

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

In re Application of	)	
	)	
American International College	)	NAL/Acct. No. MB-201441410032
	)	FRN: 0003626363
For Renewal of License for	)	Facility ID No. 1749
Station WAIC(FM)	)	File No. BRED-20140328AAR
Springfield, Massachusetts	)	

**ORDER**

**Adopted: November 13, 2015**

**Released: November 16, 2015**

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (“Bureau”) and American International College (“AIC”), the licensee for Station WAIC(FM), Springfield, Massachusetts (the “Station”). The Consent Decree resolves issues arising from the Bureau’s review of the captioned license renewal application (“Renewal Application”) for the Station. In particular, the Consent Decree resolves the Bureau’s investigation of AIC’s compliance with Sections 73.3527 (“Public File Rule”)<sup>1</sup> and 73.3539 (“Filing Date Rule”)<sup>2</sup> of the Commission’s Rules (the “Rules”).

2. In the Renewal Application, AIC disclosed that until 2011 the Station was operated by student volunteer staff, and, thereafter, by paid professional staff.<sup>3</sup> AIC further disclosed that during the license term it failed to timely prepare and place in the Station’s public file any of the 32 required issues and programs lists. In addition, an application for renewal of the Station license was due on December 1, 2013, but AIC did not file the Renewal Application until March 28, 2014, three days before the Station’s expiration date, in violation of Section 73.3539 of the Rules. On October 24, 2014, the Bureau issued a Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (“NAL”) of \$13,500: \$1,500 for the late application filing and \$12,000 for the public file violations.<sup>4</sup> On November 17, 2014, AIC filed a reply to the NAL seeking a reduction in the proposed forfeiture, based on the years the Station operated as a student-run station.

3. In a recent *Policy Statement*,<sup>5</sup> the Bureau announced that certain student-run NCE radio Stations that committed first-time violations of certain documentation requirements of our Rules would be

<sup>1</sup> 47 C.F.R. § 73.3527.

<sup>2</sup> 47 C.F.R. § 73.3539.

<sup>3</sup> In July 2011 AIC entered into an agreement with Connecticut Public Broadcasting, Inc. Exhibit 1, Renewal Application, as amended on July 2, 2014.

<sup>4</sup> NAL, 29 FCC Rcd 12572 (MB 2014).

<sup>5</sup> See *William Penn University*, Policy Statement and Order, 28 FCC Rcd 6932 (MB 2013) (“*Policy Statement*”).

afforded the opportunity to negotiate a consent decree with a reduced payment amount.<sup>6</sup> The *Policy Statement* limited the policy to “violations of rules that require the submission of reports and other materials or public notice of information . . . .”<sup>7</sup> It further stated that all other violations of Rules were not included and would be processed under current procedures applicable to all licensees.<sup>8</sup> Here, AIC has shown that for the years 2006 to July 2011 it was operated as a student-run station and that the violations at the Station are first-time documentation violations. Therefore, this Consent Decree applies the *Policy Statement* for the years the Station was operated by students.

4. We have negotiated the attached Consent Decree in which AIC stipulates that it violated the Public File Rule and the Filing Date Rule. The Consent Decree also requires that AIC adhere to a Compliance Plan as set forth in the Appendix to the Consent Decree and pay a specified civil penalty. With respect to the Public File Rule violations, for the years the Station was operated as a student-run Station, AIC will pay a civil penalty to the United States Treasury in the amount of one thousand two hundred dollars (\$1,200). Regarding violations of the Public File Rule after July 2011 and the Filing Date Rule, these are violations that are not covered by special processing as set forth in the *Policy Statement* and AIC has agreed to pay a civil penalty to the United States Treasury in the amount of five thousand five hundred dollars (\$5,500). Thus, AIC has agreed to pay a total civil penalty of six thousand seven hundred dollars (\$6,700). A Copy of the Consent Decree is attached and incorporated by reference.

5. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest will be served by its approval and by terminating the Bureau’s investigation of AIC’s violations of the Rules as disclosed in the Renewal Application. In addition, based on the record before us, we conclude that nothing in that record creates a substantial or material question of fact as to whether AIC possess the basic qualifications to be a Commission licensee and that the Renewal Application should be granted subject to the satisfaction of the terms and conditions set forth in the Consent Decree, but only for a term of four (4) years.<sup>9</sup>

6. ACCORDINGLY, IT IS ORDERED that, pursuant to Sections 4(i), 4 (j) of the Communications Act of 1934, as amended,<sup>10</sup> and by the authority delegated by Sections 0.61 and 0.283 of

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<sup>6</sup> *Id.*, 28 FCC Rcd at 6932 ¶2 (in cases of “first-time violations of certain documentation requirements of our Rules by student-run NCE radio stations,” instead of issuing a Notice of Apparent Liability (NAL), the Bureau will first afford the licensee an opportunity to negotiate a consent decree in which the licensee will pay a reduced civil penalty and agree to a compliance plan. In negotiating the amount, the Bureau will consider “the totality of circumstances, including giving appropriate consideration to the station’s finances with respect to reducing the base forfeiture amount significantly.”).

<sup>7</sup> *Id.*, 28 FCC Rcd at 6936 - 6937 ¶11. Covered violations include the failure to “(a) file the required materials with the Commission, such as the Ownership Reporting Rule, (b) place the required materials in a file, such as in the station’s public inspection file pursuant to the Public File Rule, or (c) publish a notice in a local newspaper or broadcast as an announcement on the station pursuant to Section 73.3580 of the Rules.”

<sup>8</sup> *Id.*, 28 FCC Rcd at 6937 ¶11. Specifically, the *Policy Statement* noted “that substantive operational violations, *e.g.* broadcast of indecent/obscene/profane material, commercial announcements, illegal contests, underwriting, news distortion and other programming-related violations, violations of the Commission’s technical, public safety, tower/transmitter site construction and maintenance rules, etc., as well as recurring or subsequent violations of any kind will continue to be handled under current procedures, with no reduction or relief for student-run stations, apart from those potentially available to all licensees under current procedures in appropriate circumstances.”

<sup>9</sup> See 47 U.S.C. § 309(k) (permitting the Commission to grant an application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”).

<sup>10</sup> 47 U.S.C. § 154(i), 154(j), and 503(b).

the Rules,<sup>11</sup> the Consent Decree attached hereto IS ADOPTED without change, addition, or modification.

7. IT IS FURTHER ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules,<sup>12</sup> that the Notice of Liability for Forfeiture issued to American International College for willfully violating Sections 73.3527 and 73.3539 of the Commission's Rules at Station WAIC(FM), Springfield, Massachusetts, IS HEREBY REDUCED TO \$6,700.

8. IT IS FURTHER ORDERED that investigation by the Media Bureau of the matters noted above IS TERMINATED.

9. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Mark R. Berman, Executive Vice President for Administration, American International College, 1000 State Street, Springfield, MA 01109-3155, and to AIC's counsel John Crigler, Esq., Garvey Schubert Barer, 1000 Potomac Street, N.W., Washington, DC 20007.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake  
Chief, Media Bureau

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<sup>11</sup> 47 C.F.R. §§ 0.61, 0.283.

<sup>12</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

**CONSENT DECREE****I. Introduction**

1. This Consent Decree is entered into by and between the Media Bureau of the Federal Communications Commission and American International College, by their respective authorized representatives, for the purpose of resolving certain issues regarding compliance with the Public File Rule and the Filing Date Rule, as defined below, that have arisen in the Media Bureau's review of the pending application for the renewal of the license for Noncommercial Educational FM Station WAIC(FM), Springfield, Massachusetts.

**II. Definitions**

2. For 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 this Consent Decree;
  - (c) "Bureau" means the Media Bureau of the Commission;
  - (d) "Commission" or "FCC" means the Federal Communications Commission;
  - (e) "Compliance Plan" means the processes and procedures to ensure compliance with the Rules as set forth in the Appendix hereto;
  - (f) "Effective Date" means the date on which the Bureau releases the Order;
  - (g) "Execution Date" means the date on which this Consent Decree is executed by the last of the Parties to do so;
  - (h) "Filing Date Rule" means Section 73.3539 of the Commission's Rules, 47 C.F.R. § 73.3539;
  - (i) "Investigation" means the Bureau's investigation of Licensee's violations of the Filing Date Rule and the Public File Rule;
  - (j) "Licensee" or "AIC" refers to American International College;
  - (k) "Parties" means AIC and the Bureau;
  - (l) "Public File Rule" means Section 73.3527 of the Commission's Rules, 47 C.F.R. § 73.3527;
  - (m) "Renewal Application" means the pending application, as amended, for the renewal of license for Station WAIC(FM), Springfield, Massachusetts (File No. BRED-20140328AAR);

- (n) “Rules” means the Commission’s Rules, found in Title 47 of the Code of Federal Regulations;
- (o) “Station” means Station WAIC(FM), Springfield, Massachusetts (Facility ID. No. 1749); and
- (p) “Violations” means the violations of the Public File Rule and the Filing Date Rule.

### III. Background

3. An application for renewal of the Station’s license was due on December 1, 2013, but AIC did not file the Renewal Application until March 28, 2014, in violation of the Filing Date Rule. Additionally, AIC disclosed in the Renewal Application that the Station had not complied with the Public File Rule. Specifically, AIC stated that during the license term the Station’s public file failed to contain any quarterly issues and programs lists. Subsequently, after the filing of the Renewal Application, Licensee recreated and placed in the Station’s public file issues and programs lists from July 2011 to the present. Prior to this date, AIC placed in the Station’s public file daily programming logs dating back to 2007. On October 24, 2014, the Bureau issued a Notice of Apparent Liability for Forfeiture for the Violations.<sup>13</sup> On November 17, 2014, AIC filed a reply seeking a reduction in the proposed forfeiture, in part, based on the years the Station operated as a student-run station.

4. Because of the compliance issues raised by AIC’s disclosures, the Bureau and AIC negotiated this Consent Decree to terminate the Bureau’s Investigation of AIC’s compliance with the Rules.

### IV. Agreement

5. The Parties acknowledge that any proceeding that might result from the compliance issues referenced in Paragraph 3 would be time-consuming and require a substantial expenditure of public and private resources. In order to conserve such resources, to resolve the matter, and to promote AIC’s compliance with the Rules, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

6. AIC and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. AIC further agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

7. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. AIC agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that Licensee fails to satisfy any condition or Commission Rule, in the absence of Commission alteration of the condition or Rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures. Any violation of the

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<sup>13</sup> See *American International College*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 12572 (MB 2014) (proposing \$13,500 forfeiture for apparent violation of Sections 73.3527 and 73.3539).

Adopting Order or 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 enforcement of a Commission order.

8. 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, AIC agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the Violations in any action against AIC, provided that Licensee satisfies all of its obligations under this Consent Decree. In the event that the Licensee fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to each Violation, and/or the violation of this Consent Decree.

9. AIC hereby stipulates that it violated the Public File Rule and the Filing Date Rule during the 2006-2014 license term.

10. AIC agrees to pay a civil penalty to the United States Treasury in the amount of Six Thousand Seven Hundred Dollars (\$6,700), within thirty (30) calendar days after the Effective Date. Licensee will also send electronic notification of payment to Kim Varner at Kim.Varner@fcc.gov and Penelope Dade at Penelope.Dade@fcc.gov on the date said payment is made. Such payment will be made, without further protest or recourse to a *trial de novo*, by a check or similar instrument, wire transfer or credit card and must include the Account Number and FRN referenced in the caption to the Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- 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.
- 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. Because the Public File Violations continued over the entire license term, the Bureau agrees to grant the Renewal Application, after the Effective Date, for a four (4) year time period, provided that the following conditions have been met: 1) AIC has fully and timely satisfied its obligation to make the civil penalty payment referenced in paragraph 10 of this Decree; and 2) there are no issues other than the Violations that would preclude grant of the Renewal Application.

12. AIC represents that, in addition to its existing policies and procedures, it has adopted, is currently in the process of implementing, and agrees to abide by the Compliance Plan for the purpose of ensuring compliance with the Rules. Licensee further agrees, to the extent that it has not already done so, to implement this Compliance Plan at the Station no later than thirty (30) days after the Effective Date and to keep such Compliance Plan in effect for three (3) years after the Effective Date.

13. AIC further represents that as of the Execution Date, apart from the issues and programming lists noted in paragraph 3, the Station's public file fully complies with the Public File Rule.

14. As of the Effective Date, AIC waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Adopting Order, provided the Consent Decree is adopted without change, addition or modification. If either Party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither AIC nor the Commission will contest the validity of the Consent Decree or Adopting Order, and AIC will waive any statutory right to a *trial de novo*. Licensee further agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. §§ 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

15. The Parties agree that if a court of competent jurisdiction renders any of the provisions of this Consent Decree invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

16. The Parties agree that if any provision of this 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 Licensee does not expressly consent), such provision will be superseded by such Commission rule or order.

17. The Consent Decree will be binding on AIC's successors-in-interest and assigns. Licensee agrees that any future application to assign or transfer control of the Station will include a statement executed by an authorized representative of the proposed assignee or transferee consenting to assumption of the responsibilities and duties set forth in this Consent Decree with regard to the Station.

18. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between AIC and the Bureau concerning the Licensee's Violations at the Station, as discussed herein.

19. This Consent Decree cannot be modified or amended without the advance written consent of both Parties.

20. Each Party represents and warrants to the other Party that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

21. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

**MEDIA BUREAU  
FEDERAL COMMUNICATIONS COMMISSION**

By: \_\_\_\_\_  
William T. Lake, Chief

Date: \_\_\_\_\_

**AMERICAN INTERNATIONAL COLLEGE**

By: \_\_\_\_\_  
Mark R. Berman  
Executive Vice President for Administration  
American International College

Date: \_\_\_\_\_

APPENDIX**COMPLIANCE PLAN FOR STATION WAIC(FM)**

For a period of three (3) years commencing as of the Effective Date of the Consent Decree, American International College, or its successor-in-interest, as appropriate, will institute the following procedures to ensure compliance with the Commission's Rules. Unless otherwise provided, all terms defined in the Consent Decree apply to this Compliance Plan.

- I.
  - A. The Station Manager and other appropriate staff of the Station will review all programming which, in the Licensee's judgment, constitutes public affairs and public service programming, broadcast by the Station. A selection of these programs will be compiled into quarterly issues and programs lists that will be timely placed in the public file of the Station.
  - B. All such quarterly issues and programs lists will be signed and dated by their preparer before they are placed in the public file.
  - C. Late-filed lists will be reviewed and signed by the Station's management and accompanied in the Station's public file with a statement indicating the nature of the document, the date placed in the public file, and the reason for the late filing.
  - D. Within 30 days of the Effective Date of this Compliance Plan, Licensee will conduct training for all Station staff and management on compliance with Commission Rules applicable to Station operations. It will also designate a Compliance Officer responsible for responding to staff questions and consulting with counsel familiar with Communications law regarding compliance matters. Additionally, Licensee will conduct refresher training for staff and management at least once every twelve (12) months, and will train any new Station staffer within five (5) business days of commencement of his or her duties at the Station.
  - E. Licensee will use a commercially-available calendaring system, such as Microsoft Outlook or Google Calendar, to track filing deadlines.
- II. Licensee and/or any successor licensee, as appropriate, will conduct annual audits of the Station's public file on or about the anniversary date of the Effective Date of the Consent Decree. The three-year period will terminate on the successful completion of the third annual public file audit. The second and third audits will be due on the anniversary of the first audit.
- III. Licensee shall annually submit a sworn certification to the Commission, signed by Licensee, that the Station's public file fully complies with the Public File Rule and that it has maintained and is maintaining such a calendar system each year of the three-year term of this Compliance Plan. If the Licensee cannot truthfully make these certifications, it shall set forth in detail any deficiencies and describe any corrective measures taken. This report shall be filed within ten (10) days of the completion of the first annual public file audit pursuant to Item II above, and on that date yearly thereafter for two additional years. A copy will be served on Peter H. Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission and e-mailed to him at Peter.Doyle@fcc.gov.
- IV. This Compliance Plan will be under the direct supervision of Marty Langford, Technology Coordinator, or by any member of American International College designated by Dr. Susanne

Swanker, Dean of the School of Business, Arts and Sciences, or in the event Dr. Swanker is no longer with American International College or if the license has been assigned, by his/her successor or his/her successor's designee who is affiliated with the successor Licensee's Board.