

Federal Communications Commission

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

In the Matter of)	
)	File No.: BRDTA-20121203AYW
KM LPTV of Atlanta, L.L.C.)	NAL Acct. No.: 201441420002
Licensee of Station WSKC-CD,)	FRN: 0005014766
Atlanta, Georgia)	

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and KM LPTV of Atlanta Network, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into possible violations of Sections 73.3526(e)(11) of the Commission's Rules (the "Public File Rule")¹ pertaining to the timely preparation, placement in the public file and electronic filing of FCC Form 398 Children's Television Programming Reports and issues/programs lists on a quarterly basis.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - b) "Adopting Order" means the Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - c) "Bureau" means the Media Bureau of the Federal Communications Commission.
 - d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - e) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which KM LPTV of Atlanta, LLC is subject by virtue of it being a Commission licensee, including but not limited to 73.3526(e)(11) of the Commission's Rules.
 - f) "Effective Date" means the date on which the Bureau releases the Adopting Order.
 - g) "Investigation" means the March 13 and April 22, 2012, letters of inquiry regarding, among other things, the stations' compliance with the Public File Rule.

¹ See 47 C.F.R. § 73.3526(e)(11)(iii).

Federal Communications Commission

- h) "KM LPTV of Atlanta" means KM LPTV of Atlanta, LLC and its predecessors-in-interest and successors-in-interest.
- i) "Parties" means KM LPTV of Atlanta and the Bureau, each of which is a "Party."
- j) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.
- k) "Station" means WSKC-CD, Atlanta, Georgia.

II. DISCUSSION

3. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.² As set forth in subsection 73.3526(e)(11)(i), each television station is required to prepare and place in its public inspection file issues/programs lists for each calendar quarter reflecting programming broadcast on the station responsive to the needs and interests of the community of the licensee. As set forth in subsection 73.3526(e)(11)(iii), each commercial television licensee is required to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it made during the quarter to serve the educational and informational needs of children.³

4. On March 13 and April 23, 2012, the staff issued a letter to the Station requesting information regarding, among other issues, the stations' failure to file their Children's Television Programming Reports and issues/programs lists in a timely manner.⁴ Our review of the response led us to conclude that the Station failed to file the reports and lists in a timely manner repeatedly throughout the license period and failed to report those violations in the Station's license renewal application, in violation of Section 73.3514(a) of the Rules.⁵

III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

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

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation

² 47 C.F.R. § 73.3526.

³ 47 C.F.R. § 73.3526(e)(11)(iii).

⁴ See Letters from Barbara A. Kreisman, Chief, Video Division, to KM LPTV of Atlanta, LLC, dated March 13, 2012 and April 23, 2012.

⁵ 47 C.F.R. § 73.3514(a).

Federal Communications Commission

of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, KM LPTV of Atlanta agrees to the terms and conditions contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against KM LPTV of Atlanta concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against KM LPTV of Atlanta with respect to KM LPTV of Atlanta's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations, or with respect to the reclassification of any of the stations to low power television status.

9. **Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints or other adjudicatory pleadings filed against KM LPTV of Atlanta or its affiliates for alleged violations of the Act or the Commission's rules or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by KM LPTV of Atlanta with the Communications Laws.

10. **Voluntary Contribution.** KM LPTV of Atlanta agrees that it will make a voluntary contribution to the United States Treasury in the amount of twenty four thousand dollars (\$24,000). An initial payment of \$1,000 must be made within thirty (30) calendar days of the Effective Date. Another \$11,000 must be paid within one (1) year of the Effective Date. The remaining \$12,000 of the voluntary contribution amount must be paid within two (2) years of the Effective Date. The KM LPTV of Atlanta shall also send electronic notification of all payments to Peter Saharko at Peter.Saharko@fcc.gov on the dates said payments are made. The payments must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁶ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:⁷

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

⁶ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁷ Should KM LPTV of Atlanta have questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e-mail at ARINQUIRIES@fcc.gov.

Federal Communications Commission

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

11. **Waivers.** KM LPTV of Atlanta waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. KM LPTV of Atlanta shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither KM LPTV of Atlanta nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and KM LPTV of Atlanta shall waive any statutory right to a trial *de novo*. KM LPTV of Atlanta hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

12. **Liability.** KM LPTV of Atlanta admits, solely for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 hereof, that the facts discussed in paragraphs 3-4 above constitute violations of Section 73.3526(e)(11) of the Commission's rules. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or paragraph 8 hereof, or both, are breached by the Bureau, or are invalidated or modified to KM LPTV of Atlanta's prejudice by the Commission, Bureau, or any court, then and in that event the provisions of the immediately-preceding sentence shall be of no force or effect whatever, and KM LPTV of Atlanta shall not, by virtue of that sentence or any other provision of this Consent Decree, be deemed to have made any admission concerning violations of 47 C.F.R. § 73.3526(e)(11).

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

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

15. **Successors and Assigns.** KM LPTV of Atlanta agrees that the provisions of this Consent Decree shall be binding on and inure to the benefit of its successors, assigns, and transferees.

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

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

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

Federal Communications Commission

19. **Authorized Representative.** The individual signing this Consent Decree on behalf of KM LPTV of Atlanta represents and warrants that he is authorized by KM LPTV of Atlanta to execute this Consent Decree and to bind KM LPTV of Atlanta to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

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

Media Bureau

By:



William T. Lake
Chief
Media Bureau

2-5-14
Date

KM LPTV of Atlanta Network, LLC

By:



Kevin Bae
Vice President

1-16-14
Date