10 report tested motorists
9 on whether they could see a traffic cone behind their
10 car while backing up. That report showed how easily a
11 child playing next to a car could be overlooked. In
12 tonight's Eye on Health, Blue Rolfes shows us how the
13 Safe Kids Coalition is showing parents how to keep
14 their children safe inside and outside the car.

15 JEFF WEAVER, PARENT: You do the best you can, but
16 it's always good to have an expert to give you
17 information and to -- to make it as safe as possible.

18 BLUE ROLFES: Jeff weaver and his nine-month-old
19 son join dozens of other parents and grandparents at
20 this Safe Kids Buckle Up event where parents talk with
21 experts about keeping their young children safe in and
22 around their vehicles.

23 TORINE CREPPY, SAFE KIDS BUCKLE UP: A car comes
24 in, the first thing we do, we take their information
25 and we get the age, the weight, the height of their

1
2
3 child. we get the information off of their car seat;
4 we see if their car seat was recalled. If it hasn't
5 been recalled, then we educate them about installing
6 that seat. If it is recalled, we provide them a seat
7 on hand. So that every parent and every child that
8 came into the event today leaves safer than they
9 arrived.

10 JEFF WEAVER, PARENT: They said the one that we
11 have is sufficient. It just needs to be secured
12 properly and that they showed me tips and give me good
13 information in terms of how they -- to keep him safer.

14 BLUE ROLFES: Car seats aren't the only concern.
15 The program also warns parents to never leave a young
16 child alone in a vehicle. And to take extra care that
17 a child isn't hidden in a vehicle's blind spot when the
18 car is put in gear. For Eye on Health, I'm Blue
19 Rolfes.

20 DARLA MONTGOMERY: When properly installed, child
21 safety seats reduce the risk of death by 73% for
22 infants and 54% for toddlers. To find the next Safe
23 Kids Buckle Up event in your area, log onto
24 usa.safekids.org.

25 (END OF KID SAFETY STORY)

(BEGINNING OF FLOOD INSURANCE STORY)

DARLA MONTGOMERY: Hurricane Season is here and that means millions of people may be subject to floods. If your area is prone to flooding, you may be required by the government or your mortgage company to have flood insurance. Insurance companies stress that homeowners' insurance does not cover flooding. In fact, while you may be able to buy flood insurance from your agent, the policy itself is administered by the Federal Government.

CHRYSTAL HEYDARI, ALLSTATE: If you are in a standard flood zone or a special designated flood hazard area, then you can be required by your mortgage company to have flood insurance.

DARLA MONTGOMERY: And it's important to purchase a policy sooner than later since there is, generally, a 30-day waiting period before the policy goes into effect.

Congressman Bobby Jindal was at Abbeville City Hall this afternoon.

(END OF AUDIO)

NORTH CAROLINA

WAKE COUNTY

C E R T I F I C A T E

I, Michele Boyles, transcriptionist for Court Reporting Services, do hereby certify that the foregoing pages are a verbatim transcription of an audio recording of the matter/cause in this action and that it is as true and accurate as could be determined by such audio recording.

I do further certify that I am not of counsel for or in the employment of any party to this action.

IN WITNESS WHEREOF, I have hereunto subscribed my name this the 9th day of June, 2007.

Michele Boyles

Transcriptionist

TRANSCRIPT OF AN AUDIO FILE ENTITLED
COMPLETE SAFE KIDS VNR FROM CMD WEBSITE PRWATCH.ORG.MOV
FROM A CD LABELED
KLFY
PROVIDED BY
BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD LAW FIRM

Transcribed by: Michele Boyles
At Raleigh, North Carolina
June 9, 2007

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1
2
3 JEFF WEAVER, PARENT: You know, you do the
4 best you can, but it's always good to have an expert to
5 give you information and to -- to make it as safe as
6 possible.

7 KATE BROOKS: And that's what brought Jeff Weaver
8 and his nine-month-old son along with dozens of other
9 parents and grandparents to this Safe Kids Buckle Up
10 event where parents talk with experts about keeping
11 their young children safe in and around their vehicles.

12 TORINE CREPPY, SAFE KIDS BUCKLE UP: When a car
13 comes in, the first thing we do, we take their
14 information and we get the age, the weight, the height
15 of their child. We get the information off of their
16 car seat, we see if their car seat was recalled. If it
17 hasn't been recalled, then we educate them about
18 installing that seat. If it is recalled, we provide
19 them a seat on hand. So that every parent and every
20 child that came into the event today leaves safer than
21 they arrived.

22 JEFF WEAVER, PARENT: They said the one that we
23 have is sufficient. It just needs to be secured
24 properly and that they showed me tips and give me good
25 information in terms of how they -- to keep him safer.

1
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3 KATE BROOKS: Safer while driving and when not.
4 Safe Kids warns parents never to leave a young child
5 alone in a vehicle. And to be extra careful that a
6 youngster has not wandered behind a vehicle as it's
7 pulling out. Safe Kids develops local partnerships
8 with service organizations such as the Links. And for
9 the last ten years, General Motors has been the
10 national sponsor and has helped Safe Kids worldwide
11 give away more than 350,000 child safety seats to
12 families in need.

13 RICK WAGONER, CEO, GENERAL MOTORS: We've got
14 great partners with the Safe Kids group. And we find
15 that if we work with Safe Kids and offer these sorts of
16 clinics at our local dealerships all around the
17 country, we not only can do good by -- by having
18 parents understand better how to make sure their
19 children ride safely in the car. Occasionally, we can
20 sell an extra car or two. So it really works on all
21 sides.

22 KATE BROOKS: According to the National Highway
23 Traffic Safety Administration, child safety seats are
24 extremely effective when properly installed, reducing
25 the risk of death by 73% for infants and by 54% for

toddlers. To find the next Safe Kids Buckle Up event
in your area, go to usa.safekids.org. I'm Kate Brooks.

(END OF AUDIO)

NORTH CAROLINA

WAKE COUNTY

C E R T I F I C A T E

I, Michele Boyles, transcriptionist for Court Reporting Services, do hereby certify that the foregoing pages are a direct transcription of an audio/video recording of the matter/cause in this action and that it is as true and accurate as could be determined by such recording.

I do further certify that I am not of counsel for or in the employment of any party to this action.

IN WITNESS WHEREOF, I have hereunto subscribed my name this the 9th day of June, 2007.


Michele Boyles,
Transcriptionist

TRANSCRIPT OF AN AUDIO FILE ENTITLED
COMPLETE ALLSTATE VNR FROM CMD WEBSITE PRWATCH.ORG.MOV
FROM A CD LABELED
KLFY
PROVIDED BY
BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD LAW FIRM

Transcribed by: Michele Boyles
At Raleigh, North Carolina
June 7, 2007

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2
3 ANDREW SMERTZ: The street in front of Troy
4 Thoden's home is dry now. But when Hurricane Floyd
5 tore through the area a few years ago, Troy's only way
6 to safety was by boat. Water rose to the second level
7 of some homes.

8 TROY THODEN: For the first night, the night of
9 the flood, my parents and I -- we took a boat up the
10 road to the VFW located, like, a block and a, you know,
11 half way around the block. And they -- they had
12 shelter -- a semi-shelter set up with some clothes, hot
13 water and coffee.

14 ANDREW SMERTZ: Troy says most of his possessions
15 were destroyed. While we're used to seeing flooded
16 streets after a hurricane, the fact is flooding can be
17 caused by much smaller storms. This creek, for
18 example, is known to overflow after heavy rain.
19 Depending on where you live, you may be able to
20 voluntarily buy flood insurance. In other flood-prone
21 areas, you may be required to do so.

22 CHRYSTAL HEYDARI, ALLSTATE INSURANCE COMPANY: If
23 you are in a standard flood zone or a special
24 designated flood hazard area, then you can be required
25 by your mortgage company to have flood insurance.

ANDREW SMERTZ: The mortgage lender will tell you if you're required to have flood insurance. If you're not, but still want it on a voluntary basis, ask your insurance agent if your home is in an eligible area. Insurance companies stress that homeowners' insurance does not cover flooding. And while you may be able to buy flood insurance from your agent, the policy itself is administered by the Federal Government. And you can't wait until you see the storm coming to get it.

CHRYSTAL HEYDARI, ALLSTATE INSURANCE COMPANY:
Generally, there's a 30-day waiting period. So, once you purchase the policy, it will not be in effect for another 30 days. There is an exception if you are purchasing a home or if you're closing on a loan and your mortgage company requires you to maintain flood insurance. And it can be made effective the effective day of the loan.

ANDREW SMERTZ: There are a lot of things you should do to prepare for a flood. First and foremost, make sure you have a plan to keep your family safe. Then, consider keeping your possessions safe as well. I'm Andrew Smertz.

(END OF AUDIO)

NORTH CAROLINA

WAKE COUNTY

C E R T I F I C A T E

I, Michele Boyles, transcriptionist for Court Reporting Services, do hereby certify that the foregoing pages are a verbatim transcription of an audio recording of the matter/cause in this action and that it is as true and accurate as could be determined by such audio recording.

I do further certify that I am not of counsel for or in the employment of any party to this action.

IN WITNESS WHEREOF, I have hereunto subscribed my name this the 9th day of June, 2007.

Michele Boyles
Transcriptionist